



1910

Newton D. Baker Scrapbook, June 1908-September 1910

Newton D. Baker

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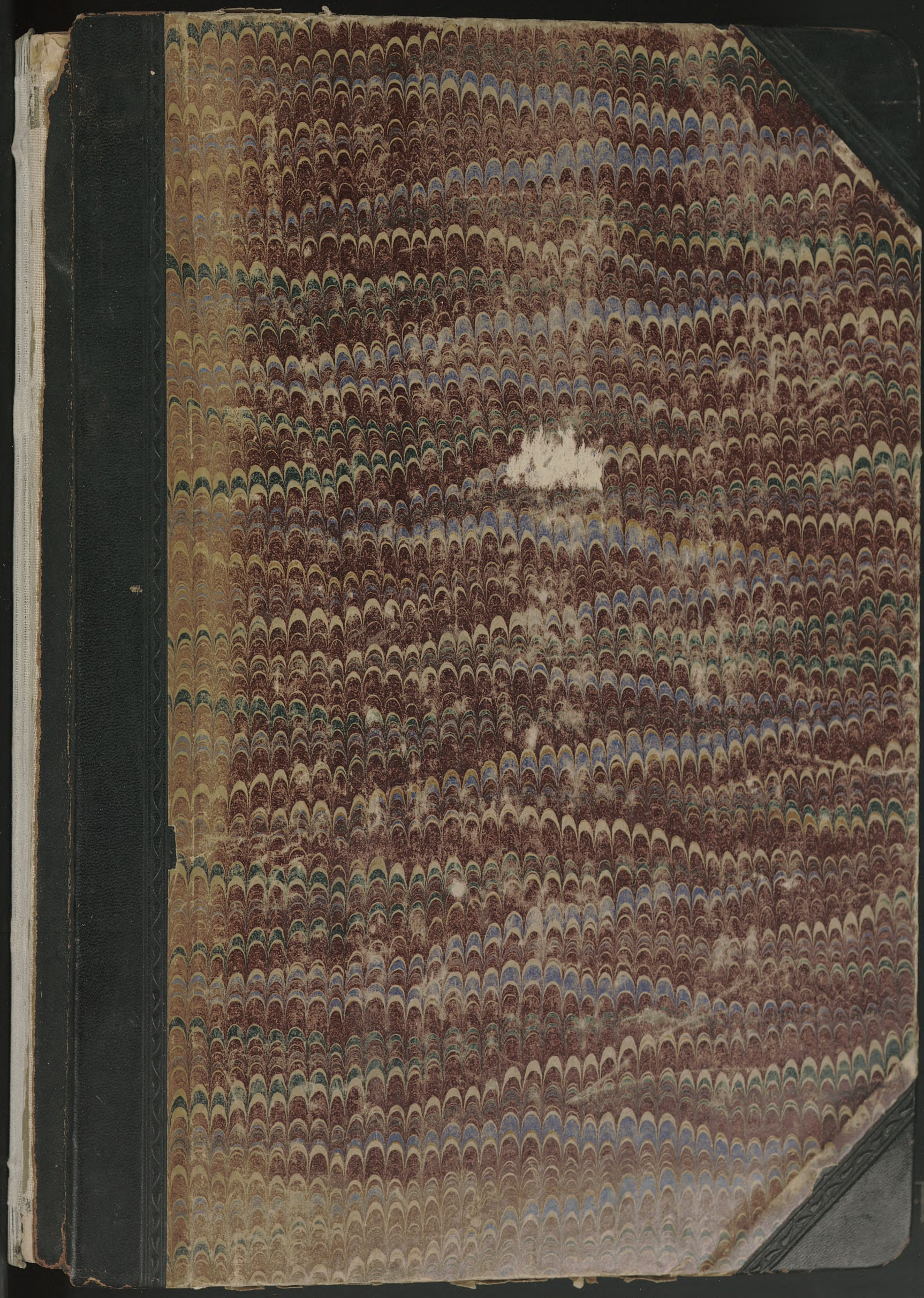


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ODD CENT IS FOUGHT FOR

Scale Company Threatens to
Ask Injunction.

THOUSANDS FOR DEALER
City Sealer to Bar Scale He
Condemned.

Unless restrained by a court order, City Sealer Kane Friday will order 750 butchers and grocers to stop the use of a computing scale condemned by his department.

It is charged the scales are constructed so as to give the dealer the benefit of the odd cent on sales where the weight is not either pounds or half pounds. Kane says consumers have lost thousands of dollars.

Representatives of the company making the scales have been in Cleveland protesting against Kane's threatened action. They appealed to Solicitor Baker, who upheld Kane. They then said they would ask the court for a restraining order.

A LITTLE boy, a dirty-faced, ragged, barefoot lad of 6 or 7, had stubbed his toe.

He leaned against a city hall pillar and cried loudly.

The lounging crowd paid no attention to his sobs. Pedestrians hurried along as though they did not hear them. Four or five hundred people passed without giving him a glance.

Then along came a man with a package of legal documents under his arm. His gait showed he was busy. But he heard the boy and he turned and stopped.

"What's the matter, sonny?" he asked.

The boy answered between sobs that he had stubbed his toe.

"Well, well," said the man with the legal papers, "that's too bad. You come along with me and we'll see what we can do for it," and he put an arm around the youngster kindly, and led him into the city hall.

Fifteen minutes later the same boy, with a clean face, and smiling, bounded out of the front door of the city hall and chased away down the street.

The man with the legal papers was Newton D. Baker.

MAYOR WANTS TO KNOW.

Signs Resolution to Learn if City
Hall Commission Can be
Removed.

Mayor Johnson has signed the council resolution asking City Solicitor Baker to present a report showing whether or not the board of public service has the power to remove the city hall commission.

The resolution was returned to the city clerk's office Saturday, bearing the signature of Mayor Johnson.

Newton D. Baker has a fine flow of English, and it is probably true that he speaks the purest English of any man in public life in Cleveland. He is seldom humorous, but he always has something to say and he says it well.

PASSENGERS UNPROTECTED

Threefer Not Compelled to
Guard Grade Crossings.

FRANCHISE IS SILENT

Solicitor Discusses Question
With Du Pont.

When city council passed the security franchise, a renewal of the old Concon grants, it made no provision for the protection of the passengers.

Unless the Threefer should voluntarily place men at railroad crossings to operate safety devices, the city could do nothing to force such action. There is a general ordinance which provides that cars must be stopped before crossing the draws at the Superior and Central viaducts, but nothing is said as to the railroad grade crossings.

OLD PROVISIONS NULL.

The security franchise superseded all other existing grants so that old provisions are null and void. It made specific provision on almost every point except that of the safety of persons who ride on the cars. Section 7 of the franchise says:

"The company shall place and continue upon all its lines cars of modern design, equipped and furnished with such improvements and appliances as shall be deemed by the city to be necessary and proper for the safety, convenience and comfort of the passengers and the public."

CAN'T ORDER SAFEGUARDS.

This is the only reference in the ordinance as to the safeguarding of the lives of the passengers. Under it the council would have the right to order safety levers placed at every grade crossing, but it would have to do it by special legislation.

Solicitor Baker said Thursday he understood that safety levers were being operated at all points by employes of the Threefer except on the viaducts. He said he had taken the viaduct question up with du Pont, but that no conclusion had been reached.

CITY AND SHIP OFFICERS WILL INSPECT PROPERTY CLAIMED BY BOTH SIDES

Joint Tour is Planned to Whis-
ky Island.

Editor "The Press":

City Solicitor Baker recently stated that the streets on Whisky Island do not belong to the city of Cleveland. He said Judge Noble had held that the streets were never properly dedicated.

Those streets have been used by pedestrians and vehicles for more than 50 years.

If Baker's opinion is final on this matter, why did the city expend \$40,000 trying to establish a tunnel and piping Whisky Island to furnish water for fire protection 10 years ago?

If those streets do not belong to the city, why does the city maintain and operate a bridge and a city ferry for the benefit of private corporations at the taxpayers' expense?

No taxpayers at present can get near the boats in the Cuyahoga river to solicit or sell goods or seek employment without permits from those private corporations. If citizens on legitimate business gain admission through the fences on city streets they are liable to be shot down by men having special police power.

I. L. A. UNION.

A trip to Whisky Island is to be made by City Solicitor Baker and Server Springborn. They will inspect the territory and endeavor to ascertain what rights the city has in the property. They will also look over the property south of the old river bed, now occupied by the Erie docks.

H. S. Pickands and Harry Colby, representing the ore dock interests, asked to be permitted to go along. They said if the dock corporations had exceeded their rights in fencing in streets they would make any changes suggested.

Springborn said the city was maintaining four vapor lights on Whisky Island, but that it was doing this on Willow and Macey, two streets owned and controlled by the city. He also said a water pipe had been run onto the island, not for fire protection, but to furnish drinking water to the men employed there. The Willow-st ferry was operated, he said, for the accommodation of men going to and from work.

SERVERS WOULD HAVE CITY PAY FOR NEW BOAT'S COLORS

Order Checks Despite Lawyer's
Contrary Advice.

City Solicitor Baker ruled several weeks ago that council had no right to appropriate \$180 for the purchase of colors for the new D. & C. steamship City of Cleveland. The councilmen then went into their pay envelopes and donated \$5 each for the flags and banners that were to float from the masts and pilot house.

Secretary Callow of the servers Wednesday notified the councilmen that the board had decided, despite Baker's opinion, to issue an order for the payment of the bill. Auditor Coughlin has been asked to issue a check for the amount. He is undecided what course to pursue.

TO BUILD WAITING ROOM.

Mayor Johnson Plans Comfort Sta-
tions at Easterly End of
Superior Viaduct.

Acting under instructions from Mayor Johnson, Park Engineer Stinchcomb has begun to prepare plans for a waiting room and public comfort station to be erected at the east end of the Superior-av. viaduct.

The station will be put at the junction of Superior hill and W. 9th-st. A portion of the station will be underground if present plans are carried out.

Some time ago the park department planned to erect a similar structure at the flatiron corner near the Central market. The plan was abandoned after an opinion was given by City Solicitor Baker against the use of bond money for an improvement of this character.

Newton D. Baker.

The Akron Times, acting on its own initiative, has proposed, in a rather striking editorial, the name of Newton D. Baker of Cleveland as Democratic candidate for governor of Ohio. The Times points out, with evidence of careful study of the public life of Mr. Baker, that his services in the city of Cleveland have been such as to commend him to the favorable consideration of both Republicans and Democrats. It states that in this city there is no partisan or factional division in the praise universally accorded to Mr. Baker, nor is there the slightest doubt as to his fitness to fulfill the duties of governor of Ohio.

The people of Cleveland have come to know Mr. Baker very well, and to admire and respect him. His excellent judgment has many times stood the city in good stead. His record, first as director of law and later as city solicitor, has been of the best. His rulings have seldom, if ever, been found at fault.

It is, perhaps, to be expected that Mr. Baker will not be gratified at any movement to forward his own candidacy. But, however this may be, the Akron Times has done a graceful act in placing Mr. Baker in this position of prominence before the people of the state. Whether or not he acknowledges himself a candidate it is gratifying to know that the ability and strength of character of this Cleveland man are recognized beyond the limits of his own city, the city which has been the field of his disinterested endeavor.

**RAPS LEGISLATORS
IN COURT OF LAW**

**Lawyer Fighting Referendum
Claims That Burden is
Wrongly Shifted.**

**Claims People at Large Are
Not Fit to Make
Statutes.**

E. J. Blandin, one of the attorneys attempting to overthrow the Schmidt referendum law in Judge Chapman's court, yesterday called the bill "a tacit confession on the part of the members of the legislature that they are not fit to discharge the duties they are elected for." He saw in the measure an attempt to shift the burden of law making on the people, instead of on the legislators, as he believed the constitution intends.

Quoting from an earlier decision, he characterized the government as not "a democracy," but a "representative democracy" and said that law making by the masses means "the beginning of the end of the institutions we delight to call republican. The spirit of the law, he declares, is that the people shall choose their representatives and the representatives make the laws.

"The great mass of citizens are not trained in statute making. They do not know what statutes are already on the books, nor how a new statute would conflict with those already there. To institute the referendum would be turning back to tribal days, when all, even those who did not understand the system of laws, made and unmade them directly. The spirit of our government contemplates that the masses shall

choose those who are to make their laws. They shall choose men experienced in legal matters and leave the making of statutes in their hands."

City Solicitor Baker, who with ex-Judge Tilden and Attorney J. A. Cline, is upholding the law, says it does not put legislative power into the people's hands, but does give them the right to say whether a legislative act shall stand. Baker and Cline quoted many precedents from Ohio and other states, which they claim, strongly support their contention.

The method of ascertaining the sufficiency of petitions filed under the law, though not definitely set forth in the act, must be left to the city council, they asserted, because the granting of the power to hold an election implies the right to take intermediate necessary steps.

The hearing ended yesterday afternoon and Judge Chapman took the case under advisement.

**COURT TAKES HOLD
OF MUNICIPAL SUIT**

**Plea for Injunction Based on
Unconstitutionality of
Schmidt Law.**

**Report Says Backers of Suit
Are Now After Satis-
faction.**

Broker Frank J. Smith's suit for an injunction against a special referendum election, on the ground that the Schmidt law is unconstitutional, was partly heard by Judge Chapman yesterday. The matter will go on this morning.

Attorney Robert E. Hyde, for Smith, declared the law was loosely constructed, that some of its terms were nonsense and that it provided no means for the council to carry out matters such as investigating petitions, holding elections and the like. The law is against the spirit of the constitution, it was said, because it attempts to delegate to the people a legislative power lodged rightly in a legislative body, such as the general assembly. Counsel held it to be usurpation by the masses of what the government intends to have done by the people's representatives.

City Solicitor Baker, speaking for the law's validity, followed, but had not finished when court adjourned. He asserted that the necessary steps to investigate petitions, hold elections and the like could be taken by the council through implication, though not expressly provided for in the law. If the power to do a thing was vested in the council, then the steps required to be taken before it could be done, must be understood to be permissible, he said.

The courtroom was filled through the day with attorneys and spectators, including A. L. Behner of the street-car men's union and a number of the strikers. Attorneys E. J. Blandin and Hyde, for Smith, are arrayed against Baker and Attorney J. A. Cline and E. H. Tilden.

The court refused to allow Smith to answer a query put by Attorney Cline in the morning as to whether Smith is the real party interested in the bringing of the action.

Should Smith succeed in overthrowing the Schmidt law and preventing a referendum election the

Municipal franchise will be in undisturbed validity. His second suit, brought Wednesday, to overthrow the lease from the Cleveland Railway Co., formerly the Cleveland Electric, would then, if successful, throw all property leased back to the Cleveland Railway Co. Although Smith refuses to say whether he is being supported by other interests, and if so, what interests they are, the consistency between the two suits gives rise to strong reason for doubt that they are in any sense friendly to the administration.

In traction circles great interest centers in the purpose back of the two suits. Neither the Cleveland Electric nor the Municipal officials will admit that they are in any way in sympathy with Smith's suits, and in banking circles no one professes to know why the suits have been brought.

One explanation offered is that Smith, with some other large holders of Cleveland Electric stock, having lost heavily through depreciation in the values of their holdings, have decided on an independent effort to knock out the settlement and reopen the whole franchise controversy again in the hope of getting better terms for the old company.

Smith has been for a number of years a shareholder in the Cleveland Electric. It is understood that some of his holdings were purchased when the stock was above 80. As a broker he was always friendly to the stock in the days before the traction war became an acute issue. He and his clients and friends are reputed to have lost quite heavily through the long decline in the price of the stock.

Smith is reputed to be wealthy and well able to take chances on a further loss for the purposes of satisfaction. It is rumored that he and a coterie of friends who have been swallowing heavy losses for years are now out for satisfaction and propose to keep the traction muddle as badly mixed up as ever.

Smith made his big hit several years ago when he undertook to finance the American Multigraph Co. The company had what appeared to be a good patent but no money. Smith had faith in it and interested a number of bankers and capitalists to the extent of furnishing the original funds to put the company on its feet. Now the American Multigraph is a \$5,000,000 concern, doing business in all parts of the world. Smith is still an official of the company. He maintains his seat on the stock exchange, but confines his attention largely to his own investments.

**SAY AMENDMENT
SHOULD NOT GO**

**Law Department Officials
Hold Pfahl Measure Should
Pass Intact.**

**Baker Argues in Favor of
Prohibition of Fire-
works.**

Attorneys in the city law department are inclined to agree with Councilman Pfahl that it would be unwise for the council to attach any amendments to his ordinance prohibiting the sale and use of fireworks in the city of Cleveland.

"If the council is in favor of having the city take hold of the fireworks celebration by having displays in the parks it should not be done by

amending this ordinance," said Assistant City Solicitor Wilcox yesterday. "This ordinance should be allowed to stand. The other matter could be taken care of by independent action."

City Solicitor Baker, who is also strongly in favor of the passage of the ordinance in its present form, declared yesterday that in his opinion the council would be taking a proper step in prohibiting the sale and use of fireworks.

"What appeals to me most strongly in this matter is not that the celebration causes death and injury but that it is a desecration," Baker said. "This barbarous method of celebrating the birth of the nation's independence is not keeping with the spirit of the day. I doubt if Fiji islanders would indulge in a celebration that is as barbarous as our present method of celebrating the Fourth of July."

In looking over the weekly mortality report yesterday Health Officer Friedrich found that nine persons had died from scalds or burns. "This alone is an argument in favor of the passage of the Pahl ordinance Monday night," he said. "There are no deaths from tetanus reported as yet. They usually come in the middle of July."

Hundreds of anti-fireworks letters from Cleveland citizens are still coming in to the Plain Dealer and together with the single coupons many long petitions are being received. One yesterday contained sixty-five signatures. Another signed by a number of the employes of Kinney & Levan contained ten signatures. Below the signatures was written the following: "The above are few of the names of our employes, showing their sentiments, and we have many more people here of the same opinion."

Mrs. M. E. Doyle, 1626 Rosewood-av., with a petition containing eleven signatures sent the following communication:

"It has long seemed to the writer that our popular idea of celebrating the Fourth of July was degenerating into a nightmare. One would think that the suffering and death of even one little child from the dreaded tetanus would be sufficient to do away with toy pistols, torpedoes, cannons, etc., which do so much harm."

J. G. Milner, 1582 Woodlawn-av., and his wife sent the following: "We wish to register ourselves as favoring the ordinance prohibiting fireworks in Cleveland. If any co-operation of Cleveland's citizens can avail to bring about this measure count us among the most enthusiastic."

W. W. Whitmore, 2119 Murray Hill-av., wrote: "The writer is heartily in favor of your movement to put a stop to the sale and use of fireworks within the city limits. In addition to it being a great annoyance it is also a great menace to property. A number of balloons are sent up that take fire before they have got any great distance or height, and if they drop on a shingle or tar roof without doubt would cause destruction of the building. As for noise, fireworks such as cannon crackers, bombs, etc., the few that get pleasure out of them should not be considered when we think of the hundreds of invalids and old people that are brought to the verge of death through the shock caused by these explosions. I feel very grateful that you have taken the steps you have to benefit the city in this movement."

DINKY CARS UNDER BAN,

SAYS BAKER

City Solicitor Advises Du Pont That Chain Brakes are Prohibited.

The use of old dinky cars, equipped with chain brakes, by the Threefeer is in violation of the revised ordinances of the city. Every day one of these antiquated cars is run out of the barn the company makes itself liable to a penalty of \$25.

Persons using the E. 55th-st line have been forced, for weeks, to depend on the dinkies for service. Escapes from serious accidents have been numerous. Fifty-five of the 64 small cars operated by the Threefeer are used on this line.

Wednesday City Solicitor Baker, after an examination of the revised city ordinances, said the use of the chain brake was prohibited. He cited section 1916, which provides that cars, other than the eight-wheel and 15 bench, shall be equipped "with the latest and best improved quick acting safety brakes, other than the chain brake, for the better protection of pedestrians and the prevention of accidents."

FINE OF \$25 PER DAY.

This section became effective Sept. 1, 1899. For each car that is operated in violation of this section a fine of \$25 is provided. Each day's use constitutes a separate offense. Section 1917 provides that all eight-wheel or 15-bench cars shall be equipped with either air, electric or momentum brakes.

When Solicitor Baker's attention was called to the use of the dinky cars, he dictated the following letter to du Pont:

"My attention has just been called to the provisions of section 1916 of the revised ordinances relating to the operation of cars not equipped with improved quick-acting safety brakes. I am told that the Municipal Traction Co., in emergency of rush hours of the day, is operating some of the old style, so-called 'dinky' cars, and the question suggested is as to whether they are equipped with quick-acting safety brakes, other than chain brakes.

SEES A LOOPHOLE.

"In all likelihood, section 1916 permits some form of traction or tension or mechanical brake, and it may be that the cars referred to are so equipped and that the brake upon them is not technically a chain brake. I am calling your attention to the provisions of this section, however, in order that it may not escape the notice of your operating department.

"The use of old-style cars is an unfortunate necessity which must be resorted to, and it would hardly seem that any necessity could justify their use if their safety devices are in conflict with the requirements of an ordinance of as long standing as ordinance No. 1916."

Solicitor Baker did not believe that section 1917, requiring the equipment of the larger cars with the air, electric or momentum

brakes, was in any way in conflict with the preceding section prohibiting the use of chain brakes.

Senator T. P. Schmidt, Threefeer director and head of the stock department, says the daily sales of stock run from \$10,000 to \$15,000.

Councilman Walz, of the first ward, who fought for an early referendum election until it was seen that the majority favored delay, claims authorship of the amendment to the Koch resolution, pledging the council to call a referendum when the Smith cases are settled.

DECIDES SCHMIDT LAW TO BE VALID

Judge Chapman Rules Against Broker in Suit to Knock Out Referendum.

Imperfection of Measure is Not So Grave, He Holds.

Judge Chapman refused yesterday to hold that because the Schmidt referendum law is indefinite in its provisions, it must be unconstitutional. In deciding the suit brought by Broker Frank J. Smith, Judge Chapman held the law valid, and permitting of a referendum. Smith will appeal to the circuit court.

Smith's attorneys declared besides other indefiniteness, that the Schmidt law provides no means by which the sufficiency of a referendum petition could be ascertained, nor means with which to pay for the investigation, and that the words "15 per cent. of the qualified electors (to be deter-

Baker Calls it Vindication.

"I am delighted with the decision of Judge Chapman," said City Solicitor Baker yesterday in speaking of the outcome of the first Smith suit in common pleas court.

"It is a complete vindication of the right of the people to pass upon street railway contracts made by the council. In view of the attack that has been made on the street railway lease, the decision in this case was of vital importance to the people."

mined by the highest number of votes cast for the mayor)," were too vague.

The court held that Smith has no power, because the bill was imperfect in detail, to hold it unconstitutional. As long as the imperfection would not render execution absolutely impossible, the law must be held valid and the necessary steps to accomplish the end sought would be allowable by implication.

"The highest number of votes cast for the mayor," he interpreted to mean, cutting out "highest" and "the," the number of votes cast for the mayorality office. Fifteen per cent. of this number, he held, would be a sufficient number of signatures.

Allowing the people to vote on a law which should not take effect until the general assembly approves is in accord with the constitution, said the court.

The fact that a condition such as the holding of an election, must be performed before the general assembly approves, does not invalidate the law. The law could not be considered a delegation by the legislature of its powers to the people, contrary to the constitution.

PETITION IS VALID; ELECTION HELD UP

Council Adopts Resolution
Calling Referendum Names
Sufficient.

To Call Special Vote After
Smith Suits Are De-
cided.

DEBATE LONG AND BITTER

Members Carry Resolution by Vote
of 26 to 6—Hard Effort is Made to
Settle Exact Date for Election,
but Mayor Urges Against It—In
Charges Councilman Declares
Municipal is Behind Suits to Test
Constitutionality of Schmidt Law.

By a vote of 26 to 6 the council last night adopted a resolution by Councilman Koch, declaring the referendum petition sufficient and binding itself to the calling of a special election at as early a date as possible after the supreme court decides the second Smith case.

Six Republican members voted against the resolution on the ground that it is the duty of the council to name a date at this time. A debate teeming with personalities and bitter flings prefaced this action. Charges that politics was being played were hurled back and forth and Mayor Johnson after announcing that he still believed the referendum was a fake "inasmuch as its friends, the election supervisors, now admit that 40 per cent. of the signatures are invalid," declared that he would withdraw any contention as to the revocation of signatures in cases where signers wished their names withdrawn, and would state that the petition was sufficient.

Calls Petition Valid.

This declaration from the mayor followed the reading of a report from the individual members of the board of elections stating that they had found 1,224 of the rejected signatures to be valid and that in their opinion the election might now be ordered as the new count made a total of 14,082 valid signatures.

The Koch resolution was introduced as substitute to a resolution by Councilman Walz setting the referendum date at Dec. 8. Walz argued for the selection of Dec. 8 as a definite date until the situation was explained by Mayor Johnson and City Solicitor Baker. Then he agreed to the substitute with the amendment that the election be held at as early a date as possible after the courts decide the question of the validity of the street railway lease.

Mayor Johnson in addressing the council advised in the strongest terms that the referendum be held as a club over the heads of those who are attempting to knock out the lease and cause the security grant with its six for a quarter fare stipulation to become operative. He charged that a deliberate effort is being made to bring this to pass and that the two petitions filed by Smith indicate that an attempt is on foot to prevent the people from voting under the Schmidt law on the grounds that it is unconstitutional and to have the lease by which the Cleveland Electric turned over its property to the Municipal, declared invalid, leaving the way clear for the security grant which in itself was a gift of \$25,000,000 from the people.

"If the court finds that the Schmidt law is unconstitutional the difficulty that Smith has sought to avoid has been cleared away," said Mayor Johnson. "By fixing a date now we would be throwing away an advantage. By these suits Smith is willing to take an advantage and gives none. This date for the special election is a club. Let's hold it."

Hirstius Makes Charges.

Councilman Hirstius then charged in unqualified terms that the administration is in reality back of the suits and that its aim is to get more capital by securing a legal decision on the lease.

This charge led to a bitter verbal encounter between Hirstius and Council Bernstein. Bernstein charged that Hirstius had drawn up a resolution fixing the date at Nov. 1909, the latest possible time the present council could authorize it and that he had then withdrawn it. "We wish to put the date as soon as possible after the supreme court gives its decision, not in Nov. 1909," he said.

Hirstius declared after the meeting that he had prepared such a resolution but that he had done so merely as a ruse to have a resolution put in fixing the date at an earlier period.

The meeting was further marked by a verbal encounter between Councilman Horner and City Solicitor Baker. The city solicitor declared to Vice Mayor Lapp that the language of the councilman was offensive, inasmuch as he had suggested that the city solicitor was not sincere when he had expressed the opinion that the supreme court will give an opinion within the period named by him.

When called on by the chair for an explanation Horner said that he meant to imply the city solicitor was merely not sincere in saying that the supreme court "will" give its decision within this period rather than it "would." The city solicitor denied that he had said "will."

Baker declared while this matter was under discussion that the Smith case would doubtless be tried early in September and that the circuit court would probably try directly afterward. He declared further that the public importance of the case would be given as a reason for advancing the cause when the matter reached the supreme court and that the special election question would be a sufficient cause for early action on the part of the court. He also said that he and those who have been working with him in the defense of the Schmidt law believe that the court will decide in their favor.

It was then urged by Baker that in the event of an unfavorable decision from the court on the question of the lease, the referendum vote would be unanimous against the security or-

dinance.

Councilman Kramer then pointed out that Baker had previously expressed the utmost confidence that the lease was not vulnerable. "I have heard Mr. Baker make the distinction between his personality as a city solicitor and as an attorney," he said. "His official function in this case undoubtedly is to sustain the attitude of the administration on the referendum question."

The Koch resolution bearing on the referendum situation is as follows:

"Whereas ordinance 11,209 was passed by this council as a security grant for the protection of the property of the Cleveland Electric Railway Co., while the same is being operated by the Municipal Traction Co., under lease, in the interest of the people of Cleveland, and

"Whereas a suit has been brought by F. J. Smith, a stockholder of the Cleveland Electric Railway Co., to have the lease under which said property is operated annulled and so to secure for said company the benefits of said ordinance and deprive the people of Cleveland of all the benefits of the settlement of the street railroad question, and

"Whereas a petition for a referendum has been presented to this council making it possible for the people to vote down said ordinance should the courts declare the lease invalid; now therefore, be it

"Resolved by the council of the city of Cleveland that it is hereby declared that the petition heretofore presented to this council for a submission of ordinance 11,029 to a popular vote is sufficient and contains the signatures of enough qualified electors of the city to authorize such submission; be it further

"Resolved that in order to preserve the rights of the people to act upon ordinance 11,029 as the public interest may require this council does hereby postpone the setting of the time for the submission of said ordinance, to the end that an adjudication may first be had upon the validity of the said lease, but that the referendum shall be held at the earliest possible time following the court's decisions, provided, however, that by this procedure the date shall not be delayed beyond the date set for the next municipal election in November, 1909."

COLLINWOOD MAY NEVER ENTER CITY

Village Council, to Consternation
of Residents, Votes
No to Annexation.

Hot Anger Stirs Little Town
When Strange News
is Spread.

Collinwood, whose people declared themselves for annexation to Cleveland by a three to one vote last fall, may never become part of Cleveland. The village council last night blocked annexation on the final reading of the enacting ordinance with four councilmen voting against and two for.

The council's word is final unless it reconsiders its decision and opens up new negotiations with the joint commission. The only alternative, as agreed on the streets last night, is to elect new councilmen.

"The council was acting within its power," City Solicitor Baker of Cleveland said last night. "It has the right to reject the annexation if it doesn't think the terms favorable."

The result of the meeting was entirely unexpected. The council had been elected on a straight annexation platform. No vigorous opposition had come up at previous meetings. The meeting of last night was expected to be a cut and dried ratification.

As soon as the unexpected action of the council became known, the village people were stirred to instant anger. Charges of treachery were hurled at the councilmen and angry denunciations of the action were heard all over the village.

The storm center of the vilification is Councilman James K. Potter, elected on an annexation platform. It is claimed that Potter gave no evidence up to the last minute that he had changed his mind.

The vote stood: Ayes—Church, Billington. Nays—Plowman, Miner, Taylor, Potter.

Mayor Westropp, who was angry and surprised at the result, still hopes that the matter may be reconsidered and the cherished project put through at a later meeting.

"There was some dissatisfaction over fire protection, lighting and paving and a few things," he said. "But no one expected this result."

The fight for annexation has a long history in Collinwood. The old crowd, headed by ex-Mayor H. H. Sherman, who held political reins till the present administration won out, were firmly in favor of a separate existence for the village.

Though sentiment grew strong for taking advantage of the city's lighting, police and paving service, the old guard held out against it. Patrick Westropp, nominated for mayor last fall, declared his platform to be one of annexation. His councilmen were equally in favor of it at that time. The question was regarded as the paramount campaign issue. When it came to a vote, the people stood overwhelmingly for annexation.

MAY SAVE MOOTED STREETS TO CITY

Solicitor and President of Service Board Take Trip to Flats.

Call in Deeds to Determine Right of Railroads Involved.

City Solicitor Baker and President Springborn of the board of public service took a trip to the flats yesterday to see the fence that has been built by the Erie railroad along the streets leading up to the Nypano ore docks.

On returning to the city hall Solicitor Baker said that until he ex-

amined certain deeds and records he could not say whether or not the railroad had gone beyond its right in shutting off streets from the old river bed.

"Upon looking over the site one would say that there are no streets there," he said, "but until the deeds are examined it could not be stated whether city property has been inclosed or not."

A report on the question will probably reach the council tomorrow evening in compliance with a resolution by Councilman Feighan asking that this question and the fencing off of the streets on the Whisky island side of the river bed by the Pennsylvania be looked into.

In introducing the resolution Feighan told of the death of Joseph McNulty, the young man who was shot while attempting to get beyond the fence on the Whisky island side.

TO TAKE OFF DINKY CARS

Threefer to Cease Violating Law on E. 55th.

ALTERING PREPAY CARS

Solicitor Baker Says He Didn't Finish Investigation.

The Threefer promises to remove its "dinky" cars from the E. 55th line in 10 days. These cars are provided with hand chain brakes, and a fine of \$25 a day might be imposed for each car used.

The cars have been used pending alteration of the regular cars to prepays.

The "dinkies" are running in violation of a city ordinance. City Solicitor Baker said Friday he had not yet finished his investigation.

WARNED DU PONT.

Two weeks ago he called President du Pont's attention to the city ordinances on safety devices. Baker said in his letter:

"The use of the old-style cars is an unfortunate necessity which must be resorted to and it would hardly seem that any necessity could justify their use if their safety devices are in conflict with the requirements of an ordinance of as long standing as No. 1916."

An investigation Friday showed that the only brakes on the E. 55th cars are chain brakes. Asst. Supt. Alexander of the Threefer said there were 52 of these cars in operation. He said they would be used until 140 cars being converted into prepays have been finished.

MANY ACCIDENTS.

Six persons were hurt in an accident about two weeks ago, when a car almost jumped a bridge. Numerous other accidents were narrowly averted.

"If I find the cars are being operated in violation of the city ordinance, they will be stopped," said City Solicitor Baker, who is also director of the Threefer. "Du Pont told me he had no desire to break the law. However, I shall continue my investigation."

OPPOSE LAKEWOOD STOPS.

President du Pont wants to run the limited interurban cars through Lakewood without stopping. He wrote a letter to Mayor Bernhard Miller of Lakewood Friday, asking that the ordinance which now compels the cars to stop at any point in the city be canceled.

President du Pont said that the electric cars are compelled to compete with the steam roads. If his plans carry, the limited cars will stop only to let off or take on passengers at one point in the village.

PROFIT FOR JULY.

Directors of the Municipal Traction Co. announced at a meeting Thursday that July would show a profit in the operation of the street car lines. However, they fear free transfers.

President du Pont has promised business men in the southwestern section of Public square to run some of the suburban cars around that loop.

A committee headed by Atty. Max P. Goodman urged du Pont to change the Scovill car route back to Ontario, but he refused, unless council ordered it.

BAKER SUES TO STOP 3D TRACK WORK

Solicitor Baker, acting as a city official, Friday began an injunction suit to restrain the Threefer from laying a third track on Lexington, near E. 66th. The track was to be used in storing cars to take care of the rush after ball games at League park.

The track complained of was laid by a big gang Thursday night. The curb on the north side of Lexington was torn out to make room for the rails. The track almost reaches the sidewalk. Citizens protested to Baker, who began action at once.

By agreement among attorneys, Judge Schwan permitted the completion of the new track and its use until Monday, when the case will be heard.

The petition says the Threefer has been tearing up pavement, putting up poles and wires and blocking traffic without permission or authority.

People of the neighborhood have other complaints. Hought folks did not like a "Y" recently put in. They had it torn out, and the brick pavement was not satisfactorily replaced. A curve at E. 66th and Lexington cuts within two feet of the curb.

PROTEST ON THIRD TRACK

Lexington Citizens Object to
Threefer Line.

Arguments in the case filed by City Solicitor Baker for an injunction restraining the Municipal Traction Co. from using a third track built in Lexington in front of League park, were concluded Tuesday in Judge Ford's court.

The judge will give decision after briefs in the case have been filed by attorneys.

Atty. John Neiding, representing property owners, told the court nearly everyone along the street objects to the third track. He said it was almost impossible for a person to drive along the north side of the street when a car is passing.

Councilman Kramer thought the railway company ought to buy a private lot for extra cars.

Atty. Jas. Brooks, representing the Threefer, said permission had substantially been obtained from Server Springborn to build a switch at E. 66th and Lexington. He argued that when council gave permission to the Concon to put in two tracks it voluntarily raised the rights under an ordinance which prohibits tracks from being nearer than 12 feet to a curb.

Baker said it would establish a bad precedent to allow the third track to remain.

boards placarded with ugly illustrations are to be seen on every hand and the evil grows from month to month as available spaces are recognized and put under control by the billboard syndicates.

An effort will be made to have the evil controlled by municipal ordinances. Failing that, a state law will be sought giving the city power to control the situation.

The committee to be charged with the work is made up of well known Clevelanders. William G. Mather is chairman. Those who will join him in the work are: Newton D. Baker, city solicitor; Gen. George A. Garretson, F. H. Goff, head of the Cleveland Trust Co.; Rabbi M. J. Gries, L. E. Holden, W. H. Hunt, H. H. Johnson, George W. Kinney, J. H. McBride, F. F. Prentiss and W. B. Warner.

City Solicitor Newton D. Baker never overlooks an opportunity to improve his mind. Not long ago he was going on a short railroad trip and took along a copy of Holmes on Common Law. The work is a ponderous one both in actual size and in contents, but Baker waded into it, scarcely stopping to look out the window at the little brindle railway stations that sped by.

A typical oldest inhabitant at one of these flag stations got on the train and took a seat next to Baker.

He noticed Baker's studious atti-



tude and glanced at the title of the volume to ascertain what it might be that so keenly interested his seat-mate.

"Ah, my boy," said he in a paternal tone, "studying law, are you? You're going to be a lawyer, hey? Well, that's nice. I had a little nephew that started to study law when he was about your age a few years ago and he cleaned up purty nigh \$1,100 out of his law practice last year.

"I'll tell you though, my lad," continued the old fellow, noticing again that the book was a work on common law, "if I was you I'd try to get to be a good lawyer. I wouldn't monkey with this common law."

POLICE COURT IS SHY ON PROSECUTORS; BAKER TO HELP

Vacations Tie Up the Work of
Issuing Warrants.

Central police station swarmed with discontented people Tuesday. About 200 waited about the prosecutor's office to air their troubles and obtain warrants. Central station is shy on prosecutors.

Chief Asst. Wm. Geier's vacation of three weeks has ended, but he has not returned. Asst. Dan Cull is on vacation and Prosecutors Baer and Feniger are rushed with court work.

City Solicitor Baker says he will assist in police court work until Geier returns.

DAY OF FIREWORKS PASSES FROM CITY

Pfahl Ordinance Goes Into
Effect and Celebrations
Are All Off.

Committee Will Advise as to
Purchase of Old
Stock.

At midnight last night the Pfahl ordinance prohibiting the sale and use of fireworks in Cleveland and making it unlawful for any one to have fireworks in his possession, became effective.

In the opinion given at the request of the police department yesterday City Solicitor Baker stated that from today on no special fireworks celebrations were to be allowed by the police. This put an end to the hopes of the committee which had arranged for a fireworks display in connection with the celebration in Little Italy today.

Acting Fire Chief Whyler announced yesterday that he would instruct the fire wardens Monday to enforce the new anti-fireworks ordinance. "They will visit all of the places in their districts where such explosives are usually sold on the Fourth of July and see if any stock has been left over from the Fourth and what arrangements have been made to dispose of it," he said. "We will enforce the ordinance and the sale and use of fireworks will not be permitted."

The ordinance was signed by Mayor Johnson a week after its passage. On July 22 it was advertised for the first time and under the ruling of City Solicitor Baker it became effective at midnight as the advertisement had been inserted for ten days.

Councilman Durkin is planning to introduce a resolution at the coming meeting of the council calling for the appointment of a committee to investigate the feasibility of the city's purchasing all the left over stocks of fireworks.

If this plan falls through Councilman Kraus will introduce an ordinance to repeal the Pfahl measure and will substitute an ordinance restricting the present mode of celebration by merely prohibiting can-on crackers and other kinds of fireworks that are considered most dangerous.

TO DISCUSS NEW DOCKS.

Mayor and City Solicitor Will Decide on Terms of Lake Front
Lease to Boats.

Mayor Johnson and City Solicitor Baker will meet next week to decide on the terms of the lease by which the city is to turn over the lake front docks to the passenger boat companies.

President Springborn of the board of public service took the matter up with Baker yesterday, and the latter stated he would see the mayor as early in the coming week as possible. The ordinance embodying the terms of the lease will be introduced in council Aug. 24.

BILLBOARDS WILL BE OBJECT OF WAR

Chamber of Commerce
Takes Up Matter and In-
stitutes New Campaign.

May Get State Law Enabling
Cities to Control Big
Evil.

A war on billboards is to be inaugurated here.

The campaign will be begun early this fall by a committee just appointed by the Chamber of Commerce. It is the committee on municipal art and architecture and until a civic art commission is named the committee is to wrestle with the problems which will be put up to that body.

The billboard evil has grown to a pretentious size in Cleveland. Boulevards are bordered with lurid advertisements while residence districts have not been immune from their presence. In the business district big

TO PROBE PLAN OF PROPOSED BRIDGE

City Solicitor Will be Asked to Look Into Suggestion for High Level.

County Commissioners Not Enthusiastic Over Project.

President Springborn of the board of public service announced yesterday that he would write a letter to City Solicitor Baker formally requesting him to investigate the plan suggested by W. F. Elrick, former county commissioner, for carrying out the Superior high level bridge scheme as a county improvement.

"If there is anything in the plan at all, there should be a close investigation," said Springborn. "We want the bridge. It is the duty of the city and county to look into the matter."

City Solicitor Baker also evinced interest in the plan yesterday and said that if he was requested to do so by the service board he would commence an investigation.

County officials showed decided apathy. County Commissioner Mathews, who was a caller at the mayor's office, admitted when questioned regarding the matter that he was not interested in the project.

"I'm not interested in that at this time," he said. "The county solicitor says it can't be done. We can't rebuild a bridge unless it is condemned by our engineers. We have a certain routine that we must follow in carrying out this work."

One plan which city officials would agree to in order to obtain the improvement is that of transferring the property to the county in order that the county might carry on the improvement. Councilman McKenna announced yesterday that if any council legislation was needed in order to bring about a complete investigation of Elrick's suggestion for carrying on the improvement he would gladly render any assistance in his power.

"We want the bridge," he said. "It is an improvement that would benefit the whole county and the county should pay for it. Farmers and people living in the suburbs use the bridge as well as we. There is every reason to believe that it is an improvement that should be borne by taxpayers outside the city as well as those inside. I don't believe that the county should pass the thing by without a thorough investigation. It is the duty of county officials to cooperate with city officials in this matter and make a thorough investigation. If any council legislation is needed I will be glad to introduce it."

"If the board of public service requests me to take the matter up I shall be glad to look into it," said City Solicitor Baker yesterday.

THREATENS SUIT ON DOCKS PLANS

Attorney Says He'll Seek to Enjoin City From Leasing E. 9th-st. Piers.

Says Municipality Has No Authority to Give Over Land.

A taxpayer's suit will follow any attempt on the part of the city to make a lease with the passenger boat companies for the use of any pier extending from the made land between E. 9th-st. and W. 3d-st., exclusive of the E. 9th-st. pier itself.

If a suit is not brought by City Solicitor Baker to prevent the making of a lease such a suit will be brought by Attorney John G. White of the firm of White, Johnson, McCaslin & Cannon. Baker will bring suit as a taxpayer, and will be at once client and attorney in the case.

Notice that such action would follow if the city proposed to make the lease was given in a letter received by City Solicitor Baker yesterday from Attorney White. While no final steps have as yet been taken by the city in the matter, preliminary negotiations between the city and the D. & C. and C. & B. lines have been carried as far as the drawing up of a tentative lease. This lease contains the city's proposition, but has not yet been approved by the boat companies. The pier that the city intended to lease to the boat lines if an agreement was reached is that west of the E. 9th-st. pier.

Baker declared yesterday that he had not decided what action would be taken as the matter was still in a formative state. The tentative lease was prepared by him and by Mayor Johnson and President Springborn of the service board at a meeting Friday morning.

In his letter to the city solicitor, Attorney White declares that he will take no action if the city merely intends to lease the E. 9th-st. pier, although he is of the belief that the piers built at the end of a street are as much a part of the street as that which is on land, and that for this reason the city is absolutely without right to make the lease. He adds that if it is proposed to rent to a commercial steamship line any docks in front of Lakeview park or any part of the made land which forms a part of the park he will ask the city solicitor to bring suit, and that in the event the city solicitor refuses to take such action he will bring suit himself.

While a temporary disagreement between the city and boat companies on the question of rental seemed imminent it was generally believed that this question would be adjusted without much argument. The letter of Attorney White discloses unlooked for opposition in the way of the city's plans for making use of the made land on the lake front.

The city has expended about \$300,000 on the lake front improvement including the cost of making the land and the bulkhead and piers and the service board believes that the proper course would be to rent these piers and as many others as are built along this made land, for passenger boat purposes.

The rental which the city now asks of the D. & C. and C. & B. lines for the use of the westerly pier is \$5,000 apiece for each year's use during the first ten years, \$6,000 for the second ten years and \$7,000 for the third ten years.

SAYS SCHOOL BOARD

FOSTERS MONOPOLY

City Solicitor Declares It Calls for Equipment Supplied by One Firm Only.

Members Undecided Whether to Alter Specifications or Not.

In a letter sent by City Solicitor Baker to the board of education yesterday the statement is made that through the peculiar form of the board's specifications for plumbing work, it fosters an absolute monopoly in Bartlett Bros. Co., a plumbing supply house. The specifications referred to call for latrine, which is supplied only by that concern.

Baker was asked whether there was any legal ground why the board should not grant to the lowest bidders contracts for repair work at Fullerton, Fairmount, Willard and South Case schools. The reference of the question to the city solicitor was occasioned by the charges of Theodore and Frank Poplowsky, plumbers, that a monopoly existed in the plumbing field. Baker's reply was two months coming and the board had commenced to worry lest it be delayed so long that the repairs could not be completed by the opening of school.

Baker tells the board that it would be idle to readvertise the bids as long as the specifications remain as they are, as no other firm can supply the particular appliance. There is no legal objection, however, he continues, to the immediate award of the contracts.

Acting on this advice the board of education will probably let the contracts at a special meeting, which has been called for Monday. Whether it takes steps to change its form of specifications as to avoid fostering a monopoly is another question and one on which the school administration is divided.

Baker is careful not to urge the board to change its specifications.

While the communication was zealously guarded yesterday at school headquarters its provisions became generally known. Almost everywhere the letter was taken as a practical substantiation of the Poplowsky charges.

Board officials are divided as to whether the board ought to take the hint in Baker's letter and alter the form of their specifications. School Architect Barnum, who is chiefly concerned, is averse to any extended alterations.

"I hope and believe," he said, "that it will be a long time before our specifications are materially altered. I think that under our present specifications we are obtaining the best sanitary appliances on the market."

E. B. Bartlett of the Bartlett Bros. Co., however, has been urging members of the board of education to adopt measures which shall have the result of getting other manufacturers into competition. He would like to see the board pledge itself to stand by the present specifications for a stated length of time, say two years. This would be sufficient guarantee, he thinks, to induce other manufacturers to bear the expense of making patterns for school plumbing goods. The expense of these patterns he calculates to be \$10,000 at least.

Members of the board have persistently asserted that it was nothing but superior initiative which got Bartlett his inner position.

A plan which the board has been considering is to invite other manufacturers to submit samples of the nearest approach they can make to the products outlined. It will then be possible to tell exactly where Bartlett's goods are protected by special patents.

IDLE TO ASK FOR NEW BIDS SAYS BAKER

Although Bartlett Bros. have an absolute monopoly on materials specified in plans prepared by the board of education for sanitary improvements in Fullerton, Fairmount, Willard and S. Case schools, Solicitor Baker has notified the board he believes it would be idle to ask for new bids for the work.

It had been charged by Poplowski Bros., plumbers, that the board was discriminating against plumbers by drafting specifications so only those using the Bartlett materials could bid. The Poplowskis insisted the Bartlett supplies were no better than others, although a higher price was charged for them.

Baker said: "The board is helpless unless it changes its specifications."

SPRINGBORN LIKES HIGH BRIDGE PLAN

Says City and County Can
Get Together and Build
a New Viaduct.

Commissioner Fischer, How-
ever, Disapproves of
Eirick Scheme.

President Springborn of the service board believes the city and county should get together on the plan of making a high level bridge of the Superior viaduct if there is any hope of carrying out the scheme for defraying the cost as outlined by W. F. Eirick, former county commissioner.

"It does not make any difference whether the city or the county carries out the improvement as long as the improvement is made," said Springborn yesterday. "If there is the least possibility that such a plan as that described by Mr. Eirick is feasible it should be thoroughly investigated."

"The city might get along without its share of county taxes for bridge improvements. There would be a big saving in the drawbridge expenses if the changes were made in the Superior and Central viaducts. While it has been stated that the county could not take hold of the Central viaduct proposition because of the fact that Central-av. is not a county road, I do not see what is to prevent the bridge being considered a part of Jennings-rd. I would like to see the matter looked into by County Solicitor Stage and City Solicitor Baker.

"The city ought to be willing to carry out such a plan. The ownership does not make any difference. The improvement is needed and it should be carried out as soon as possible."

Both Stage and Baker expressed doubts yesterday as to the Eirick plan, but the latter declared it is barely possible that the plan might be carried out if the city transferred the Superior and Central viaduct to the county. The county might then proceed with the improvement as it does with any of its own repair and reconstruction work.

County Commissioner Fischer believes Eirick's plan will not work out.

"The bridge is wholly within the city limits, under control of the city authorities, and we have no power to meddle with it. This proposition of the council agreeing with the commissioners not to accept the usual bridge tax turned over to the city would have to be carried out from twenty to twenty-five years.

"By no possibility could we bind the succeeding boards of commissioners to the agreement. As commissioners hold office only two years each board would have to be persuaded to renew the agreement."

CITY'S PIER TERMS WILL BE REFUSED

Boat Lines to Turn Down
Tentative Agreement for
Lake Front Docks.

"It Wouldn't Pay," is Deci-
sion of One Offi-
cial.

The passenger boat companies will not agree to pay the rental named in a tentative lease prepared by city officials yesterday outlining the terms under which the D. & C. and C. & B. lines are to occupy the westerly lake front pier for a period of thirty years.

The price fixed is too high, they say. The companies will each have to pay the city \$5,000 a year for the first ten years, \$6,000 a year for the second ten years and \$7,000 a year for the third if they accept the city's terms. The tentative lease was prepared yesterday at a meeting attended by Mayor Johnson, City Solicitor Baker and President Springborn of the service board.

The lease also contains the stipulation that all of the improvements are to become the property of the city at the end of the thirty-year period and in addition if the city wants the property before that time it can have it upon giving two years' notice and by paying the cost, deducting one-thirtieth for each year of use by the companies.

If the city's terms are accepted four years' rental will be paid in advance by each line, so that the city can proceed at once with its share of the lake front improvements. These include the construction of a bridge over the Lake Shore tracks at the foot of E. 9th-st., the paving of E. 9th-st. down to the water front and the construction of a switch from the Lake Shore tracks to the piers. The four years' advance rental would amount to \$40,000.

The proposed lease applies to the two boat companies named. Springborn explained that any new agreements drawn up with other companies would have to be made to fit any different conditions that might exist. The D. & C. and C. & B. will occupy the westerly pier and it is planned to turn over the easterly pier to the Lake Shore Navigation Co. if it desires to enter into a lease with the city. As it will only occupy a part of the pier a different arrangement will have to be made. Springborn said that the city intended to reserve a portion of this pier for its own use.

The improvements that the companies intend to put in will amount to \$150,000 or \$200,000. A tentative plan for the new passenger and freight buildings has been prepared by the Vorce Engineering Co.

D. C. McIntyre, general freight traffic manager of the D. & C. line, declared last night that the city's price is too high. "It would not be a paying proposition for the two companies to make the change under such terms," he said.

Mayor Tom was as pleased as a child with a new toy over the operation of his new fare box on the first prepay car, operated over the Payne-Bridge line Tuesday.

"Here, du Pont, pay your fare," he said to the Threefer president at the Payne barn as they were about to start on a second trip. "I'm paying now." The mayor dropped a disc each trip, and other officials did the same.

With President du Pont and Supt. Cook of the Threefer, Mayor Tom rode back and forth over the line from 2:45 until nearly dark, watching passengers use his new device. The mayor's auto accompanied the car, ready for the officials when they chose to go home, but they were in no hurry to leave the experiment.

HALTED BAKER.

At city hall Solicitor Baker boarded the car. He started to jump into the exit door, but Cook grasped him by the arm.

"You can't go in there," he told the solicitor. "Come around this way and pay your fare."

"I'm willing to be told," said Baker, as he dropped a disc.

You put your disc or pennies in the fare box just as you would into a slot machine. The box with its glass case at the top is about five feet high, and two slots receive the fare. The conductor does not handle the money at all, except in making change or dealing in transfers.

COINS MUST BE SMOOTH.

Coins and discs dropped into either of the slots, are automatically sorted. They slide down diagonal channels in plain view, and when a number have been collected the conductor may pull a slide and allow all to drop into the cash drawer. At the end of each half trip a cashier may remove the fare collections.

Passengers seemed uncertain Tuesday as to what was expected of them. Mayor Tom, du Pont and Cook assisted the conductor in showing them. A little girl became frightened at all the big men and began crying. Mayor Tom picked her up in his arms while her mother paid the fare.

A badly bent penny clogged the channels for a minute or two. Smooth coins must be used to insure good action.

SOLICITOR AND JUDGE LEVINE IN WORDY WAR

Judge Levine and City Solicitor Baker passed harsh words in police court Thursday. This is the second language battle Levine and the solicitor's department have had within a week.

Steve Shouskin, shot by J. E. Foster, Wheeling & Lake Erie railroad detective, July 2, was on trial on the charge of stealing journal brasses.

M. S. Bowers, B. & O. detective, testified that Shouskin, discovered taking brass from cars, stabbed Foster in the hand and threw a bag containing brass at his head.

HAS NO ATTORNEY.

Shouskin was not represented by an attorney. Judge Levine questioned Bowers.

"Tell me, is it not a fact that you invented this entire story?" asked Judge Levine.

Baker objected.

"The question is both outrageous and insulting," Baker said.

METES OUT JUSTICE.

"I am here not to protect witnesses, but to mete out justice to those who deserve it," said Levine.

"You realize, of course, the position you place the prosecutor in," said Baker, "when you assume the position of the defendant's attorney? I object to your putting questions which would enable the prosecuting witness to enter civil suit."

Baker said a bill of exception would be filed, but withdrew the motion on learning that Judge Levine would not require Bowers to answer the question.

THE WORLD, MARTINSBURG, W. VA.

NEWTON D. BAKER FOR MAYOR OF CLEVELAND

Former Martinsburg Man Who is
Close Friend of Tom Johnson
Has Chance to Succeed Him.

Newton D. Baker, a former resident of this city and son of the late Dr. N. D. Baker, is being groomed for the nomination of mayor to succeed Tom Johnson, of Cleveland, according to dispatches, and it is said by some that the unpopularity of Johnson is likely to redound on Baker and defeat him.

Nearly every one here remembers Mr. Baker, who was a Martinsburg boy and will watch his contest with interest.

Tom Johnson has failed in his efforts to maintain the three cent fare in Cleveland, and notice has been given that the old five cent fare is to be restored at once. The city has lost \$40,000 a month since the experiment has been inaugurated and the scheme will be abandoned.

It is said that the traction lines will pass into the hands of private parties and the regular five cent fare will be exacted. Tickets will be sold at a lower rate but in the vast majority of instances the passenger will come up with the nickel when he wants to ride.

The failure of this scheme knells the death of the Johnson strength and it is said that he can never again be elected mayor of the city. His prestige has been most seriously impaired and the influence which has made the normally republican stronghold democratic, will never again prove powerful enough to sway the voters of that city.

The failure of Johnson will cause many other towns to pause before they take over street car lines with the idea that they can be operated at a profit for less than private corporations can run them without loss.

RULES OUT WAR ON CONSUMPTION

Baker Holds Situation Isn't
Emergency, Hence Funds
Aren't Available.

Tells Cooley Law Doesn't
Permit of "Emergency
Notes."

City Solicitor Baker held yesterday that under the law the tuberculosis situation cannot be termed an emergency and that the board of health has not the legal right therefore to ask the council to issue emergency notes to be used in taking steps to prevent the further spread of the white plague.

Director Cooley had a conference with Baker early yesterday regarding the question. Baker declared that the meaning of the word "emergency" as used in the law giving the board of health the authority to ask the council to issue notes carried with it the thought of an unlooked for or unforeseen situation arising which necessitated an immediate expenditure.

"The term cannot be applied to the tuberculosis situation," Baker held. When it was pointed out to him that a definition of the word given in the dictionary was "a situation calling for im-

mediate action" he merely stated that the meaning of the word which the law had in view would have to be taken and not the definition used in the dictionary.

Attorney Charles L. Selzer, councilman from ward six, declared yesterday that in his opinion there is room for argument in favor of the view which takes the present tuberculosis situation as an emergency.

Inasmuch as Baker has expressed disapproval of the plan it is not probable that the matter will be pressed by Director Cooley. He is anxious to erect a new tuberculosis sanatorium at the top of a high tract of ground on the Warrensville farm.

MAY SWAP LAND FOR ART MUSEUM

There was evidence of activity by trustees of the Kelley Art museum Monday. At the suggestion of L. E. Holden they met with Mayor Tom, Servers Springborn and Leslie, City Solicitor Baker, Architect Hubbell and Park Engineer Stinchcomb.

Holden said it was the intention to begin the construction of the museum in Wade park early next spring. The trustees have decided, however, they want to make a change in the location of the building so it will face Euclid instead of the park drive. For this there must be an exchange of land with the city.

Holden proposed the city give the museum trustees enough park property to provide for the change in site, the trustees to deed an equal amount of museum property to the city. This was satisfactory to the city.

TRIES TO STOP CROWDING

City Solicitor, at Request of Councilman, Will Draw Up New
Street Car Ordinance.

At the request of Councilman Walz City Solicitor Baker will draw up an ordinance prohibiting the street railway company from allowing cars to become overcrowded.

Each car will be marked with its seating capacity, and when all the seats have been taken and half as many are standing no more passengers are to be taken aboard, if the Walz ordinance passes.

Dr. Walz believes that with the pay-enter cars in operation the proposed regulation can be more easily enforced than with the old style cars.

ASKS FOR ORDINANCE.

Witt Requests Baker to Draw Up
Anti-Special Police Measure.

City Solicitor Baker was asked by City Clerk Witt yesterday to prepare an ordinance giving Chief Kohler direct authority over all special police.

The proposed ordinance was discussed at a conference between Baker, Witt and Kohler yesterday. The plan cannot be carried out unless the safety board agrees to co-operate as the revocation of all the present special police commissions is a part of the scheme.

HISTORIC SUIT TO BEGIN ONCE MORE

Lake Front Case of Fifteen
Years' Standing Again
to be Heard.

City Solicitor, Supposed to
be on Vacation, Getting
Material.

Ammunition for use in the rehearing of the historical lake front case, involving millions of dollars' worth of lake front property, is to be gathered by City Solicitor Baker this week while he is on a vacation.

All day yesterday people who called at the office of the city solicitor were told that Baker was taking his vacation. In doing so the clerks were acting under instructions. The vacation of the city solicitor will in the main be an arduous week of preparation for the reopening of the celebrated lake front suits, by which the city is attempting to regain a large Whiskey island acreage and the made land west of W. 3d-st., now used for ore docks by the Pennsylvania and for other railroad purposes.

After fifteen years of litigation the suits are to begin all over again. Some months ago the cases were remanded to the state court by the federal court and on this account the suit will now have to be refiled in the common pleas court and take its course to the supreme court of Ohio.

In the annual report issued some months ago by the city solicitor a hint was given that the lake front case would be taken up as soon as the street railway litigation was disposed of. The paragraph referring to the lake front case is in an introductory report to the city council by Baker.

"The lake front case," says Baker, "which at the time of my last report to you had been remanded to the state courts for trial, has not been tried, chiefly for the reason that the distinguished counsel who represents one of the railroad companies has been ill throughout the year, but in particular for the reason that so much of the time of the department has been occupied in the trial of street railroad litigation, which, in view of the expiration of grants and the necessity for continuing public service, seemed paramount in importance."

The counsel referred to in the report is W. B. Sanders, who was in California at the time. Sanders represented the railroads in the case.

While the history of the case itself runs back but fifteen years the suit involves incidents in the city's history sixty years ago. Seven years ago the council passed an ordinance authorizing Mayor Farley to settle the lake front litigation.

Tom L. Johnson obtained a temporary injunction restraining Farley from making the settlement and caused a sensation by taking the oath of office earlier than was anticipated in order to become mayor before the injunction expired.

June 11, 1900, the council adopted a resolution authorizing Mayor Farley and his director of law to settle the litigation, leaving the details open for the final confirmation of the council. In January of the following year an ordinance reached the council, "authorizing the mayor for and on behalf of the city to enter into a contract with the Cleveland & Pittsburgh railroad and the Pennsylvania company, its lessee, for the compromise and adjustment of pending controversies between the city and said companies and for acquiring from said companies property acquired by the city for carrying out improvements in the widening of the Cuyahoga river." The passage of the ordinance was recommended by the board of control and the lake front commission.

After he took office Mayor Johnson resumed the fight for the possession of the property and the litigation, at the order of the federal court, will now have to be carried on in the state courts. Assistant City Solicitor Wilcox will take City Solicitor Baker's place while the latter is on his "vacation."

BOARD RULES CITY HALL COMMISSION

Solicitor in Written Opinion
Tells Service Board
Its Power.

Calls Commissioners' Title
Right, but They May
be Removed.

In an opinion which has been forwarded to the city clerk in response to a resolution introduced in the council some time ago by Councilman Selzer, City Solicitor Baker expresses the belief that the city hall commissioners are in the right that their title cannot be questioned in view of the adjudication of the Cudell case, but that the board of public service has the right to discontinue the commission or remove individual members if it sees fit.

The Selzer resolution requested the city solicitor to advise the council in writing relative to the power and control of the board of public service over the city hall commission, if the commission can be removed by the board and if the reasoning of the circuit court in the case of Slatmyer et al. vs. Springborn et al. is applicable to the status of the commission.

After referring to the authority for the creation of the commission given in the code passed in 1902, the city solicitor says, among other things:

Allow for Market House.

"A similar provision was made with regard to the commissioners for the

construction of a market house, and a blanket provision at the end of the section attempted to retain in office persons theretofore appointed as city hall or market house commissioners under acts previously passed relating to cities of the second grade of the first class. When the new code became operative the board of public service found in existence a city hall commission and a market house commission. It was decided by the board not to retain or reappoint the market house commission."

The solicitor then tells of the suit brought by the market house commissioners to prevent the board of public service from forcing them from office and of the decision of the circuit court to the effect that the provision of section 216 which undertook to retain them in office was unconstitutional and inoperative. The city solicitor further states that there was nothing in the decision given in the case of Cudell against the city hall commission, which in any way modified the reasoning of the case of Slatmyer et al. vs. Springborn et al.

GIVES ASSISTANCE TO FEEBLE WOMAN

Solicitor Shows Gallantry to
Aged Person Trying to
Descend Steps.

Although in Great Hurry He
Stops to Lend a
Hand.

Gallantly did Solicitor Baker go to the aid of a woman in distress on the steps of the courthouse yesterday. An aged woman, dressed in homely, old-time fashion, found herself standing helpless at the doorway of the building, afraid to descend the steep flight that leads to the sidewalk.

Accompanied by her younger daughter she had transacted her business inside and, being fatigued, found herself unable to walk down the hazardous incline. Again and again, supported by her frail daughter, she essayed to take the first downward step and as often drew back in fear and pain. In despair she stood at the top, looking for help.

It was then the head of the city law department hurried by, intent on the case he was to argue inside. He wasn't so deeply occupied but that he did not see their plight.

"You support her on that side, I'll help on this," he told the young woman. He braced himself under her aged mother's outstretched arm and the descent began.

Slowly and carefully the knight and the two women made their way down the flight, while lawyers and clients stopped to look on. Though the champion's ward was bigger than he the perilous descent was made safely. At the bottom the aged woman showered him with blessings. "See, there's a polite young man," she told her daughter.

Blushing, Baker hurried upstairs and began the argument.

BAKER SAYS COMMISSION IS LEGAL BODY

The city hall building commission, which has been drawing public money for the past 10 years for its labors toward a new city hall, while not a shovelful of dirt has been thrown, is outside the jurisdiction of the city council, according to an opinion prepared by City Solicitor Baker.

It is under the direction of the servers, and President Springborn does not propose to do away with it.

Baker's decision is the result of a protest by councilmen against what they considered an unnecessary expenditure of money while the new city hall is yet only a dream.

The commission, consisting of five members, has been holding almost daily meetings, often not longer than five minutes, for which each member drew \$5. Baker holds the commission is a legally appointed body solely subject to the will of the board of public service.

"The commission will meet only two or three times a week now," said Springborn Tuesday. "I think it would be unwise to attempt to get along without it or to remove any of the present members. Although actual work is not ready to commence, it would not be economy to suspend the commission."

PIER TERMS DISPLEASE

Proposition to Boat Companies on Dock Matter Meets Objections.

D. C. McIntyre, general freight and traffic manager of the D. & C. line, said yesterday that his company and the C. & B. did not intend to submit a counter proposition to the city in writing stating the terms under which they would agree to take over the lake front pier for a term of thirty years.

"We are not planning any such step," he said. "We have given City Solicitor Baker notice that there are two features of the lease prepared by the city officials which we will not agree to. One of these is the rental named in the lease. Another is the lack of permanency."

"The city could put us out at any time if we accepted the lease as it is now drawn. Mr. Baker said that he would be willing to amend the rental feature of the lease, but that he wished to give the other objection further consideration before expressing an opinion. Our understanding is that he will take the matter up with the mayor and let us know of their decision."

"The next move must come from the city, as we have made known our attitude on the question."

WANT PIER RENT REDUCED \$150,000

Representatives of Boat Companies Say Rate Asked is Too High.

Willing to Spend \$200,000 on Improvements on 9th-st.

The city and managers of the passenger boat companies are just \$150,000 apart on the rental of the city's docks at the foot of E. 9th-st. The city asks \$180,000 for a period of thirty years, the \$200,000 worth of improvements furnished by the companies to revert to the city at the end of that time, while the boat companies say that \$30,000 for a thirty-year period would be a suitable sum when it is taken into consideration that the \$200,000 they put into the improvements will be lost to them.

At a conference yesterday noon between representatives of the boat companies and the city authorities concerning the use of the piers two questions were raised. One was as to the permanency of the lease and the other concerned the rental. D. C. McIntyre of the D. & C. line and T. F. Newman of the C. & B. line were present and insisted that better terms than those already offered would have to be given before the companies would accept.

Mayor Johnson refused to budge from his former position regarding the permanency of the lease. It provides that it can be revoked at any time providing the city reimburse the companies for their improvements. Manager Newman said that part did not bother him so much as the rent, which he said was excessive. Manager McIntyre didn't like the form of the lease and said that his company's attorney, Harvey D. Goulder, would return from Europe this week and would then pass on it.

Mr. McIntyre feared that political expediency might at some time cause the city to take steps to oust the companies. Mayor Johnson declared that no one would be permitted by the public to interfere with the boat companies providing the latter continued to be the great public service corporations they now are.

Both the mayor and City Solicitor Baker said they would consider the lowering of the rent somewhat. No figure was discussed, but it is the opinion of the boat company managers that \$30,000 would be enough. The city wants \$5,000 a year the first ten years, \$6,000 the second ten and \$7,000 the third ten, a total of \$180,000. Both companies said they would be willing to advance the necessary money to pave the entrance to the piers and build a new bridge.

An ordinance providing for the leasing of the piers was introduced in council last night by Councilman McClain and referred to a committee for consideration. The rental and other features can be amended when agreed to.

ASKS FOR LEGAL OPINION.

Author of Fire Ordinance Wants City Solicitor to Render Decision on It.

Councilman Pearce called at the office of City Solicitor Baker yesterday to ascertain his opinion regarding the ordinance to prohibit unnecessary fire, which was introduced in the city council Monday. The Pearce ordinance reached the office of the city solicitor, but as he was out of town the matter will lay over until his return.

"By making people who unnecessarily handle fire liable to arrest only when in using it near combustible material which is ignited and causes damage," said Pearce yesterday, "the police are relieved of the necessity of entering houses to see if people are violating the ordinance."

"People may decorate Christmas trees with lighted candles, but if the boughs take fire they will be held responsible should the ordinance be passed."

MARTINSBURG, W. VA.

MR. BAKER CONTRADICTS IT.

Declares That He Will Not Run for Mayor of Cleveland.

Mr. Newton D. Baker, of Cleveland, formerly of Martinsburg, writes to this city contradicting the report that he will be a candidate for mayor of the city of Cleveland, after the expiration of Mr. Johnson's term, and also declaring that the three cent fare on the street has not been a failure. Mr. Baker says that he is not a candidate for mayor and has no desire to be and that he would not care to hold any position in the government of Cleveland unless Mr. Johnson were mayor. He states that the shortage in the revenue of the street railways during the months of May and June was because of the strike.

SPENDS VACATION AT WORK

City Solicitor Says Anyway He is Own Boss While Preparing Lake Front Case.

City Solicitor Baker quoted Josh Billings as authority for the statement that "nothin' is so pleasin' as doin' what you dern please" when asked yesterday how he was enjoying himself on his vacation.

Baker has been spending the week in and out of his office and even when discovered by a visitor in the act of going over a huge pile of law books he still gravely asserts that he is in the midst of his vacation.

The vacation is principally being spent in preparing for the reopening of the lake front case. While Baker is saying very little about this phase of his vacation, close friends declare that he is satisfied with the progress made in the work and is clearing up many puzzling points.

BAKER WORKS WHEN LAW PAYS HIM TO REST--AND IT'S CITY JOB

"THIS IS MY VACATION"



Many novel ways of spending vacations were employed by Clevelanders this summer, but perhaps the most unique method was that of City Solicitor Baker.

He worked.

During the week Baker took for vacation he locked himself in his office and pored over intricate legal problems.

Baker saw no one, having given strict orders he was not to be disturbed. He was—enjoying his vacation, and he did not propose to be bothered by the routine of his office.

What if he did spend his vaca-

tion in his office? That was his business.

During vacation Baker worked harder than he does ordinarily. He had matters before him that needed urgent attention.

When he concluded the vacation he was happy and pleased with what he had accomplished.

"I believe people should employ their vacations in the way that suits them best," said Baker.

"I care nothing for mountains and fishing. Besides, if away, I'd have worried over matters in town.

"I concluded I could gain the greatest pleasure by accomplishing the thing that lay before me to do."

Atty. John A. Cline, who represents the striking car men, says he will bring the suit.

Jas. K. Farasey, president of the car men's union, and Christian Fahrney, as taxpayers, sought to have the injunction brought. Baker said he decided there was no cause for action. The men were represented by Atty. John A. Cline.

Farasey and Fahrney charge that the passage of the security grant was illegal, and that it was secured by fraud and corruption.

"Not enough evidence to base a suit on was placed before me," said Baker, "and I believed there was not cause for action."

The notice which was served on Baker recites the qualifications of those who make the request for the injunction.

"The charge will be made that the passage by council of the security grant to the Cleveland Railway Co. was procured by fraud and corruption," said Cline. "Just what the charges will be based on I will not state at this time."

"I feel sure there can be no facts to base this threatened suit on. I am certain I don't know of any fraud being used to get the franchise on which we are operating," said President du Pont of the Threefer.

WOULD HOLD UP SECURITY GRANT

Attorney for President of Old Union Asks Solicitor to Begin Suit.

Wants Injunction on Ground of Illegally Granted Franchise.

Formal demand was made on City Solicitor Baker yesterday that he begin an action in court to restrain the operation of the security grant given the Cleveland Electric Railway Co., last April. The demand was made by Attorney J. A. Cline on behalf of James K. Farasey, president of the old street railway union.

The notice demands that the injunction be applied for on the ground that the franchise was granted in contravention of law.

Knowledge of the application was received at the Municipal offices early yesterday afternoon. A meeting of officials was at once called and the application was the cause of a long secret conference held in the directors' room late in the afternoon.

Baker said last night that he would give Cline an answer to his request this morning. Cline, at the request of the union, has been working on the suit for several weeks, it was said last night. The union officers say that if Baker does not consent to begin the action that Cline will file the suit early this morning and try to have a restraining order issued at once.

It is intimated that the petition contains many sensational charges and that the effects of a temporary restraining order would be most far reaching.

While complete figures are not ready yet Municipal officials are still of the opinion that the system was operated at a profit last month. Gross receipts, however, were \$159,840.34 less than those of the Cleveland Electric for August last year. This is an average daily decrease of \$5,156.14 or 28 per cent.

The Municipal is equipping all pay-enter cars with jacks.

WILL WORK FOR WEIGHT LAW

City Sealer Kane and City Solicitor Baker held a conference Tuesday over Councilman Hase-rodt's proposed law providing for the sale of produce by weight, instead of measure. They will urge its passage.

"It would prevent fraud," says Kane.

BAKER WON'T SUE TO BREAK 3-FER GRANT

City Solicitor Baker refused Friday to petition court for an injunction preventing the Cleveland Railway Co., from which the Threefer leases its lines, from operating under its franchise.

INVITES PUBLIC TO OFFER NEW PLANS

**Municipal Director Baker Pre-
pares Statement About
Trusteed Stock.**

**Says Ten-Year Franchise
Renewal Forms Sound
Guarantee.**

"The stockholders of the Municipal have, however, invited, and now invite the submission to them of any plan which it is thought will safeguard the public character of their undertaking."

This is part of the comment by Newton D. Baker, city solicitor and director in the Municipal, on the proposition to trustee the stock. In a careful statement prepared and given out yesterday Mr. Baker discusses this proposition.

In the main his argument is that the ten-year franchise renewal requirement imposed by the lease on the Municipal is a sound guarantee to the public. If the Municipal directors disappoint the people the council has the opportunity to refuse this renewal.

Mr. Baker explains carefully the manner in which the stock is now held and protected. As for the limit of 110 on the stock of the old company, fixed by the power of the Municipal to purchase it at that price, he says:

Would Protect Public.

"I feel quite sure that the stockholders of the company prefer to encounter any difficulty that may come from a failure of the stock to tempt large investors, rather than to forego this protection to the public which is so vital a part of the whole matter." By "protection to the public," he explains is meant the guarantee that the city will not be required to pay an extravagant franchise value if the state authorizes it to enter upon municipal ownership.

Mr. Baker urges foes and friends alike to join in urging upon the coming legislature the passage of a law "which will enable the city to make a direct contract with the holding company, placing upon firm legal ground the obligation which at present is voluntarily assumed by us as individuals."

The real difficulty which the Municipal and its members face in meeting or discussing this trustee proposition is the pending suit which contends that the company is not one organized for profit and so is liable to a forfeit of its charter, granted by the state to a company organized for profit.

Might Bring Ouster Suit.

Such a trusteeship of the stock as some friends and critics of the Municipal have proposed might rob the company of its argument that it is a concern organized for profit. An attorney general hostile to municipal ownership might then take it into his head to bring ouster proceedings in the Ohio supreme court on the ground of charter violation.

Mr. Baker's suggestion is for any proposition further to safeguard the public's interest which will not, at the same time, threaten the validity of the Municipal's charter. This is what can be read between the lines of his careful statement, which follows:

"The suggestion that the stock of the Municipal should be trusted in some way so as to secure by legal enforcement the voluntary trust obligation assumed by the owners of the stock has been many times made, often by friends of the movement for lower fares, and often by men who have no sort of doubt of the sincerity and singleness of purpose of the stockholders of the Municipal.

"This suggestion has been often and earnestly considered, and every device which the attorneys were willing to approve has been resorted to to assure the maintenance of the public character of the undertaking.

"There is neither mystery nor concealment about the arrangement at present existing, and the details have been frequently published. The stock of the municipal is owned by the seven stockholders, who are its board of directors. Each stockholder's interest is represented by a certificate standing in his name, and each certificate is assigned in blank by the owner; these certificates, representing all the stock, are divided into three lots and deposited in safety deposit boxes in the Cleveland Trust Co., the Citizens Savings & Trust Co. and the United Banking & Savings Co., the conditions of the deposit being such that the trust companies are not permitted to allow access to the boxes except in the presence of a majority of the seven stockholders, or a majority of the survivors of the seven, in the event of the death of any.

"Each stockholder has executed for a valuable consideration, an option to the others, giving them the right to buy his stock at the price which he paid for it, and this option is made to bind the estate of the signer, so that in the event of financial embarrassment or death coming to any of the seven the option could be exercised and the stock prevented from coming into other hands than those selected to carry out this work.

"Neither the probate nor bankruptcy courts can thus introduce an embarrassing element nor prevent the execution of the public obligation voluntarily assumed by the individuals. The stockholders of the traction company do not feel that any considerable number of people in Cleveland distrust their aims or their public promise to devote whatever net profits may be derived from the operation of this street railroad property to one or the other of the three objects often publicly stated, that is, improving service, reducing fares or acquiring the property for the purpose of turning it over to the city when the legislature authorizes municipal ownership.

"The stockholders have, however, invited, and now invite the submission to them of any plan which it is thought will further safeguard the public character of their undertaking. The plan we have adopted is that recommended to us by our attorneys after careful and prolonged consideration.

"As individuals we have done our best to secure the devotion of our stockholdings to the performance of this public trust. The Municipal

itself as a corporation has done nothing which it is not authorized to do by the laws of the state under which it is organized, and Mr. Goff, whose public services in the entire street railroad settlement are only equaled by his public spirited, wise and disinterested present interest in the carrying out of our great undertaking, would be the last to wish it to encounter dangers from unfriendly hands by the use which might be made of action by the company which would subject it to attack.

"There are those who would be glad to attempt to frustrate the real objects of the stockholders of the Municipal by taking advantage of any step on our part which indicated the slightest departure by the traction company from its strictly legal powers as a corporation.

"It should not be forgotten that the lease itself affords protection to the public, for once in every ten years the Municipal must secure from the council a renewal of the underlying grant, and if there were any indication of an unwillingness on the part of the individual stockholders to carry out their public pledges, the council could refuse the renewal upon which the continued enjoyment of the lease rests. The lease, moreover, provides that the Municipal Traction Co. has a right to acquire the property by buying outstanding stock at a redemption price of 10 per cent. above par, but the title which the Municipal gets upon such purchase is by the express provisions of the lease subject to be divested from said company and vested in the city, when the city acquires the lawful right to own the property and repays the amount paid by the traction company for it, less that portion of the purchase price which represents the net earnings from the operation of the road.

"In other ways the lease affords additional security to the people, and our hope and aim as individuals is that the legislature of the state, at its next session, can be induced to pass a law which will enable the city to make a direct contract with the holding company, placing upon firm legal ground the obligation which at present is voluntarily assumed by us as individuals.

"The Municipal being, meanwhile, legally a corporation for profit, organized under the ordinary corporation laws of the state. In this effort all good citizens should aid us, as it will secure in an authorized way the control of the street railroads to the people of the city.

"Until such law can be secured, the stockholders of the traction company propose to continue to act as public servants, and to apply whatever net earnings there are from the road to the betterment of the service it gives its patrons until further improvement in the service would be wasteful. Beyond that point the earnings will be applied as above set forth, either in reducing fares or acquiring the property.

"The suggestion that the maximum redemption price of the stock fixed by the lease at 110 should be removed and the stock allowed to have free play in the stock market was thoroughly discussed in the negotiations between Mr. Johnson and Mr. Goff. Mr. Johnson took the position that the only possibility of the city being able to acquire the property without paying to its owners an enormous franchise value was by thus fixing the maximum price at which the stock should be acquired, and the lease was made to contain that clause as a concession to what Mr. Johnson regarded as a fundamental reserved right of the city to acquire the property without buying back the franchise it granted, and I feel quite sure that the stockholders of the company prefer to encounter any difficulty that may come from a failure of the stock to tempt large investors rather than forego this protection to the public which is so vital a part of the whole matter."

SAYS CITY STANDS TO LOSE BRIDGES

Solicitor Doesn't Believe in Eirick Plan of High Levels for Viaducts.

Declares Surrender of Rights of One Means Loss of All.

Unless the city refuses to demand or receive its share of the bridge tax and incidentally loses its control of every city bridge in Cleveland, including the two viaducts, the county commissioners cannot carry out the plan of converting the Superior viaduct into a high level bridge with county funds.

This in brief is the opinion of City Solicitor Baker regarding the Eirick plan of disposing of the Superior viaduct problem. W. F. Eirick in a statement given out some weeks ago said that the county commissioners could carry out the high level bridge improvement by withholding the city's share of the bridge tax.

Mr. Baker holds that the only way this plan could be approached would be by the city's refusing to accept any share of the bridge tax levied by the county. If this were done all of the city bridges would come into the possession of the county, the city solicitor holds.

In conclusion Mr. Baker declares that to him the plan of having the county commissioners assume the burden of rebuilding, repairing and reconstructing all the bridges in the city of Cleveland seems impracticable. His closing sentence is as follows:

"My opinion, is that the suggestion under consideration is impracticable if indeed it is probable at all."

Former County Commissioner Eirick said last evening on learning of the opinion given by the city solicitor that the latter was entirely in error in the statement that the city loses control of all its bridges by foregoing its share of the bridge taxes.

"The only bridges that it loses are those connecting parts of county roads," he said. "I have secured legal advice on that point and I am satisfied that this interpretation of the law is correct. The only bridges that the city would lose would be the Central and Superior viaducts. Not another bridge would be affected.

"The turning over of the bridge tax for bridges that connect roads partially within the city is a matter that is optional with the county commissioners. The city council has nothing to say about it. If I am re-elected to the board of county commissioners I will work for the high level bridges. Both the Superior and Central via-

ducts can be made high level bridges if the county takes hold of them by withholding the bridge tax from the city. I am having plans prepared showing the changes that would be made in the Superior viaduct.

"The bridge would have to be straightened so that it would extend directly from the foot of Superior-av. to the intersection of W. 25th-st. and Detroit-av. This would leave some land along the east side of the river near the foot of Superior hill. This could be used by the city and county for the power plant that is to supply the group plan buildings with light, heat and power."

City Solicitor Baker bases his opinion on the following sentence in section 860 R. S.: "And when they (cities and villages) do not demand and receive said portion of bridge tax, the commissioners shall construct and keep in repair all bridges in such cities and villages." Mr. Baker declared last evening that he would not favor the plan of having the city turn the bridges over to the county for four or five years and then assuming control again by receiving its share of the tax. "This would be an evasion," he said. "The city should not take part in any such scheme."

According to Mr. Baker's opinion not only would the city lose the two viaducts in foregoing its share of taxes but the Willey, Main, Center, Columbus, lower, middle and upper Seneca and Jefferson-st. bridges as well. There are about ninety men employed on these bridges at present.

RAILROAD DUNNED BY CITY

President of Service Board Says Lake Shore Collected Too Much for Land.

President Springborn of the service board has written a letter to City Solicitor Baker asking that the law department collect \$4,000 which he claims is due the city from the Lake Shore.

In 1899 the city paid the railroad about \$13,000 for the right to lay a portion of the intercepting sewer along its right of way. Later the plans were changed and it was decided to use only two thirds of this route.

According to Mr. Springborn the railroad never returned any portion of the money it had received for the use of its land.

BAKER WANTS TO KNOW.

City Solicitor Asks for Further Information Before Passing on Railroad Case.

City Solicitor Baker has informed Councilman French that he would not give his opinion concerning the right of the Pennsylvania railroad to prevent people from crossing its tracks at Grand-av., N. E., by means of a barricade, until he ascertained how long the company had allowed the crossing to remain unblocked.

French is anxious to have the city law department give an opinion on this question, so that the barricade may be ordered removed as soon as possible if it is found that the street crosses the company's tracks.

The city solicitor has asked City Engineer Hoffman to ascertain how long the crossing has been unobstructed.

LIKE OWN PLAN JUST AS IT IS

Still Traction Men Offer to Meet Mr. Goff.

BAR DISCUSSION IN NEWSPAPERS

Directors Think Pending Litigation Improper to Publish.

To take into consideration pending or threatened litigation which "cannot, as a matter of propriety, be well made a matter of newspaper discussion," is one purpose of a conference proposed by the Municipal Traction Company to Mediator F. H. Goff in a formal written statement issued last evening. This formal assertion of a desire to avoid publicity is quoted from the Municipal's statement.

The document is mainly a defense of the present method of holding the stock. The old arguments for the safety of this method are reiterated. The statement says that this system "makes impossible in fact, if not in strict legal theory, the apprehension which some of our 'best people' have expressed to Mr. Goff that in years to come the Municipal Traction Company might be used to somebody's personal advantage."

Legislative Plan Mentioned.

The plan to try to secure legislation at the coming session of the state Legislature, which would enable the city to make a direct arrangement with the Municipal Traction Company, is dwelt upon again. Mr. Goff is invited to meet with the attorneys for the traction company and the city to consider the situation and prepare the legislation. The Municipal also promises to authorize its attorneys and invite the city solicitor to consider with Mr. Goff the details of the plan suggested by him. It asks him, in case he is too busy, to name some competent lawyer to act in his stead. At the conclusion the old invitation to Mr. Goff to become a traction stockholder and director is renewed.

City Solicitor Baker also issued a formal reply to Mr. Goff's letter to him. He said that "the pledges of the stockholders that the net earnings of the property are to be used for bettering the service and lowering the fares have never been reduced to

writing, but lie, as you suggest, in honor," and declared that perhaps no more definite publicity of these pledges was possible. He also said: "I do not recall ever having said or heard it said that the stock of the traction company is trustee, nor have I ever heard it said that if a majority of the stockholders of the traction company were to prove dishonest and faithless to their trust, the public could enforce at once an estate or interest in the stock."

In a statement yesterday Mr. Goff said that in his opinion there was little to the claim that the status of the Municipal Traction Company would be endangered by the plan he proposes. He said:

Could Dispose of Profits.

"If the corporation has been legally organized and its stock legally issued, there is no danger in the stockholders making such disposition of the profits they obtain from their holdings as they see fit."

The full statement issued by the Municipal follows:

The several stockholders of the Municipal Traction Company, at a meeting held today considered the suggestion made by Mr. Goff that some additional arrangement be devised whereby the stock of the company might be placed in the hands of trustees, and authorized the following statement:

"The organization and the manner of holding stock of the Municipal Traction Company is precisely the same now as it was last November when the people, by their votes, approved the street railway policy which has since been put into effect. Nor has any change taken place in these respects since the street railway settlement was negotiated by Mr. Goff, and the lease executed by the Cleveland Railway Company to the Municipal Traction Company. The stockholders are not aware that anything has since happened to suggest the propriety of any change of policy.

"The existing arrangement was made under the advice of counsel and after careful consideration of the difficulties to be overcome and the legal risks to be avoided under the present state of the law. This arrangement, the stockholders believe, puts it beyond the power of any stockholder or his personal representative or trustees in bankruptcy to acquire an adverse interest in any of the stock of the Municipal Traction Company or to convert any of its profits to personal use. The legal possibility that if all the present stockholders or their successors could conspire to abuse their trust, it might be done, is not in their opinion a moral possibility.

Apprehension Unwarranted.

"The fact that the city council has control over the service to the point of absorbing all profits in excess of interest on capital actually invested; that the Municipal Traction Company can continue in possession and management of the property only by securing the renewal every ten years of the company's franchise from the elected representatives of the people with the superadded safeguards; that the lease provides for a defeasance of title in favor of the city should the Municipal Traction Company exercise its option to purchase; that ample power exists of acquiring the property by the city without the consent of the Municipal Traction Company or of the Cleveland Railway Company at reproduction value; that the people of Cleveland are at all times keenly alive to their interests and ready to rebuke

any breach of trust, makes impossible in fact, if not in strict legal theory, the apprehension which some of our 'best people' have expressed to Mr. Goff that in years to come the Municipal Traction Company might be used to somebody's personal advantage.

"They are convinced from a consideration of the difficulties to be overcome and the legal dangers to be avoided in the present state of the law, and from the attacks now made in pending litigation, that the present arrangement is not only perfectly safe, but is the wisest and best that can be devised. Those responsible for the successful management in the past of the project, and upon whom must fall the blame for any failure in the future, do not and never have felt that the present arrangement is the final form which the interest of the public should take in the street railways of the city.

Want New Legislation.

"It is and has always been a part of the announced policy to procure at the earliest practicable moment enabling legislation which will enable the directors and stockholders of the Municipal Traction Company to convert into a legal and enforceable trust in the city of Cleveland of the voluntary obligations assumed by those now composing its directors and stockholders. They believe that all who do not desire a reaction which will place the street railways in the hands of people who frankly avow that they do not intend to operate them for the benefit of the people or to preserve any profits to the public, but to operate them as private property and to wring the last dollar of profit from the people will co-operate to procure such enabling legislation. With such co-operation such a result need not be delayed longer than the next session of the Legislature.

"However, the directors and stockholders of the Municipal Traction Company are, as always, willing to give careful consideration to any proposal intended to further these general objects, and to adopt any improvement that may be suggested. To this end it invites Mr. Goff to meet in consultation with the attorneys for the Municipal Traction Company and for the city of Cleveland; to consider thoroughly all the details of the existing arrangement, the difficulties to be overcome and the dangers to be avoided in the present state of the law, and in view of pending and threatened attacks; to prepare the legislation necessary to enable the Municipal Traction Company and the city of Cleveland to convert the voluntary obligations into legal and enforceable obligations, and to make the street railways as much the property of the people of Cleveland as is its system of waterworks.

Discussion Improper.

"This will involve a consideration of all pending or threatened litigation, and this litigation cannot, as a matter of propriety, be well made a matter of newspaper discussion. We will authorize the attorney of the Municipal Traction Company and invite the city solicitor to consider with Mr. Goff the details of any plan suggested by him to safeguard further the interests of the general public, and to report to us if the same be feasible, or wiser and safer than the existing arrangement, and to advise us of the advantages and disadvantages of any suggested change in the present status until proper enabling legislation is or can be obtained. Mr. Goff, as well as the general public, may feel assured that the stockholders of the Municipal Traction Company are willing to adopt any suggestions that are wise and safe.

"If Mr. Goff feels that he cannot spare the time from his other duties necessary for the extended legal inquiries which are involved, the traction company will be glad to have him designate some competent lawyer to act in his place.

"In conclusion, the Municipal Traction Company renews our standing invitation to Mr. Goff to become one of our stockholders and to accept a place on the board of directors."

BAKER DEFENDS PRESENT SCHEME

In his letter City Solicitor Baker defends the present plan of holding Municipal Traction stock. He claimed the holding plan was approved by the people, but said animosities were created by the long warfare which had not been wholly allayed. He said he hesitated at Mr. Goff's suggestion, because of legal complications. He also said there would be danger that the beneficiary of the trust, the city hospital or the board of education, would feel its cause more worthy than improvement of the street railway service. He concluded with words of approval for Mr. Goff's suggestions and the spirit in which they were made. The letter follows:

I have received your letter of September 14, suggesting for consideration a plan along the lines of which you think it would be possible to take steps which would place "in contract and not in honor," as you say, the public obligations hitherto assumed by the stockholders of the Municipal and at the same time not jeopardize the legal status of the company.

Plainly, the consideration of this suggestion is primarily for the lawyers, the stockholders of the traction company having already done everything recommended or suggested by their legal advisers in this regard. I have, therefore, taken the liberty of sending your letter to Mr. Westenhaver and requesting him to consider the suggestion made, and in my request to him the other stockholders of the company concur. No doubt Mr. Westenhaver will desire to consult fully with you about your suggestion, and perhaps, until the whole matter has been gone over in a searching and comprehensive way by lawyers and their recommendations made, further discussion of the suggestion might well be postponed.

I cannot, however, withhold a few words of comment upon the suggestion you have made and my appreciation of your earnestness and sincerity in making the suggestion must be my apology for so long a letter.

Directors Pledged in Honor.

Of course the terms of the option agreement and the instructions given to the trust companies should be made public, if they have not already been. The pledges of the stockholders that the net earnings of the property are to be used for bettering the service and lowering the fares have never been reduced to writing, but lie, as you suggest, in honor, and perhaps no more definite publicity of these pledges is possible. But that question, too, might be considered by the attorneys in connection with the other phases of the suggestion made by you.

I do not recall ever having said or heard it said that the stock of the traction company is trustee, nor have I ever heard it said that if a majority of the stockholders of the traction company were to prove dishonest and faithless to their trust the public could enforce at once an estate or interest in the stock. It does not seem to me, therefore, that any stockholder of the traction company can be said to have misled the public in this regard. From the earliest days of the discussion of the holding company plan it was said repeatedly, until the entire public perfectly understood it, that the obligation of the holding company would lie in honor; that a settlement of the street railroad question on that plan meant that the public of Cleveland would repose confidence in the persons constituting the holding company until the time arrived when a legal obligation might be assumed by the company to the people.

People Understood Settlement.

In public and in private discussions I have repeatedly said and heard others say that the entire settlement, as made by you and Mr. Johnson, rested for the protection of the public interest in such covenants as were found possible to put into the lease and in the character of the men who comprised the holding company, and I think no question was ever more thoroughly understood by the people or more definitely settled by them than the holding company plan, resting in honor, was accepted, authorized, and approved.

Has any change come in the situation from the date of the settlement of the street railroad question? The ordinance which was passed by the council granting the renewal franchise and which was urged by all of us, did not have in view a referendum election to confirm it, but we all thought that we had at that time done a final work and that the arrangements then made were both permanent and satisfactory. None of them had any doubt that the public interest was thoroughly protected; every provision which could safely be put into the lease for that purpose was put there and I am quite sure you will recall how easy it was for you and Mr. Johnson to agree upon every suggestion made from any source which looked to a protection of the public without involving any peril to the public's larger interest in the stability of the settlement made.

At the time of the settlement many of the best people of the city, to use your phrase, were suspicious and critical of the holding company, but their suspicions and criticisms were rather directed to the safety of the interests of the Cleveland Electric than of the people of the city, and one of the obstacles that had to be overcome in the settlement was to reconcile these very people to the safeguards that were afforded them as interested parties in the property which was to be leased.

No Objection to Ratification.

Those suspicions and criticisms having been successfully allayed, the new company having demonstrated its ability to make and pay the generous dividend provided upon the stock of the property leased to it, the gradual but constant improvements in the service having shown both the desire and the ability of the new company to respond to the public need, there seemed to remain no obstacle to the ratification of the entire settlement as perhaps our greatest municipal achievement. But now comes the suggestion that the whole plan so earnestly considered and so laboriously worked out is still insufficient and that new and untried arrangements ought to be made, which however safe they might ultimately prove, would inevitably complicate the plan which already is working satisfactorily.

You and I both know, my dear Mr. Goff, that in the prolonged and bitter traction war which was waged in this city, hostilities were engendered and personal animosities created which the great settlement wrought by you and Mr. Johnson has not wholly eliminated. There are those who resent the Municipal because of its fair promise of success; it is not to their liking, because it was not their suggestion; it inherits their ill will because it is made up of men with whom they have been in conflict. There are those too, who have large pecuniary interest in overthrowing the traction company and causing the franchise to revert to the railroad company without the encumbrance of the lease. There are those who, for one motive or another, desire to attack the traction company and who are willing to make the attack, even if the result would be but to embarrass without overthrowing it.

Many Legal Struggles.

In the seven years' war which led to this settlement, lawsuits were hung on pin points along the whole course of the struggle. The most innocent phases and apparently the plainest sentences gave rise to legal conflicts which required the judgments of three courts to settle.

It is for these reasons that I personally hesitate at the suggestion which you have made. If the stock of the Municipal were divided up, as you suggest, and all the shares not required to qualify directors, transferred to seven or nine trustees, with instructions to pay all dividends received, either from earnings or upon liquidation, to some proper public or municipal purpose, the situation would be changed only in this, that instead of the public having their rights lie in the honor of the present stockholders of the Municipal, it would lie in the honor of the nine trustees thus selected to hold the stock. Differences of opinion might well exist between the nine holding trustees and the seven operating directors, and thus the first occasion for vexatious and embarrassing litigation might arise.

In addition to this, the nine trustees would have to be selected by somebody. Plainly we stockholders, who now regard ourselves as charged with a great public trust, could not permit the selection of this body of trustees by any body other than ourselves, or we would thus invite obstruction to the doing of our duty. But it is easy to foresee other difficulties. If the nine trustees had a declared trust in favor of, say, City hospital or board of education, the beneficiary of the trust might feel that a donation to the cause of education was more in the public interest than further improvement of the street railroad service, and upon the refusal of the trustees so to act as to cause dividends to be declared upon the stock for the benefit of the trust, litigation seeking the removal of the trustees is at least a conceivable possibility.

Possibility of Conflict.

In other words, it seems to me that your suggestion involves the twofold possibility of conflict which grows out of a double set of trustees and a designated beneficiary, and that a lack of sympathy with the real objects of the traction company on the part of either of these latter could be used as an instrument of embarrassment and annoyance, while at the best the additional safeguard to the public interest would be to the honor of one set of men rather than of another.

What the legal possibilities are of action taken by the traction company or its stockholders, which would indicate a departure by that company from the purposes for which the Legislature has authorized corporations to be chartered, no one can say with certainty, and no opinion that I might express would have any value as compared with the deliberate and considered opinion of the legal advisers of the company upon whom the responsibility of our actions must ultimately rest, but that the suggestion does contain possibilities of peril in this direction has been recognized from the day the holding company plan was first discussed, and if it should turn

out that the great hope of the people of this city of a final settlement of the traction problem were to go to wreck upon incautions or unwise action of this sort by the stockholders of the traction company, taken advantage of by those who have been hostile to the enterprise from its inception, the irony of the result would be a bitter reward for the great mass of people who have so intelligently comprehended and so freely approved as final, the arrangements already made.

Compliments Mr. Goff.

You, more than anybody else in Cleveland, my dear Mr. Goff, have seen the inside of the plans and purposes of the stockholders of the traction company. The tens of thousands of young men and old about the city who have followed Mr. Johnson's leadership on this question until now, like you, have the fullest faith in his integrity of purpose, and I think Mr. Johnson's associates share this confidence from the public. That he or they would be faithless to their trust is an idea which neither the people nor you, who know Mr. Johnson, could entertain, and I am persuaded that such a thought is rather the prompting of those who would fear to trust themselves with such responsibility, than any reasoned or real doubt as to the sincerity of Mr. Johnson and his associates.

Of course, it is true, that the public interest in this question is large; the value of the estate is enormous, not merely from the financial value, nor the interest of the public in the successful operation of a railroad, but the largest asset at stake in this enterprise is the estate which the public has in the character of its leaders and public men.

Anything, everything ought to be done which can be done to place this entire enterprise both in honor and in contract, and if it be that after further consideration of a problem already deeply thought about, the attorneys for the traction company can suggest, either along the line proposed by you or otherwise, additional safeguards, they will be adopted by the stockholders of the traction company without hesitation or delay.

In the last analysis, however, we who are charged with this trust of public confidence must have the determination as to whose advice we should take, should there be conflict of opinion, and as to what steps we find ourselves able to take safely.

As this is a public letter I cannot close it without the privilege of adding a sentiment I should perhaps hesitate to express in a private communication, that however much our minds may differ about either the need for additional safeguards or the kind of safeguards which may safely be resorted to, the stockholders of the Municipal with one accord welcome the suggestions which you make and appreciate that the spirit which prompts them is a willingness to add to your already large contributions of public service.

to settle the controversy over the trusteeship of the Municipal stock.

These three men will meet Attorney D. C. Westenhaver and City Solicitor Newton D. Baker in the mayor's office at 9 o'clock Monday morning. The proceedings will be public. The Municipal stockholders and Mr. Goff expressed a willingness to accept whatever decision may be reached.

Mr. Goff, finding himself unable to devote the necessary time to the proposed negotiations, proposed the three men named to act in his place. Mayor Johnson, Mr. Westenhaver and Mr. Baker, and the Municipal stockholders, severally and as a body, quickly accepted Mr. Goff's selections.

The mediators will not be limited to any one proposition for safeguarding the public interest in the Municipal Traction Co.'s control of the street railways. The letters of Mr. Goff and Mr. Baker and the statement issued by the Municipal stockholders allow the widest range of discussion and recommendation. Mr. Goff described the task yesterday as follows:

To Decide Trusteeship.

"The mediators will determine, as I understand it, whether it is wise, prudent and practical to trustee the stock of the Municipal company. As I understand it from Mr. Baker's letter this has not been done. The stockholders assume an annual pledge to act for the public interest but, while I have not the slightest doubt that the present stockholders will live up to the spirit and letter of their pledge, their successors could forget about it.

"Still, while I am convinced that the trusteeship is necessary and a practical possibility I am perfectly willing to accept the determination of these men on this point. So, I am sure, are Mayor Johnson, Mr. Westenhaver and Mr. Baker.

"I was pleased that the gentlemen whom I invited to act in this matter consented to serve, but I was still more pleased when Mayor Johnson accepted them so readily. Under the circumstances I felt that courtesy required me to submit the names to him and to Mr. Baker and Mr. Westenhaver before I announced them. It is well known that Mr. White has been as determined an opponent of the mayor's as any member of the opposition. Notwithstanding, the mayor and Mr. Baker and Mr. Westenhaver accepted the suggestion of his name at once and without hesitation. It took a big, broad view to see only the large legal ability in which Mr. White could contribute to this discussion and to overlook his sincere and hearty hostility to the mayor and the traction experiment. It is such an attitude as this on the part of the mayor and the Municipal company which promises such a satisfactory outcome to this method of dealing with the trusteeship problem."

The mayor and the Municipal people contented themselves with saying that they were more than pleased

MEDIATORS GET TO WORK SOON

First Meeting on Traction Trusteeship Will be Held Monday Morning.

Judge R. W. Tayler, S. H. Tolles and John J. White Men Chosen.

DISCUSSION TO BE WIDE

Mediators Will Not be Limited to Any One Proposition for Safeguarding Public Interests in Municipal — Those Chosen Are Willing to Act and Are Agreeable to Both Sides—Mr. Goff Pays Compliment to Those in Charge of Traction Affairs.

Judge Robert W. Tayler and Attorneys S. H. Tolles and John G. White were yesterday chosen as mediators

with the mediators selected by Mr. Goff, and that they were satisfied to accept the outcome of negotiations with such men. The statement that the sessions would be public ones came from Mr. Westenhaver. Concerning this Mr. Goff made a generous comment.

"The Municipal stockholders and their attorneys deserve credit for consenting so readily to open sessions under the circumstances," he said. "I fancy that neither the Japs nor the Russians, during the siege of Port Arthur, would have welcomed the publication of their war council plans or the reports sent to the commanders from their lines. The Municipal is being attacked in court along lines which must be discussed in the consideration of this trusteeship proposition. Such a discussion must develop weak points, if there are any, and be of advantage to those who are attacking the company. Nevertheless, the Municipal officials are willing to have their attorneys go into open sessions with this proposition. This shows no little courage and no little faith."

No formal papers will be drawn up outlining for the mediators the field for their discussion. Mr. Goff does not intend to submit a brief or to appear in person to argue the trusteeship question. He is satisfied to rest his cause, as it has been presented in the newspapers, with the three men he has named.

TO CLOSE SOME OF SCHOOLS MONDAY

Mayor Tom will order closed all school rooms where there is fire danger Monday.

Pupils will be barred from these rooms until changes that insure safety from fire and panic have been completed.

This decision was reached Friday at a conference between Mayor Tom, City Solicitor Baker, State Inspector J. H. Morgan, City Inspector Lougee and the board of education.

Morgan shifted all responsibility for the enforcement of the law to Mayor Tom. He said he had performed his whole duty when he condemned the buildings. It was the duty of the city authorities, he said, to see that dangerous schools were closed.

AT TRACTION CONVENTION



WILLIAM GORDAN, NEWTON D. BAKER AND JOHN N. STOCKWELL, JR.

DOUBT LEGALITY OF TRUSTEESHIP

New Mediators Meet Question of More Traction Safeguards.

Can Stockholders Proceed Along This Line? is Now Issue.

The first meeting of the street railway mediators yesterday developed extraordinary legal difficulties in the way of trusteeing the Municipal stock. Attorney John G. White, a sincere opponent of Mayor Johnson, brought up most of the legal objections to carrying out the suggestions of Attorney F. H. Goff. What Attorney White said and the comments of Judge R. W. Tayler and Attorney S. H. Tolles had a familiar ring to those who had studied the replies of Attorneys D. C. Westenhaver and Newton D. Baker to Mr. Goff's recent public statements. As far as the proceedings of this informal and unofficial court went it sustained, generally speaking, the case of Westenhaver-Baker vs. Goff.

Translated from legal phraseology into the vernacular the upshot of yesterday's discussion in the office of Mayor Johnson seemed to be that neither the Municipal nor the directors could legally do more than has been done to safeguard the public's interest in the enterprise. The question now at issue is whether the stockholders, as individuals, can take action of any kind along this line. The mediators adjourned to meet at the call of Judge Tayler, who has been made chairman.

City Solicitor Advises Tom That Notification of State Inspector Leaves No Alternative.

City Solicitor Baker advised Mayor Tom by letter Tuesday afternoon that he must close 17 Cleveland schools. The buildings were condemned by J. H. Morgan, chief state inspector, because they have not yet been equipped with fire escapes.

Mayor Tom had said at the close of a conference with Baker earlier in the afternoon that he would act in accordance with the solicitor's advice.

After the conference, Baker prepared a formal letter setting out the legal points in the case. The mayor had left his office when the letter was delivered, and could not be located.

"I advised the mayor he had no discretion in the matter of closing the schools when the state authorities said they should be closed," Baker said. "I also advised the mayor to notify the school authorities to close the schools at once."

Building Inspector Lougee said, on being informed of Baker's letter, that he is ready to act the instant he receives instructions from Mayor Tom.

MAYOR'S SLATE IS SLATE THAT GOES

The fight for indorsement of C. W. Collister, Republican, for common pleas judge failed because of the insistence of Democrats that such an act would imply the impossibility of getting good men on the Democratic ticket. Judge M. W. Beacom failed of indorsement because the Democratic cohorts insisted on Wilcox and Lieghley, the former practically the personal choice of City Solicitor Baker. He is an assistant in Baker's office. Lieghley is assistant county prosecutor.

PROMINENT FIGURES IN THE DEMOCRATIC CONVENTION OF YESTERDAY



Upper right hand corner—Dan E. Leslie. Upper left hand corner—Mayor Johnson, Harry F. Payer and Newton D. Baker. Lower right hand corner—Barney Schwarzer, Matt Excell. Lower left hand corner—Newton D. Baker, Fred R. Mathews.

WHO TO OBEY, QUESTION

Law Department is Deciding Priority of Orders to Close Schools.

City Solicitor Baker said late yesterday that no decision had been reached as to the city's procedure in the matter of forcing the school

authorities to close the school rooms which Mayor Johnson in a letter to the board of education declared to be unsafe.

"Assistant City Solicitor Wilcox and I have been considering the matter," he said, "but we have reached no conclusion. I wish to have further time to consider the question."

The question of whether the order of Mayor Johnson or the order of Deputy State Inspector Bach as to the question of closing the unsafe schools should be obeyed was sent to Assistant Solicitor Wilcox yesterday

by the board of education. If the city law department decides that the order of the deputy state inspector of workshops and factories takes precedence over that of the mayor it is not likely that any action will be taken, as Bach has declared that the buildings can all remain open with safety.

If the weather continues cold fires will be lighted in all of the buildings which have been partially condemned by the city building inspector. The children suffered from cold yesterday. City Solicitor Baker stated yesterday that a decision would probably be reached on the question of closing the schools some time this morning.

PUT OFF CLOSING SCHOOLS

City Solicitor Tells School Board to Postpone Action on Condemned Buildings.

City Solicitor Baker told members of the school board at the meeting held at noon Thursday, that he could speak for Mayor Tom in saying no action would be taken by the city to close the schools Thursday. He said he felt the board might postpone action till the arrival here of Deputy Chief Inspector Elliott.

The board adjourned until 10 a. m. Friday without taking any action. It will await the arrival of Morgan's representative.

Victor Bach, deputy inspector of workshops, said that he would assume authority in case no one would come from the state office to permit the use of the lower first floors of the condemned schools. Elliott is expected Thursday afternoon.

President Haserot told the board he was unwilling to assume responsibility for any delay in closing the schools.

REQUIREMENTS NOT MET.

Building Inspector Lougee was busy Thursday inspecting the reports of his deputies who examined the 11 additional school buildings condemned Wednesday by State Inspector Morgan, making the total of schools reported unsafe 28.

All the reports thus far examined, Lougee says, show the state inspector's requirements have not been lived up to by school authorities.

In most of the schools, Lougee says, exit doors for fire escapes have been cut in. In Sackett school material for fire escapes is on the ground.

The first contract for new fire escapes was authorized by the school board within a month after the Collinwood fire.

But it was not until Aug. 10 that contracts were made. These contracts do not call for completion of fire escapes until Nov. 1. It is possible they may not be all up by that time, since contracts that call for completion of fire escapes by July 20 are not yet fulfilled.

BOARD NEED NOT OBEY MAYOR NOW

City Solicitor Rules That Directors of Schools May Suit Themselves.

Strongly Advises That Third Floor Rooms be Closed.

City Solicitor Baker's opinion to the board of education yesterday touching the mayor's powers in closing schools practically rules out the possibility of buildings being closed by act of Mayor Johnson. If any rooms are closed it will be by voluntary action of the board of education.

The board will meet in special session at noon today to consider the communication. It will also receive the report of Supt. Elson and Director Orr upon the board's ability to provide for the children who will be unschooled if rooms are closed.

Mr. Baker said that the question was really one of discretion, not of exact law. While, he said, the mayor could not rescind his order, the board would be safe in following the recommendations of Deputy State Inspector Bach. Bach told the board to close third-story rooms in fourteen buildings if fires were lighted.

School officials yesterday called the opinion of Mr. Baker fair. They said it would relieve the strained relations between Mayor Johnson and the board of education.

While Mr. Baker relieved the board from the necessity of complying with Mayor Johnson's order, he strongly advised the board to close third-story rooms which were condemned by both Bach and City Building Inspector Lougee.

"There is nothing in my opinion, however, which would prevent the board of education from proceeding as it has up to this moment," Mr. Baker said last night.

Owing to the cold weather fires were started in almost every school building yesterday at the discretion of principals and janitors. This included the fourteen buildings whose third stories are unsafe, with the furnaces going, according to Inspector Bach. The board of education, however, did not formally order the lighting of any fire.

CLOSE ROOMS AFTER FIRES ARE STARTED

—SOLICITOR BAKER.

City Solicitor Baker decided Thursday that the board of education can legally follow the recommendations of Deputy State Factory Inspector Bach in regard to the use of school rooms.

Bach recommended the continued use of second-story rooms in buildings without fire escapes. He said third-floor rooms in buildings without fire escapes should not be used after fires are started. Bach said these rooms should be closed until equipped.

President Haserot of the school board said he would call a special meeting to consider Baker's communication. Haserot said he could make no forecast as to what action the board of education would take.

Inspector Bach condemned third-floor rooms in the following buildings: Rockwell, Alabama, St. Clair, Orchard, Fairmount, Hicks, East Madison, Outhwaite and Sackett. He condemned the use of auditoriums in these buildings after fires are started: Glenville High, Marion, Denison and Hazeldell.

According to R. E. Gammel, secretary to Director Orr, Hicks will be properly equipped with fire escapes by Friday, Alabama on Monday and St. Clair building not later than next Tuesday. Gammel says third-floor rooms at East Madison are not being used, and that no fires are ever built in Outhwaite school, because it is heated from an outside plant.

Orchard, Fairmount and Sackett schools will be equipped with fire escapes within a week, according to Gammel. None of the auditoriums condemned by the state inspector are being used, said Gammel.

CONFER ON DOCKS SOON.

City Solicitor Baker and Harvey D. Goulder to Take Up Terms of Lease.

A meeting will soon be held by City Solicitor Baker and Attorney Harvey D. Goulder to consider a number of points in the tentative lease of the westerly lake front pier to the D. & C. and C. & B. lines now pending in the city council.

Letters on the subject have been exchanged between the two attorneys and a meeting will soon be arranged. After they have reached some conclusions on the points about which some difference now exists, another general meeting between city and boat officials will be called.

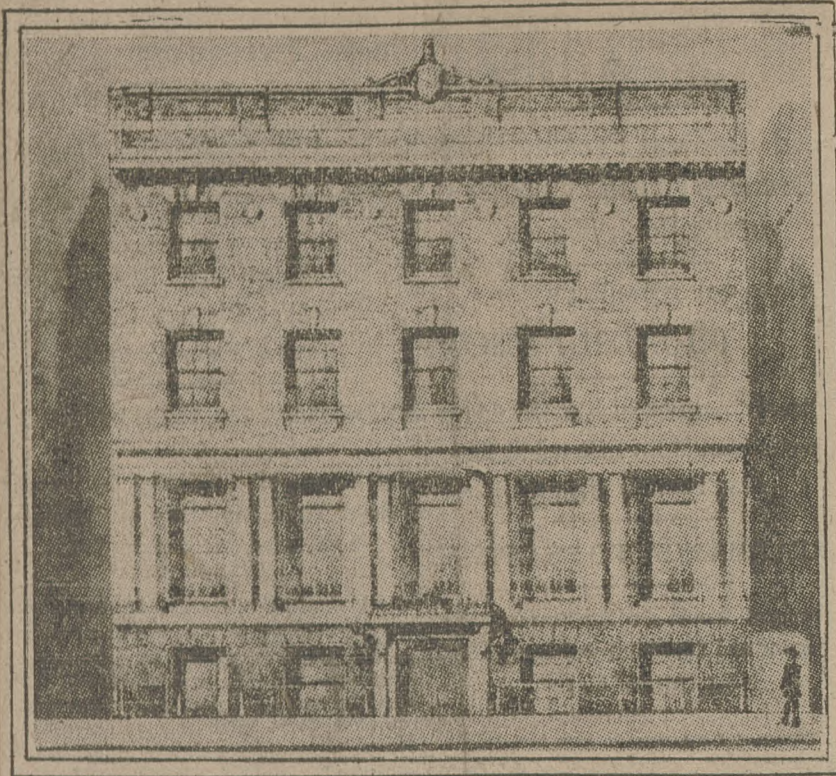
TO HOLD MEETING SOON.

Attorney for Passenger Boat Lines and City Officials Will Confer Regarding Pier.

City Solicitor Baker has received a letter from Attorney Harvey D. Goulder stating that he will arrange a meeting for a discussion of the pending ordinance naming the terms under which the D. & C. and C. & B. lines are to lease the westerly lake front pier as soon as General Manager Newman of the C. & B. returns to the city.

The ordinance was introduced in the council some weeks ago by Councilman McClain and referred to the committee on wharves and harbors, the city solicitor and the board of public service. Representatives of the boat companies stated that they wished to have Attorney Goulder take up a number of points before another meeting was called.

PHI GAMMA DELTA TO LAY CORNER STONE OF NEW CLUB HOUSE TO-DAY



PHI GAMMA DELTA CLUB.

*Ceremonies to Take Place in Afternoon in the Presence of
Many Guests Connected with Colleges—Vice President
Fairbanks on Arrangement Committee.*

Members of the college Greek letter fraternity of Phi Gamma Delta this afternoon will lay the corner stone of a large club house at Nos. 32 and 34 West Forty-fourth street. There are two brown stone houses on the site, which are to be remodelled and adorned with an entirely new façade.

The ceremony will take place at four o'clock this afternoon in the presence of many guests connected with the various colleges and universities, and representatives will be present from different clubs. The permanent home of the fraternity is in a street where there are already many organizations used as headquarters by both the alumni and the undergraduates of American universities.

At the exercises Percival Kuehne will preside. The invocation will be offered by the Rev. Mr. Appleton Grannis. The dedicatory address will be delivered by Major Frank Keck, formerly of the Seventy-first regiment, who for years has borne a prominent part in the affairs of the fraternity. The corner stone will be laid by O. H. Cheney, Assistant State Superintendent of Banking. An address will also be delivered by Newton D. Baker, the president of the fraternity. On the Honorary Committee for the ceremony are Charles W. Fairbanks, Vice President of the United States and formerly head of the fraternity; Bishop J. C. Hartzell, J. Hampden Dougherty, Major Charles E.

Lydecker, Charles E. Rushmore, George E. Ruppert and Union N. Bethell. The opening of a club house for the fraternity has been a cherished plan for years. There are now said to be two thousand members of Phi Gamma Delta in the city.

CLEAR OFFICER BY COURT TRIAL

Patrolman Patrick F. Hyland, ninth precinct, was given a clear record by Judge McGannon in police court Saturday, after a trial on a charge of assaulting Solomon Pearlman, peddler, 2426 E. 25th.

The case was dismissed. Pearlman was sent to jail until the costs of the prosecution are paid.

Judge McGannon said the arrest was uncalled for and that it was an attempt to persecute the policeman.

City Solicitor Baker sent a letter to Prosecutor Geier ordering cases involving police officers thoroughly investigated before warrants are issued.

The Democratic Calendar.

There will be a Democratic tent meeting tonight at St. Clair-av. and E. 71st-st. Mayor Johnson, John N. Stockwell, jr., James E. Wertman and City Solicitor Baker will be the speakers.

Tomorrow night's meeting will be at Broadway, near Gallup-av.

On Saturday evening there will be a meeting at Payne-av. and E. 19th-st.

MAY FORCE ROAD THROUGH

**Councilman Says He Will Take
Action to Get Grand-av. Over
Pennsylvania Tracks.**

City Solicitor Baker's written opinion on the question of permitting the Pennsylvania railroad to keep its barricade on either side of its right of way at the Grand-av. crossing reached Councilman French yesterday.

The city solicitor says that the agreement between the city and the railroad calls for the construction of a subway at Grand-av. The subway would be arranged for pedestrians and vehicle traffic could not go through. Councilman French is not satisfied with this arrangement and after it was pointed out to him that the city has the power to appropriate street rights across railroad rights of way he declared that he would take up the question of beginning condemnation proceedings.

"The city has a street on both sides of the tracks and leading directly up to them," he said. "We ought to ask the court to give us the right to have a continuous thoroughfare at that point."

DRAMATIST HITS HARD IN OPENER

**Augustus Thomas Holds Big
Audience at Start of Dem-
ocratic Fight.**

**Raps Taft and Gives Praise
to Mayor Johnson and
Bryan.**

WILL MEET EVERY NIGHT

**In Strong Speech in Famous Tent
on West Side Playwright Opens
Democratic National Campaign in
County and City—Mayor An-
nounces Also Beginning of Cam-
paign for Referendum—Declares
It's Too One-Sided to be a Fight.**

The mayor, Mr. Thomas and City Solicitor Baker were the speakers at last night's opening. Mr. Johnson presided. He drew a round of applause by referring to the location as the center of the Democratic section and declaring "it is pretty wet, too."

Mayor Johnson talked practical politics following Mr. Thomas and on insistent demands from the audience for a speech from City Solicitor Baker, he made a brief address on national questions.

ALL'S READY BUT TRUSTEE CHOICES

Municipal Trusteeship Plan is
Agreed to in Practically
Every Detail.

Drafts of Deeds Enabling
Change Are Submitted
and Approved.

DIRECTORS MEET TODAY

Sunday Morning Session With Mayor and Goff, Municipal Board Will Take Up Question of Personnel of Board, Practically Only Detail Left Uncompleted After Conference of Yesterday in Johnson's Office.

With the exception of the personnel of the board of trustees practically every detail of the plan for the trusteeing of Municipal stock so as to fully protect public interests was agreed to yesterday afternoon when the traction mediators met with Mayor Johnson and F. H. Goff in the mayor's office. Drafts of the deeds transferring the Municipal stock to outside parties and another deed turning it over to the trustees and specifying the entire trust plan were submitted and approved.

At 9 o'clock this morning the Municipal directors will meet in Mayor Johnson's office with F. H. Goff and others for a discussion of the person-

Mayor Talks With Chamber.

For three hours yesterday Mayor Johnson was in secret session at the Chamber of Commerce with the referendum investigating committee recently appointed by that body. Members of the committee expressed themselves satisfied with what they had learned.

Lunch was served while the mayor answered the questions with which he was bombarded. He was asked why various things were in the lease and why other features had been left out.

"The mayor was exceedingly frank with us," said Secretary Munson A. Havens after the meeting. "We asked hundreds of questions, to all of which he gave full and satisfactory replies."

nel of the board of trustees and other details of the scheme for completing the entire arrangement, and early tomorrow morning it is expected that the entire plan will have been completed.

Those present at yesterday afternoon's meeting were: Judge R. W. Tayler, Attorneys S. H. Tolles, John G. White and D. C. Westenhaver,

Mayor Johnson, F. H. Goff and City Solicitor Baker. The drafts of the deeds were submitted bearing the approval of the mediators.

Stockholders to Sell Stock.

Under the plan as arranged the present Municipal stockholders will sell their stock to James C. Brooks, Max J. Rudolph, Fred C. Alber, J. B. Tanner and D. C. Westenhaver for the sum of \$10. The latter will then organize, elect their own board of directors and, after the trustees have been named, will turn the stock over to the board of trustees.

The trustees thereupon will dispense with the services of the stockholders. The trustees will be supreme in the management of the property, except that the detail of the actual management will continue in the hands of the present officers and directors of the Municipal. The deed of trust contains full provisions as to the handling of the property, and specifies that all profits accruing to them shall be used either for electric lighting or public parks and playgrounds.

The trust deed provides that all vacancies on the board of trustees shall be filled by surviving trustees. They have power to increase their number up to eleven and shall not at any time permit the number to be less than seven. It is further provided that Mayor Johnson and City Solicitor Baker shall not cease to be trustees by reason of their retirement from public office. When a trustee ceases to act as such his interest at once ceases and is vested in the remaining trustees.

Trustees' Powers Defined.

A majority vote controls the actions of the trustees. They may adopt their own rules and in voting stock the majority have power to determine how all of the stock is to be voted. It is further provided that if in the opinion of the trustees the directors of the traction company have not used a sufficient amount of money for improving service, making improvements, betterments, equipping and maintaining the road, in making extensions or in stimulating traffic by lowering fares or otherwise, the trustees may use for these purposes the dividends that they may receive. It is further provided that they may also use such part of the dividends as they see fit in benefiting the trust by purchasing Cleveland Railway Co. stock. All such stock when purchased shall form a part of the trust fund.

The trust deed expressly stipulates that the trust created by it shall cease whenever the city acquires power to exercise its right to purchase the property under the Cleveland Railway franchise ordinance or by state law. The trust also ceases whenever the city may have power to make a direct contract with the Municipal.

The trust deed is in such shape that there cannot be a director of the Municipal who is not a trustee, but one can be a trustee and not a director. After the report had been presented yesterday there was considerable discussion of the general plan and the mediators were of the unanimous opinion that the mayor should retain a clear majority of the trustees, but that in addition the board should have as members men of independent purpose in whom the pub-

lic can have absolute confidence.

Mayor Johnson said he didn't take offense at the suggestion, while City Solicitor Baker considered it a fling at the present directors. The mediators suggested that the mayor, city solicitor and president of the Chamber of Commerce should be trustees. There was no response to this suggestion.

The mediators further suggested that none of the trustees should be stockholders of the Cleveland Railway Co., but that all should be electors of the city of Cleveland.

Mayor Johnson at once objected to this suggestion. He said it would prevent either Ben T. Cable of Rock Island, Ill., or Mr. Goff from acting. The mayor said Mr. Cable was really the sponsor of the low fare movement in Cleveland. The mediators advised against a trust company for trust purposes.

Following the meeting general satisfaction at the outcome was expressed by all present, but most withheld comment until after this morning's meeting.

Mr. Goff said that he had not had the time to go thoroughly over the provisions of the trust deed, and said that he would not care to express his opinion upon it until he had time to more fully consider it. Mr. Goff will attend the meeting to be held at the mayor's office this morning when the various recommendations collateral to the trust deed will be taken up.

TARIFF HARD HIT AT TENT MEETING

Democratic Speakers Join in
Warm Criticism of G. O. P.
and Policies.

Mayor Alone Exception, and
He Argues for Registration.

Broadsides at the national tariff were launched at last night's Democratic tent meeting at Broadway and Gallup-av. Despite the cold some 600 or 700 people attended. The speakers devoted much of their time to national and state issues, Mayor Johnson speaking for a few minutes only on the urgency of getting out the vote for the referendum.

F. C. Howe, state senator, opened his batteries upon the tariff and made an eloquent plea for free trade.

"It's a crime," he said of the tariff. "The Republicans say they will revise it, but how can they? We have nothing now at Washington but class legislation. The congressmen and senators, most of them, are but the representatives of the class interests of this country."

City Solicitor Baker also took a fling at the tariff. "I do not believe there is a custom house ever built too good to be burned down," he declared.

Political Meetings Tonight.

Democratic — Tent, Payne-av. and E. 19th-st.

Republican — Tent, Broadway and Wire-av.

clared. "We have been nursing our infant industries since war times until they have grown to monstrous size and now control the country, government and all."

HERE ARE DUTIES OF TRACTION TRUSTEES

To hold the stock of the Municipal Traction Co., so that it may not fall into private hands. They may permit the city to buy the stock when a municipal ownership law is passed.

To see that profits are used for improvements of service, additions and betterments to property, reduction of fare, and purchase of stock of the Cleveland Railway Co.

To use any remaining surplus for municipal electric lighting or park purposes.

If the trustees fail to perform their duties, civil suit may be brought to compel them to do so.

NEW CANDIDATES BUSY IN BIG TENT

Some Maiden Speeches Heard in East End Democratic Meeting.

Mayor Says That Referendum is Partly a State Issue.

A fac-simile of the referendum ballot on a large banner in the tent, together with the maiden speeches of a number of candidates for county offices, were the features of the Democratic tent meeting at E. 71st-st. and St. Clair-av., N. E., last night. It was the first purely Cuyahoga meeting of the campaign. National issues were talked about a little, but state and county affairs a great deal.

Mayor Johnson drove home in an emphatic manner his early declaration that the campaign here will center about the legislative delegation and the county auditorship. His particular plea was for the election of the Democratic candidates to these offices. The mayor and other speakers also vigorously attacked the Republican candidates for state auditor, state treasurer and attorney general.

Councilman E. B. Haserodt presided at the meeting. James E. Wertman, Democratic candidate for congress in the twenty-first district, opposing Congressman Burton, was the first speaker. M. A. Fanning followed Mr. Wertman and John Stockwell, jr., candidate for county auditor, told of the doings of the legislative delegation in Columbus in the last two sessions and attacked the state auditor and state treasurer.

Robert Koch, candidate for county commissioner, merely presented himself and made way for City Solicitor Baker, who made the principal speech of the meeting. He devoted himself to national and state questions.

Mayor Johnson spoke last. He talked politics and the referendum. He said the latter would have an effect on the entire state; that it would be a test of principle and the election here would be used as an argument for direct legislation all over the state.

Tonight's Democratic meeting will be at Broadway and Gallup-av.

NO FIREWORKS FOR REFERENDUM FIGHT

Mayor, Before Quiet Audience, Opens First Campaign of Kind in Ohio.

After General Explanation He Takes Up Objections in Detail.

BUT ONE QUESTION ASKED

About 1,200 People Listen to Arguments of Mayor, City Solicitor and City Clerk—Full Committee of Chamber of Commerce is Present—Republicans Will Speak at Succeeding Meetings—May Use Display of Pictures—Takes Up Objections of Attorney McGraw.

Taking up in detail criticisms and objections that have been presented to the operation of the Cleveland traction system by the Municipal, Mayor Johnson last night opened the first meeting in a referendum campaign ever held in the state of Ohio.

The mayor appealed to the people to support the grant made the Cleveland Railway Co. by the city council last April. The meeting itself was quiet, more quiet probably than any ever held in the tent, but the people appeared to indorse the views presented, for in spite of repeated requests for questions only one was asked.

The meeting was held at W. 58th-

The Traction Situation.

F. H. Goff, H. H. McKeehan and G. K. Shurtleff accept trusteeships for the Municipal. E. V. Hale refuses to serve as a trustee, but his refusal is

not accepted by the directors and he may be induced to reconsider. If he persists in declining the offer the place may be offered to Rev. Francis T. Moran, Prof. M. M. Curtis, Henry W. Stecher, President Howe of Case school, or Attorney A. A. Stearns.

The stock of the Municipal is turned over to the trustees and the last details completed.

The trustees organize with F. H. Goff as chairman.

The referendum campaign is opened by the mayor in a tent meeting at W. 58th-st. and Franklin-av., S. W. The mayor takes up previously expressed objections to the security franchise and explains his plans and position in detail. City Clerk Witt and City Solicitor Baker make speeches.

Several Republicans are slated to speak at coming referendum meetings in the tent.

st. and Franklin-av., S. W., with about 1,200 in attendance. The mayor was presented as the first speaker. He was followed by City Clerk Witt and City Solicitor Baker. State Senator Thomas P. Schmidt presided.

In opening the mayor dwelt largely on the principle of the initiative and referendum. He explained in detail the operation of the idea, and said the principle was primarily the one to be discussed in the meetings along with that of the franchise.

Takes Up Objections.

In his address he moves the objections that he market and makes steady. Those are some of suggestions.

Other people say this organization is for life. That is true, but only partly true, for the trust deed provides termination in three ways. The lease also provides for another way, but the best way, I believe, is for the legislature to pass a law permitting a direct contract with the city."

The mayor explained the organization of the trustees, saying provision was made that future mayors and city solicitors should be trustees during the terms of their offices. He jokingly declared he expected to be mayor for some time yet and then described improvements that the company proposes.

Mr. Witt made one of his characteristic addresses and Mr. Baker concluded the meeting with a word picture of the situation as it has existed and as it exists now.

Tonight's referendum meeting will be held at W. 25th-st. and Kinkel-av., S. W. H. H. McKeehan, Mayor Johnson and Solicitor Baker will be the speakers. F. C. Howe, state senator, may also give a picture talk.

At other meetings to be held F. H. Goff and W. H. Boyd are expected to speak. The Chamber of Commerce referendum committee attended last night's meeting in a body. After the meeting the members discussed with the mayor the possibility of a heavy vote at the election.

The Trusteeship Plan.

The thanks of the public are due to F. H. Goff for desiring to make safe, beyond the possibility of some remotely future contingency, the public's interest in the Municipal Traction Co. Judge Tayler and Messrs. Tolles and White, who at Mr. Goff's suggestion acted as mediators, and City Solicitor Baker and Mr. Westenhaver, who represented the Municipal, showed themselves broad minded and devoted to the public interest in their conferences and in their recommendations. Mayor Johnson acted, as he has all along acted, in a spirit of liberality, and was plainly animated only by the desire to make the traction status stable and safe. The four men suggested for places on board of trustees, to act with the directors of the Municipal, are well qualified for the position of honor. Messrs. Goff, Hale, McKeehan and Shurtleff are men prominent in the community and deserving of confidence. The acceptance by Messrs. Goff, McKeehan and Shurtleff of the positions tendered them makes certain stability of the plan and its acceptability to Mr. Goff.

The trusteeship plan, proposed without definite detail by Mr. Goff, presented many difficulties in its working out. Judge Tayler and Messrs. Tolles, White, Baker and Westenhaver were not dismayed, but proceeded to map out a scheme that would be legal and at the same time put into effect the suggestion of Mr. Goff. At the outset they found that all directors of the Municipal would have to be selected from the membership of the board of trustees. Otherwise certain of the stock held by the directorate would not be trustee. It was also agreed that the board of directors should, in all fairness, be composed of men the majority of whom are earnest sympathizers with the street railroad policies of Mayor Johnson. Mr. White, himself an active opponent of Mr. Johnson, and wholly out of sympathy with the mayor's traction policy, upheld this proposition as earnestly as did the other members of the conference. It was agreed that nothing should be done that would deprive Mr. Johnson and his followers of complete control of the Municipal, so that they might be given the fullest opportunity of carrying out their plans.

Under these conditions it will be seen that the creation of a board of seven trustees, only three of whom are named by the mayor, would necessitate the reduction of the Municipal board of directors to three men, or the creation of a new board of directors, of the same make up as the board of trustees, with a majority not named from the mayor's active traction allies. This second alternative was dismissed as undesirable by all the members of the conference of mediation. The plan finally adopted, that of making all the present members of the Municipal board members of the board of trustees, with the addition of four men not members of the board, meets all the requirements found by Mr. Goff's three mediators and the representatives of the mayor. The only possible way by which a majority of the trustees might be men not directly connected with the mayor would be to create fifteen trustees, eight of them to be "outsiders." The provision that makes any future mayor and city solicitor members ex officio reduces the Johnson majority to the barest margin, seven out of thirteen.

Apparently the settlement would be satisfactory to all parties. It is fortunate that the men selected have been willing to accept the position of trust, and it is certain that they will act wholly in the best interests of the city.

**M'GRAW IN TENT
QUESTIONS MAYOR**

**Lawyer Who Has Opposed
Security Grants Enters
Into the Debate.**

**Wants to Know if Stockholders
Won't Force Up
Capitalization.**

Here Mayor Johnson invited Mr. McGraw to come upon the platform and tell his side of the question to the people. McGraw refused to comply until the audience invited him, which it did.

"I was one of your earliest supporters, Mr. Mayor, and when you go back to the removal of tariff and tax instead of building up state socialism you will find me one of your most ardent supporters," began Mr. McGraw.

Several hisses greeted this assertion but Mayor Johnson quickly quieted the crowd by demanding that it give Mr. McGraw a chance to be heard. Turning to the audience Mr. McGraw said:

"I think that Mayor Johnson has built up a scheme that is going to mean a 5-cent fare for you and you are going to get it right after the election a week from tomorrow. Again I say the stockholders could increase the \$10,000 stock to \$1,000,000. The mayor could, but I know he would not, use it for his own personal profit. You are intrusting him with \$25,000,000 worth of property. The Municipal could, if it wanted to, sell this increased stock to Mr. Cable or Mr. Bates or Mr. Smith or Jones or anybody and they can control that company and have \$25,000,000 worth of your property to use as they please and you are trusting them without legal responsibility."

Mayor Johnson arose to answer the argument of Mr. McGraw but yielded the floor to City Solicitor Baker, who requested that he be allowed to answer Mr. McGraw because a purely legal point had been raised.

"A trust agreement," said Mr. Baker, "is an agreement of obligation upon the conscience of man. Any violation of that trust does not come into the ordinary court for correction but is taken before a court of equity. In a court of equity the judge examines things as they appeal to his conscience and prevents by injunction all disloyalty to that trust. The trustees are responsible to a court of equity for that stock and for any increase that they would make and there is not a court in the land that would uphold such a transaction."

Mr. Baker then gave way to Mr. Johnson.

City Solicitor Baker and Attorney Harvey D. Goulder met in Mr. Goulder's office yesterday to discuss the terms set forth in the lease of the westerly lake front pier, now pending in the city council. Attorney Goulder represents the D. & C. and C. & B. boat lines.

**BAKER IS GOING TO
REVISE THAT STORY**

City Solicitor Baker has used a story effectively at the tent meetings to illustrate how the municipal control of public utilities is to grow and flourish like a field of grain.

"When a boy as I wandered in the fields of stubble, I could little realize what these stubbles were to give forth. I did not know that they were to turn into the great fields of waving grain, to enrich the whole world. I would have traded all the field for the first little flower that blossomed and bloomed."

"Wait a minute," exclaimed a man in the audience. "I'll just bet you \$25 you never heard of or saw wheat bloom or blossom or grow from stubble."

"Well, my friend, I won't argue with you on that point. I guess you are a better farmer than I am," said Baker.

Baker is going to revise his story.

THREEFER MEN'S SALARIES.

Mayor Tom was asked in the meeting whether there was anything to prevent the officers of the Municipal Traction Co. using the surplus earnings in rich salaries.

"The books are open and anyone can see the salaries paid," he said. "Mr. du Pont draws \$15,000 a year. He is worth more. Mr. Schmidt gets \$3000 and I get nothing. Neither does Mr. Baker. We have a right to draw as much as we earn. We are pledged not to receive any unreasonable salaries."

"I expect some day to get a salary. I think you ought to be ashamed to let me work without one."

Atty. H. H. McKeehan, advertised as one of the speakers, did not appear. Wednesday night two meetings will be held, one at Lorain and W. 83d, where Mayor Tom, City Solicitor Baker and City Clerk Witt will speak, and another at Library park, where Atty. W. H. Boyd and State Senator F. C. Howe will appear with Mayor Tom.

TOM TO PLAY DOUBLE-HEADER.

Tuesday and Wednesday Mayor Tom will hold two tent meetings each night. Tuesday's meetings will be at Harvard and Whitehead and at Beckman and E. 89th; Wednesday night's at Broadway and For-man, and at Woodland and E. 71st.

Mayor Tom, Atty. W. H. Boyd, Solicitor Baker, City Clerk Witt and State Senator Howe will be the speakers.

City Solicitor Baker said yesterday that he would take no steps in the direction of carrying the case of the Computing Scale Co. of Dayton to a higher court until the decree of the common pleas court had been published. Judge Phillips has enjoined the city sealer from refusing to seal the scales of the company.

Cleveland Traction.

The readjustment of the relations of the Municipal traction company of Cleveland heretofore agreed upon in principle (p. 659), was practically completed on the 12th. There are eleven trustees into whose hands the stock is placed, and who are bound by the trust to conserve all profits for the use of the city and to turn the property over to the city upon demand after the city has legal authority to own and operate. Seven trustees are named in the trust agreement. They are Tom L. Johnson, Newton D. Baker, A. B. du Pont, Frederic C. Howe, Charles W. Stage, Ben T. Cable and William Greif. Four additional trustees are to be chosen by the seven, and the trustees are given power to fill vacancies.

Newton D. Baker, who followed Witt while the noisy section of the crowd was active, gained them with his first sentence, and the meeting went on comparatively smoothly until the close at 10:50.

Mr. Baker came toward the end to the argument that the Municipal might be made a powerful political machine in the mayor's hands. "Mr. Johnson is known by all who know him to be an adherent to civil service—I have written one bill, which was defeated, in which he himself proposed to take all the city hall patronage out of his own office. And finally what sort of political machine could be built up which could endure in iniquity—the people of Cleveland with nearly 100,000 votes would rise up and overthrow it."

Senator T. P. Schmidt, rising as Witt finished, declared that those who were boisterously shouting and hissing were being paid. "I charge it openly," he declared. "One man told me tonight that he was offered a Cleveland Electric?" was the query.

"President Parmely and Mr. Andrews," answered Scovil.

"If you were really fighting them, wouldn't you lose your job?" said the mayor. Mr. Scovil left the platform.

The mayor at the beginning of Mr. Scovil's reading wanted to know if the company had not tried to get Sarstedt to distribute money next Thursday, and if it "hadn't got McCaslin?" Mr. Scovil said it was not true. As the vice president left the mayor invited him to be present at two meetings tonight, but advised him not to bring the manuscript, but to speak offhand.

PLEADS FOR AUDITOR

Mayor Also Calls Especially for Election of Democratic Legislators.

Emphasizing the importance of the work to be done by the auditor and the legislative delegation in this county this fall, Mayor Johnson made a particular plea for the election of the Democratic candidates for these offices at the tent meeting at Clark-av. and W. 65th-st. last night. He devoted himself almost entirely to local matters. Not once did he mention the street railway situation.

TONIGHT'S POLITICAL MEETINGS.

Democratic—Lincoln park, W. 14th-st. and Kenilworth-av., speakers, Atlee Pomerene of Canton, Mayor Johnson, Newton D. Baker, John N. Stockwell and Fred C. Howe, with stereopticon; First Ward Bryan club, 7108 West Madison-av.; Twenty-first Ward Bryan club, Central-av. and E. 77th-st.; Sanger hall, Broadway and Union-av.

Republican—The Grays' armory, speakers, Senator Henry Cabot Lodge and Congressman Burton.

In touching on state matters he again pledged his support to Judson Harmon, Democratic candidate for governor, but in referring to Atlee Pomerene of Canton and his speech at Lincoln park the previous night the mayor said that he some day expected to see him governor of Ohio.

John N. Stockwell, jr., candidate for county auditor; Frederic C. Howe, candidate for re-election as state senator, and City Solicitor Baker were the other speakers of the evening. Mr. Stockwell talked state matters and the others national questions.

Many smaller hall meetings were held in various sections of the city and other candidates on the Democratic ticket were speakers at them.

Democratic Leader Charges Lake Shore is Coercing Its Men Against Bryan.

Preacher Bigelow of Cincinnati Puts New Problems Up to Church.

In more than a dozen big meetings scattered over city and county, taxing the party speaking force, the Democrats poured in a political broadside last night at their Republican opponents on national, state and county issues.

Rev. Herbert S. Bigelow of Cincinnati, asserting that ministers would be well employed in working on economic problems, and Organizer Thomas H. Flynn of the American Federation of Labor charging the Lake Shore railroad with trying to coerce its employes into voting for Taft, proved big features of the night's campaigning.

In a big tent meeting at Broadway and Gallup-av. Mayor Johnson and Senator Fred C. Howe urged the election of John N. Stockwell, jr., as county auditor, while Newton D. Baker discussed the traction question in relation to county politics.

When Mayor Johnson and his party arrived shortly after 8 o'clock the police had to fight a passageway for him to enter. The mayor was received with a magnificent outburst. The cheers were mingled with a few hisses and when the mayor arose to address the audience it was some time before he could make himself heard.

The disorder came from the north end of the armory. Facing the yelling faces Mayor Johnson inquired the trouble and was told that people seated in the rear objected to others in front of them standing. Police were ordered to seat everybody. After some delay the mayor began to speak again.

He announced that Mr. Bryan's train was late; that he was going to the depot to meet him and that in his absence he would present Mr. Newton D. Baker as the chairman of the meeting. Mr. Baker said the meeting was the greatest in the present campaign and presented Herbert Bigelow of Cincinnati.

Mr. Bigelow talked chiefly of the initiative and referendum, explaining the meaning of the terms fully and asking the support of the people of this country for the Democratic legislative ticket. He was still speaking when Mr. Bryan entered, but at once gave way to the presidential candidate.

NATIONAL FIGHT IS HERE

Senator Lodge and Atlee Pomerene Will Appear in Meetings.

Senator Henry Cabot Lodge of Massachusetts for the Republicans and Atlee Pomerene of Canton, late candidate for the Democratic nomination for governor, will carry the national fight into Cleveland tonight.

Senator Lodge, who has been known as the mouthpiece of President Roosevelt in the senate, will speak tonight at Grays' armory. Congressman Burton will speak also. Senator Lodge's coming is regarded as significant, as it is believed that he will bring a direct message from Republican national headquarters.

The Democrats have two meetings planned for Mr. Pomerene. The first one will be held in Sanger hall, Broadway and Union-av., the other a tent meeting at Lincoln park, W. 14th-st. and Kenilworth-av. Accompanying Mr. Pomerene on the platform will be Mayor Johnson, Newton D. Baker, John N. Stockwell and Fred C. Howe. Senator Howe will give a picture talk.

GREAT CROWD AT CENTRAL

Bryan's First Great Meeting Cheers and Shouts for Two Hours.

Long before 7 o'clock last night Central armory was crowded to its doors with the waiting thousands that came to hear W. J. Bryan. By 8 o'clock every foot of space in the big building was occupied and people were gathered by hundreds in the streets outside.

The vast throng amused itself by cheers, the yelling of catchy campaign slogans, college yells by boys. Even a party of young women college students cheered. Every now and then some one would start a false alarm cry of "Bryan," and as if a thrill had passed through the great audience people sprang to their feet.

carry the measure." City Solicitor Newton D. Baker, in an impassioned speech, hinted at mysterious workings behind the suits that are being filed against the Municipal.

"I want to tell you one thing and that is if there is another street car campaign in this city I will go out on the stump, if I cannot find any other place to speak, and from a soap box I will tell some things I know," declared Mr. Baker.



TELLS VOTERS TO TURN DOWN GRANT

Chamber of Commerce Takes
Action Advising People
to Defeat Franchise.

Put in Form of Amendment
to Committee's Report,
Later Adopted.

Meeting Develops the Warm-
est Fight Yet Seen
in Body.

CALLS GRANT INADEQUATE

After Hours of Hottest Discussion
Ever Seen in Chamber of Com-
merce Meeting, That Body Adopts
Amendment Which Declares
Against the Franchise Which is
Up to the People Tomorrow—
President of Chamber Leads
Fight for the Unamended Report
—C. A. Otis Leads Fight for
Amendment Which Condemns
Grant.

The Chamber's Action.

The action of the Chamber of
Commerce in reference to the se-
curity franchise, as adopted by that
body last night on motion of C. A.
Otis, is as follows:

"Resolved that this chamber rec-
ommend to the voters of Cleveland
the rejection of this franchise be-
cause it inadequately safeguards
the rights of the people of Cleve-
land and of the city of Cleve-
land."

The Chamber of Commerce last
night recommended to the voters of
Cleveland the rejection of the Cleve-
land Electric Railway franchise, to
be submitted to the electors tomorrow
because the resolution reads, "it in-
adequately safeguards the rights of
the people of Cleveland and of the city
of Cleveland." The action came at
the end of the most exciting and un-
usual meeting ever held by the cham-
ber, a meeting in which it broke all
precedents in rejecting a recommen-
dation of one of its own committees,
bearing the endorsement and approval
of its board of directors.

The committee had recommended
in its report, submitted to the cham-
ber, that no formal action be taken.
Immediately after the submission of
the report C. A. Otis opened the fight

against it and led the forces of those
insisting on definite action against
the franchise until victory perched
on their banners in a vote that was
taken a few minutes before midnight.
The vote stood 167 to 129.

On the assembling of the cham-
ber's members last night President
Howe dispensed with all preliminary
business and immediately presented
the report of the committee. After its
reading Prof. M. M. Curtis, member
of the committee, moved its adoption.
George B. Siddall, another commit-
tee man, seconded the motion.
Printed copies were then distributed
to the members and the chairman
put Prof. Curtis' motion that the re-
port be adopted, thereby opening the
discussion.

Fight Starts Early.

Samuel Scovil, vice president and
treasurer of the Cleveland Electric
Illuminating Co., opened it and the
discussion was along interrogatory
lines until Mr. Otis was recognized.
Speaking immediately after Prof.
Curtis had frankly said he was op-
posed to the franchise, but in favor
of the report and basing his opposi-
tion to the grant because it is indefi-
nite and not specific, containing but
5,000 words as compared to 77,000 in
the Chicago franchise, Mr. Otis said:

"When City Solicitor Baker says
that the grant has 5,000 words and
no lawsuits I believe he is right. It
also has 5,000 words and no possible
way of getting away from Tom John-
son and his associates."

Mr. Otis then declared that it was too serious a question for the members of the chamber not to take a decided stand on. He said the chamber should make a decisive recommendation one way or the other and moved that the committee report be amended and that it carry a recommendation for the rejection of the grant.

President Howe ruled the motion out of order unless put in writing. Mr. Otis promptly put his motion in writing and on submission a number of seconds were received. That really opened the fight which was waged with the most interesting developments.

Mr. Otis towered head and shoulders above all others in his fight against the committee's recommendations, while President Howe himself, L. E. Holden, Prof. Curtis, George B. Siddall, J. W. Conger, J. B. Perkins, John N. Stockwell, Jr., and one or two others participated in the fight on behalf of the committee. Finally E. W. Bemis, waterworks, superintendent, arose to present some views on existing conditions and for probably the first time the members of the Chamber of Commerce came near breaking away from their rules and the meeting became boisterous and more like a mass meeting than anything else.

Calls of "question, question," came from all parts of the hall. Mr. Bemis then sat down, smilingly saying, "all right." Before the vote was taken, however, President Howe called Second Vice President Kinney to the chair and personally took the floor in an appeal to the members to sustain the committee's report.

Mr. Otis then offered to withdraw his amendment if he stood alone, but as he did not actually withdraw it, the chair ordered a vote. On an aye and nay response he said he was un-

Municipal's Earnings Bigger.

The Municipal earned \$10,608.86 in September. The report for the month was made public yesterday. The September surplus exceeds that of August by nearly \$5,000. It is a few dollars less than the July surplus.

The report also shows a decrease of \$20,929.74 in operating expenses for the month, as compared with August.

Gross earnings for September totaled \$411,956.75; operating expenses were \$287,899.22. Earnings over operations were \$124,061.53. Interest charges were \$40,076.67 and the dividend rental was \$73,378.

able to decide and then requested a division by asking those in favor of the amendment to stand. Noticing members standing in the rear he changed the manner of polling by requesting members for the amendment to raise their right hands.

Vote is Confused.

Secretary Havens and Baxter were appointed tellers. They had almost concluded the count when Mr. Havens said to the chair:

"I must decline to make the count on this basis. It is unfair and absolutely impossible to determine how many hands are raised in the rear of the hall."

President Howe then adopted the expedient of placing those in favor of the amendment on one side of the hall and the opponents on the other. Even under these conditions a count was found impossible and finally the chair requested the opposing forces to march from their respective sides down the center aisle. As they passed a given point each member was counted.

Following the adoption of the Otis amendment the report as amended was adopted.

The report submitted to the chamber last night was by a committee consisting of W. R. Warner, chairman; N. D. Chapin, Mattoon M. Curtis, W. S. Gorton and George B. Siddall. When the committee was appointed Sept. 22 there were two other members, S. H. Halle and Homer H. McKeenan, but they withdrew. The committee was appointed for the direct purpose of investigating street railway conditions with reference to their relation to the referendum election tomorrow. The first meeting was held Oct. 1 and daily meetings, some of them lasting from noon to midnight lately, have been held since.

The committee says it approached its task entirely from the view of citizenship, without prejudice, without regard to partisan affiliations, with a sincere and earnest desire to learn the facts and to form correct conclusions. It sought advice from the ablest advocates and opponents of the present settlement. Expert accountants were employed to investigate the Municipal books.

In fact, every possible phase of the situation was gone into and in the report submitted last night the committee stated, first, the facts bearing on the ordinance; next, on the lease, then the trusteeship arrangement, and, finally, the result of the inquiry conducted by the expert accountants.

The report then dealt with the arguments favorable to the passage of the ordinance and in opposition to it in the fairest possible manner. In concluding, the committee ordered possible rates of fare that may be charged, service that is and may be given, transfers, the administration of the holding company, the possibility of forfeiting the grant, municipal ownership, the result of the defeat of the ordinance, pending litigation and in fact every possible detail having a bearing on the situation.

The reading of the report was received with considerable applause. President Howe said it had been approved by the directors and the motion for the adoption of the report was made. Before putting it, President Howe instructed that printed copies be distributed to all members. While the distribution was being made Mr. Scovill asked a number of questions, drawing replies from Mr. Siddall, D. C. Westenhaver, attorney for the Municipal and others. Mr. Scovill's questions bore largely on the question of whether lease trust money could be used for the purchase of Cleveland Railway stock, as to the trusteeship agreement and whether there were other provisions in the trust agreement that have not been printed.

City Solicitor Baker pointed out what he considered a number of misconceptions of the language of the franchise ordinance and told wherein the grant relieved the company of burdens not previously borne. He said it was substantially under the same regulations as the old company was. He said some requirements were not specifically named in the grant, because they were handled more scientifically under the general police ordinances of the city. He also declared that transfers are required which had been disputed.

Prof. Curtis replied with some warmth, using the comparison of the Chicago ordinances, on which Mr. Otis prefaced his remarks. Solicitor Baker replied vigorously and Mr. Otis then opened his fight against the committee's recommendation of no action and for a decisive stand against the ordinance.

While he was placing his motion in writing President Howe read a letter from Mr. Warner, committee chairman, who was too ill to attend the meeting. Mr. Warner said he was opposed to the ordinance, but urged support for the committee's report.

Committee Man Siddall called attention to the fact that the committee had made a specific recommendation and had not begged off, as had been charged. He said as far as he was personally concerned he would vote to sustain the grant. Prof. Curtis stood with Mr. Siddall in standing by the report, but said he disagreed with him on everything else.

He denounced the Municipal in most decisive terms and declared that the stockholders, directors and trustees of the company are Tom Johnson and his machine. He said his loyalty to the city forbade his voting for the grant.

Mr. Otis had completed the writing of his amendment by this time and presented it. In supporting it he said that the question was the most important presented to the chamber in years and that the chamber as the representative business body of the city should place its position in direct terms before the people. That opened the discussion that ended with the personal appeal of President Howe for support of the committee's action and the adoption of the Otis amendment.

The explosion at last night's meeting was preceded by a statement from Councilman Horner, who, in asking for the floor, declared that he wished to speak on a question of personal privilege. He declared that despite the fact that he had announced at the last meeting that suit would be brought to prevent the payment of the bills incurred in making the postal card canvass after the filing of the referendum petition, the auditor had authorized the payment of the bill the next day.

In conclusion he said that he wished to ask the city solicitor whether the resolution was legally operative before the council reconsidered it. In reply, City Solicitor Baker declared that only matters of a general or permanent nature needed to be advertised and that other legislation became effective after it had received the mayor's approval.

Attorney Isadore Grossman spoke from the platform at the beginning of the meeting. City Solicitor Baker spoke after Mayor Johnson and Senator F. C. Howe concluded with a picture talk.

City Solicitor Baker declared the Municipal has not yet had a fair trial and said "not one peep has been made about seven tickets for a quarter by those who are opposing this security grant."

City Solicitor Baker followed Witt. He was successful in calming the crowd, his appeal for fair play having the desired effect. As Baker stepped forward someone inquired, "Say, Mayor Tom, where did you get the kid?" Baker took this shot in good humor and the crowd was with him.

Great Array of Counsel.

Probably more lawyers of prominence are participating in the receivership hearing than ever before in Cleveland. This is a partial list: Andrew Squire, W. B. Sanders, S. H. Tolles, John G. White, W. C. Boyle, Harry J. Crawford, A. C. Dustin, James H. Hoyt, H. H. McKeenan, F. L. Taft, A. V. Cannon, A. H. Van Brunt of New York, of the firm of Joines, Larkin & Rathbone; F. A. Quail, John E. Morley, H. T. Caldwell, City Solicitor Baker, W. H. Boyd, D. C. Westenhaver, S. B. Clarke and Bronson Winthrop of New York.

Following an offer by the Concon of immediate seven tickets for a quarter, or 5 cents cash fare, with double transfers, Mayor Tom, F. H. Goff and N. D. Baker went into conference Saturday afternoon. They will issue a statement to the public Sunday, embodying their joint views of what should be done in the present crisis.

I'M SATISFIED; LET THE PEOPLE DECIDE---BAKER

"I'm just enough of a democrat to be satisfied whichever way the election goes," said Solicitor Newton D. Baker, in the mayor's office

BAKER FLAYS OLD TRACTION COHORTS

Solicitor Denounces Cleveland Railway Generally; Calls McKeehan Judas.

Mayor, Closing Campaign, Hurls Final Defiance Into Teeth of Enemy.

SEES PLOT TO PLUNDER

Old Cleveland Electric Forces, Says Baker in Brilliant Speech Which Particularly Castigates McKeehan, Are at City's Throat Again—Charges McKeehan Resigned Municipal Trusteeship to Betray It and Types Him "Superserviceable Little Brother of the Rich."

In the final tent meeting of the Democratic campaign at Library park last night, City Solicitor Baker ripped holes in the defenses of the opposition, and castigated Homer H. McKeehan in the most brilliantly epigrammatic speech of the campaign, while Mayor Johnson, who followed him, flung a last defiance at the old Cleveland Electric crowd.

"They can only get back the lines and destroy 3-cent fare," cried the mayor, aroused as no other meeting of the campaign has seen him. "Only when they have fought and won the last fight. We know only how to fight. We do not know how to sur-

render." The people who had waited three hours in the windswept tent roared their approval.

Baker's speech was a masterpiece. His logic close knit and keen, yet he avoided every appearance of legal phraseology and technical wording. With sweeping metaphors that ransacked ancient and modern history, he portrayed the seven years' war for the possession of the streets. But he saved his choicest denunciation for McKeehan.

Charged With Betrayal.

"We knew that he was Homer, and trusted to find him blind," he cried. "We did not know that he was a Judas. We never thought he would betray us to carry on from the outside the attack on the Municipal which he had already begun from inside."

Hessians—paid emissaries of the cause of private ownership—so Baker called the men who rallied in the eleventh hour of the referendum campaign; buccaneers—so he called the old Cleveland Electric financiers; an honor like that which Rome knew of old from the Carthaginians,—so he called the Cleveland Electric sense of an obligation; and Samsons who would pull down the pillars of the intrarailway agreement on their own heads to revenge themselves on the victors of the arrangement of April 1908,—such were the metaphores through which Solicitor Baker expressed his conception of the traction controversy.

The crowd through the cold and delay listened closely and with intense attention. Not a soul left the tent. Wild yells of applause punctuating his periods told when Baker had scored a hit. At the end there was a storm of applause from the half frozen audience that lasted for nearly five minutes. It ended with five cheers proposed from the rear.

To celebrate the end of the campaign, nearly all the workers and officials who are prominent in the traction fight were at the meeting. President du Pont, Fred C. Howe, John N. Stockwell, Carl Nau, Thomas P. Schmidt, Barney Schwarzer, Councilman Bernstein, Charles P. Salen and many others occupied the platform or

the first rows. Many of the wives of the leaders, including Mrs. Bessie Mariani, were present.

A crowd of little girls gathered near the front of the tent, marched to the platform on the appearance of Mayor Johnson and presented him with a great bunch of chrysanthemums. Salen was similarly honored.

"With the spirit shown here, it is evident that the next generation is secure," Salen said. The mayor simply bowed and smiled.

Mayor Johnson seemed to have a confidence in the result of the county election which had not been so apparent since the result of the security grant election. He had time to stop and strike a blow for William J. Bryan in the national election.

"In the great fight for the rule of the people and against special privilege and monopoly, one man has stirred and led the thinking of the American people," he said. "That man is William J. Bryan, next president of the United States."

Two speakers preceded Solicitor Baker and Mayor Johnson on the platform. Senator Fred C. Howe led off with a description of state taxation conditions, giving credit to Mayor Johnson for calling people's attention to it, and to Representative John N. Stockwell, jr., for taking off the lid at Columbus.

"The combination of State Treasurer McKinnon, State Auditor Gilbert, George B. Cox and Walter Brown is organized to rob the people through control of special privileges in railroads, telephones, pipe lines, express lines and franchises. We need in this county a man like John N. Stockwell, jr., to protect the interests of the people in the decennial reappraisal."

Rev. Herbert Bigelow held the audience until the mayor and city solicitor arrived from an earlier meeting at W. 25th-st. and Devonshire-rd. Mr. Bigelow spoke on unequal distribution of wealth, and ended in a brilliant eulogy of the mayor.

Then the Democratic party leaders dashed into the final sprint. It was Solicitor Baker who with a legal thoroughness reviewed the whole situation, and uncovered McKeehan in a wealth of shafts and darts. It was reserved for the mayor to drive the bolt home.

The mayor's speech was short. "We were told in a public letter addressed to no one that the opposition was ready to deal frankly and candidly with the people. It was more than we hoped for, but we lost no time to make arrangements to meet them on that basis.

"But when we called that meeting we were told that the only condition under which they would meet us would be for us first to give over all the lines, including the property of the Forest City railway. That is what they meant by dealing frankly and candidly.

"It's the same old trick—a bluff, which they thought they could get away with till after Tuesday. They ought to know us well enough to know that a bluff never stopped us. We are going to keep up our fight for the people.

"Don't vote along conventional lines," was the mayor's final word as he leaned over the extreme edge of the platform in his earnestness, while his voice rose to a defiant pitch. "Don't vote as your fathers did. Vote as you feel now is right. Remember this is a war of a lifetime—this war for the people's rights, as against entrenched wealth and special privilege."

PLOT, SAYS BAKER, A PLOT TO PILLAGE

Old Cleveland Electric Crowd,
He Charges, Again Striving
to Plunder City.

Fight Now to Defeat Mayor's
Ticket to Better Arm
Themselves.

City Solicitor Baker, in taking up the case of Hower vs. McKeehan, late Municipal trustee, said in part:

"As an illustration of the danger to which the American people is subjected from the aggressions of corporate greed I want your permission to discuss for a few minutes the present street railroad situation in Cleveland.

"For seven years a bitter struggle had been waged leading to repeated victories for the people in an effort on their part to withdraw the franchises in their streets from private manipulation and to purify the public life of the city by withholding these franchises from conversion into stock gambling assets and an oppressive mortgage upon the industry and means of the people. At last this struggle came to an end by the appointment of F. H. Goff to meet with Mayor Johnson to mediate, adjust and settle the entire controversy.

"The result of these negotiations was a settlement of the street railroad question. Five earnest laborious months were spent in reaching the value of the physical property and unexpired franchises of the railway; plans were drawn by which the competing street railroads were to be merged and a security franchise passed upon which all the properties were to be leased to a holding company, pledged to operate the property solely in the interest and for the benefit of the public.

The Gentlemen's Agreement.

"The legal documents necessary to be prepared, the order in which they were to be prepared and delivered, for technical legal reasons were intricate, but Mayor Johnson and Mr. Goff drew up and signed a program outlining each step to be taken and providing at the end that it was agreed between them that if for any reason the entire series of transactions contemplated was not carried out to the satisfaction of both Mr. Johnson and Mr. Goff they were pledged to bring about a restoration of the situation as it existed on April 27, returning to the Forest City company its property, to the Municipal its property and to the Cleveland Electric its property. The franchise was in due time passed and the plan launched.

"Almost at once embarrassments and difficulties were thrust upon the new arrangement. Immediately stockholders of the old Cleveland Electric began to obstruct and plan for the destruction of this arrangement. Two suits were brought, one to prevent the having of a referendum election, thus making the security grant valid, and the other seeking to avoid the lease, and so grasp for the Cleveland Electric the security grant freed from the obligation of the lease, which was the main consideration for its passage.

"This was the first attempt on the part of the Cleveland Electric interests to defraud this community, to steal a franchise which they en-

deavored previously by ways both straight and devious to secure, and by the covert and secret proceedings of lawsuits instituted apparently by private persons to take a deceitful advantage of the people of this city.

Stirred Up a Strike.

"In addition to that a labor strike was stirred up, bringing embarrassment, annoyance and loss to the new company in the hope that its financial resources would not prove equal to the strain of a prolonged disagreement between it and its employees, and that the property might revert to the company, with the security franchise, but free from the lease. I charge that this strike was in part political, but that it was fomented, stimulated and supported by men interested in the Cleveland Electric, and interested in the strike only that they might secure through it the enormous advantage of the franchise without the burdens of the lease. This was the second attempt by indirection to defraud this community of its rights.

"Embarrassments were created for the new company through the manipulations of the stock exchange, the large improvements contemplated by the lease being defeated through the inability of the companies to sell stock at par to pay for betterments and improvements recognized in the lease as necessary immediately to be made.

"Just how directly this attempt to embarrass the new arrangement can be traced to Cleveland interests I do not know, but I do know that from the first hour that the Municipal Traction Co. undertook to operate these properties Mr. Stanley and his emissaries, in season and out of season, were saying throughout the town to the employees of the traction company and to others that in a short time the old company would be back in possession of the property, that the lease would be circumvented or overthrown by some process, with the result that the service of the new company was much disorganized and the discipline of its employees interfered with.

The Referendum.

"A referendum election had been ordered upon the franchise. Everybody in the town considered that it would be carried by a majority of four or five to one. Politics had been removed from the discussion of the question. There appeared nothing left except to press forward as rapidly as possible improvements in the service being rendered. One by one the difficulties, artificial and natural, experienced by the new company were being overcome, and to the surprise of the Cleveland Electric people 3-cent fare and universal transfers were showing a surplus of earnings over expenses.

"In this situation the Carthaginians, who had never intended to be bound by the arrangement made in their behalf, saw the necessity of more desperate action, and few days before the submission of the franchise question they organized a fraudulent and widespread conspiracy to obscure the issues involved, to mislead the people of this city and to overthrow the franchise, their design being that they could then declare the lease forfeited by the failure of the grant, seize the property of the Forest City company, which as a competitor had forced them into a position of fair dealing with the community, and with this competition destroyed and the people helpless in the face of their settled monopoly, fix their own terms for a new grant to them in their private interests.

"You see what happened. With money at their command so bountiful that its sources must be suspicious they ordered out the Hessians, and this city witnessed the spectacle of dead and discredited political leaders, galvanized into new activity in order to array against this nonpartisan proposition all the bitterness and hostility of defeated and discredited partisanship.

The Hirelings' Work.

"In addition to this man who had brains and craft to sell, and were not overscrupulous as

to the use to which their talents were put, were employed to draw misleading circulars containing false statements, making scurrilous attacks upon persons, and generally so misleading the community that in the few days remaining it was impossible adequately to expose their eleventh hour misrepresentations, and so, bound by an agreement which in good faith called upon them to protect that franchise and the other documents which accompanied it, they supplied the money, indorsed the misrepresentations and stirred up the evil passions which defeated it.

"Guardians of a young and beautiful heiress, pledged by every bond that can bind men of honor to the protection of their charge, they hired the assassins who took her life in the hope that these men might appear to keep the promise to the ear though they broke it to the heart and get away with this great public treasure as the swag.

"The men who drew this lease, and it was the subject of most careful consideration, had provided many ways in which the timidity and caution of the old Cleveland Electric interests could be satisfied, and all through that instrument runs the threat of forfeiture if the substantial and just interests of the owner of the property were not protected. The Cleveland Electric people seem to have assumed that it was necessary to deceive the people but once and that they might then repudiate every obligation lying in honor and appeal to the letter of this one document to work out their theft under color of form and law.

Returns as Conqueror.

"So on the day after the franchise was beaten Mr. Andrews returned from New York with the air of a conqueror. He issued manifestos and proclamations, much as Prince Ferdinand upon naming himself Czar of Bulgaria. It all seemed easy now. They were to give the people of this town but one chance, and that they have persuaded them to throw away.

"A narrower inspection of the lease, however, shows that it was not forfeited by the defeat of the franchise. The Cleveland Railway Co. had leased its physical property and this franchise to the Municipal. It then had destroyed the franchise and it did not lie in their mouth, they found, to complain that the lease was forfeited thereby. If I lease to anyone of you a house and lot, and in the lease stipulate that there is a stable on the lot, and you enter into possession, I cannot come around a month later and claim that the lease is forfeited because there really is no stable on the lot in fact, although I bargained and covenanted that there was; and so those gentlemen found that there was no forfeiture.

"Desperate cases demand desperate remedies. Having thus upset their kettle of fish into the fire, they must rescue the fish even though they burn their hands. Having gone so far in dishonor against the spirit of their bargain they must now have the full courage of villainy to disregard every honorable obligation, if necessary, to carry off this piece of highwaymanship. And so, they notified the banks, their friendly counselors and supporters, those agencies built upon small profits and stingy, thrifty enterprises, those solid institutions which are always hand and glove with men of wealth and financial standing, so often used as the impassive soulless, unsympathetic means of protecting conscienceless schemes.

Called Banks to Aid.

"They notified the banks that have \$300,000 of the traction company's money, not to pay it out upon the check of its owner, and the banks in part for self-protection and in part no doubt in expectation of future percentages of gain, lent themselves as usual, to the scheme.

"The next step in this drama was to stir unrest, suspicion, fear among the creditors of the Municipal make them feel unsafe and uncertain to stimulate them to bring action for receivers and for judgment in hope that a receivership might had which would in effect forfeit the lease according to its terms. T

got the Central Trust Co. of New York—from Wall-st.—to file a suit for a receiver on the ground that being trustee of a mortgage to secure \$8,000,000 of bonds, the security of the bondholders was growing insufficient.

"I charge that that suit was brought at the request of the Cleveland Railway Co., with its full knowledge, and I prove it by telling you that after that suit was brought, although the directors of the Cleveland Railway Co. had met daily before that time, they had no meeting, and called none on the day when that suit was brought attacking them in common with the Municipal. If they had not known that such a suit was to be brought, telegraphs, telephones and automobiles would have been used at death pace to assemble their directors to meet the new situation, but having excavated the mine, placed the powder, lighted the train, they sat quietly by in a remote place to witness what they supposed would be a great explosion.

What the Harvest Brings.

"I call these things to your attention in order that you may see what the inevitable result is when the property of all the people is turned over to a few of the people for their private aggrandizement. It makes men break their word. It makes men do indirect, crooked things. It makes of men whose education and opportunities ought to make good citizens of them, promise breakers, deceivers, defrauders.

"Foiled in their attempt to forfeit the lease, desperate because of the absurdity of their only remaining reliance, this receivership suit, these smug directors profess a willingness to meet and discuss the whole question for settlement upon broad lines, and when the council meets at the appointed hour, they send the most impudent, the most immoral, the most scandalous communication ever sent by any body of men to a group of public officers, but they themselves stay away. They sent word that they decline to discuss the question of settlement until there shall have been surrendered to them all of their old property and all of the competing property of the Forest City company; they repudiate the promise; they admit their want of honor; they publish their proposed robbery; they warn us to keep our hands on our pockets because they are loose in the crowd. There is no offer in their communication to the council to attempt restoration; there is no reference to Mr. Goff and his promise. They used him to secure an advantage. They repudiate him and so much of his engagements for them as are inconsistent with their greed.

Ticket is Target Now.

"It so happens that another election is coming on. The great central, towering figure in this street railroad war has been Mayor Johnson. For seven years he fought almost single handed. These buccaneers realized that they must now make it appear that the people of this city want to rebuke Mayor Johnson, and so, although Mr. Johnson is not personally a candidate in this election, they get their Hessian corps out again, stirring this town with false statements and fraudulent misrepresentations with a view to obtaining a majority against the Democratic ticket, to use argumentatively as a public sanction and approval of their piracy.

"Strange things happen in such emergencies. None of us were surprised that Mr. McKisson and Sam Holding could be pressed into service. None of us were surprised that the banks would occupy their usual attitude of servility to the powerful. None of us were very much surprised that the small politicians on the Republican side would fall in with the conspirators if they but saw a chance of gain or advantage to themselves in the approaching election; but I think many of us were surprised that they were able to secure the services of at least one of their present advocates.

"See the stage setting for his appearance; a tent meeting presided

over by Prof. Curtis; the spot light; the violins of the orchestra playing the sort of trembly music that announces the entrance of either the god who is to set confusion right, or the villain who is to close the tragedy. Then out leaps from the wings Homer McKeehan, this fair weather friend of the people, this lightest of the leaves upon the tree of citizenship, that is blown aside by the first breath of autumn wind. Prof. Curtis introduces him as a young lawyer who will now tell the audience what he would have done to the Municipal had he remained a trustee, and Homer proceeds with his task.

Recites Some History.

"After the referendum election had been called, Mr. Goff suggested that perhaps the last remaining question in the public mind could be set at rest by transferring to trustees the ownership of the stock of the Municipal Traction company, so that all possible question of private advantage to them could be removed. The directors of the traction company accepted the legal document, which in the opinion of four of the best lawyers in town, accomplished that object. They enlarged their own body by the admission of Mr. Shurtleff, Mr. Goff and Homer McKeehan as trustees for the public, and in this way Mr. McKeehan became a trustee stockholder of the Municipal stock, and met with the trustees, joining in their profession of the single desire to hold the title and control the property for the benefit of all the people.

"The skies seemed clear; the waters of the lake were untroubled; even Homer's small craft thought them safe for his journey. It seemed likely to add to his prominence; it flattered his ambition and self-esteem. He was hardly willing to associate with the first seven, but if Mr. Goff would add his respectability to it, then Homer felt that he would be safe.

"But Prof. Curtis' introduction puts a new light on this willingness. Apparently the chairman of the meeting knew that Homer accepted the trusteeship for the purpose of destroying the traction company. We thought that his name was Homer and took the chance of his being blind; we did not know that it was Judas and that he was malevolent. And the reason that he first gave for his resignation was that his firm had been employed to bring a lawsuit against the traction company, so that his thirty pieces of silver are to come when the firm divides the Wall-st. company's fee, and the service that Homer is now rendering, after having kissed the public on the cheek, is to point out the way in which they may be bound and taken.

Out-Judases Judas.

"He out-Judases Judas, for that historical traitor was satisfied with one act of disloyalty, and then had the grace to suicide, while Homer, in order that he may commend himself to other large interests from Wall-st. who need the talents of his firm, in the courtroom, and his bitter, sarcastic tongue on the stump is nightly disporting himself in their tent meetings, showing a reckless disregard of the truth, vilifying and vituperating men the lachet of whose shoe he is not worthy to unloose, trying to conceal his own degradation and disloyalty under a thin veil of smartness and epigram, while the police and the clackers in his meetings protect him from interruption of questioners who know the truth.

"I have not heard Homer. I perhaps ought to be more cautious, and yet he did say, and said dishonestly that Mr. Tolles had withdrawn from the legal forces of the traction company because he found something wrong there. Mr. Tolles himself gave no such reason, but expressed regret that earlier engagements turned out to be inconsistent with his continuing.

"Among other things he said that John Stockwell was getting \$5,000 a year from the traction company as salary as the claim agent, and made

some scurrilous observations upon Mr. Stockwell's services in that capacity. It is a matter of perfectly public information that Mr. Stockwell's salary is but \$3,000 a year; that he does the work of two men employed by the old company, who got in the aggregate more than \$5,000.

"It is perfectly well known to anybody who wants to know it, that the claim department of the traction company is organized to deal justly with persons injured on the railroads and is doing so.

Lobbied Against Labor Bill.

"When Mr. Reynolds introduced a labor bill into the house of representatives at Columbus Mr. McKeehan was one of the first lobbyists to appear in Columbus against it. In our public controversies here Mr. McKeehan has not been conspicuously forward on the public side. As a member of the Chamber of Commerce committee, investigating the traction question, Mr. McKeehan had had some opportunity to learn what the traction company was doing and trying to do.

"He accepted a trusteeship apparently for the purpose of destroying his trust. He resigns his trusteeship in order that his partners may help to destroy the trust. He takes the political platform not to discuss the state issues or the national issues which are involved in this campaign, but to vilify men and falsify things that are not in issue here.

"As one of the remaining trustees of the traction company, I feel that we ought to make an act of restitution to Mr. McKeehan and give him back all he brought to us when he came for his little stay on our board.

"I hand him back his reputation unimpaired and unimpeachable as a superserviceable little brother of the rich, and if anybody who has hitherto thought, or may hereafter think of employing him, suspects him because of his brief association with us, we will give him a certificate of exoneration from having acquired our ideas of honor or fidelity to a trust obligation.

"We did not seek to buy his silence; we sought to give him an opportunity to be decent.

Plot to Loot the Town.

"These are the forces arrayed in this community at this hour. The providence which rules over man and events is stronger than any of us. The gift of prophecy once permitted to man is withdrawn. The future is a sealed book, but I have this confidence left, that the people of this town will see the truth of what I have said here tonight about the conspiracy, the organized plot on foot to loot the town, and that no one, either of the plotters or their toadies, will come off unscathed when the real verdict of the people is rendered, and as we see it here in our community, so is it throughout the country—wealth based on privilege and monopoly is inherently dangerous, and that political party and those political policies which seek to divorce men from this immoral relationship, must in the end commend themselves to the patriotism and the conscience of people who desire their country to survive, as a worthy place for their children to live in."

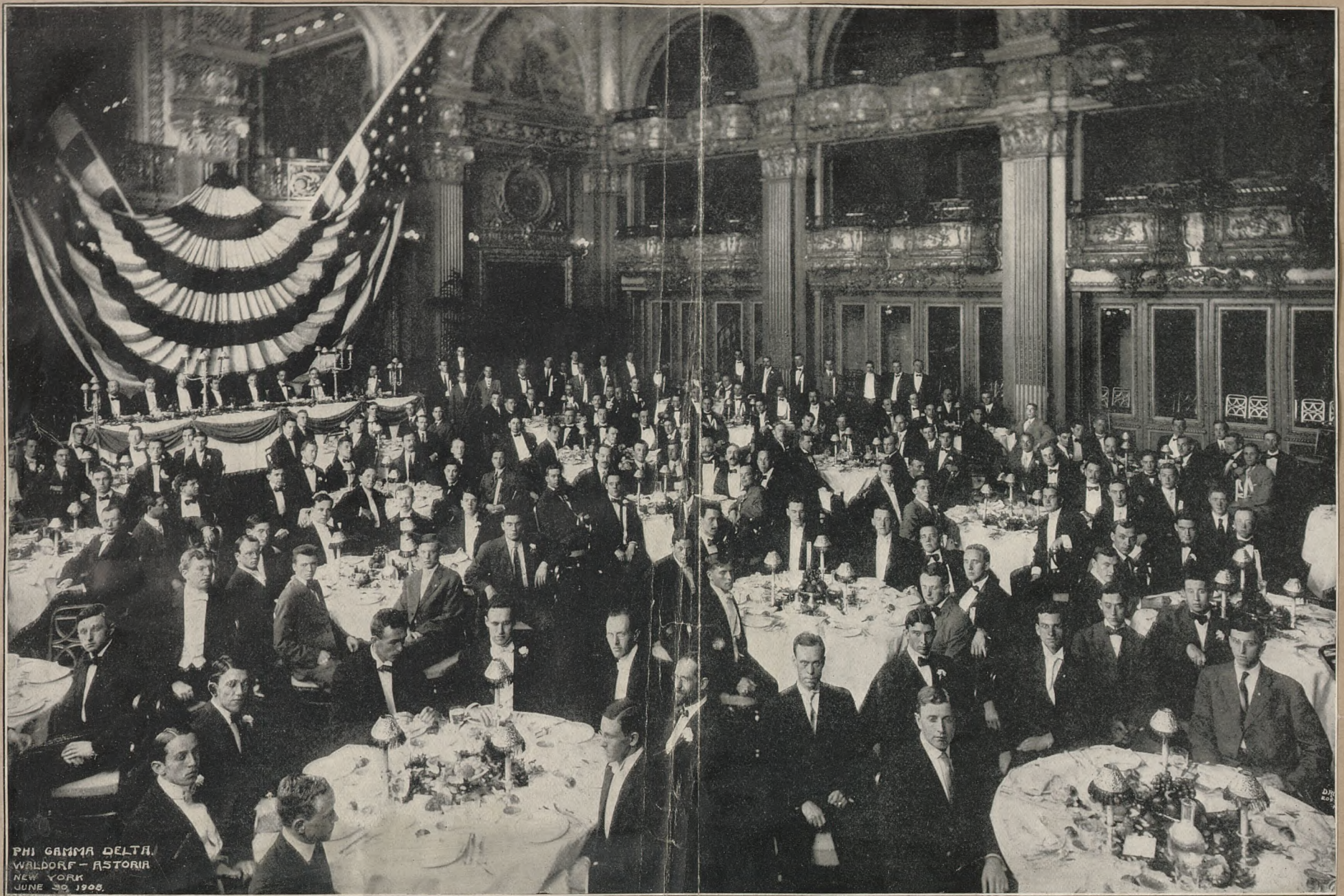
WOULDN'T HURT LAWYER.

City Solicitor Baker Says He Didn't Intend to Belittle McKeehan's Professional Standing.

City Solicitor Baker denied yesterday that he had any intention of belittling Homer H. McKeehan as a lawyer in his address in a Democratic tent meeting at Library park Saturday night.

"I had no intention of belittling him as a lawyer," the city solicitor said. "Another error in Mr. McKeehan's statement of yesterday is his declaration that I asserted he had lobbied against the Reynolds child labor law.

"I made no such assertion. I said that he lobbied against a labor bill. I had another labor bill in mind introduced by Mr. Reynolds."



PHI GAMMA DELTA
WALDORF - ASTORIA
NEW YORK
JUNE 30, 1908.

All day Tuesday the chapter held open house, and scores of the friends of Phi Gamma Delta were welcomed to the hospitality of the lodge. Tuesday evening the public function was given in Brua chapel, which was beautifully decorated for the occasion. The chapel was crowded with students, alumni and friends of the college. The exercises opened with a fine concert by the Fifth Regiment band of Baltimore. Following this, addresses were delivered by Milton H. Valentine, D. D., editor of the *Lutheran Observer*; Judge T. Dimmer Beeber, a former judge of the superior court of Pennsylvania, and Newton D. Baker, the honored president of our national order. These were most excellent discourses—indeed, they were quite the feature of commencement week.

The formal banquet occurred Tuesday evening, preceded the night before by a trip to Coney Island by way of contrast. The banquet was held in the great ball-room of the hotel, and the ladies were permitted to occupy the boxes above the dining floor as spectators, an innovation which seemed to be enjoyed by all. After the music and the songs had ceased, Bro. J. Hampton Dougherty, as symposiarch, introduced the speakers of the evening: Bros. Newton D. Baker, Frank Keck, Louis C. Southard, O. H. Cheney, William F. Chamberlin and Thomas L. Pogue. After the speeches, with the traditional hand-clasp circle and the fraternity chorus, the banquet came to an end, and with it the formal social features of the convention. The business sessions ended the next afternoon.

"Cleveland should be thankful because of the fact that it is a free city," said City Solicitor Baker yesterday.

"Intellectually, socially and politically, it is the freest city I know. Of course, every now and then there is some partisan spirit shown, but there is less of it in Cleveland than in most cities."

BELIEVE ELECTION BEGINS NEW ERA

Republican Politicians Say
Their Long Awaited In-
nings Have Come.

Assert Democrats Will be
Split by Factional
Differences.

With final figures still unknown, politicians, Democrats and Republicans alike, were eagerly gossiping yesterday on the effect of Tuesday's election. Many of them believe it marks the beginning of a new era in Cuyahoga county affairs. Republican chiefs hope it forecasts the beginning of a decade of Republican supremacy, such as the Democrats have enjoyed in municipal and partly in county affairs, for the last ten years.

Two facts stand out strongly in the opinion of the leaders. One is that Congressman Burton's chances for election to the United States senate have been strengthened 100 per cent. Secondly, it is claimed that Charles P. Salen is now such a factor in Democratic party affairs that he can

safely challenge, if he desires, the unrestricted leadership of Mayor Johnson.

Friends of the mayor point to the great Republican success of four years ago and the Democratic recuperation immediately afterward in denying that the mayor's strength has been appreciably weakened. Then, too, they cite the fact that the county ticket secured more votes than Bryan. The opposition asserts, however, that the candidates allied directly with the traction interests suffered considerably.

Four years ago they say, the low fare movement was at the height of its tide, but since then the battle has set in the opposite direction and the mayor is carrying the burden of the street railway management.

Mr. Johnson has indicated his expectation of running again for the mayoralty and it is believed in Democratic councils that if he stands again Mr. Salen will offer no opposition. In the event that the mayor retires, however, the county clerk is looked upon as the logical Democratic leader with City Solicitor Baker as the only prospective opponent sufficiently strong seriously to dispute leadership.

Mr. Salen was asked yesterday about rumors of an ambition to become again the leader of his party.

"My ambition doesn't run toward an absolute leadership of the Cuyahoga county Democracy," he said. "I have no desire to throw the party into strife, or attempt to set myself up as its head.

BAKER IN COURT.

Immediately after the opening of court, City Solicitor Baker made application for leave to file an intervening petition on behalf of the city.

He took this action on the ground that the court was to pass on whether a franchise granted by the city council was defeated or sustained at the election. The petition would have prayed for another election. The court refused to grant the request, saying:

"There is nothing in this hearing that can affect the city one way or the other."

Atty. Bronson Winthrop of New York announced the resignation of D. C. Westenhaver as attorney for the Forest City Railway Co., and said that he had been appointed to that position. Judge W. B. Sanders immediately arose and said he challenged the right of Atty. Winthrop to appear as attorney for the corporation.

HAAS A WITNESS.

Secretary A. J. Haas of the board of elections was called as a witness by the Municipal Traction attorneys.

Atty. John G. White immediately objected to any testimony being taken touching on the validity or invalidity of the special election. He said that the court was bound by the return of the canvassing board, and that Judge Tayler did not have jurisdiction in the matter.

The court again made it plain that he did not propose to pass finally on the question of the validity of the referendum election.

Haas testified that only the words "Yes" and "No" appeared under the title of the street railway security grant ordinance on the voting machines, and that the words "For the Franchise" and "Against the Franchise" did not appear.

He said placards had been posted in the booths instructing the voters that a vote "Yes" was for the franchise and a vote "No" against the franchise.

Baker's petition, which he was not permitted to file, alleged that because of the irregularities in the machine precincts there has been no election, and asked that the council be directed to call another election.

Calls It Tomfoolery.

City Solicitor Baker expressed the opinion yesterday that the emphasis that has been placed on the finding of his pencil interlineation in Mayor Johnson's copy of the street railway agreement is tomfoolery.

"If there had been an attempt to disguise the handwriting, or if anybody had attempted to get hold of Mr. Goff's copy for the purpose of changing it, the matter might be considered serious," he said. "What was written on the contract makes no difference whatsoever. It affects the matter neither one way or the other."

M'KEEHAN REPLIES TO BAKER ATTACK

In Warm Letter He Denies
Charges Made in City So-
licitor's Speech.

Answers Some Questions and
Asks a Few More of
His Own.

Satire, mingled with terse denunciation, are freely mingled in a letter forwarded yesterday to City Solicitor Baker by Homer H. McKeehan, attorney, in reply to Mr. Baker's caustic arraignment of the latter in a tent meeting speech Saturday night.

Mr. McKeehan, in his reply, says that because of hoarseness he is unable to answer verbally. Hence he takes his pen in hand. His letter follows:

"My Dear Baker: After a week of speaking for the good of the people of Cleveland, I find myself in such condition that I can scarcely speak above a whisper. I have, however, enjoyed reading the rhetorical and vocabularic attack made upon me in the article which you so carefully wrote out and sent to the Plain Dealer. That paper in its news columns says that you 'avoided every appearance of legal phraseology.' I quite agree. This is regrettable for the people think there has been too much of such avoidance during the time you have been city solicitor.

"The Plain Dealer also says that you 'ransacked ancient and modern history.' I should say you did. Where you characterize the enemies of your traction crowd as the Carthaginians (who flourished in the ninth century before Christ), and in the next ecstatic breath have them call across the seas to their aid the Hessians (who fought in the eighteenth century after Christ), you are simply delicious. 'Ransack' is too commonplace for a tribune performing such a feat.

"You attempt to make it appear that, from a civic standpoint, I am in a class with the bankers of this city. So long as you do not include in that class all persons running banks in Cleveland, I take no offense.

"You attempt to belittle me in my profession in the eyes of those who do not know me. This I will not discuss with you. But you must have known that both Mr. Johnson and Mr. Westenhaver told me that they proposed my name as one of the lawyers who should investigate the law pertaining to, and should draw, your traction trust agreement.

"I cannot know absolutely the motives of your traction coterie in asking me to accept a trusteeship. I do not assume that it was to get me removed from the Chamber of Commerce committee which was then investigating the street car question. Perhaps you thought I would retain both positions. My public letter printed shortly after I accepted made it clear that if the people sustained the franchise I would represent them and not the persons who had theretofore owned the stock. If the stock had been trusted more representatively for the people in accordance with the suggestions of Mr. Goff, I think the franchise would have been sustained.

"In other words, I think the people repudiated the majority and not the minority trustees.

"It is true, as you say, that I refused to accept a trusteeship unless

Mr. Goff would also accept. My reasons for this, if not complimentary to others, were satisfactory to myself.

"You hurl yourself through the top of your tent and, leaping backward through the ages, make direct connection with my distinguished namesake, Homer, and in the midst of the fond embrace exclaim that you 'trusted' also to find me blind. This was unfortunate—you surely did not mean to say it. It must have been due to mere oratorical 'ransacking.' Further, you know it is only a superstition that he was blind.

"You seem to think that my semi-public career is involved and that you add strength to Johnsonism by stating that I lobbied against Mr. Reynolds' child labor bill, even when such is not the fact. For ten years I have acted as counsel for the Chamber of Commerce and its boards without pay (a circumstance which must be shocking to some of your codirectors of the Municipal), and, as such, had occasion to give its manufacturing board an opinion on the bill referred to, which was house bill No. 714, and from which letter I quote as follows:

As you know house bill 714 has already passed the house overwhelmingly and is now in the senate. The bill is a very popular measure, and while there are some features of it which are slightly objectionable from a broad standpoint, I do not believe the bill is such that it should be opposed.

"Not only this, but several years ago the manufacturers' board, acting on my advice, and myself offered to aid Mr. Dunlap, then a Democratic representative of Cuyahoga county, in passing a bill introduced by him for the purpose of giving to injured persons a right to recover damages for personal injuries in certain cases where they could not recover under existing laws, as will appear from the subjoined note from Mr. Dunlap:

Complying with your verbal request I take pleasure in stating that it is true that the manufacturers' board of the Cleveland Chamber of Commerce and yourself offered when I was a member of the legislature from Cuyahoga county, to assist me in securing the passage of a bill which I had introduced for the purpose of giving the laboring men a right to recover damages in certain cases where they were not entitled to recover under then existing laws, which offer I greatly appreciated.

I would have called upon you had it ever been necessary to do so, but the fact is that the bill was passed, and since then many laboring men of Ohio have received its advantages.

"I am glad that you injected this subject into your speech, because I think it is now quite apparent that Tom Johnson and his traction associates have no just claim to a monopoly of representing the laboring classes. Your treatment of your workmen in the past hardly warrants the assertion of such claim. I do not think you should have refused a 2-cent increase to your conductors and motormen who were experienced in their vocations in order to pay high salaries to your political friends on the board of directors, who had no experience whatever to fit them for their positions. I have always said that you and the other lawyers connected with the traction company are skilled in your profession.

"Did you and they help to draw the advertisements guaranteeing the stock sold through your private exchange? Did you and they know they were running in the newspapers and that poor people were paying for the stock more than it was worth, relying on the guaranty?

"Mr. du Pont has characterized these as mere newspaper advertisements, and Mayor Johnson has said they are legally no good, but that morally they are as sacred as a gambler's debt!

"Are they the only ones allowed to talk on a legal question? Are the rest of you under orders to keep silence until after election? Should Lawyer John Stockwell be elected to a higher position before he has told the unfortunates what his legal notion is about their guaranties? Should Lawyer Fred Howe and Lawyer Schmidt be sent to the senate to make law for us before they tell us whether they know the law of guaranties of Ohio which has existed since the state began? Why don't you and Lawyer Stage speak?

"If John Stockwell is elected county auditor, will the \$345,000 which the board of review added to the 1908 taxes of the Municipal be 'settled' like Tom Johnson's personal tax suit was 'settled' when Mr. Stage was county solicitor? Did all of your lawyers approve of Tom Johnson's keeping Judge Beacom off your ticket. If so, why? Was it because he issued an injunction against the traction company?

"These are questions upon which the people have wanted to hear from you but you have refused to discuss them. Don't you really think the traction ticket deserves to be defeated? Yours very sincerely,
Homer H. McKeehan.

AIMS AT ANOTHER REFERENDUM VOTE

City Solicitor Will Ask Fed-
eral Court to Authorize Sec-
ond Car Election.

Bases Request Upon Alleged
Illegality of Returns From
Machines.

WOULD VOTE OVER AGAIN

City Will Contend Entire Decision
is Invalidated by Improper Cap-
tion on Voting Machines Used in
Sixty-Six Precincts—If Federal
Judge Tayler Grants Motion City
Council Will be Asked to Name
Date for New Election—Hearing
Begins This Morning.

City Solicitor Baker will today ask the United States circuit court for authority to file an intervening petition in connection with the Central Trust Co.'s suit for a receivership and in behalf of the city, setting forth that the recent referendum election was invalid and that the city council should therefore take steps to call another election.

If Federal Judge Tayler grants the motion the city, through its legal representative, will present arguments to show that another election should be held on the ground that the machines used in sixty-six precincts were not marked in accordance with the Schmidt law.

Late yesterday afternoon the city solicitor sent letters to the attorneys representing the Central Trust Co. of New York; the Municipal and the Cleveland Railway Co., giving notice of his intention to file the motion.

Should the court decide that the city's arguments are well founded the city council will order another referendum election in accordance with the city solicitor's contention that the entire vote should be thrown out.

Calls "Yes" and "No" Vote Illegal.

"The city has become interested in the suit because an effort is being made to invalidate a franchise it has granted," Mr. Baker said yesterday. "The petition which will be filed if the court grants the motion, will set forth that the machines used in the sixty-six precincts should have been marked 'For the franchise' and 'Against the franchise,' as is specifically directed in the Schmidt law. If the court decides that the election was invalid, the council will have the right to call an election under the old referendum petition at any date before the next municipal election.

"I have not notified the council of this move. The letters have merely been sent to the attorneys representing the three companies. No council action will be necessary unless the court decides that the referendum election was invalid."

If the city made the claim that the election as held merely invalidated the votes cast by means of machines and the court upheld this contention the referendum vote would then be in favor of the franchise, since the total vote in the ballot precincts showed a majority in these precincts in favor of the franchise.

City Reveals Its Hand.

The step taken by the city solicitor yesterday shows the city's attitude on the question of the referendum election. Although officials of the Referendum league and representatives of the Municipal have expressed the opinion that the election as held could not be a fair expression owing to the fact that the machines were marked in a manner that confused voters, no steps taken heretofore have indicated the opinion of the city on the question.

City Auditor Coughlin, as chairman of the canvassing board, directed a letter to State Attorney General Ellis before the board canvassed the vote as certified by the election board, asking among other things whether the election was valid in view of the fact that the machines had been marked "Yes" and "No."

Members of the board of elections contend that, as the machine was made for a "Yes" and "No" vote on questions and as the voting machine law states that directions in any other laws which conflict shall not be taken into consideration, they pursued the proper course.

City Solicitor Baker declared yesterday that, though he is sometimes called upon for legal advice by the board of elections, he is not its legal adviser and the action he is about to take is entirely independent of the board. "The attorney general is the legal adviser of the board of elections," he said.

When Federal Judge Tayler convenes court this morning he will hear attorneys on both sides argue the question of the validity of the election. Attorney S. B. Clark of New York will probably argue for the Municipal and A. C. Dustin for the bondholders. It is likely that other lawyers will take part in the argument.

While it has been indicated in court that the disposition of the receivership case does not hinge upon the validity of the election, it figured so prominently as a collateral issue in the case that it was considered proper to dispose of it. There is a difference

of opinion as to whether a receiver would be appointed in the event it should be decided that the election was invalid.

If it is found that the Municipal's security franchise stands, it is pointed out, the contention of the Central Trust Co. that the Municipal is without a franchise, and thus unable to meet principal and interest on bonds, would fall. It is also offered that the knocking out of the referendum election might have no effect whatever upon the issue of solvency of the Municipal.

ATTORNEY'S CLAIM BRINGS A MASTER

Judge Acts When Lawyer
Charges That Municipal is
Insolvent by \$200,000.

Holds Referendum Valid and
Refuses to Assume
Protectorate.

DISCREPANCY IN PAPERS

Mayor's Copy of "Gentlemen's Agreement" Calling for Restoration of Properties, Differs From That Held by F. H. Goff, Inasmuch as It Contains Interlineation Making Provision for Referendum — Westenhaver Says It Amounts to Nothing.

Near the close of yesterday's hearing of the Central Trust Co. of New York's application for the appointment of a receiver for the Cleveland Railway Co. and the Municipal, Attorney A. V. Cannon, representing creditors, caused a surprise when he claimed the Municipal to be insolvent to the extent of from \$200,000 to \$250,000 and offered evidence in substantiation of his claim.

Federal Judge Tayler, appointed Irvin Belford, clerk of federal circuit court, special master to hear such evidence. Mr. Belford will take testimony today and Monday, submitting it to Judge Tayler Tuesday.

Among other important turns yesterday was an opinion by Judge Tayler that the referendum election was valid, the refusal of the court to permit the Municipal to continue operating under protection of court, and a point raised by Attorney W. B. Sanders as to whether Mayor Johnson represented the Forest City Co. or Municipal in collateral agreements under which restoration of property is being asked.

Concerned Over Interlineation.

The discovery of an interlineation in Mayor Johnson's copy of the so-called "gentleman's agreement" between him and F. H. Goff was another development late yesterday.

While offering in evidence the agreements made with the lease, Attorney D. C. Westenhaver read the interlineation, "and until possible referendum passed." He said it had been penciled in by City Solicitor Baker. Section 15 of the plan of procedure under the lease, including the interlineation is as follows:

"After the delivery of deeds, contracts and other papers they are to be handed to Mr. Goff and Mr. Johnson to be by them held or deposited in a box under their joint control at the Cleveland Trust Co., so as to insure the complete performance, according to the plan herein outlined, of all the things to be done by any of the parties to this agreement—and until possible referendum passed."

Baker Assumes Authorship.

"During the peace negotiations," said Mr. Baker last night, "I have some recollection of writing into the agreement for Mr. Johnson and Mr. Goff. While it had not occurred to me since that time until read in court, it seems to me that Mr. Goff and Mr. Johnson were talking about a referendum and asked me to write in that clause, as they did not wish to have it in their handwriting, I believe. Mr. Johnson's copy was before us at the time and not Mr. Goff's, and that is how the addition happens to appear in Mr. Johnson's copy and not in Mr. Goff's, I suppose. Inasmuch as the words do not appear in Mr. Goff's copy, I suppose that would be the one to be offered in evidence."

"Before papers were delivered," said Mr. Goff last night, "Mayor Johnson called attention to the fact that the Schmidt law which had recently been passed gave a right to a referendum election and stated that the papers would have to be retained in escrow for at least thirty days, and if a petition were filed calling for a referendum election, thereafter until a vote was held, to which I assented. Mr. Westenhaver and myself when engaging the safety deposit box in which papers were to be deposited said it would be wanted for at least thirty days.

"I have no recollection of the interlineation which Mr. Baker refers to."

Hoyt is Undecided.

Attorney James H. Hoyt stated that he did not know whether he had objections to make to the agreements as submitted by Mr. Westenhaver as evidence. "While reading the papers handed to me by Mr. Westenhaver," he said, "I was informed by him that the papers are personal property of Mayor Johnson and that it annoyed and irritated him to have me look them over. Therefore I returned them. I want to insist upon seeing the documents before saying, however, that I do not object to their introduction."

During the noon hour Mr. Goff was asked for his copy of the plan of procedure under the lease and at the close of the afternoon session Mr. Hoyt announced to the court that the words added by Mr. Baker were not in Mr. Goff's copy. Mr. Goff was present at the afternoon session.

"The interlineation," said Mr. Westenhaver last night, "neither adds weight to our case nor takes from it."

SUIT DECLINED, HE BRINGS IT HIMSELF

When Baker Refuses, Attorney Sues to Prevent Council Paying Mayor's Bill.

Asks That City be Restrained From Defraying Cost of Signature Probe.

Formal demand was made of City Solicitor Baker yesterday by Attorney Clarence J. Neal that he bring suit to prevent the city from paying the bills incurred in the investigation of the signatures attached to the referendum petition. The city council at the meeting Monday night authorized the payment of the bills after a vigorous protest from Councilman Horner, who declared that the bills would not be paid, as the matter would reach the court.

City Solicitor Baker declined to bring the suit yesterday and was notified by Attorney Neal that it would be brought by A. W. Oppman, a West Side taxpayer.

"I am glad the suit is coming," was Solicitor Baker's comment. "There is absolutely no precedent in the matter of the right of the council to spend money in investigating petitions of this character. Cleveland was the first city in the state to have a referendum election. I did not approve the bills when they were submitted to me before the council gave them its approval. I believe that they require the approval of the city legislative body as well as the executive officers. I have been informed that the suit will be brought on the grounds that the expenditure was illegal even if authorized by the council."

Councilman Walz, Democrat, who voted against the resolution, said yesterday that he would rather pay a share of the \$2,000 bill himself if equally divided among members of the council than vote to have the money paid by the taxpayers.

The resolution calls for the payment of \$1,213.75 to S. J. Monck, printer, and \$828.64 to James E. Newkirk, stenographer. Monck printed the postal card inquiries and Newkirk sent them out for Mayor Johnson.

PUSH PASSENGER PIER WITH SPEED

Mayor and Boat Companies Will Get to Work on Drawing Up Contract.

Mooted Matter of Rental is to be Last Problem Settled.

As the result of a meeting yesterday between Mayor Johnson and representatives of the D. & C. and C. & B. boat lines, negotiations for the

leasing of the westerly lake front pier for a period of twenty or thirty years will be carried forward without further delay.

Work on the preparation of a contract between the city and boat companies stating in detail the character of the improvements will be begun today at a meeting in the office of City Solicitor Baker.

The place for the rental figure will be left blank. "When we reach an agreement on every other point, there will be no difficulty in reaching an agreement on the question of rental," the mayor said.

It developed at yesterday's meeting that Attorney Harvey D. Goulder, in looking into the lease question for the companies, had expressed the belief that the city's title to the lake front property was not clear and that state legislation might be necessary in order to eliminate the defect. Later, according to the explanation at yesterday's meeting, he said the city's rights to the property were clear.

Besides Mayor Johnson, Councilman McClain, General Manager Newman of the C. & B. and D. C. McIntyre, general freight and traffic manager of the D. & C., were at the meeting.

The city will be represented by City Solicitor Baker and President Springborn at today's meeting. The companies' representatives will be Attorney Harvey D. Goulder and Messrs. Newman and McIntyre.

The first rental named by city officials in the negotiations for the pier was considered too high by the boat companies. The suggestion was that they should pay the city \$5,000 a year during the first ten years, \$6,000 during the second ten years, and \$7,000 during the third ten years.

ASSUME DIRECTION OF MAYOR'S BANK

The Depositors Savings & Trust Co. was incorporated almost two years ago, with Mayor Johnson as president; Leopold Einstein, vice president; John P. Kraus, treasurer, and E. W. Doty, secretary. City Solicitor Baker is a director. Its capital stock was \$300,000.

The bank began business in December, 1906. The need of a bank for the financing of the low fare fight was believed by many to have been a leading motive for the organization of the bank.

At first the bank prospered. A new money order plan brought the institution considerable business for a time. In the financial depression of last fall it suffered, as did other banking institutions, but stayed on its feet, and bankers say it would have had no difficulty to continue business.

"City Government" will be the title of an address by City Solicitor Baker at the West Side Boys' club tonight. The address is one of a series delivered by public men of the city each Wednesday evening.

FLEES IN FACE OF CURIOSITY CRAVERS

Mrs. Bessie Johnson Mariani Leaves Courthouse as Crowd Surges In.

Secret Out, Divorce Case is Halted to Await Quieter Day.

Annoyed at the throng of eager clerks and stenographers that filled corridor and courtroom, anticipating her case, Mrs. Bessie Mariani, daughter of the mayor, swept into the courthouse yesterday afternoon, noted the thrill of excitement that prevailed and indignantly swept out again. The hearing of her suit for divorce against Federico Mariani, Italian playwright, was postponed indefinitely.

Newton D. Baker, her attorney, and Mrs. Tom L. Johnson arrived at the courthouse at 2:30, arrangement being made that Judge Estep should try the case. To avoid unwarranted attention the party did not come together, but met in Auditor Wright's office, where the plaintiff, her mother and another woman witness were to await Baker's call upstairs.

The city solicitor did his best to keep the matter quiet, but five minutes after Judge Ford set the case for immediate hearing at 2:30, the word had spread from roof to basement. In every office there were young women stenographers and some young men clerks, who answered to the call of divorce testimony.

Curious Pack Elevators.

Elevators bound for the fourth floor where Judge Estep presides, soon filled with interested attaches. Judge Estep heard the surging crowd as he sat in his private office, and, opening his door, he gazed a moment at the assembly. He closed it without a word. Baker stood outside, ready to go down to the first floor and call his client and her witnesses. He looked disgustedly at the legion that sprang from elevator, stairway and other courtrooms—then shook his head.

Mrs. Mariani and the witnesses, waiting patiently in the auditor's office, learned somehow that the secret was out and that their audience was waiting. Quietly they donned their wraps and left.

BULLETIN

City Solicitor Baker issued orders Friday that police prosecutors should not take any part in the investigation into the deaths at police headquarters.

"Anything that is to be made public will be done so through me," said Baker.

TOM L. JOHNSON PLAYS CLOWN IN STRIPED COAT AND TROUSERS

Tom L. Johnson played the clown Wednesday night. He wore black and white striped pantaloons, which were described by a feminine eyewitness as "long and trailing." His coat was also striped in black and white. All this happened at a masquerade at Miss Flinn's, on Euclid avenue.

"He is a splendid dancer—oh, yes, quite delightful!" exclaimed Mrs. Grundy as the city's chief executive trod the shaking floor.

Mrs. Johnson was exquisite as a Colonial dame, with powdered hair and black patches, and Mrs. Mariani was a typical Western girl, with sombrero and short hunting skirt. John Stockwell, Jr., police allege, was a howling success as a "rube" in his

blue jeans and straw hat. He escorted the prettiest little girl that ever took a prize at a beauty show. The long curls of the beauty were not "extra," but really belonged to Mrs. Stockwell. Mrs. Fred. Howe made a realistic angel, with her raven locks concealed under a blonde wig. Mephistopheles was a sure enough cut-up—a bona fide devil. His suit of red, with long, waggley tail, disguised the Senatorial figure of Fred. Howe—minus his nose glasses. Mrs. M. A. Fanning was a trained nurse. Mrs. Newton D. Baker made a capital prairie girl. Her husband was an army officer. There were a lot of others—the two du Ponts, Miss LaFollette and Mr. Hull, of the Colonial company.

MAYOR FACES FIGHT OF LIFE IN PRIMARIES

Mayor Tom faces the fight of his life if he runs afain for mayor.

The first Democratic opposition developed in the announcement of Jake Mintz Friday that he proposed to circulate a petition to get former Mayor John Farley's name on the primary election ballot.

Mayor Tom has feared no opposition within the ranks in the past because of the convention system of nominating. Anyone who gets enough signers for a petition may run under the new primary law.

Politicians say Chas. Salen could split the party if he wished, and perhaps get the mayoralty nomination. Salen declines to say whether he will run.

Newton D. Baker also has been mentioned, but says he is not a candidate. Some think he may be picked if Mayor Tom drops out.

Herman Baehr, county recorder, is the first choice of Republicans. Baehr refuses to make an announcement. Baehr is considered the best vote-getter in his party.

Atty. H. H. McKeehan, who assailed Mayor Tom in the referendum campaign, also is a Republican possibility. Former Mayor McKisson has a circle of admirers, but his nomination is not thought likely.

PLAN HIRING WOMAN TO AID POLICE COURT PROSECUTORS

City Solicitor Baker plans to appoint a young woman assistant to Police Prosecutors Geier, Cull, Baer

and Feniger. She may also work for Police Judges McGannon and Levine. He decided upon this as a result of the ever-accumulating work of the prosecutors. The new assistant will also act as stenographer.

In the past Cull has suggested a woman prosecutor would aid the office materially in handling complaints by women against women. Other prosecutors have backed up this suggestion.

Judges McGannon and Levine declined to comment on the advisability of having a woman for auxiliary judge.

Mrs. Stephen Buhner, 4606 Franklin, in a statement Thursday, advocated both women judges and jurors in cases where women are involved.

DIPS IN BURLESQUE TO CENSOR JESTS

City Solicitor Baker Sniffs, Smokes and Jokes in Vulgarly Search.

Manager of Two Theaters Agree to Eliminate Risque Talk.

Solely in his official capacity, City Solicitor Newton D. Baker dipped into the burlesque last week, visiting the Star and Empire theaters on successive nights, sniffing the cigaret smoke, listening to the yells of applause of the gods, of ten-twenty-third, scanning closely his printed program and the acts on the stage which they announced.

Yesterday Messrs. Drew & Campbell of the Star, and Manager George B. Chenet of the Empire called on Mr. Baker by invitation at the city hall. Mr. Baker wanted to have a little talk with them, he said, about some of the acts which were being put on, that is to say, performed, at the two theaters.

The theater men wanted to know if there was anything wrong at either playhouse, anything which was not strictly all right and proper, you know, anything which would offend the patrons of the drama.

"Yes and no," the city solicitor said, in effect. "There was one act at the Star." He named the act. "It was rather broad. Not exactly wrong, you know, but—shall we say, a little vulgar. Not just the thing for a mixed audience, perhaps?"

Both Manager Drew and Adjutor Manager Campbell were quick to concur. That act was rather risqué, they agreed, and shouldn't have gone on. Both were out of the city that week, they said, and knew nothing of it until too late. The act had since been withdrawn, they added.

"Ah, I am glad of that," said Mr. Baker.

Then Messrs. Drew and Campbell suggested—and Manager Chenet agreed—that Mr. Baker or a representative visit each theater every week and look over the show. If he saw anything he didn't like, the theater people would be glad to know of it.

They were there to please the public, the managers said, and their shows were open to inspection any time. They would deem it a favor to have their attention called to things that were—well not just suitable.

Mr. Baker frankly liked the spirit in which the theater people received his remarks. "But," he said, "the city doesn't want to interfere in these things or to act as a censor. We don't want it to be necessary. We want the management itself to scrutinize the acts and cut out anything that should be cut out."

This was the way the conference broke up—with the best of feeling, and with a recommendation that the theater people be just a little more careful in the future.

BABY'S A TALL TALKER



At the age of three Miss Elizabeth Baker has a vocabulary of just 1,336 words. This can be stated authoritatively for the reason that her parents, City Solicitor and Mrs. Newton D. Baker, noted each word she used during that period of her life.

And since that time (she is now three and a half years old) she has been adding to this list with a diligence that sometimes astonishes her parents. "Several days ago she approached her father with a troubled look in her eyes.

"Daddy," she said, "I am so distressed. I can't find my dolly's head."

Little Miss Baker visits her father occasionally at his office in the city hall and a few days ago her picture was snapped as she sat on a pile of law books.

BAKER BLOCKS TECH HIGH SEAT CONTRACT AGAIN

Finds Board's Second Award to Haywood Bros. & Wakefield is Irregular.

City Solicitor Baker has refused for the second time, because of alleged irregularity to approve a contract between the board of education and Haywood Bros. & Wakefield Co. for 1282 Tech high auditorium seats at \$2.10 apiece.

Baker's communication was referred Monday night by the board to the new buildings committee.

The first contract was not approved because lower bids were received. The law provides if all bids conform to specifications the lowest shall be accepted.

The board afterward rejected all offers and called for informal bids, accompanied by samples and without specifications.

The contract was then reawarded to the Haywood Bros. & Wakefield Co. This firm had begun building the seats before the first contract was rescinded, and the job is now understood to be practically completed.

"I know of no power of the board to authorize the receipt of informal bids not based on specifications," Baker ruled.

He advised the board to prepare specifications, make due advertisement, and base the award on the specifications. He said the law is to insure taxpayers the advantages of competition.

statute in such a manner that the city's power to own piers and wharves is not clear.

BAKER CRITICIZES HALLS, NOT SHOWS

Thinks They're Not Safe—
Asks Views.

City Solicitor Baker wants to test the public pulse on Sunday moving picture shows. He believes if such entertainments are to be allowed they should be in safe, well-regulated theaters arranged for large assemblages, not in converted store-rooms, although they comply with the present building laws.

Baker said he invited comment. Councilmen say they have received many protests since Baker drew up an ordinance to suppress Sunday picture shows.

Baker says he has had no moral complaint against the shows.

None of the regular theaters has requested permission to give Sunday picture shows or other entertainments, says Baker.

TO FIX PIER PRICE IN NEW ORDINANCE

Council Committees Will be Asked to Consider Mayor's Rental Figure.

Boat Company Man Suggests No More Changes Are Desired.

Before the week is over a public meeting of four city council committees will be called for the purpose of discussing a substitute lake front pier ordinance including the rental terms of \$3,500 a year suggested to the representatives of the D. & C. and C. & B. lines by Mayor Johnson.

City Solicitor Baker declares that the mayor's figure is too low and suggests that the rental be \$5,000 for the first ten years, \$6,000 the second ten years and \$7,500 the third ten years. He claims that the rental asked of the companies should be enough to pay off the sum advanced by the boat companies for the lake front improvements and the cost of the pier improvements and buildings. Under the mayor's plan there would still be \$100,000 for the city to pay at the end of thirty years.

D. C. McIntyre of the D. & C. declared yesterday that he did not like changes and that if another proposition was made by the city he was in favor of dropping negotiations.

The mayor stated that while the city solicitor had partially converted him to the belief that his original figure of \$3,500 was too low, he was in favor of having the ordinance drawn as suggested and submitting it to the council committees.

Another important development of yesterday's meeting was the suggestion that steps be taken in the direction of asking Gov. Harris to include in his message before the coming special session of the legislature action on a bill that would correct an error made in a recent law enacted at Columbus. This law amends an old

POLICE court prosecutors have a way of leading gently witnesses known to be giving false evidence, asking questions pleasantly to make the witness feel he is in friendly hands and to take him off his guard, then suddenly springing up and bawling fiercely a question which the witness answers truthfully.

Corporation Counsel Baker tried it recently in one of his occasional visits to police court. The witness, also a prisoner, said he was not at a certain place at a certain time, and Baker immediately turned to something else and for five minutes he questioned the witness as pleasantly as though the man were one of the state's witnesses.

Suddenly Baker leaped to his feet and yelled, "What time did you say you were there?"

"At 9:30," replied the man. The rest was easy.

BAKER STOPS CHASE HOME PROSECUTION

Two charges of punishing children too severely, made against Mrs. Annette S. Chase, who conducts a boarding school and children's home at 3119 Marvin, were nolleed in police court Thursday at the request of Solicitor Baker. The charges were made by Dr. E. A. Smith of the Humane society. Atty. W. H. Boyd represented the defendant.

Mrs. Chase was arrested Dec. 2 for striking Cornelius Maswinkle, 8, and Chas. Scott, 10, who boarded at her school. This followed an exposure of conditions at the home, published in The Press.

The cases were conducted by Prosecutor Feniger until Dec. 9, when Solicitor Baker took charge.

Baker said when he took the cases from Feniger's hands that he did not think the evidence sufficient to convict Mrs. Chase, and that he would investigate. It is unusual for the city solicitor to take a case from his police court assistants.

The cases were continued three times, and Thursday Baker asked for a nolle, which was granted by Judge McGannon.

"Mrs. Chase has worked hard and long for the children at her home," said Baker. "In old age her temper has been inclined to be strong. The injuries to the children were slight and not of a permanent nature.

"I have investigated the charges carefully and do not think it possible to convict on the evidence."

At the Chase home it was said that Mrs. Chase would continue her boarding school and children's home.

Judge Lawrence will represent the city in the trial of the lake front case, City Solicitor Baker informed the committee yesterday. The sum of \$1,500 for special counsel has been set aside in his estimates. He declared that this amount would be needed for the first six months as the expense of the trial and that the city would be lucky if it got through the case with a smaller expenditure than \$15,000. The hearing has been set for Feb. 1.

The departments under Directors Springborn and Leslie will be taken up at a meeting today. The committee will also go into the appropriation estimates submitted by the police and fire departments.

An Appreciation.

"I never knew a saner, finer intelligence, nor a purer or more inspiring spirit than Mr. Shurtleff. Every public and private movement for the general good in Cleveland had his sympathy and support. To the young men of the city he was counselor, guide and friend. He was unblinded by any prejudice and unterrified by any opposition. He was a calm, brave, just and useful man."—City Solicitor Baker.

"BAKER IS RIGHT, RENT'S TOO LOW"

Mayor Finally Comes Around
to Agreement That Pier
Price Isn't Enough.

Boat Lines May Now Break
Off Negotiations for
New Landing.

Mayor Johnson informed Harvey D. Goulder at a conference called yesterday for a discussion of the lake front pier proposition that he is now inclined to agree with City Solicitor Baker that an ordinance fixing the terms of the lease of the pier should name a rental which will wipe out the total cost of the improvement made on the city's property.

The rental of \$3,500 per year at first suggested by the mayor leaves a balance of \$100,000 that the city would have to pay at the end of thirty years in order to come into possession of the property with its improvements.

"Mr. Baker's proposition seems reasonable," said Mayor Johnson. "The more I think of it the better it appears." Baker's plan called for a rental that would be increased every ten years and would reach a total that would cause the city and boat companies to break even. As the representatives of the boat companies have declared that they would not recommend to their directors the acceptance of an ordinance in which a higher figure than \$3,500 was named it is now feared that a break may ensue that will delay the entire proposition.

The mayor declared yesterday that he is in favor of having the ordinance passed and put up to the boat companies for acceptance or rejection. He pointed out that a similar situation had arisen when the city was dealing with the Newburg & South Shore railway; that it had been stated prior to the passage of the ordinance that the proposition as set forth in the measure that had been drawn up would never be accepted, and yet it had been accepted after it was passed by the council.

City Solicitor Baker stated that the attorneys who had taken part in the negotiations were not in favor of this plan of procedure. Their advice is that an agreement be reached between the city and the two boat companies before the ordinance is passed so that the legislature can be asked to pass a law which will make clear the city's rights to carry out such a transaction.

After some further discussion it was agreed that the matter of bringing the proposed new law before the members of the Cuyahoga delegation would be left in the hands of Attorney Goulder and Councilman McClain, author of the pending ordinance. The legislation has already been prepared and is merely awaiting introduction.

It gives the city the right to use riparian property dedicated for park purposes for the construction of piers. It also gives the city the power to lease piers and to accept terms for their use that will leave an unliquidated balance as in the case of the proposition now under consideration. Under the present laws the city auditor could not certify to the ordinance for the reason that payment for the entire investment is not provided in the ordinance, and there is no money in the city treasury that has been set aside for such a purpose.

City Clerk Witt suggested to Mayor Johnson yesterday that the people be called upon to vote on the issue of \$200,000 bonds for the improvement of the lake front pier, including the necessary passenger and freight depots, and that the buildings then be rented. He believes that the rental should be fixed at \$30,000 a year.

PUBLIC MAY TALK FARE TOMORROW

Citizens Will Get Chance to
Discuss Proposed Rate,
Councilman Says.

Postponement of Meeting
Made Necessary by Ab-
sence of Mayor.

The application of the traction receivers for a new franchise at six tickets for a quarter will be considered in a public meeting tomorrow. This announcement was unofficially made by Chairman Robert Koch of the council street railway committee yesterday. Koch has not yet fixed the hour for the meeting.

Sitting with the councilmen in Tuesday's meeting will be Mayor Johnson, City Solicitor Baker, Vice Mayor Lapp and the board of public service. The public is invited to express opinions before the committee.

Originally it was intended to hold the meeting today so that the council would be able to discuss the situation at its regular meeting tonight. The inability of Mayor Johnson to get home before tomorrow, however, has caused a postponement. Mayor Johnson informed his official family of his delay in the east late last night. He talked with City Solicitor Baker over the long distance telephone and later Mr. Baker said:

"The business with which Mr. Johnson is detained in the east was to have been completed Saturday night and he was expected to be home this morning. He informs me that it had to go over until tomorrow and that he will not be home until Tuesday."

When Chairman Koch was informed of the detention of the mayor he said:

"I shall call a meeting just as soon as the mayor gets home. If he is here Tuesday there will be a meeting that day. I have requested W. B. Gongwer, the mayor's secretary, to notify me when the mayor returns. I cannot fix an hour for the meeting until it is certain when the mayor will be here."

The traction receivers last night refused to discuss the delay in consideration of their proposition by the council.

The city administration's policy has not yet been indicated, but it was suggested last night that in the event no better plan is suggested the council might propose that the receivers operate under authority of a council resolution without a formal grant of any kind. Many members of the council want a plan tried of charging a penny for transfers, but the receivers have already indicated that they believe this impossible.

Newton D. Baker.

Wird vielfach als Congress-Candidat
in Vorschlag gebracht.

Unter den Leuten, welche von demokratischer Seite als Congress-Candidaten für den 21. Distrikt in Vorschlag gebracht werden, befindet sich auch Stadthanwalt Newton D. Baker, welcher Mayor Johnson näher steht, als irgend ein anderer städtischer Beamter.



Newton D. Baker.

Es ist etwa zehn Jahre her, daß Herr Baker, der erst 36 Jahre zählt, aus West Virginia nach Cleveland kam und sich hier niederließ, um die Rechtspraxis aufzunehmen. Er wurde mit Mayor Johnson bekannt, der ihn unter Stadthanwalt Beacom zu dessen erstem Assistenten machte. Bald zeigte es sich, daß Herr Baker ein Mann von ungewöhnlichen Fähigkeiten war und ein feines Rednertalent besaß. In den municipalen Campaignen wußte er dieses mit vielem Erfolge zu verwerthen. Als Stadthanwalt Beacom zum Commonpleasrichter gewählt worden war, da wurde Herr Baker sein Nachfolger und ist seitdem im Amte. Seine geistigen Fähigkeiten und seine glänzende Redneregabe würden ihm im Congress ohne Zweifel zu Gute kommen.

Herr Baker aber sagt, daß er nicht Lust habe, sich um einen Sitz im Congress zu bewerben, und es ist auch mehr als wahrscheinlich, daß ihn der Bürgermeister nicht ziehen laßt.

PRESENTS CITY'S SIDE.

City Solicitor Baker Files Inter-
vening Petition in United States
Court in Traction Case.

City Solicitor Baker yesterday afternoon filed an intervening petition in the United States circuit court in the traction cases pending before Federal Judge Tayler. The petition is in behalf of the city and sets forth that the Cleveland Electric franchises on the Woodland and West Side lines have expired and asks

WOODLAND GET 3-CENT

Judge Tayler Decides in Favor of Low Fare Interests in Ruling on Rate Charges.

TRANSFERS FOR THOSE WHO PAY HIGHER FARE, 5 CENTS

Rate for Single Ride on Low Fare Lines to be 3 Cents; 5 Cents to be Charged on Concon Lines Where Grants are Still in Effect.

Judge Tayler Friday ordered that 3-cent fare be charged on the Woodland-West-side lines, in addition to the original low fare lines, when the fare increase goes into effect Monday. Five cents, with 11 tickets for 50 cents, will be the rate charged on all other lines.

Universal transfers will be given. Passengers on 5-cent lines will be given transfers free. Passengers on 3-cent lines will be given transfers on payment of a 5-cent fare or the presentation of a paper ticket bought at the rate of 11 for 50 cents. The free transfers will probably have the penny charge and refund as they have now.

Judge Tayler's ruling means 5-cent fare and 11 tickets for 50 cents on the following lines: Euclid, Wade Park, Cedar, E. 105th, E. 55th, Scovill, Broadway, Union, part of Clark, Scranton, W. 14th, Abbey, Fairfield, W. 25th, St. Clair, Superior, Payne and Clifton boulevard.

Three-cent fare on these lines: Denison-Fulton, Bridge, Central, Quincy, Woodland, Lorain, Kinsman, Detroit, W. Madison, W. 38th and Lake from Detroit to Clifton boulevard.

Judge Tayler ruled that the system should be operated as a unit as far as possible. He said the conditions that prevailed prior to the April settlement must exist as far as possible, but on top of this there must be such regulations as will produce the least confusion.

MAY RESTRICT TRANSFERS

He gave the receivers authority to place restrictions on transfers where they may see fit. If they so desire they may make a penny charge and refund, under Judge Tayler's ruling, so as to prevent abuse of the transfer privilege.

"Conditions," said Judge Tayler, in deciding the fare and transfer arrangement, "should be as far as possible like those prior to the conditions in effect under the ordinance that was defeated at the referendum election, because this is most practical and because of legal questions involved and not at this moment determined.

TRANSFERS FROM 3-CENT LINES

"The legal questions especially bear upon the 3-cent lines and the matter of transferring from them. In view of the controversy over what rate of fare should be charged on the Woodland and West-side lines, there ought to be no transfers as generally over the city, and other 3-cent lines should be dealt with accordingly.

"Still, the transfers should be given from these lines to all other lines when a rate of fare is paid on them the same as that

paid on the other lines."

"This is in line, too, with the argument that the court should put into effect the rate that would produce the greatest possible revenue. Then we come to this:

"On 5-cent lines there should be a charge of 5 cents and 11 tickets for 50 cents, and the right to transfer to other lines with such restrictions as may seem proper, with probably a continuation of the present system of a penny charge with refund to prevent abuse of the privilege.

"By paying 5 cents on the Woodland and West-side lines, transfers should be allowed, and the same right should prevail on all 3-cent lines.

"All present complications and difficulties through change in fare should be reduced as much as possible.

LINES NOW UNIT.

"Something must be said and yielded that the lines now are a system and unit. For simplicity of operation and management in connection with the various controversies, such is the most practical solution that could be worked out under this embarrassing and complicated situation."

"I may be wrong in principle and facts in the Central-av case, but have read Mr. Tolles' statements, in which he attacks the soundness of my reasoning, and in which he declares that the Woodland and West-side franchises have not expired, but considering the state of mind I am in, I would not do injustice to myself," said Judge Tayler, "should I say that the 5-cent fare franchises on Woodland have not expired."

TO HEAR ARGUMENTS.

During the arguments of City Solicitor Baker for universal transfers, Judge Tayler indicated strongly that he would not charge more than 5-cent fare on the Woodland and West-side lines.

He will hear arguments on the expiration of 5-cent franchises, but no date is fixed for that. During the argument Judge Tayler said on this point:

"If the Woodland and West-side franchises do not expire until Jan. 26, 1910, violence is done to the rule I believe in, and twice upheld now by the supreme court, that there ought not to be a grant by implication."

Atty. A. C. Dustin, counsel for the receivers, and Atty. W. B. Sanders, representing the Cleveland Railway, argued vigorously against charging 3-cent fare even temporarily on the Woodland and West-side lines.

"I am told by Receiver Bicknell," said Dustin, "that the Woodland and West-side lines comprise 27 per cent of the entire system."

"Who?" asked Sanders, "is opposing a 5-cent charge on this part of the system, anyway?" turning to City Solicitor Baker.

"I am," said Baker, "as the representative of the city and to protect what is believed to be its legal rights."

ACCIDENT LIABILITY.

Dustin argued that the Woodland and West-side franchise question should be distinguished from the Central case, in which the supreme court ruled against

Court Room Sketches of the Heads That are Settling the Street Car Question in Judge Tayler's Court



the principle of granting or continuing franchises through an implied meaning. Dustin contended that different questions arose in the Woodland case, and claimed that in one extension it is specially stated that the franchise shall expire Jan. 26, 1910.

Judge Tayler said that it must be confessed the Woodland and West-side case, differentiated itself somewhat from the Central case, but not sufficiently to cause him to come to any different conclusion at this time.

Dustin argued for as little transferring as possible, not for the sake of the revenue needed, but because of accidents due to transferring. He said 30 per cent of the accidents are due to getting on and off cars and that the less transferring the less liability of this kind.

City Solicitor Baker argued for universal transfers. He said passengers on old Threecer lines would be entitled to transfers on paying the higher rate of fare—5 cents.

Baker produced contracts between the city and the Concon which provided for transfers from all East-side lines to the West and South-side lines, and from all West and South-side lines to East-side lines.

This contract was made at the time of joining the Little and Big Consolidated lines. Baker contended that the transfer provisions of the constituent companies of the Big and Little Consolidated must be

lived up to by the agreement entered into between the Concon and the city council at the time of the consolidation.

He argued that in the consolidation the city also reserved the right to compel the issuing of transfers the same as on the lines of the companies that went to make up the Little Consolidated.

Baker argued that the state law construes a street car fare to mean both a fare and transfer.

He took up the Denison-Fulton ordinance and 3-cent fare grants also passed by the council, and declared that they compel the granting of transfers to and from 3-cent lines, and reserve the right to the city to compel the granting of transfers to the lines of other companies.

He held that the 3-cent fare companies are compelled by the ordinance to exchange transfers with other lines.

TAYLER ASKS QUESTION:

Judge Tayler asked Baker how he would justify 3-cent fare and a penny charge for a transfer if the law says that a ride includes the transfer.

Baker said: "Whenever the council has deemed it wise to make the fare depend upon whether the passenger wants a transfer, it may be within the power of the company to charge for a transfer."

In all Baker's contentions he held that the transfer should be given for a ride in the same general direction.

Measure to Allow Leasing of Docks May Not be Introduced This Session.

Boat Companies' Attorneys Say They Won't Hurry Legislation.

Unless the city bestirs itself in the matter the bill giving municipalities the right to lease docks and piers and to own steam railroad switches placed on park property will not be introduced in the legislature at the coming session.

The lake front pier negotiations depend on the passage of this law, but Attorney T. H. Duncan, who, with Attorney Harvey D. Goulder, has been acting for the boat lines in the negotiations, declared last evening that no further effort would be made to have it introduced and passed unless the city agreed to lease the docks on a basis of \$3,500 a year, the proposition first suggested by Mayor Johnson.

The passage of this bill was deemed necessary by City Solicitor Baker and by the attorneys representing the two boat companies in order to strengthen the city's rights.

HALTS HIGH FARES UNTIL CITY MOVES

Judge Tayler Grants Creditors' Application, but Stays Receivers' Hands.

Withholds Formal Order Pending Possible Action by Council Today.

Granting the application of creditors praying that an order be issued increasing street railway rates of fare, Judge Tayler in the United States court yesterday withheld the formal order to await action by the city council today. In passing upon the application Judge Tayler made a plea for peace and declared that until a hearing can be had to determine whether the Cleveland Electric grants are still in force the fare on the Woodland and West Side lines will remain at 3 cents.

"An ordinance of that kind," said Judge Tayler, discussing the application made by the receivers for a temporary ordinance at six tickets for 25 cents, "would bring peace and justice to everybody. A temporary ordinance would relieve from the slight confusion which may result, due to the fact that where you have a diversity of rates of fare you may have some confusion and some inconvenience, but that is all."

Attorneys S. H. Tolles, A. V. Cannon and A. C. Dustin represented the interests of receivers and creditors in the hearing, while City Solicitor Baker and Attorney D. C. Westenhaver sat on the opposite side of the table. Participating in the discussion were Attorney W. B. Sanders and Receiver Bicknell.

Attorney Tolles made a brief presentation of the application of the creditors and Judge Tayler inquired of City Solicitor Baker if he knew any reasons why, excluding the question of time and manner, the motion should not be granted. Mr. Baker replied that he did not, but said that on behalf of the city he desired permission to file an intervening petition with reference to the question of the rates of fare on the Woodland and West Side lines. Mr. Baker said he was already preparing the petition. Judge Tayler maintained that there was no reason why it should produce delay in an increase of fares on other lines.

"The action of the council depends somewhat on the question the court is asked to pass upon," answered Mr. Baker.

Attorney Dustin for the receivers called attention to the fact that the receivers contemplated issuing transfers to and from old Cleveland Electric and Cleveland city lines, although some grants authorized a straight 5-cent fare without transfers. He said revenue would be less under the proposed six tickets for a quarter plan than under the grants.

The city solicitor replied that if the receivers followed the letter of the law worse difficulties might result, inasmuch as cars are operating on some parts of tracks without legal authorization. He cited tracks in the square, E. 9th-st., Quincy-av., and elsewhere.

Judge Tayler replied that the receivers would not operate an inch of track in violation of the law. He said there were no controversies permissible while the matter was in the hands of the courts.

"I merely desired to suggest," said Mr. Baker, "that operation in strict conformity to the law might mean not nearly so profitable operation as otherwise."

City Solicitor Baker announced that the city will file an intervening petition contesting the expiration of franchises on the Woodland and West-side lines. He said he had begun at once the preparation of this petition when he heard the receivers intended to charge 5 cents on streets covered by 3-cent grants passed in April.

Atty. S. H. Tolles, representing the creditors; Atty. W. B. Sanders, representing the Cleveland Railway, and Atty. A. C. Dustin, representing the receivers and bondholders, sought to have Judge Tayler order the fare raised on lines other than Woodland and the West-side, but he said it would be best to wait and see what the city council might yet do.

"Three-cent fare," said Judge Tayler, "might be sufficient under happier conditions. That is not the question now. Franchises are expiring. Investment is being impaired."

"Under the permanent franchise plan suggested, instantly all debts could be cared for. There would be certainty of payment, absolute security, and by methods of raising money the future could be provided for."

City Solicitor Baker told Judge Tayler that the action of council depends in a great measure upon what disposition is made as to the Woodland and West-side lines; also upon whether assurance is given that revenue from increased fare will be used to pay debts.

FRANCHISES LACKING.

Baker said the receivers might not make as much money by adhering to the strict letter of the law as otherwise. He pointed out that on certain streets there are no franchises. Judge Tayler said there would be no conflict on that point, should the city enforce an order against the receivers and not permit them to operate on certain streets.

Baker said he did not mean to intimate that a conflict is likely.

Atty. Dustin argued for 5-cent fare on the Woodland and West-side lines. He pointed out losses should it be found 5 cents is the legal rate.

"It is the duty of the court," said Judge Tayler, "to balance the doubt against the franchise having the higher rate."

SHYING AT CHANCE OF MUNICIPAL LINE

Cuyahoga Delegation Won't Support New Bill to Allow Leasing of Wharf.

May Block Negotiations for City's Contract With Boat Companies.

Fearful that the bill giving the city the right to lease wharves and to build a switch track along park property, as drawn by City Solicitor Baker and Attorney T. H. Duncan, might

possibly convey a right to the city to build and operate municipal steam railroad lines, the Cuyahoga legislative delegation has declined to work for the passage of the measure in its present form.

This attitude may block the negotiations between the city and passenger boat lines looking toward the leasing of the westerly lake front pier, as it is agreed, by the attorneys representing both sides, that legislation giving the city the right to use riparian property dedicated for park purposes is needed before the agreement between the city and boat companies is entered into.

Attorney Duncan, who has worked with Attorney Harvey D. Goulder on the proposition, went to Columbus last week, but members of the delegation objected to the portion of the bill in which the city is given the right to build and maintain the track along the lake front, which was to have been used by all the railroads and by all the boat companies.

"Might Get Lake Shore."

"They were afraid that the city would be given the right to run a municipal steam railroad if the law was passed," said City Solicitor Baker yesterday in discussing the matter with Councilman McClain. "They feared we might take over the Lake Shore," commented McClain. "That would be most unfortunate," returned the city solicitor.

The proposed switch was an important part of the lake front improvement plans. Mayor Johnson was anxious that the city should construct the tracks and have absolute ownership so that an equal right to use them could be given all the companies leasing lake front pier space.

TELLS WHY BANK FAILED

City Solicitor Baker Files Affidavit Concerning Mayor's Institution.

City Solicitor Baker, director in the Depositors' Savings & Trust Co., gives the history of the trouble that caused the downfall of the institution presided over by the mayor, in an affidavit filed in Judge Collister's court yesterday.

Anthony Kremm, stockholder, is endeavoring to have a receiver appointed. The withdrawal of deposits beginning in October, the mayor's personal financial difficulties and the fear of a panic among depositors were the reasons Baker gave why the bank agreed that the First National and the Cleveland Trust Co. should take over its affairs.

The first intimation of trouble came to him, Baker says, when Dr. W. H. Lucas and other stockholders approached him, asking back the money they paid for stock. Dr. Lucas, according to Baker, stated that an application for receiver would be made unless something was done to relieve him and his associates of their holdings.

The Superior Savings & Trust Co. was first considered as liquidating agent, Baker said, but this deal fell through. Another affidavit filed in court by E. W. Doty, secretary of the Depositors' bank, said that the deposits dropped from \$952,696 on Sept. 12 to \$753,908 on Nov. 14.

Members of the special committee to be appointed by President Charles S. Howe of the Chamber of Commerce for the purpose of considering a suitable street railway franchise will work in conjunction with Judge Tayler, Mayor Johnson, City Solicitor Baker and John G. White in seeking a settlement.

Referendum Election Will be Called, Seeking Approval of People of Ordinance Which Will be Given Council.

Present Low Rates Will Remain Undisturbed While Committee is at Work in Preparation of New Bill.

The Traction Program.

The ordinance is being framed by Judge Tayler, Mayor Johnson, John G. White and Newton D. Baker.

Six per cent. to the shareholders and a sliding rate of fare capable of automatic adjustment are provided.

Traction books are to be open to the city and charges to operation and new construction will be subject to control of council.

A referendum election will be immediately called after the passage of the ordinance for the seal of approval of the electors.

Terms of settlement are based on the valuation of last April.

Present low fare rates remain undisturbed while committee is preparing the new ordinance.

A new traction deal, framed on new and untried lines, and without precedent anywhere in the country, or in the world for that matter, will be Cleveland's next experiment for the solution of its street railway problem if the plans adopted yesterday work out to a successful conclusion.

The rate of fare, a stumbling block in all past negotiations, is to be relegated to the background. Six per cent. to the shareholder, city control over the bookkeeping methods of the street railway company, a rate of fare that will vary with the conditions of the times and automatically adjust itself to the condition of the fixed return to the owners of the property—these are the cardinal points in the new settlement.

Three-cent fare, seven for a quarter, six for a quarter and everything that has a suggestion of a rate of fare is to be dropped from discussion for the first time in eight years' warfare. The new slogan is 6 per cent. and no more to the shareholders, all else to the car riders, and a rate of fare that will fit.

Mayor Johnson, in the public meeting at the council chambers yesterday, announced that he favored a settlement on Judge Tayler's plan provided that it is found to be legal and practicable.

REFERENDUM ALMOST CERTAIN.

The mayor said that at a conference with Judge Tayler it had been decided that a committee of four, including John G. White, City Solicitor Baker, Judge Tayler and the mayor, should first endeavor to ascertain whether the new plan of settlement can be legally carried out and if so to draft an ordinance to be submitted to the council for passage.

Following its passage it is considered practically certain that a referendum vote will be called immediately and the new ordinance submitted to the people for their approval or rejection.

Whether the Tayler plan goes through or not, it will now have the stage to the exclusion of all else until it is adopted or defeated. With Mayor Johnson won over to the plan and the railway people known to be in a favorable attitude, the Tayler plan has so far advanced that its adoption is considered fairly promising.

The attitude of the council may be a stumbling block, but it is thought that if provision is made for a referendum vote the objections of councilmen committed to a definite rate of fare may be smoothed out.

Judge Tayler has agreed to withhold the high fare order while the committee is at work on the new plan and if it is determined that an agreement can be reached on a permanent ordinance, 3-cent fare will continue and present rates obtain pending the passage of the new ordinance.

Legal opinion is now drifting strongly toward the new plan. Heretofore it has been considered impossible to frame a franchise without naming hard and fast conditions as to the rate of fare. An indeterminate rate of fare has been considered a token of an illegal contract. Within the past month, however, the supreme court has affirmed the principle that a public service corporation is entitled to 6 per cent. and no more on its investment.

CIVIC LEADERS TO MOURN SECRETARY

Prominent Men Will Eulogize Late Glen K. Shurtleff Tomorrow.

Sorrowing Will Praise His Work for Y. M. C. A. and Public.

Arrangements are now practically complete for the public memorial service at 3 o'clock tomorrow afternoon in Chamber of Commerce hall to eulogize the late Glen K. Shurtleff, general secretary of the Cleveland Y. M. C. A.

President S. P. Fenn of the Cleveland association will preside at the meeting. Robert E. Lewis of Columbus, state Y. M. C. A. secretary, will speak of Mr. Shurtleff's relations with the state organization, while Fred S. Goodman of New York, national secretary and one of the leaders in the international Y. M. C. A. movement, who was Mr. Shurtleff's predecessor in Cleveland, will talk on the dead secretary's relations with the national organization and incidentally review the latter's excellent administration of the Cleveland association.

Newton D. Baker, city solicitor, an intimate friend of Mr. Shurtleff, will discuss his civic activities. Bishop Charles D. Williams of Detroit, former dean of Trinity cathedral here, of which Mr. Shurtleff was long a vestryman, will also make an address.

In a letter mailed to every one of the thousands of Y. M. C. A. members in Cleveland, President Fenn yesterday paid this tribute to Mr. Shurtleff:

Know ye not that there is a prince and a great man fallen this day in Israel?—II Sam. iii, 38.

In Glen K. Shurtleff we have lost a loving friend and faithful counselor. A man built four square to every wind that blows. Wise and prudent; safe and strong; a valiant defender of all righteousness and a stalwart foe to all iniquity. A veritable giant in the highest ideals and principles of the Young Men's Christian association. A pattern he has left us in true manhood the like of which we will wait long to see again, but the secret of which, let us not forget, had its source in Christ.

F. H. Goff and D. C. Westenhaver were called into the meeting of the conferees held in City Solicitor Baker's office yesterday. Judge Tayler, John G. White and the mayor were also present. The session lasted more than three hours. Mr. Goff said that he did not care to state why he had been called into the conference. The members of the committee also refused to discuss the snags encountered in the early stages of the negotiations.

Judge Tayler said last night, however, that he did not consider any the obstacles that had been encountered as serious or vital to the successful outcome of the negotiations. Another session will be held in the offices of the city solicitor at 9 o'clock this morning, although City Solicitor Baker will be out of the city and consequently will not be able to attend.

GOFF AIDS PLAN FOR FRANCHISE AT SLIDING FARE

Committee Begins Work on Grant, Remaining in Session Till 1:45 P. M., Thursday--Boom in Car Stock.

ANOTHER MEETING WILL BE HELD AT CITY HALL FRIDAY

No Rate of Fare Decided Upon Yet—Voting Machines May be Used at Coming Referendum if Properly Set, Baker Says.

F. H. Goff, traction mediator in the April settlement, was called Thursday into conference with Mayor Tom, Judge Tayler, Solicitor Baker and Attys. J. G. White and D. C. Westenhaver, to begin plans for a new permanent franchise on a sliding fare basis, with a 6 per cent return to stockholders. The meeting of the committee Thursday was the first after its appointment by Mayor Tom at the public council meeting Wednesday.

The meeting lasted 3 hours and 45 minutes. It was held at City Solicitor Baker's office. Those who attended the conference worked through the noon hour, not adjourning till 1:45 p. m.

City Solicitor Baker said at the close of the meeting that the subjects under discussion were "entirely prospective." F. H. Goff said he attended this meeting because he was willing to offer what assistance he could toward settlement. Goff said he would probably attend some of the future meetings.

The next meeting will be held at 9:30 a. m. Friday at City Solicitor Baker's office.

The entry of Goff, the spirit in which all parties are taking up the peace program, and the upward movement of Cleveland Railway stock on the Cleveland exchange Thursday, gave a wide impression that the street railway tangle is nearer final solution than ever before.

Two sales of Cleveland Railway stock were made at 83 just before the close of the exchange Thursday. This is an advance of $3\frac{1}{4}$ points over the last sale Wednesday. The sales were for 100 shares and 25 shares.

The committee preparing the new franchise will spend some time on preliminaries, such as the powers of the city to enter into such a contract as proposed in the 6 per cent to stockholders and sliding fare arrangement.

City Solicitor Baker said Thursday that it might be some time be-

fore the actual work of drawing up an ordinance is started.

REFERENDUM LIKELY.

Baker said he thought that should an ordinance such as outlined at the public meeting Wednesday be passed by council, it would be subject to a referendum vote under the present state law. He also stated that he saw no objection to use of voting

machines, should such an election be held, were they used in a way that would not confuse the voter.

One of the first questions to be considered when the negotiators get down to the ordinance proper is the rate of fare to be used at the outset. It was stated Thursday in traction circles that 3 cents with a penny for transfers, 4-cent fare, or 5-cent fare with six tickets for 25 cents might be decided upon.

MIGHT TRY 3-CENT FARE.

The point is made that 3-cent fare and the penny transfer charge might be used to begin with, as a compromise measure. Should it be demonstrated that such a rate is insufficient it could be raised.

If much financing is contemplated soon after the passage of such an ordinance as proposed, it is believed the rate would be six tickets for 25 cents at the start.

Under six tickets for 25 cents, as nearly as can be figured, a surplus of \$726,900 would be created in a year. The surplus could be applied in a way that would make a lower rate of fare.

Here is the way the surplus is arrived at:

In 1908 approximately 140,000,000 passengers were carried on the street railways of Cleveland. Under the experiment of the Concon it was found that the average revenue per passenger under six tickets for 25 cents was 4.27. On the basis of the present volume of traffic this would give an income of \$5,978,000.

WOULD NET MILLION.

Figuring the cost of operation at 66 2-3 per cent of the total revenue, there would remain from the hauling of passengers on the six-for-25 rate, \$1,992,700.

Deducted from this would be 6 per cent, as provided in the Talyer plan on the valuation of \$14,430,000, and interest of \$400,000 on a bond issue of about \$8,000,000. That would leave a surplus of \$726,900.

In case six tickets for 25 cents were used to begin with, the floating debt of the Cleveland Railway would probably be financed.

These figures illustrate how the creating of a surplus under a higher rate of fare could be turned into avenues that would give a lower rate of fare. The \$726,900 could be used to cut cost of operation or eliminate fixed charges to the advantage of the people.

DEFICIT \$163,850.81.

The total deficit under 3-cent fare from April 29 to Jan. 1 was \$163,850.81, according to figures of the Municipal and the traction receivers. This includes a deficit of \$53,356 for December, as shown by the receivers' report for that month, filed late Wednesday.

The piling up of this deficit is what brought about Wednesday's public council meeting at which Mayor Tom appointed a committee consisting of Solicitor Baker, Atty. John G. White, Judge Tayler and himself, to draft a permanent grant with a sliding scale of fares. The rate at first would be six tickets for a quarter, to be reduced when possible, allowing stockholders had received a 6 per cent return on their investments. This is Judge Tayler's plan for a permanent settlement.

MAYOR ON LOSSES.

Mayor Tom disputes that all of the losses reported by the receivers have been low fare losses. He also has pointed out that the word deficit leads people to believe that 3-cent fare is not paying operating

expenses. He points out that the deficit means that earnings fell that much short of paying full dividends.

Confusion following the referendum, the piling up of debts, an endless chain of litigation and rapid expiration of franchises, all on top of the increasing deficits, have been factors leading up to another settlement.

DECEMBER'S EARNINGS.

Gross earnings for December amounted to \$401,459 and operating expenses amounted to \$319,061. Net earnings were \$82,398. The deduction of interest, taxes, and other fixed charges, and \$73,378 for rental, left a deficit of \$53,356. But for the rental, the surplus would have been \$20,021.

Here are some of the things they will have to bear in mind most in working out the ordinance:

The interests of the people and the demands of a community well versed in street railway affairs.

The general welfare of the city and its transportation requirements for another decade, at least.

The stockholder who is clamoring for dividends, the bondholders who want interest and refunding, and creditors who are clamoring for pay.

inent clergymen, lawyers, jurists, professional and businessmen and members of the Y. M. C. A. all joined in paying sincere honor to the man.

All of the trustees of the Cleveland Y. M. C. A. were gathered upon the stage, including S. P. Fenn, president of the trustees; F. S. Goodman of New York, Mr. Shurtleff's predecessor in the Cleveland field, now international secretary of the Bible study department of the association; Robert E. Lewis of Columbus, state secretary of Ohio; Bishop Williams of Detroit, formerly dean of Trinity cathedral, which was Mr. Shurtleff's church; City Solicitor Baker and Trustees J. G. W. Cowles, F. S. McGowan, E. H. Baker, E. W. Palmer, Starr Cadwallader, Judge F. A. Henry, Ambrose Swasey, J. L. Severance and F. G. Smith.

**SCALE COMPANY
SUING TO GET
O. K. FROM CITY**

Baker Tells Circuit Court Calculations of Machines Favor Dealer.

The Dayton Computing Scale Co. is fighting in circuit court to compel City Sealer Kane to approve the company's scales so they can be sold and used in Cleveland. Fifteen scales were set up in court Tuesday and demonstrated by an expert from the company so the judges could see their merit.

In court Kane testified that the scales were inaccurate.

City Solicitor Baker in his argument told the circuit judges that of 4500 calculations that could be made on the scale, 2700 were approximately incorrect in that they favored the dealer rather than the purchaser.

'TOM' JOHNSON TO ENTER LAW

Mayor of Cleveland Files Application With Court as Student.

COLUMBUS, O., Feb. 27.—Mayor Tom L. Johnson, of Cleveland, officially notified the Supreme Court today of his intention to become a lawyer. In his application he said that his preceptor is to be Newton Baker, City Solicitor of Cleveland.

He gave his age as 54 years and claimed to possess the necessary qualifications to become a disciple of Blackstone.

City Solicitor Baker spoke of the late secretary as a statesman, saying that he was identified with many of the most important betterments in Cleveland. He was directly responsible for the whole juvenile court system of the city, said Mr. Baker. He was a member of every social settlement board in the city.

TOASTS

TOASTMASTER, DICK MILLER, ZETA, '94

O. H. CHENEY, NEW YORK UNIVERSITY, '97

WM. F. CHAMBERLAIN, DENISON, '93

THOMAS L. POGUE, WASHINGTON AND JEFFERSON, '91

NEWTON D. BAKER, JOHNS HOPKINS, '92

**CONFEREES MAY
BRING PEACE IN
CAR SITUATION**

Reports Monday in traction circles were favorable to a settlement of the street railway problem on Judge Tayler's plan of furnishing 6 per cent profit and a self-adjusting fare.

The peace negotiators met again Monday with City Solicitor Baker and took up the work of outlining a grant. At previous meetings all angles of the proposed settlement were gone over and it was practically agreed that there could be no disputes over the fundamental propositions. Those in a position to know stated that there has not been any hitch in the negotiations.

After the last meeting Friday Atty. John G. White and Atty. D. C. Westenhaber drew up documents showing points that might be embodied in the grant. The discussion Monday was largely on this phase of the negotiations.

In the meantime the contest for Cleveland Railway proxies continues. The old Concon interests are claiming gains, but the Everett-Threffer crowd is confident of making inroads on the Cleveland Railway board.

C. W. Ricker, formerly with the Cleveland Construction Co., began work Monday to assist Receiver Bicknell with engineering details.

**SEEK AUTHORITY
TO PAY STRICKEN
TEACHER SALARY**

**Case of Miss Hutchinson, 38
Years an Instructor, Referred to City Solicitor.**

President Haserot of the board of education has referred to Solicitor Baker the matter of giving Miss Anna Hutchinson, Cleveland teacher for 38 years, a leave of absence with full salary of \$1600.

Haserot said Thursday that a special meeting of the pension trustees, of which he is chairman, might be called to take up the matter.

Miss Hutchinson taught in the Sterling and Miles Park schools. She was principal of the Miles Park school for years. She resigned her position last fall when she was stricken with a fatal illness.

She is entitled to a pension of \$240 a year, which is insufficient to meet her hospital expenses.

**LAUD SHURTLEFF
IN BIG MEMORIAL**

Hundreds Gather to Do Public Honor to Late Secretary of Y. M. C. A.

Sincere Tributes Paid by Men in Many Walks of Life.

Hundreds of men and women, their faces reflecting grief, gathered in the assembly hall of the Chamber of Commerce yesterday afternoon in honor of the memory of Glen K. Shurtleff, general secretary of the Cleveland Y. M. C. A., who died Jan. 5.

Oratory was wholly eliminated from eulogy. Sincerity marked the expression of loving tribute to the great man in the Y. M. C. A. movement, who although in life so little known to the nation at large, made his forceful, silent influence felt in every walk of life.

The memorial yesterday was representative of all classes. Em-

Efforts for Settlement, Off for Present, Will be Resumed in Few Days.

Street car fare will be raised Monday.

Negotiations for a settlement are off for the present.

Five-cent fare, with 11 tickets for 50 cents, will be the rate on Concon lines; 3 cents will be the rate on old Threefer lines. Transfers may not be given between the two old systems.

At the close of the peace conference Wednesday City Solicitor Baker announced for Judge Tayler that although negotiations for a settlement will be resumed at a later date, a raise in fare must be put in effect Monday morning. The conferees had to give up because they could not agree upon a franchise that the Cleveland Railway Co. would accept.

Judge Tayler announced his decision to increase the fare to the settlement conferees at the end of their meeting, which lasted from 11:30 o'clock to 1:30.

City Solicitor Baker said that Judge Tayler wished it to be understood, however, that his decision to raise the fare Monday was not due to a break in negotiations at Wednesday's meeting.

WILL BE TAKEN UP AGAIN

"The effort to bring about a settlement on the plan suggested by Judge Tayler will be taken up again within a few days," Baker added. "There has been no break in negotiations, Judge Tayler tells me to announce."

It is understood that the conferees will try to bring about a settlement along different lines than they have been working on. It was predicted, however, that obstructions may arise that will prevent further peace dealings for several days, possibly for some time.

There will be a hearing in chambers session before Judge Tayler Friday, Baker also announced, to determine what the rate of fare shall be on the Woodland and West-side lines, covered by 3-cent franchises, which are contested by the Concon interests of the Cleveland Railway.

Judge Tayler granted a motion to increase the fare last week. He left the manner of increasing and the date open, stating that an order would be made later. Negotiations for a settlement have been pending since then.

Judge Tayler reached the conclusion that losses under 3-cent fare as shown by creditors in the petition which he acted on, could not continue through a lengthy peace negotiation.

The fare on the old Concon lines, including those of the Big Consolidated and some of the Little Consolidated, will be 5 cents, and 11 for 50 cents. These lines include Euclid, Wade Park, Cedar, Scovill, W. 14th, Fairfield, Abbey, Scranton, W. 25th, Clark, St. Clair, Superior and Payne-avs.

There will be 3-cent fare on Central and Quincy, and on the original 3-cent fare lines—Denison and Fulton and Bridge line, which covers W. 65th, Clark and Ridge-avs.

On the Woodland and West-side lines, which include Woodland, Kinsman, Detroit, Bridge and Madison, Franklin, Lorain and Fulton, the probability is there will be 3-cent fare.

Judge Tayler indicated at the creditors' hearing last week that he would not put a higher rate into effect. He said that in case of doubt about two franchises he would favor the one giving the lower rate of fare.

While no announcement is made as to transfers there is probability that transfers will be issued from 3-cent lines to 5-cent lines if passengers on 3-cent lines pay 5-cent fare.

It has been strongly indicated that no transfers will be issued between lines of the old Big and Little Consolidated systems. This would not mean, however, that there would be no transfers to and from lines that are parts of these two systems.

FRANCHISE RATES.

"The franchise rates of fare will be put into effect Monday, is the way Baker made the announcement. Just what the franchise rates are and what transfer arrangements will prevail will be set forth in the formal order to be made by Judge Tayler after Friday's hearing.

Before the request of the receivers for a temporary grant at six tickets for 25 cents was made it was strongly indicated that there would be no transfers from 3-cent to 5-cent lines and few transfers to and from 5-cent lines.

A development of the traction situation Wednesday was the plan on the part of Cleveland Railway dissenters to elect Sylvester Everett and Atty. W. H. Boyd to the directorate at the annual meeting at 3 p. m.

The Cleveland Railway dissenters are made up of a Concon faction headed by Everett, and old Threefer men. They oppose the Andrews-Stanley faction. Before the meeting the dissenters appeared confident of electing one director, if two. The plan was to join first in the naming of Everett; then, if a possibility remained, to make a fight for Boyd.

RESULT IN DOUBT.

Nine directors are to be chosen. The success of the dissenters will hinge upon how many revocations they have secured. They were counting proxies up to noon. Concon interests in the Cleveland Railway were also at work all morning figuring out where they stood.

At 2 p. m. the Andrews-Stanley men were certain that they would land all nine directors. They will probably be able to control.

TO HALT CARS AT LIMITS.

Councillman Will Introduce Resolution to Force Suburbans Off Fulton-rd.

Councilman McKenna announced yesterday that he would introduce a resolution in the council at the coming meeting calling upon the service board to have the Cleveland & Southwestern cars stopped at the city limits if the old W. 25th-st. route was not restored by next Monday and all cars taken from Fulton-rd.

"City Solicitor Baker has ruled that the council has the right to order changes in the routing of these cars," he said. "If they do not follow our instructions we will keep them out."

"The people of Fulton-rd. do not want the cars and the council has adopted a resolution calling for their removal from this route."

Mayor Tom put a motion that City Solicitor Baker go to Judge Tayler and secure permission to let the receivers discuss changes in routes and service before the council. The motion carried. Baker will do this before the next public meeting, which will be held in the council chamber at 10 a. m. Thursday.

RECEIVERS SILENT, COUNCIL IN ANGER

Refuse to Discuss Changes
in Routes and Baker Goes
to Judge Tayler.

"Let's Live in Russia, if We
Can't be Heard."
Says Selzer.

City Solicitor Baker, complying with the request of the city council, sitting as a committee of the whole, yesterday afternoon had a long talk with Federal Judge Tayler with reference to the attitude of the receivers in refusing to discuss with the council committee at the morning meeting causes for changes in routes and transfer regulations now effective. Neither Judge Tayler nor Mr. Baker would discuss the meeting last night.

"Mr. Johnson will make a report to the committee tomorrow," was Mr. Baker's only comment.

The conference grew out of Receiver Scott's statement at the morning meeting that Judge Tayler had instructed them not to discuss these matters with anyone except himself. Protests to this position were made by Councilmen Pfahl, Flower, Selzer, Haserodt and Bernstein. Selzer went to the extent of declaring that constitutional rights had been violated.

"We have a right to be represented and heard," said Selzer. "If not let us go to Russia and live there. I say these things advisedly. We all have the utmost respect for the courts and for Judge Tayler. But is it right that our contract rights be violated to the end that the people may be mulcted of money in order to pay dead horse debts and money spent in yellow dog funds?"

Mayor Johnson expressed regret at bars preventing frank discussion of all differences with the receivers and Selzer asked if the court's order with reference to the breaking of lines was verbal or written. Mr. Scott said partly verbal.

He explained that there were two things they could not discuss, first, whether 3-cent fare is or is not profitable, and, secondly, details of operation.

"The same manner of procedure seems to be prevailing now as was adopted under the reigns of Czars Andrews and Stanley," said Councilman Flower. "The motto then was 'To h— with the people; let them walk.' I do not believe this is justice or that the court advocates this attitude. I do not believe it is right to say that the people of Quincy-av. shall be dumped in the rain and the slush.

"As a matter of fact I am informed that Judge Tayler was almost on the verge of granting an order for through service to patrons of Quincy-av. when the receivers objected.

"You receivers know what you want. You want the right to charge 5 cents on Quincy before granting through service. You don't object to sending the Quincy cars down the Scovill-av. 5-cent tracks. This order is rash and wrong and ought to be corrected. The people are entitled to it."

Councilman Horner maintained that the attitude of the receivers was correct and that nothing had been gained by the discussion.

Councilman Pfahl asked if service on 3-cent lines had been increased. Receiver Bicknell said it had not, and Pfahl then asserted that the receivers were trying to compel people to pay high fares and discredit 3-cent fare.

Mayor Johnson, speaking particularly with reference to increased service for the 3-cent lines, said he believed Mr. Bicknell would himself see the wisdom of increasing it.

"For I don't believe the receivers take the position that they ought to cripple 3-cent fare," he said. "That would be the position taken by John Stanley if he operated the lines. The thing I want to say particularly is that I haven't the slightest doubt that Judge Tayler will decide all questions right and the purpose of these meetings was to relieve us of these difficulties so as not to worry the court with questions on which we could agree.

"I would like to ask Mr. Scott how far the embargo on discussion goes? Does it extend to a committee of citizens who might visit you at your office?"

"We are not working under specific instructions," said Scott, "but we in our discretion are following the court's order. We might talk to a committee visiting us."

"Then we'll go there," said the mayor.

After considerable further discussion the committee adopted a resolution formally requesting City Solicitor Baker to visit Judge Tayler with a request that he permit the receivers to talk and to report to a meeting of the committee at 10 o'clock this morning.

LAKE FRONT SUIT IS REINSTATED; ONCE DISMISSED

Litigation Started by City Re-
stored to Standing by Ruling
of Judge Vickery.

Attorneys in Judge Vickery's court Thursday, in the suit of the city to recover lake front land from the Big Four railroad, which has been on trial nearly a week, discovered that the suit was dismissed in 1899. The judge vacated the old entry and reinstated the case.

The suit was filed in 1893 to recover land between the union depot and the river running from Front-av to the lake, which the city sold to the railroad in 1849 for \$15,000 in stocks.

The suit was brought by the city on the ground that the city at that time had no right to make such a deal.

The case was removed in 1899 to federal court, where judgment was rendered against the city. Then the entry of dismissal was made in common pleas court. A federal supreme court decision sent the case back to the state courts.

Attorneys for the city stated that the amount of land originally was 20 acres, but that nature added to the tract by filling in along the lake, until the land now amounts to nearly 50 acres.

TAYLER CALLS IN MICHIGAN JUDGE

Considering Himself Disqual-
ified, Gives Way to Grand
Rapids Man.

Mooted Woodland-West Side
Question Likely to Come
Up Wednesday.

Judge Tayler announced from the bench at 5 o'clock last night that arrangements would be made to hear the questions of the expirations of the Woodland and West Side franchise some time next week, probably on Wednesday.

Judge Tayler said that he considered himself in some measure disqualified from hearing these cases himself and announced that they would be tried by United States District Judge L. E. Knappen of Grand Rapids, Mich. The date for the hearing was not definitely settled but it is expected that the hearings will commence by midweek.

Attorney W. B. Sanders and City Solicitor Baker held a conference with Judge Tayler late yesterday afternoon and the announcement of the arrangements for an early hearing came immediately afterward.

The question of the expiration of these franchises are fraught with a great deal of interest to both sides of the traction controversy. The decision will determine whether or not the Woodland and West Side lines are to remain 3-cent lines or whether the fare will be raised to 5 cents and eleven tickets for 50 cents. On the outcome depends whether or not some twenty-seven miles of disputed territory will become high fare or remain in the low fare column.

The city claims some similarity in these cases to the Central-av. case which was decided against the Cleveland Electric. Attorneys for the company claim that there is no parallel between the two cases and that definite clauses in the ordinances concerned refer to the date of expiration as 1910.

Judge Tayler returned from Toledo late yesterday afternoon and was on the bench from the time of his return until 5 o'clock. In consequence he was unable to take up the complaints of the city on various questions with Mayor Johnson, City Solicitor Baker and the receivers. These complaints will be taken up later.

INITIATIVE FOR BRIDGES.

Walz to Make First Move for Sur-
render of City's Structures
to County.

A resolution directing City Solicitor Baker to take steps that will result in the formal surrender by the city of all of its bridges and their taking over by the county will be introduced by Councilman Walz at the next council meeting.

Councilman Walz has been considering this step for several days but not until yesterday when he obtained a full legal opinion on the question did he decide. He believes that the plan of surrendering the city bridges to the county would be a better solution of the high level bridge question than that of submitting the question of issuing several million dollars' worth of bonds for this purpose to a vote of the people at a special election.

CAR CONFEREES RESUME EFFORT TO BRING PEACE

Meeting Called After Judge Inspects Conditions to Fix Routes.

The conferees who are trying to settle the street car question met at City Solicitor Baker's office at 3:30 p. m. Saturday. Mayor Tom, Judge Tayler, City Solicitor Baker, Atty. John G. White, Atty. D. C. Westenhaver and F. H. Goff and Harry D. Thomas were present.

Thomas represents organized labor, and has not attended previous peace meetings. The negotiators are to take up the work where they left off on Jan. 28. They will try to reach an agreement on an ordinance incorporating Judge Tayler's plan, which provides for a sinking fund, 6 per cent guarantee to investors and a sliding fare arrangement with a minimum of 2½ cents and a maximum of 4 cents.

JUDGE INSPECTS.

Judge Tayler watched the operation of street cars at Public square for 15 minutes of the rush hour Friday evening. He wanted to know conditions before taking up proposed changes in routes:

Investigators working under City Clerk Witt, on orders of council and others for the traction receivers, reported Saturday that a test of several days showed a great deflection of traffic from Scovill and Cedar 5-cent lines to Woodland and Central 3-cent lines.

Their reports also show crowding of cars on all lines. Receivers say they have all but 10 of the 800 cars in service.

Six Scovill cars will be taken off and put on the W. 25th-st line.

Traction men say no city in the country has so large a percentage of cars in service as Cleveland.

INTERURBAN SERVICES.

The order issued by traction receivers that all interurban cars shall stop for city passengers and give transfers beginning Monday was changed late Saturday. It will apply to the A., B. & C. and Lake Shore Electric lines only for the present. It is understood that officials of other interurban roads objected to the change.

The Concon interests in the Cleveland Railway Co. look for the city council to pass an ordinance along the lines proposed by Judge Tayler and that it will be laid before them for acceptance or rejection. Some were hopeful that Mayor Tom would co-operate for a settlement.

The men of the Windemere Presbyterian church will hold a Lincoln banquet Thursday evening when addresses will be given by Rabbi Moses Gries and Newton D. Baker.

FREE TRANSFERS GIVEN NEW BLOW

City Solicitor Tells Council It Can Force Few Lines to Grant Privilege.

Holds Denison Cars Ought to be Operated to E. 14th-St.

POINTS TO PUBLIC'S RIGHT

City Solicitor Baker, in Written Opinion Forwarded to Council, States Limits Within Which Free Transfers Between Lines May be Forced—Oberlin Asks That Suburban Cars be Kept on Fulton-rd.—Says Time on Cleveland Trip is Saved.

In a written opinion forwarded to the city council last night City Solicitor Baker reported that only the ordinances to the Forest City Railway Co. which include the Denison and Fulton grants require transfer between these lines without charge.

The right of the city to force free transfers between the Woodland and West Side system or the Central and Quincy and other 3-cent lines is not clearly established, according to the ruling of the city solicitor.

In his report he says that the Woodland-av. and West Side grants and the Forest City railway can hardly be said to have been perfected to such an extent as to make the right of free transfer perfect. In dealing with this question he says:

"The council will recall that the operation of the Woodland and West Side lines require the joint use of certain tracks with the Cleveland Electric and it was the council's intention that the Forest City when it undertook the operation of the Woodland-av. and West Side system should have a joint use with the Cleveland Railway upon the payment of certain considerations.

"The procedure of April 27 suspended all these plans and while in my opinion the Woodland-av. and West Side system is operated only by virtue of the 3-cent grants covering these tracks, still the right of the Forest City Railway Co. there is not so far perfected as to put the council in the position as yet to require a free exchange of transfers with the parent Forest City line."

May Force Some Transfers.

In treating on the question of free transfers to and from the Central and Quincy lines, the city solicitor states that the council in certain contingencies would have a right to require free transfers from it to Forest City lines.

In conclusion the city solicitor reminds the council of Federal Judge Tayler's statement to the effect that in rearranging fares he would attempt to do justice to all interests involved with public interest as the dominant consideration.

City Solicitor Baker also reported on the right of the receivers to stop the Denison line at the Public square under its franchise. He stated that in his opinion the operation of the line to the square instead of to E. 14th-st. was not in accordance with the rights of the public and that the line should be operated through Euclid and E. 14th-st., as on April 27.

He further added, however, that the Forest City and the Low Fare companies operated these lines in this manner by a joint agreement, he did not hold that the council is in a position to say that any ordinance is being violated by the present method of operation.

Would Stop A., B. & C. Cars.

A resolution was introduced by Councilman Peicinski calling upon the receivers to use all means in their power to secure the stoppage of the A., B. & C. cars within the city limits for the taking on of passengers and to secure the issuance of transfers to other city lines and the acceptance of tickets used by city lines.

Councilman Durkin introduced a resolution urging the committee that is now at work on a new grant to make an allowance for free street railway accommodation for members of the police and fire department. The resolution was referred to the committee on street railways.

Councilman Henry introduced a resolution calling upon the service board to submit a report to the council showing the condition of the Superior-av. street car tracks between E. 9th-st. and E. 55th-st. Henry believes that the entire line should be reconstructed.

The board of commerce of Oberlin is now taking a hand in the controversy regarding the question of taking the Cleveland & Southwestern cars off Fulton-rd. and putting them back on the W. 25th-st. route.

A communication from the Oberlin body asking the Cleveland council to allow the cars to remain on Fulton-rd. was received last night. The communication states that the present route shortens the time of the trip from Oberlin to Cleveland by twelve minutes and that it is more dangerous to allow the cars to go the other way, as W. 25th-st. is congested on market days.

The report of City Clerk Witt and his force of investigators on the question of the patronage of 3-cent lines as compared with the patronage of 5-cent lines in the same territory, shows that on the Scovill line less than twelve passengers to the car for an entire day have been hauled.

At tripper time the heaviest load on this line was forty-five, according to the report. The average per car for the Cedar-av. line during the day was thirty and at tripper time sixty to sixty-five.

The average during the day on the Central and Quincy and Woodland and Lorain lines has been thirty-one passengers to the car and eighty to ninety at tripper times.

CONCON SAYS GRANTS HOLD UNTIL 1914

New Claim on West-Side Franchises Made in 3 or 5-Cent Contest.

BAKER TAKES ISSUE WITH SANDERS CLAIM

City Solicitor Says Judge Tayler Has Already Decided the Fare Question.

Concon interests of the Cleveland Railway Co., through former Judge W. B. Sanders, made the new claim in federal court Wednesday that 5-cent franchises on the Woodland and West-side lines run to July, 1914.

This aroused City Solicitor Baker. He declared that the Concon lawyers admitted in pleadings six years ago that these franchises expired Feb. 10, 1908.

Baker claimed in closing his arguments before Judge Knappen that Judge Tayler and the supreme court have already decided the questions whether 3 or 5-cent fare should be charged on the Woodland and West-side lines. He declared it strange that the late Senator Hanna and others had not discovered long ago the claims now being advanced that these franchises extend beyond Feb. 10, 1908.

"When they try to impute to council the intent to so extend these grants," said Baker, "it is a waste of time. Six years ago admissions that the franchises expire Feb. 10, 1908, were made that are admissible as evidence in Ohio."

CALLS IT TIME WASTE.

Sanders had completed his argument, but at this point he declared that he did not understand that this hearing was to decide finally the franchise questions involved.

Sanders declared that he understood the hearing to be only for the purpose of directing the receivers as to whether they shall charge 3 cents or 5 cents on Woodland and West-side lines.

Baker argued late Wednesday that the city council in 1893 made a mistake in giving an extension grant on South Woodland-av to the Little Consolidated, specifying that the grants should run to Jan. 26, 1910. He said this should have been Feb. 10, 1908.

Thirteen other extensions to the Woodland and West-side line say expressly that the extensions shall run to Feb. 10, 1908, he argued.

"The only extension of importance is the Corwin-av extension," said Baker.

Baker said the city had filed an intervening petition in the receivership suit to fight out the franchise

E. 55th-st grant. He pointed out that the Woodland and West-side lines and the Cleveland City cable lines were consolidated in 1893. He argued that contracts for joint operation of the cross-town line with the two consolidated systems could not be fulfilled if grants did not expire at the same time.

The arguments were made before Judge Knappen of Grand Rapids, Mich. He is sitting in Judge Tayler's place in United States circuit court here, because Judge Tayler is occupied with other cases.

The claim advanced as to Woodland and West-side lines also applies to the lines of the Cleveland City Cable Co. If Judge Knappen should uphold Sanders' contention, there would be 5-cent fare on Woodland, Kinsman, Detroit, W. Madison, Lorain, other West-side streets, all now temporarily 3-cent-lines, and on St. Clair, Superior and Payne-avs four years and a half longer.

If the city or low fare interests of the Cleveland Railway Co. plan to get grants on St. Clair, Superior and Payne-avs upon expiration of grants there Jan. 26, 1910, they will evidently be compelled to fight with the Concon interests to decide whether those grants run to July, 1914.

Judge Sanders argued that the federal supreme court upholds his reasoning. It said the consolidation of the Woodland line with the West-side line in 1885 made all grants run to Feb. 10, 1908.

On the same basis, Sanders argued, the consolidation of 1893, when the Woodland and West-side system and Cable system were combined as the Little Consolidated, the grants were extended by implication to Jan. 26, 1910, the date of expiration of the Cable grants, or to July, 1914, the expiration of the E. 55th-st grants. He also contended that the Corwin-av extension on Woodland-av in July 1893, extended the life of grants on the entire Woodland and West-side lines from Feb. 10, 1908, to Jan. 26, 1910.

Judge Knappen asked Sanders if he argued that franchises can be extended by implication. Sanders answered, "by necessary implication, yes."

Baker announced that he will produce a letter written to the Chamber of Commerce by the Little Consolidated in 1890, which says that the Woodland and West-side grants do expire Feb. 10, 1908.

Atty. A. C. Dustin said an early decision is wanted because the 3-cent fare on the lines in dispute is keeping from \$1000 to \$2000 in revenue from the receivers daily.

It was discovered at car barns late Tuesday that Brill fare boxes installed on prepay cars on Euclid-av this week are being cheated by passengers through the use of pieces of pasteboard cut to the size of the paper tickets.

The new paper ticket is blank on one side and for this reason conductors have difficulty detecting the "working" of the boxes. Orders have been given to conductors to keep their eyes on the fare boxes.

The Brill boxes were installed by the traction receivers in preference to the fare box invented by Mayor Tom and A. B. du Pont.

Tribune for People Idea in Cleveland



NEWTON D. BAKER.

CLEVELAND, Feb. 9.—Cleveland is the first city in the country to have a tribune of the people.

City Solicitor Newton D. Baker has assumed the duties of public defender of unfortunates in the Police Courts. His services were offered voluntarily.

Under Baker's supervision are also the city Police Court Prosecutors. They are his appointees and responsible to him. Now the court occasionally presents the unique spectacle of the City Solicitor, on the defendant's side of the trial table, contending with one of his subordinates, on the Prosecutor's.

Baker has been City Solicitor for upward of six years. Six years ago his first order to his staff of Prosecutors cleaned the court corridors of a horde of lawyers preying upon ignorant prisoners.

Baker told the Prosecutors to be zealous not for convictions, but for the truth. It didn't take prisoners long to find out that under the new order of things they had better chances without a lawyer than with one, for in any case, like as not, the Prosecutor would be espousing the cause of the defense.

He is a brilliant lawyer and does not hesitate to take advantage of all the law's technique for the advantage of his humble clients.

Baker was private secretary to former Postmaster General Wilson during the second Cleveland administration. He was Tom L. Johnson's chief lieutenant in the latter's successful fight for low street car fare.

TO LOOK INTO TREATIES.

City Solicitor as Yet Ignorant of Devineau Extradition Situation.

City Solicitor Baker said yesterday that he had not yet examined the French and Belgium treaties with a view to determining their application in the case of Louis Devineau, former secretary of the sinking fund commission whose accounts, city expert accountants say, show a shortage of \$12,840.

Devineau is believed to be in one or the other of these countries. When he left for the old country it was with the evident intention of going to France but the last letter received from him bore the postmark of Brussels, Belgium.

EXPECT EARLY DECISION

Attorneys in Woodland-West Side Hearing Look for Ruling Shortly.

Arguments in the hearing of the franchise rights of the Cleveland Railway Co. in the Woodland & West Side lines will be completed before Federal Judge Knappen of Michigan in the federal circuit court this morning. Attorneys anticipate that an early decision will be rendered by the judge, but whether his decision will be final or whether it will simply be for the direction of the receivers in the present situation is problematical.

The hearing begun yesterday will determine whether 3-cent fare shall continue on the six lines of the old Woodland & West Side system or whether the rate of fare shall be increased. The city's contention is that the franchises expired Feb. 10, 1908, and that the Forest City 3-cent grants are now operative on those lines. The Cleveland railway contention is that grants do not expire until next year.

Attorney W. B. Sanders, for the Cleveland Railway, yesterday argued that the grants have not expired and renewed the old claim that they do not until July, 1914, the date of the expiration of the E. 55th-st. grant. He maintained that contracts for joint operation of the E. 55th-st. line, in accordance with consolidation agreements, could not be carried out if the grants did not extend until then.

The chief basis of contention for the traction interests, however, is that the grants do not expire until 1910 and it was argued that in three franchise ordinances this date is specifically fixed. City Solicitor Baker argued that in the one ordinance where the date was fixed at 1910 by implication it was evidently a mistake on the part of the council and pointed to thirteen extension ordinances where the date was specifically fixed as of Feb. 10, 1908. He maintained that it is preposterous to believe that through one ordinance such a franchise would be granted in derogation of the rights of half a million people.

JUDGE INDICATES WEST-SIDE FARE REMAINS 3 CENTS

Knappen Completes Hearing of Woodland and West-Side Grants—Tayler to Review.

Judge Knappen of Grand Rapids, Mich., sitting in federal court for Judge Tayler to hear arguments on whether 5 or 3-cent fare shall be charged on the Woodland and West-side lines, indicated by statements from the bench Thursday that he will decide that the fare must remain at 3 cents. Formal decision will be rendered probably Saturday or Monday.

The judge left Cleveland Thursday, after arguments were completed, and announced that he would give his decision as soon as possible.

The judge asked if the city council could have intended to have franchises for tracks on the same street expire at different times. He

asked how the Corwin-av extension grant, giving the right to lay an additional track on South Woodland-av, was "applicable" to the case.

The claim of the Concon interests of the Cleveland Railway Co. is based in a large measure on the Corwin extension grant.

Atty. John G. White argued that the intent of council was to have the date of expiration of the Corwin grant, Jan. 26, 1910; apply on all other grants of the Woodland and West-side lines.

Then the judge inquired if the Corwin grant was not at the end of the Woodland line, and asked for a copy of the application made to council for the Corwin extension.

Atty. A. C. Dustin wanted City Solicitor Baker to admit all circumstances leading up to the two-fare system put into effect Feb. 1. Everything was admitted except the claim by Dustin that Judge Tayler did not decide any points as to franchises in ordering that 3-cent fare should be charged on the Woodland and West-side lines.

Judge Tayler will decide how far Judge Knappen's opinion is to apply, whether it is to be reviewable or merely to instruct the receivers. If Judge Knappen decides in favor of the city fare on the lines at issue will remain at 3 cents; if not it will be raised to 5 cents.

JUDGE COMPLETES HEARING ON FARE

Michigan Jurist to Decide Soon Fate of 3-Cent Woodland-av. Grant.

City's Lawyers Express Hope Low Fare Will be Continued.

Hearing of the arguments on the Woodland and West Side franchises was completed by Judge Knappen of Grand Rapids in the federal circuit court yesterday. The court is expected to render a decision tomorrow or Monday. Lawyers who heard the judge's comments on arguments presented believe the decision will be in favor of 3-cent fare.

Judge Tayler will decide how far Judge Knappen's decision will apply to existing conditions. The Cleveland railway interests maintain the hearing is merely for instruction of the receivers, while the city contends that it ought to be final as far as the circuit court is concerned, so that the matter may be reviewable by higher courts.

If against the city the decision will mean the installation of 5-cent fare on the Woodland and West Side lines.

Judge Tayler said last night that the receivers had not yet presented to him the question of the operation of suburban cars through Fulton-rd., N. W. Receiver Scott earlier in the day sent word to President Springborn of the board of public service that the matter would be passed upon by the judge.

The council has adopted a resolution requesting the receivers to withdraw the cars from Fulton-rd.

SUBURBANS MUST LEAVE FULTON-RD.

Judge Tayler Orders C. & S. W. to Go Back to Old Market House Route.

Council Resolution Asks for Legislative Aid in Old Euclid-av. Fight.

City Solicitor Baker announced at last night's council meeting that Judge Tayler will issue an order to the receivers to take the Cleveland & Southwestern cars off Fulton-rd., N. W., and route them over Lorain-av. and W. 25th-st., as formerly.

Baker explained that Judge Tayler had held that inasmuch as the McKenna resolution calling for the withdrawal of the cars involves the question of police powers, the reasonableness of the order was consequently involved. He had further held that the order is not unreasonable and that the cars should be restored to their former route if it is the wish of the council.

If a resolution introduced last night by Councilman Pearce is adopted, patrons of the Euclid-av. line will be given an opportunity to sign a petition asking the legislature to amend the consent law in such a manner that the street railway company in Cleveland will have the authority to extend tracks on Euclid-av. from E. 22d-st. to E. 40th-st.

In his resolution, referred to committees, Pearce declares that Euclid-av. riders are compelled to make an annoying and wasteful detour to Prospect-av., S. E., by reason of a few property owners taking advantage of the existing law. "Public necessity and convenience should be superior to private whims," it says.

After some debate council adopted a resolution by Councilman Walz calling upon the receivers to make no additional charge for transfers on 3-cent fare lines when passengers not having tickets or three pennies pay 5 cents cash fare. Dr. Walz declared that a penny advance should be required for a transfer in such cases, but that it should be refunded. At the present time three pennies are required in addition to the 5-cent fare and only 1 cent is refunded.

A report was received by council from President Springborn of the service board stating that the Superior tracks between E. 9th-st. and Ansel-rd., with the exception of the section between E. 65th-st. and Addison-rd., are in a bad condition and should be replaced in order to avoid an accident. Councilman Henry will introduce legislation calling for new tracks.

The decision of Judge Tayler regarding the question of returning the suburban cars to W. 25th-st. is a victory for the women of Fulton-rd. who have been making a determined fight for the withdrawal of the cars from the latter thoroughfare.

Judge Tayler ruled yesterday that the traction receivers shall carry out deals made by the Municipal on its free stock exchange so far as concerns the acceptance of money in payment for Cleveland Railway stock sold. The receivers will be permitted to round out these incomplete transactions, including the delivery of shares on which payments have been made and the receipt of funds on any such transactions.

VICKERY DECIDES LAKE FRONT SUIT IN CITY'S FAVOR

Rights of Municipality to 50 Acres West of Union Depot are Upheld.

Judge Vickery Thursday decided in favor of the city in its suit against the Big Four, Lake Shore and Pennsylvania railroads for possession of 50 acres of land which the roads now occupy west of the union depot, from Front-st to the lake and from the river to W. Ninth-st.

Judge Vickery holds that the city had no right in 1849 to sell this land to the railroads. He decides that the city may maintain a suit to eject the railroads from possession of all the property, subject to the rights of the roads to maintain tracks and other property on some parts of the land.

The case was started in 1893. It went to federal circuit court and federal court of appeals. In both courts the city lost, but before the mandate could be handed down the United States supreme court had decided, in a similar case, that federal courts had no jurisdiction, so the case was sent back to common pleas for retrial. The present hearing took two weeks.

EXPECT RULING ON LOW FARE TODAY

Attorneys Look for Judge Knappen's Decision as to Woodland-av. Lines.

Finding Final for Receivers, but May be Reviewable in Court.

The decision of Judge Knappen of Grand Rapids as to whether 3-cent fare shall continue on the lines of the old Woodland & West Side Co. is expected to be filed in the United States circuit court here today. Judge Knappen heard arguments in the case last week.

If the decision is not favorable to 3-cent fare it means that the rate of fare on the six lines originally controlled by the Woodland and West Side company will be raised to eleven tickets for 50 cents and 5 cents cash fare. Whether the decision is final and is to be reviewable by higher courts will be decided by Judge Taylor, the question having been raised

by Attorney Sanders for the Cleveland Railway Co. Sanders maintained last week's hearing was for the purpose of directing the receivers only. City Solicitor Baker wanted a decision that would be reviewable.

It is expected that this decision will be the most important development in tractions today, although the council at its meeting this evening may take action. Councilman Flower, member of the street railway committee, said last night that he expected new legislation to be presented at tonight's meeting. He refused to indicate its nature.

Action at tonight's meeting is believed to depend on the return of Mayor Johnson to the city. The mayor is expected home today and with his return a number of conferences will undoubtedly be held at the city hall.

CITY IS VICTOR IN LAKE FRONT SUIT

Judge Holds Cleveland Owns Land Long Occupied by Several Railroads.

Lawyers for Losing Side Say Immediately They'll Appeal Case.

Judge Willis Vickery, in a decision yesterday, held that the city of Cleveland is entitled to maintain an action in ejectment in its suit against the Big Four, Lake Shore and Pennsylvania railroads and recover the fifty acres of land which the roads now occupy west of the Union depot, from the Cuyahoga river to W. 9th-st., subject to the railroads' right of easement in the property.

This decision confirms the right of the city to the lake front north of Front-av., N. W., between the Cuyahoga river and W. 9th-st., including the yards west of the Union depot, several freight houses and piers. It, however, provides that the railroads have rights depending on a contract entered into with the city in 1849, allowing them to maintain tracks and other property on some parts of the land.

Counsel for the railroads gave notice at once that the case will be carried to a higher court, where it may take several years before an ultimate decision is reached.

The case was started in 1893. It was first heard in the federal circuit court, and later in the federal circuit court of appeals in Cincinnati, on the grounds that the Pennsylvania railroad, one of the defendants, was not a resident of Cuyahoga county. In both cases the city lost. The case was sent back to common pleas court because of a decision of the United States supreme court that the federal courts had no jurisdiction.

The railroads claim absolute title to the land by adverse possession for twenty-one years and by virtue of a deed from the city given under Mayor F. W. Bingham in 1849, and by an alleged abandonment by the city.

The judge held that the city never intended to barter away its access to the lake at that point when the contract was made in 1848.

Another action was begun in the United States court of the northern district of Ohio in 1854 by Henry Holmes and Julius Shelden, as heirs of the stockholders of the Connecticut Land Co., to recover this land.

In summing up Judge Vickery said that he would hold that there was no adverse holding or exclusive holding under a claim of ownership as

against the city and gave his decision for the city and against the railroads.

Judge Vickery's decision has little bearing on the general question of the riparian rights east of the Union depot, city officials say, and none at all on the building of a new union depot.

Color was lent to the report that Mayor Johnson intends to veto the Bernstein resolution calling upon the railroads to name a price on the thirty acres of land in Lakeview park needed for new union depot purposes, through the announcement at the city hall yesterday that the Central viaduct and tuberculosis hospital bond issue resolutions had been signed, but that no action had been taken regarding the new union depot measure.

The mayor yesterday said that the decision in the lake front case was a lesson that would show how important to the city was its control of the water front.

In the opinion of the mayor the land which is involved in the suit decided in the city's favor is worth as much as the entire amount of the city's indebtedness. The city's debt at present amounts to about \$28,000,000. This would place a value of about \$500,000 on each of the fifty-five acres in the lake front tract.

It was to prevent Mayor Farley from signing a document conveying to the railroads all rights to this property that Mayor Johnson filed an injunction suit prior to his election in 1901.

Following is a summary of Judge Vickery's decision, prepared by City Solicitor Baker yesterday:

"The decision rendered by Judge Vickery results in a judgment in favor of the city of Cleveland and the effect of that judgment is to hold that the title to the strip of land lying between Water-st. on the east, Front-st. on the south, the Cuyahoga river on the west and Lake Erie on the north, comprising about fifty-five acres of land, is in the city of Cleveland, subject to certain rights in the Pennsylvania Railroad Co., the Big Four Railroad Co. and the Lake Shore Railroad Co., derived by them under the contract of 1849, these rights being in the nature of an easement to use portions of the property in their railroad business.

"The extent of the rights of the railroad companies is not determined by Judge Vickery's judgment, but the things that are established are first, that the title to the property is in the city of Cleveland, and that the public right in the property is superior to the private right of the railroad companies. It is entirely impossible at this time to say what rearrangement will ultimately be made in the use of this property. Other litigation may be necessary to construe and apply the contract of 1849.

"For the present we are contented with having established the public right to this property, which was originally dedicated as a means of access for the people of Cleveland to the lake and to the river."

HUNT EVIDENCE IN DEVINEAU SHORTAGE

Solicitor Baker to Present Facts to Grand Jury.

Secretary Stage of the city sinking fund commission was engaged Monday in gathering evidence against Louis Devineau, ex-secretary of the commission, charged with a shortage of \$12,840.

City Examiner Tanner is working on Devineau's books. As soon as the evidence is in shape City Solicitor Baker will present the evidence to the grand jury.

Devineau, formerly French tutor in Mayor Tom's family, is now in Europe. The American Bonding Co. is tracing him.

DEVINEAU'S BANK BALANCE IS ZERO

Telegram From New York
Declares Ex-Secretary
Left Nothing There.

Evidence Will be Turned Over
to Grand Jury at
Once.

"No balance here."

This is the message which came from the American Exchange National bank of New York late yesterday to Secretary Stage of the sinking fund commission in reply to a dispatch asking for a statement as to the balance in the personal account of Louis Devineau, former secretary of the commission, now said to be in Europe.

Accountants who have been at work on the books of the late secretary of the sinking fund commission charge that Devineau is short in his accounts to the extent of \$12,840 and that since January, 1908, through misrepresentations, he secured checks from the commission covering this entire amount. The checks were exchanged by him for New York drafts and in two instances were credited to a personal account with the American Exchange National bank of New York, at his order.

The dispatch from this institution received yesterday by Secretary Stage shows that there is no balance in this account and it is therefore now definitely established that whatever was the total amount of the deposit made in his own name by Devineau not a cent was left there by him when he left for Europe some weeks ago.

One of the drafts that was credited to his personal account was for \$5,000 and the other for \$6,000. Two drafts covering the balance of the alleged shortage were made payable to the Metropolitan National Exchange bank and at his orders were credited to the account of the Devineau Manufacturing Co.

At the suggestion of City Solicitor Baker it was decided yesterday to present the evidence that is to be gathered, directly to the grand jury instead of issuing a warrant for his arrest through the police prosecutor. He could be extradited only if indicted and it was decided that it would be the best plan to carry the case to the grand jury at once.

While all of the accounts of Devineau reaching as far back as 1903 will be gone into by the investigators it was declared yesterday that it was now practically certain that the total amount of the shortage had been ascertained.

President Whitelaw of the sinking fund commission said yesterday that the matter of prosecution is up to

the American Bonding Co. The concern had furnished bond to the extent of \$25,000.

Devineau came to America in 1894 and took out first naturalization papers in New York. In February, 1902, after coming to Cleveland, he secured his final papers and in July, 1903, he was appointed secretary of the city sinking fund commission.

Secretary Stage has asked the American Exchange National bank of New York to send a statement showing the amount that Devineau has had on deposit in his own name. This statement may not be received for several days.

WOULD INDICT L. DEVINEAU, TOM'S ONE-TIME TUTOR

City Officials Ask Grand Jury
to Act on Shortage of \$12,
840 in Funds.

City Solicitor Baker, Secretary Stage of the sinking fund commission, and City Auditor Coughlin decided at a conference Saturday to ask the grand jury to indict Louis Devineau, charged with appropriating \$12,840 to his own use while acting as secretary to the city sinking fund commission.

Detective agencies of the United States and Europe were notified Saturday to take Devineau into custody. He was last heard from at Brussels, Belgium.

Secretary Stage of the commission and Auditor Coughlin asked City Solicitor Baker to swear to a warrant charging Devineau with defalcation.

Agents of the American Bonding Co., which bonded Devineau for \$25,000, are seeking him. The company will reimburse the city.

Stage says reports show Devineau was first short in January, 1908, when \$1840 disappeared. In June \$5000 disappeared, and in October \$6000.

"The shortage was covered up by representations to the commission that more interest was due on bonds than there actually was. Checks were obtained from the commission for these amounts, and converted into drafts on the American Exchange National bank, New York, agents for the commission. Devineau had a personal account at the bank. The amount to his credit and the amount of the shortage tallies," explained Stage.

"The shortage may reach a greater sum," Coughlin said. "Devineau's books are badly tangled."

Devineau, about the first of the year, was given leave of absence to join his wife and daughters in Europe. Then he sent his resignation. He was formerly French tutor in Mayor Tom's family.

'NEED AX TO SOLVE CERTAIN PROBLEMS'

FEDERAL JUDGE TAYLER.

Judge, Mayor and City Solicitor Sit in Conference on Franchise Question.

Court Says Some of Questions Are at Present Insoluble.

Federal Judge Tayler and Mayor Johnson met in City Solicitor Baker's office yesterday afternoon to discuss plans for settlement under the Tayler proposition of 6 per cent. on investment to stockholders and a sliding fare schedule. Following the conference none of the participants would discuss the subject.

John G. White, considered a Cleveland Railway representative, a party to previous meetings, did not attend yesterday's conference and it is believed that the difference of opinion between himself and the judge and mayor resulted in his absence.

Mayor Johnson would not say that a meeting of the council committee of the whole will be held soon, but it is thought that developments will appear before tomorrow, when Judge Tayler expects to leave for Cincinnati.

At the hearing in federal court yesterday on the application of the receivers for authority to issue receivers' certificates to the extent of \$656,000 for reconstruction of tracks Judge Tayler stronger intimated that he would grant the request. He said it was the primary duty of the receivers to operate the property with safety. He will not dispose of the question until March 15, but meantime he instructed the receivers to do all they can to make the lines safe outside of laying new rails.

In his observations on the situation Judge Tayler also intimated that the receivers would have to pay rental to Cleveland Railway stockholders under the terms of the Municipal lease.

"The receivers cannot escape the obligation to pay reasonable rent except by giving up the road," he said.

"The traction situation has come to present insoluble problems, some that can only be solved with an ax," he continued. "There is really only one way that we can do justice to all, and that is by the procurement of a new franchise."

BAKER HITS SCHOOL CODE

City Solicitor Would Have Mayor Name Director, Who Would Choose Superintendent.

City Solicitor Newton D. Baker spoke on state school laws at the open meeting of the Municipal School league yesterday afternoon, at Technical high school.

Baker explained the present school code, which he designated as an "impossible composite," subordinating where there should be independence and giving freedom of action where there should be none. He is decidedly in favor of civil service laws in school matters. He said that the mayor of the city should appoint a school director and that the director should appoint the superintendent.

"I think responsibility should be coupled with power in the school superintendent, and that he should be held wholly responsible in educational matters, then when anything went wrong, we would know it was the superintendent's head we wanted," said Baker.

SCHOOL SYSTEM IS CALLED FARCE

City Solicitor Says Director is Only Clerk and Popular Control Myth.

Urges That Mayor be Placed in Control of Education Department.

City Solicitor Newton D. Baker told the Municipal School League yesterday that popular control of the school system was a myth, that the school director was nothing more than a clerk, appointments merely a matter of patronage, and those who should be executives merely subordinates. He recommended that the control of the schools should be put into the hands of the mayor.

Mr. Baker recommended that the schools be made part of the city government, the director to be named by the mayor and the superintendent by the director. He said the present school code was a reversal to type and put the school system back many years.

Mr. Baker, as city solicitor, is attorney for the board of education, and his criticism of the system was made at the Municipal School League meeting at Technical High school.

"The mayor should have the power to appoint a director of education, and he in turn should be empowered to appoint a superintendent," he said. "I am here in no way to criticize the personnel of the present system, but I do criticize the system itself. I am in favor of the federal system of school government.

"The entire educational system should be a part of the city government. There are two reasons which I consider of paramount importance in an argument for this method; the first is the great difficulty in the present system to arouse any interest in the school election. We are so completely absorbed in the election of a mayor that popular control of the educational interests of a city is a myth under the present system.

Better Well Than Wise.

"The second reason is that as we progress in civilization and grow to realize the importance of the child and his education, we realize also the advantage which is derived from the co-ordination of all branches of child life. We all admit that it is of vastly more importance that our children should be well than wise. So if all the sanitary and medical supervision of the school buildings and children, and the direction of the parks and playgrounds so far as the child is concerned, should be co-ordinated and be under municipal control, the heart-breaking duplication of efforts between the boards of education and of public service, which is at present so apparent, would be avoided.

"The present school code, which is a reversal to type, and which puts us back many years by its adoption by the state Legislature, is designed to be a board plan. At the time this was pending many public-spirited citizens, not politicians, went to Columbus and tried to prevent its adoption.

"The Legislature so far yielded to the unanswerable arguments which were brought to bear, as to take an oyster knife and pry open the code at the very edge and slip in a provision for one modification—the allowance of a school director. But in the present system the school director is merely a clerk. He has no initiative, and no authority, and, therefore, no responsibility. I want the centralization of authority and responsibility in one man, so that if any trouble arises we may know whose head to go for. Mind you, I'm not saying there is any trouble, because that would be hardly probable when our schools have the approval of such a man as President Eliot, of Harvard.

"But," and Mr. Baker emphasized the "but," "if there should ever be any trouble with this system the responsibility is so spread out that it would be hard to place any blame. In the present system the accounts of the board of education are audited by the clerk of the board. And this clerk is elected by the board, so the fact that the accounts of the clerk are audited by the state and city authorities amounts to nothing in theory.

Clerk Real Executive.

"The code is so drawn that in reality the clerk of the board of education is its executive officer. It is exceedingly difficult to determine, as the code reads, whether the law implies that the clerk or the director should perform certain duties. The director, in the federal plan, should have the complete power to appoint or dismiss. In the code he is not an independent officer. Neither he nor the superintendent. Their appointments are subject to the approval of the board. And naturally they make appointments which will be approved by the board.

"The director is made subject to the board of education. It becomes a mere matter of patronage, and you know patronage is the vice of politics. The superintendent should have all the power and responsibility of the educational department; the director should have all the responsibility for the employment of all other workers, and the board should consist of a group of excellent business men who would decide such important questions as the tax levy, erection of buildings, buying of property, etc., but they should not have any executive functions. At present the superintendent and director are made subordinate, and have little authority, where they should be independent officers."

Wants No More Power.

Director of Schools Orr in answer to Mr. Baker's statement last night declared that in his opinion municipal government and school government should be divorced for the good of the schools.

"The duties and powers of the director are exactly the same now as they were under the so-called federal plan," he said. "The work of the director and the superintendent of schools should be co-ordinate. I do not believe in giving the director the authority to appoint the superintendent. The director has power enough now. The superintendent should not be appointed by one man. The board of education, a deliberative body as now constituted, should confirm all of the higher appointments.

"The results obtained under the present school system are, in the minds of many students of school administration, comparable with results obtained under other systems; I shall be very glad to learn of better ways, however, but just now I can't think of any."

CONFEREES HALT; DEADLOCK STILL

Judge Tayler Goes to Cincinnati, Temporarily Delaying Peace Talk.

Receivers Ask Leave to Spend \$41,000 for Boilers.

No further progress was made at the last meeting between Mayor Johnson, Federal Judge Tayler and Attorney John C. White in City Solicitor Baker's office yesterday prior to the departure of Judge Tayler for Cincinnati.

This is taken to mean that the peace conferences can make no further headway until the return of Judge Tayler on March 13. The deadlock on the minimum period when the option at 110 becomes effective in the proposed new franchise still exists and it is regarded as certain that no progress can be made until the conferees can come to an agreement on this question.

Receivers Bicknell and Scott made application to Judge Tayler yesterday afternoon for permission to spend \$41,000 for new boilers at the viaduct powerhouse. They want to replace five 300-horse power boilers with the new 500-horse power boilers. The old ones are declared to be worn out and incapable of furnishing proper service. Judge Tayler set March 15 for a hearing on the question, in order to give the creditors an opportunity to present arguments against making the expenditure.

If Wilson G. Smith, musician and critic, and Newton D. Baker, city solicitor, traveled on their size instead of their ability, neither would be able to make a long trip.

When Smith entered his studio the other day he saw several boys who were waiting for him. One boy said to another: "Go on and tackle him."

"That isn't Smith, that's the office boy," said another.

"Sure," said a third. "Wilson G. Smith's a grown man."

An elderly man met Baker recently in one of the offices of the city solicitor's suite in city hall.

"Young man," said the elder, "can you direct me to the city solicitor's office?"

"Certainly," replied Baker. "This way," and he led the stranger to his office and invited him to be seated. In a few minutes the elderly man became impatient.

"My boy, will you ask the city solicitor to come here?" he asked.

"Certainly," said Baker, leaving his desk and stepping over beside him.

The man stood it a moment or two, and then said sharply, "Come, come, boy, are you going to ask him to come in here?"

"He is here," said Baker. "I am the city solicitor."

The old gentleman wilted.

CALLS IT WISE TO LUNCH DIRECTORS

Mayor Says Company's Time
Was Saved by Serving
Meals in Offices.

Special Hearing Over Restau-
rant Bill Continues
in Court.

It is economy and good business policy, according to Mayor Johnson, for a traction company to lunch its directors at \$1 per lunch, enabling them to transact business the while.

Half a dozen lawyers cross-examined the mayor at the special hearing before Special Master Belford of the United States court yesterday morning in connection with the investigation being made to determine who should pay for \$2,091 spent for dinners given to directors of the Municipal during their five months' tenure of office.

The mayor, smoking his pipe pla-

Receiver Reports Today.

The hearing before the special master will continue this morning, when F. A. Scott, one of the traction receivers, will present for the first time an itemized statement of the assets of the Municipal, when it passed into the hands of the receivers. This statement will include physical property, bank balances, and everything else that could be construed to have any attachable value. Tomorrow the Municipal's stock exchange will be probed.

aidly, answered the questions as fast as they were thrust at him. He maintained throughout that it was a business proposition to feed the directors, who at the same time were devoting their time and ability to the interests of the company.

"Who smoked the two for a quarter cigars?" inquired one of the attorneys.

"I don't know," said the mayor, "but I ate about half the fruit on one of those bills for my doctor had me on a fruit diet for quite a time."

The mayor also admitted that he didn't know anything about a bill for ice cream—that he never ate ice cream. He declared that the company's dining room was worth more than it cost for it kept in constant attendance at the office men whose opinions and experience were of value in the management of affairs.

He held that the Cleveland Electric maintained a larger force to do the same work and that the difference thus saved would more than pay for any victuals used in feasting the directors.

It was brought out during the testimony that visitors were frequently invited to the luncheon in the Electric building. The only director who got any pay for his work as such was Ben Cable. All the other directors were also officers of the company except the mayor and City Solicitor Baker, who received no pay for their work.

John Stanley of the Cleveland Railway Co. testified that directors of the old Cleveland Electric were paid \$10 a meeting and that from ten to twenty meetings were held during the year.

A. B. du Pont, former president of the Municipal, explained that Fred C. Alber of the Municipal had been authorized to make the purchases of foods and fruits needed at the lunches. He also maintained that the railroad gained much by feeding its directors.

WOULD GIVE REAL POWER TO PAROLE

City Solicitor Says It's Blind-
ness to Free Offenders
and Forget Them.

Wants Municipal Officials to
Keep Track of Men on
Probation.

In his annual report submitted to the council last night City Solicitor Baker declared that nothing could be more blind and unscientific than the current method of treatment of delinquents by American cities. He urged the establishment of a municipal parole office whereby the careers of those who have been placed under arrest and then released on parole could be followed.

"Theoretically we punish to reform," he declared, "but no sort of effort is made to discover whether the punishment does reform or whether any other form of discipline would produce better results."

The city solicitor stated further that the time would undoubtedly come when every city will have a bureau of investigation constantly occupied in considering questions of sanitation, dangerous employment, police discipline, recreation and similar questions not from the point of view alone of supplying service but to determine their effect upon the life of the city.

In connection with the proposed municipal parole office City Solicitor Baker urges the appointment of two parole officers as authorized by the law passed at the last session of the legislature. The council has never appropriated money for this purpose.

Mr. Baker gives a brief summary of the low fare warfare of the past year and presents a list of all the city cases disposed of within the same period.

An ordinance requiring the traction receivers to remove by Jan. 1 all running boards and steps that protrude eight inches beyond the side of cars was passed by unanimous vote of the council. The original ordinance contained no time limit and the street railway committee feared that it would work a hardship on the receivers to require the changes immediately.

Two ordinances granting the Cuyahoga Light Co. the right to extend its wires, conduits and cables over a

large section of the down town district was introduced by Councilman McClain. The new territory embraces a large section of the business district south of Prospect-av., S. E., and extends through the flat district as well.

Formerly the lighting companies made such extensions under permits granted by the board of public service but the court in deciding an injunction suit some time ago held that this work could only be done by council authority. Shortly after this decision the Cleveland Electric Illuminating Co. applied to the council for extension rights. The ordinance was vetoed by the mayor on the ground that no one had sought to disturb the wires, conduits or cables of the company laid under board of public service authority.

An ordinance introduced by Councilman Dister seeks to prohibit the operation of talking machines, graphophones or music boxes, in connection with moving picture shows or other places of amusement, when the machines are so placed that they will emit their "noise, music or sound" into any public street.

The ordinance was introduced as an amendment to the ordinance prohibiting unnecessary street noises.

The sale of the old Barber-av. (S. W.) police station property was authorized by the council. The mayor's veto of the three paving repeal ordinances introduced by Councilman Walz some time ago was received. Elsa-ct., N. W., W. 80th-st. and W. 80th-pl. are affected.

A petition from residents and property owners of Fulton-rd., S. W., asking the council to allow the order calling for the removal of the suburban cars from that street to stand, was received.

PROPOSE LAW FOR REGISTRATION OF CITY HUCKSTERS

Baker Will Prepare Ordinance
to Prevent Swindling of People—
Wear Numbered Badges

City Solicitor Baker announced that he would prepare a law requiring registration of hucksters, after a conference with City Sealer Kane Tuesday. He will confer with Mayor Tom before fixing the terms of the proposed new law.

"The law will compel hucksters to register in my office or the city clerks' office," Kane said. "Hucksters will have to wear numbered badges, and must also have numbers on their wagons."

"This will enable housewives to get redress from dishonest peddlers. People are now being swindled by men who sell spoiled goods from wagons and give short weight and measure."

Baker and Mayor Tom will determine whether hucksters will be required to file bonds also.

MAYOR TO BE LAWYER

He Will Become Baker's Partner on Admittance to Bar.

Mayor Johnson will be admitted to the bar in three years if he passes the examination that he is now planning to take.

He and City Solicitor Baker will then become partners.

"I had planned to become his partner even if I was not admitted to the bar," the mayor said yesterday. "I am going to try to pass the examination. If I fail I will be willing to stand all the gaff."

The mayor declared that the fact of his taking up the study of law had no bearing on his plans for the immediate future. "I can be a lawyer and still be mayor," he said. "Our country is run largely by lawyers. I have found a handicap in not having been admitted to the bar. I have already studied constitutional law and find it a great pleasure."

The mayor has named City Solicitor Baker as his preceptor in the notice forwarded by him to the Ohio supreme court.

PAROLE OFFICE SOON?

City Solicitor Says He Hopes to See New Policy in Near Future.

City Solicitor Baker said yesterday that he hoped soon to be able to carry out the plan of establishing a municipal parole office as suggested in his annual report submitted to the council Monday night.

In connection with the establishment of a parole office the city solicitor suggested a municipal bureau of investigation whose duty it would be to study the social problems of the city.

"I believe that a body of trained men should be employed for this work," said the city solicitor yesterday. "They should be under the direction of the mayor. They should be employed at all times and not only on occasions."

The two parole officers whose appointment is suggested by City Solicitor Baker would work under the direction of the police judges and would have an office at the police station. Director Cooley of the board of public service and Parole Officer Martin are both in favor of Baker's plan.

WOULD BUILD PESTHOUSE.

Director Cooley Asks City Solicitor if Bonds Can be Issued for Contagious Hospital.

Urged by Supt. Cadwallader to take up the matter of erecting a large pesthouse at the city farm in Warrensville, Director Cooley after a meeting of the health board yesterday asked City Solicitor Baker for an opinion as to the advisability of declaring the present situation an emergency and issuing bonds at once for building a pesthouse.

Supt. Cadwallader declared that there are 500 smallpox cases in Ohio at present and that while Cleveland has so far escaped an epidemic, it would be wise to erect a pest building at Warrensville now.

City Solicitor Baker declared off hand yesterday that he did not believe the situation existing at present could be declared an emergency.

SPEAKS!

Robert W. Flack, Symposiarch

- Leroy D. Sargent - - - - - "Pigs"
 J. Howard Jones - - - - - "Anything"
 Clarence D. Coons - - - - - "Fraternity Relations"
 William F. Chamberlin "John T. McCarty-Founder"
 Newton D. Baker - - - - - "Fraternity"

Sixth Annual Norris

in honor of



Newton D. Baker, A. E.

Given by

Lambda Benteron Chapter

of

Phi Gamma Delta

S. S. Chamberlin Lodge

Granville, Ohio

March 12, 1909

STATE MAY OUST B. & O.

If Attorney General Wins Pending Suit, State May Drive Railroad From Canal Property.

City Solicitor Baker declared yesterday that the state would have the authority to oust the Baltimore & Ohio from the canal property described in the pending suit against the railroad in the event that the court gave a decision in the state's favor.

"As I understand it, the state would have the authority to take this action, if there is a decision in its favor," Baker said. "The city is not a party to the suit, and if action is taken as a result of the decision it will be by the state and not the city."

The claim is made that the city has violated one of the restrictions of the deed to the property in leasing the land to the railroads and that for this reason the ownership of the land has reverted to the state.

THREE ORDINANCES KEEP BAKER BUSY

Trio of Grants, on Different Traction Plans, Give Solicitor Hard Problem.

Has No Precedent in Drawing Franchise for Trolley Settlement.

Three separate forms of street railway ordinances are being drawn by City Solicitor Baker with the assistance of Mayor Johnson.

Mr. Baker said last night that the ordinance embodying the Judge Taylor plan was giving the most trouble. Provisions for the sliding scale arrangement and for the restriction of earnings to 6 per cent. open the way for endless complications.

The legal phraseology must provide against these, and there is no precedent anywhere for an ordinance framed on this plan.

Another ordinance with 3-cent fare provisions is being framed for tender to the Cleveland Railway. It covers the thirteen streets for which Herman Schmidt has made application in the interest of the old Forest City people.

A 3-cent ordinance is also being framed for tender to the Forest City company.

All of these are to be ready for the next regular meeting of the council Monday night. The mayor spent considerable time with City Solicitor Baker yesterday afternoon on the drafts of these ordinances. The last two, it is said in city hall quarters, are to be introduced as a matter of form, while the discussion is to center wholly on that of the Judge Taylor plan.

At the hearing before Special Master Belford yesterday Attorney Crawford for the railway company demanded a return of the unexpended balance of the \$293,000 guaranty fund turned over to the Municipal under the terms of the lease.

A statement filed shows that a total of \$153,940.72 was charged to the fund, included in which is \$25,794.88 in unpaid vouchers. Of the \$128,145.84 actually paid out only \$21,618.02 was approved by the Cleveland Railway Co. as provided for in the lease.

Attorney Westenhaver for the Municipal said some of the items charged might be debatable. He claimed that the fund was a debt obligation and not a trust fund and that the charges would have to be fought out.

Investigating Hoffmann Dance.

City Solicitor Baker has been making inquiries regarding the dance of Gertrude Hoffmann given at the Colonial theater this week. Last night he had nothing to say regarding the matter and no action was contemplated by him. He said that he was not planning to witness the performance.

CONCON SEES IN TOM'S PEACE PLAN NEW ST. CAR WAR

Mayor's Plan: Work 2 Months
for Settlement on Judge
Tayler's Scheme.

HAS OTHER COURSES

Failing to Settle on Tayler
Plan, Tom Would Offer 3-
Cent Grants for Bids.

Mayor Tom announced traction
plans at the special council meet-
ing Monday that Concon interests
in the Cleveland Railway Co. call
a new declaration of war.

The mayor proposes to settle the
street railway problem on Judge
Tayler's 6 per cent sliding fare
plan in two months.

The Concon interests say this is
not possible. They maintain
Mayor Tom is only seeking delay
and trying to cover up points of
difference, including the option to
take over the lines already develop-
ing in negotiation for a settle-
ment on Judge Tayler's plan.

Tayler wants investors guaran-
teed 6 per cent, the fare to be
sufficient to produce this.

Concon interests were not rep-
resented at the meeting Monday.
Nor will they be represented at
future council meetings to consid-
er traction peace along the lines
favored by Mayor Tom. These
meetings are to be held on call
from City Solicitor Baker. In each
the council will sit as a committee
of the whole.

OTHER COURSES.

If no settlement is reached on
Judge Tayler's plan, Mayor Tom
proposes three other courses.

ONE to pass 3-cent fare ordi-
nances to the Cleveland Railway
Co. covering streets where
grants are expiring.

ANOTHER to pass the 3-cent
fare ordinances to the Forest
City Railway Co. covering the
same territory, and

THIRD, to pass franchises
covering all streets on which
grants expire next year and
put them up for immediate
competitive bidding. The com-
pany offering the lowest rate of
fare and the best all-around
proposition would get the fran-
chises.

IN BACKGROUND.

Concon men will stay in the back-
ground and make no move until
Judge Tayler or the city forces
their hand. They are not impressed
by the intimation that other inter-
ests are anxious to bid for the fran-
chises at low fare.

Mayor Tom is for a referendum
election as soon as possible after
new grants are passed. The Concon
men may make a fight in such an
election.

Mayor Tom's forces believe Judge
Tayler will be with them on a final
showdown. Judge Tayler said Mon-
day that the public owns the streets
and the councilmen applauded.

CARRY BIG STICK.

Although Mayor Tom counseled
peace, he urged that the city begin
at once to receive applications for
bids for franchises to be passed cov-
ering the various streets. These in-
clude St. Clair, Superior, Payne, E.
105th, E. 55th, W. 25th, Scovill, On-
tario, downtown loops and others
which run out in January.

The council chamber was crowded.
Judge Tayler, present by invitation,
spoke following Mayor Tom. He
appealed for a settlement on his plan
regardless of rate of fare.

"I do not know that there was
any final division of opinion at the
conferences as to the kind of fran-
chise the council ought to pass,"
said Judge Tayler.

CONFIDENCE IN MAYOR.

"Mr. White and Mayor Johnson
differed as to a few details. I don't
care about their differences. I want
an ordinance that will give the peo-
ple service, at not more than one
penny over what it will cost. I have
great confidence that the mayor will
aim to arrive at real results.

"I hope no element will be inter-
jected that will leave the impression
that there is to be warfare. Of

course, if no settlement is reached
there may be so-called war.

"You gentlemen cannot escape the
responsibility of settling the street
car question on the basis of fair re-
turn to the investor. We have
passed the day when any fixed fare
can be set down. The only sound
basis for a settlement must be on a
plan that may cost 3, 4 or 5 cents."

CLIMAX IN TWO MONTHS.

Mayor Tom's statement that ap-
plications for bids should go in at
the same time as the bids for fran-
chises means that the next climax
in street railway affairs will take
place at the end of two months.
That period must elapse after pas-

sage before franchises can be opera-
tive. Mayor Tom would save as
much time as possible, he says.

Mayor Tom says the council will
know better how to act and the peo-
ple better how to vote on a refer-
endum if public meetings are held.
Mayor Tom announced himself
ready for a referendum on any fu-
ture franchise.

TO PREPARE ORDINANCES.

A resolution was passed instruct-
ing City Solicitor Baker to draw up
ordinances covering Mayor Tom's
plans. They will be submitted to
council at its meeting March 22.
Mayor Tom said so far not one line
of ordinance has been penned.

"If we should make no prepara-
tion for the future in the face of
one-third of the street railway fran-
chises expiring next January, it
would be nothing short of criminal,"
said Mayor Tom. "The city admin-
istration is alive to its public duty.

TIME TO SETTLE.

"The only time concession can be
obtained from street railway corpo-
rations is at the time they fear
something worse if they don't set-
tle."

He said no concessions were ever
obtained from the Concon until the
Forest City lines were built, and the
situation now is the same as it was
before the Forest City lines were
started, so far as bringing a settle-
ment is concerned.

Mayor Tom said he thought the
ordinances he proposes for passage
by the city council would "have a
good effect upon the Cleveland Rail-
way Co." during negotiations on the
Judge Tayler plan.

Mayor Tom says he understands
companies are now ready to make
applications for grants covering the
various streets, and that there
should be no further delay in ac-
cepting applications.

CAR STOCK JUMPS.

Cleveland Railway stock respond-
ed to the peace talk in the traction
situation by a 2-point advance on
the Cleveland Stock Exchange Mon-
day.

About 100 shares were traded dur-
ing the morning session at 77. More
was offered at that figure at noon
without takers.

The low record price for the stock
was reached Friday, when it sold
at 75. In June of last year the
stock sold as high as 94% in the
open market.

BONDING COMPANY SUED

City Solicitor Baker Brings Action
Against Louis Devineau and
His Surety.

City Solicitor Baker yesterday brought
suit in common pleas court against
Louis Devineau, former secretary of the
city sinking fund, and the American
Bonding Co. of Baltimore, which went
Devineau's bond for sums aggregating
about \$12,800. Several days ago the
grand jury returned a criminal indict-
ment against Devineau, charging for-
gery and embezzlement.

The petition in common pleas court
is filed in the name of the city of
Cleveland. It states that Aug. 19, 1904,
the company went on Devineau's bond
for \$25,000, making itself responsible
in event of his failure in the discharge
of his duties as secretary of the board
of sinking fund trustees.

It is stated that the bonding com-
pany has been asked to make good the
deficit in accounts, but that it has re-
fused. Judgment is asked against the
defendants.

BAKER COMPLETES TAYLER ORDINANCE

City Solicitor Reduces Provisions of Judge's Plan to Forty Pages.

Cleveland Railway May Not Show Interest Till Invited by Name.

City Solicitor Baker yesterday completed his draft of the first street railway ordinance. It is a voluminous document, covering forty type-written pages.

This is the ordinance framed on the lines of the Judge Tayler plan of settlement on a sliding scale of fares and limiting the return to the railway company to 6 per cent. on the investment.

The other ordinances being prepared will be patterned after the usual form and can be put into shape readily. The Tayler ordinance is the one that has given the most trouble, but it is now ready and will be submitted to council next Monday night.

Mayor Johnson said yesterday that he was interested in the probable attitude of the Cleveland railway officials toward the ordinance prepared by City Solicitor Baker and designed to meet Judge Tayler's views. The mayor called attention to the fact that the railway officials were publicly invited to take part in the preliminary work of preparing the ordinances.

Intimations from the Cleveland railway headquarters are that the company will take an active interest in the proceedings only when specifically called upon. They were not invited to take part in the Judge Tayler conferences and have not taken cognizance of the general invitation issued by the mayor in last Monday's open meeting.

Vice President Stanley last night declined to make any statement as to whether the company would respond to a direct invitation to appear in the negotiations. Officials, however, are known to be satisfied with the Tayler plan, but have flatly stated that they would not have it if tagged with conditions which they declare have never been advocated by Judge Tayler. The railway company officials are also known to entertain aversions to appearing in negotiations at the city hall until a definite proposal is submitted.

"If the railway company does not take part in the preliminary work," said Mayor Johnson last night, "it will be out of order for it to make complaint later."

Whether there is to be a distribution of funds on hand by the receivers will be determined after a conference this morning between Receiver Scott and Attorney Dustin.

The receivers have on hand approximately \$600,000. A meeting was held at the receivers' offices with all parties to the street railway litigation present in an effort to determine whether an agreement could be reached for the disbursement of a part of this fund. The railway company was represented at the conference by J. J. Stanley and Secretary Davies, and the various creditor interests were represented by Attorneys Westenhaver, Cannon, Dustin and Crawford.

If an agreement can be reached and it is determined that the hearings

on claims have gone far enough to allow it, the court may decide upon a partial disbursement. In case the funds on hand continue to be tied up over assessment day in April the money will be subjected to taxation. This, it is said, is one of the considerations that make an early disbursement advisable.

On the other hand, the run down condition of the property will necessitate the maintenance of a surplus, and it is still uncertain whether any part of the surplus can be disbursed to creditors. The railway company, it is understood, insists on the priority of its claim for rental in any distribution of funds that may be made.

Receiver Bicknell left yesterday for Havana, Cuba, on business in connection with the Havana Electric, of which he is president. He will be gone between two and three weeks.

THREE-CENT FARE IS PREDICTED RATE

First Draft of Traction Ordinance is Prepared and Ready for Council.

Du Pont Says Normal Conditions Will Mean Cheap Riding.

Proofs of the first draft of the general street railway ordinance based on the principles defined by Federal Judge Tayler were studied last night by Judge Tayler and City Solicitor Baker at a meeting at the former's residence.

The ordinance will be submitted to the city council at its meeting tomorrow evening and printed copies will be ready for distribution. The measure will limit the profit of the street railway company operating the lines to 6 per cent and many pages will be devoted to stipulations seeking to prevent the accumulation of profit beyond that limit.

With the Tayler ordinance in effect and under normal conditions the maximum rate of fare for street car riders in Cleveland should be 3 cents with a penny for a transfer, according to an opinion expressed yesterday by President du Pont of the Municipal. The ordinance will provide a sliding rate of fare and it is the belief of Mr. du Pont that the maximum should be 3-cent fare with a penny for a transfer.

"If times are normal there is no reason why the rate of fare need be higher than 3 cents with the additional penny," he said. "I believe that this should be the highest rate of fare."

To Name Maximum.

The maximum rate of fare will be named in the ordinance that will reach the council tomorrow evening. What the rate will be, City Solicitor Baker who prepared the first draft of the measure declined yesterday to

state, but it will probably be six for a quarter.

Mayor Johnson is not in favor of the plan of calling a public meeting of the council committee of the whole for Tuesday. He believes that after the ordinances are introduced more time should be given for careful study of the measures in their original form.

"In this way members of the council can come to the public meeting prepared to make suggestions," he said.

"We have not had much time for the preparation of the ordinances and there may be a number of changes that we will suggest ourselves after giving them further consideration."

Draws Up Other Ordinances.

In addition to the Tayler peace ordinance, City Solicitor Baker has drawn up the ordinances that may open the way to a renewal of the street railway contest. These ordinances will affect the lines whose franchises are held to expire next January. They will be drawn up in a way similar to the old Forest City grants.

Reports emanating from city hall quarters yesterday were to the effect that while plans have been fully laid to open up the street railway fight after sixty days if settlement plans fail again, there is a strong sentiment against such a course among the friends and adherents of the mayor, many of whom have been the most consistent in the championship of his street railway ideas.

The most influential of these, it is said, are strongly opposed to another fight and are determined that no obstacles will be put in the way of a settlement upon the Tayler plan. The mayor, according to report, has been urged to abandon his stand for an option clause, or to compromise by making the option effective only after ten years to fifteen years have elapsed.

So far as known the line up of opinion on the option clause is quite varied. Attorney White conceded only two years from his original demand to make the period twenty years. Judge Tayler is understood to have been willing to agree to fifteen years, but has not stated whether he would be willing to concede further in the interest of a settlement. Mayor Johnson wants the option immediately effective and intimated at one time that he would concede two years only.

No means were available for focusing this issue by reason of the fact that Attorney White refused to go on with the preparation of the ordinance while this point was still open. It is thought in traction circles that the mayor aims to bring this question to an issue by leaving the option date blank and endeavoring to crystallize it into some kind of a compromise in open discussion.

The Cleveland railway people may fight shy of being drawn into a discussion in the council chamber where they claim they have never been able to make any headway in past negotiations. They are unwilling to be drawn into any discussion they know what the determining factor is to be in settling the controversy.

If they refuse to appear in the discussion, the probable course of the administration will be, it is said, to make the date when the option is to become effective a compromise one at ten years and tender the Cleveland railway the franchise on that basis. This, according to administration adherents, would put the burden of blocking a settlement on the railway company and give to Mayor Johnson an important political card for the fall campaign.

TAYLER POINTS OUT "DANGER ZONE" IN NEW CAR FRANCHISE

Judge Gives Intimation That He Will Insist on Safeguard for Public.

HE DEFINES CONTROL

Gives Both Sides to Understand That Fair Administration of Lines Must be Had.

Judge Tayler Monday told the public street railway council meeting that he will be occupied for two weeks and may not be able to attend more peace negotiation sessions during that time.

As a parting message he declared that the people must be guarded against a "danger zone," once the railway company operating under the proposed new franchise has earned its 6 per cent under his plan; also that there should only be enough city control over the street railway company in his plan to insure fair administration of it.

The Tayler plan is a sliding fare large enough to provide 6 per cent to investors.

This statement by Tayler is taken to be the first strong arm action he has undertaken in his effort to bring about a street railway settlement. Traction quarters look for more emphatic statements by Tayler as negotiations proceed.

TAYLER'S STATEMENT.

The ordinance prepared by City Solicitor Baker was considered, and President Horace Andrews of the Cleveland Railway Co. presented an ordinance drawn by Atty. John G. White, one of the peace negotiators.

"It is a practical question, as the mayor has well said," said Tayler, "how shall there be such extent of supervision on the part of the people over the management of the railroad as shall guard the people in that danger zone, where, 6 per cent having been earned, those who manage the property may be said to have lost, measurably, their interest in the economical administration in that zone?"

"That is a serious matter of difference between the council ordinance and the White ordinance, one of them seeking to obtain a larger area of control or a larger detail of control over the management of the

property. It is a practical proposition, whatever it is. If it gives to the city so much knowledge and so much power over the operation of this property as will demand and succeed in accomplishing a fair, just and proper administration of this property, then all has been done that needs to be done."

SECURITY FOR INVESTOR.

Andrews said that neither this ordinance nor that drawn by City Solicitor Baker on the Judge Tayler plan provided enough security to the investor. He declared he and the Cleveland Railway Co. favored Tayler's sliding fare, large enough to justify a just return to investors. Tayler names 6 per cent as fair.

The ordinance offered by the Cleveland Railway Co. was drawn by Atty. John G. White, in the capacity of a citizen, embodying what he considered the Tayler plan. It provides for a maximum fare of six tickets for 25 cents, with a penny charge and rebate for transfers.

CHANGES IN FARE.

The White ordinance provides that the rate of fare shall be changed on March 1 and Sept. 1, under the sliding scale. It also provides for limited city control.

City Solicitor Baker drew up an ordinance embodying what he considered the Tayler plan, and presented it to the city council March 22. It provides for a maximum fare of seven tickets for 25 cents with a penny charge and rebate for transfers; for a change in fare every three months, and for extensive city control.

These two ordinances will be the subject of future discussion at public council meetings for the purpose of settling the street car question.

The next meeting will be held Thursday at 10 a. m.

WILL START SUIT ON DEVINEAU BOND

City Solicitor Will be Formally Requested by Commission to Begin Action.

Concern Does Not Hold Itself Responsible for Ex-Secretary's Acts.

City Solicitor Baker will be formally requested by the city sinking fund commission today to begin suit against the American Bonding Co. for the payment of \$12,800 on the \$25,000 bond of Louis Devineau, former secretary of the commission, who, it is alleged, embezzled the former amount and left for Europe.

Notice has been given the commission by the attorneys of the company that the concern does not hold itself responsible in the Devineau case for the reason that the duties that opened the way to the alleged embezzlement were not laid down for the secretary of the sinking fund commission by the city council. On receiving notice from the company that the payment of \$12,800 would not be made, the members of the sinking fund commission at a meeting several days ago decided to cancel their bonds with the American Bonding Co. All the members with the exception of President Whitelaw were present at the meeting. The bond of each member is for \$50,000 and that of the secretary \$25,000, making the total amount of bonds that will be ordered canceled as the result of the action at the meeting \$175,000.

The letter asking City Solicitor Baker to file the suit against the company has been prepared and will reach him tomorrow.

William J. Coughlin of the local offices of the American Bonding Co. said yesterday that the decision in the Devineau case had come from the main offices of the company at Baltimore.

TALKS WITH JUDGE, ALTERS ORDINANCE

City Solicitor Expected to Change Measure Much Before Public Debate.

Will Eliminate Little Differences of Opinion to Smooth Way.

Important changes in the street railway franchise ordinance will probably be made before that document comes up for discussion at the public meeting of the council committee of the whole Monday morning.

City Solicitor Baker, who prepared the ordinance with the assistance of Mayor Johnson, has held secret conferences with Judge Tayler at the latter's offices during the past few days.

Revision of the ordinance, the elimination of many features that have been the subject of criticism, and some changes to meet with the ideas of Judge Tayler are believed to have been the reasons for the conferences. This will leave fewer points for contention when the ordinance is finally up for discussion, and will narrow down the points on which clashes will occur to the more important items involving real differences of opinion.

TAYLER PLAN GETS AUSPICIOUS START

First Debate on New Scheme
for Traction Settlement
Marked by Harmony.

President Andrews Submits
Substitute for Baker
Ordinance.

NO ANIMOSITY IS SHOWN.

At Opening Discussion of Sliding
Fare Plan the Head of Cleveland
Railway Co. Presents Document
Containing Company's Interpretation
of Idea—His Ordinance
Provides Slightly Higher Fare—
Judge Tayler Sums Up Points of
Difference—Next Meeting Thurs-
day.

Negotiations for a street railway settlement on the Judge Tayler plan were fairly launched at yesterday's open meeting of the council committee of the whole. All parties to the negotiations were represented and the discussion progressed without a sign of the animosity and contention that has been a feature of past negotiations.

New developments in the negotiations were the submission of an ordinance by President Andrews, prepared by Attorney John G. White, and a protest by the United Trades and Labor council over the wage provision in the Baker ordinance.

The White ordinance is patterned after that prepared by City Solicitor Baker, the language being identical, except as regards the provisions on which differences of detail occur. It embodies the same general principles of the Tayler plan, but discloses differences of interpretation and detail from the Baker ordinance. The submission of this second ordinance places before the council for the first time the vital points of difference upon which Attorney White and Mayor Johnson split in the secret meetings of the Tayler committee, and puts them on record for negotiation.

These points of variance were discussed in an informal way yesterday but further efforts to make them conform were deferred until members of the council have had time to digest the White ordinance. The date of the next meeting was set for Thursday morning at 10 o'clock.

Maximum Fare is Higher.

In the White ordinance the maximum rate of fare in the sliding scale is 5-cent cash fare and six tickets for 25 cents, with a penny transfer

and a penny rebate. In the Baker ordinance the maximum is 5-cent cash fare with seven tickets for 25 cents, a penny transfer and no rebate.

The White ordinance also provides for a city street railway commissioner at the expense of the railway but it leaves the rate of compensation blank. The Baker ordinance limits the expense of this department to 1 per cent. of the general operating expense.

The initial rate of fare is also left blank in the White ordinance. The railway company objects to starting the experiment at 3-cent fare as provided for in the Baker ordinance. A provision for an insurance and accident reserve fund is also provided for specifically in the White ordinance. The reserve for maintenance, repairs and renewals is made 5 1-2 per cent. per car mile instead of the 5-cent per car mile of the Baker ordinance, while the minimum for this fund is left blank.

The provision in the Baker ordinance regarding pay-enters is altered so that the company agrees "in case it is able, acting in good faith, to raise the money," to have 450 pay-enters equipped within five months and all of the cars so equipped within eighteen months.

In presenting the new ordinance President Andrews stated that the company was in favor of a settlement on the Tayler plan, but that they had some differences with the conditions of the Baker ordinance.

Ready to Discuss at Length.

"We have gone carefully over the ordinance," said Mr. Andrews, "and have studied it during the past week. I have asked Mr. White, who was a member of the committee, to prepare an ordinance. This work was completed only last night, but we have 100 printed copies for distribution to members of the council.

"This ordinance has not been presented to our board, but in a general way it will probably meet with our approval. We may want to criticize it ourselves and possibly may want to make some changes, but as a whole it represents our views. We are prepared to go ahead in good faith and discuss it as fully and as often as desired."

The differences in the two ordinances were explained by Judge Tayler. He stated that they were differences largely of quantity and quality of control by the city over the street railway company; in the maximum rate of fare that may be charged, the method by which money is to be raised, the chief difference being the extent of the control to be exercised by the city over the street railway company. He also called attention to a provision that in the naming of the nominee by the city to take over the property under the option clause Mr. White has inserted a clause requiring that the nominee must offer terms better than those under which the present company is operating.

Mayor Johnson asked President Andrews to discuss the maximum and initial rates of fare. Andrews stated that the maximum rate had been placed at six for 25 cents because he had grave doubts whether any rate under that would meet with the approval of bankers and institutions to which the company must go for financing. Eastern bankers, he said, with whom he had talked had told

him that they would possibly be willing to purchase bonds, but that the stock would have to be sold at home.

Something like \$1,000,000 a year will be needed to maintain the property, according to Mr. Andrews' estimate and he questioned if the stock could be sold unless the maximum rate of fare was such as to produce the confidence of investors. He said, however, that he had no fears that the maximum rate would ever be enforced except possibly in panic times.

"Do you expect to pay the debts out of earnings?" asked Mayor Johnson.

"If we cannot sell stock we must pay them out of earnings," answered Andrews.

"The people will not stand for the payment of debts from earnings," returned the mayor. "We must have a maximum high enough to be safe, but not so high that the people will vote it down at the referendum. Some of us have had experience with that."

President Andrews then offered a criticism that neither the Baker nor the White ordinance contained a provision for the security of the investor in case the option is not exercised and the property is not taken over at the end of the grant.

Mayor Johnson called attention to the fact that the provision enabling the company to charge the maximum for the last fifteen years of the grant if not renewed every ten years was ample protection on that score. Andrews thought that the terms ought to be provided in the option. Mayor Johnson declared that on due consideration Mr. Andrews would probably change his mind on that point.

City Solicitor Baker called Mr. Andrews' attention to the fact that both ordinances provided for a continuing car mileage charge for maintenance and that provision should keep the properties up to an appraisal value equal to the investment.

Members of the council evinced an interest in the probabilities of the maximum rate of fare ever being reached under the ordinance.

President Andrews, replying to a question by Councilman Bernstein, said that in Massachusetts rates on many electric lines had been raised from 5 cents to 6 cents. He declared that the public service commission had found that depreciation had not been kept up with and that in several eastern cities it had been actually necessary to raise fares to 6 cents. In no cases, he said, have there been decreases in fares. He cites the case of one of the New York lines that had been paying dividends of 7 per cent. through dishonest bookkeeping, but which the commission discovered had not been earning 3 per cent.

Peter Hassenpflue, a member of the legislative committee of the Trades and Labor council, asked for a hearing. He said that the council would object to the limit of wages to the average prevailing on the Detroit, Buffalo and Pittsburg lines. He also objected to the clause limiting free rides to motormen and conductors in uniform, stating that the men who worked in the trenches for the company were equally entitled to free rides to and from their work.

President Andrews called attention to the fact that in the White ordinance the section relating to wages had been eliminated, and that free passage to all employes would be provided. He recalled the contract made with the men prior to the last settlement providing for an increase in wages if a satisfactory settlement was made and said that he considered this contract still valid and binding on the company.

After adjournment of the meeting Mayor Johnson invited Hassenpflue to prepare a written suggestion concerning the wage provision in the ordinance. The mayor declared that some provision was necessary in order that no open door be left for the needless waste of money. He said that if the company once gets its ordinance providing for 6 per cent. return it would have no interest beyond that in essential economies. Its pecuniary interest is in keeping fares

up and not down. The only hope of the car riders, he said, is in the watchfulness of the city over the expenditures.

A suggestion by Councilman Haserodt that the interest rate to the stockholders be raised as the rate of fare is lowered, as an incentive to the company to economize, brought Judge Tayler to his feet with a protest against the principle involved. He declared that it was a philosophic wrong that the public should give up its streets to pay more than a fair return on the investment, and that if by any ingenuity or the evolution of economic devices fares should ultimately be reduced the company should not be placed in a position where it can make an enormous amount upon its investment. The raising of the interest rate, he declared, would be but emphasizing the human equation.

CITY CONTROL IS BIG OBSTACLE TO TRACTION PEACE

Railway Men Object to Council Having Free Hand With Schedules and Service.

The first stumbling block in the consideration of the street railway ordinances before the city council came up at a session of the council committee of the whole Thursday, in the form of control of service and schedules.

The ordinance prepared by City Solicitor Baker provides that the entire control of schedules and service is to be left in the hands of the city council.

The ordinance prepared by Atty. John G. White, and which the Cleveland Railway Co. favors, limits the right of the city to increase schedules by providing that no increase can be made unless the next higher rate of fare than the one in operation will take care of it. This is under the Tayler plan of a sliding fare, large enough to yield 6 per cent to investors.

WHERE THEY STAND.

Mayor Tom and Solicitor Baker argued in favor of the Baker ordinance. Atty. White thought his plan best. Federal Judge Tayler believed the terms of both ordinances in regard to service and schedules should be combined.

Solicitor Baker is to give an opinion as to what police powers should be granted the city council in traction matters.

AS TO GOOD WILL.

Councilman Haserodt introduced a resolution providing that the valuation of the Cleveland Railway Co. property to be fixed in the ordinance is not to include anything for good will or the value of unexpired franchises. No action was taken.

One point agreed upon is that the duration of the street railway grant shall be until May 1, 1934.

It was agreed to hold meetings every morning and afternoon, excepting Sundays, until an ordinance satisfactory to both sides is framed.

AGAIN WILL SEEK JUDGE'S APPROVAL

City Solicitor to Put Ordinance Up to Tayler in Second Conference.

Then if Measure Pleases, It Will Go to Council Tonight.

Federal Judge Tayler and City Solicitor Baker will have another conference today to consider the Tayler plan street railway ordinance that is to be presented to the council tonight. At Saturday evening's conference Judge Tayler is understood to have suggested a number of changes.

A copy of the ordinance was left with him for further study and today's meeting is to be held to hear further suggestions from the judge. It is understood that the city administration desires to meet practically all of Judge Tayler's views in the ordinance and it hopes to have his approval of the measure when it is presented to the council.

In addition to the Tayler plan ordinance three other ordinances will be presented to the council tonight. These will contemplate the granting of new franchises on the street railway lines where grants expire next year.

One will grant a renewal to the Cleveland Electric on the same terms as those on which franchises were granted the Forest City company on West Side streets. Another will grant the franchises to the Forest City on Forest City terms, while the third will grant franchises to a new company under the terms of an application presented to the council a week ago by Herman Schmidt.

GETS WORD TO START SUIT

City Solicitor Will Begin Proceedings to Recover on Bond of Devineau.

City Solicitor Baker was formally notified by the city sinking fund commission yesterday to begin a suit against the American Bonding Co. for the payment of \$12,800 on the bond of Louis Devineau, former secretary of the commission, who is believed to be in Europe.

The company claims that it is not responsible in the case for the reason that Devineau in depositing checks at the bank and having them exchanged for New York drafts was not acting within the scope of his duties as laid down by the city council.

The company also maintains that the law stipulates the secretary shall perform only such duties as are specified by the city council and that the commission cannot depart from the list of duties enumerated in giving instructions to its secretary.

CONCESSIONS MARK TRACTION DEBATES

Give and Take the Order of First Discussions in Newest Effort for Peace.

Amount of City Control Provokes Differences, but No Disagreement.

POSTPONE KNOTTY POINTS

Mayor, City Council and Cleveland Railway Representatives Hold First of Daily Conferences on Tayler Plan of Settlement—Both Sides Give in on Several Issues—Real Divergencies Are Put Off to be Considered as a Whole Later—Decided Progress is Made.

Give and take was the order of the day in three long sessions of the council traction committee yesterday in an effort to make the Baker and White drafts of the proposed Tayler ordinance agree.

Tentative agreements were reached on many of the differences in the two drafts. Other disputed points were passed for future consideration, but on none of the differences discussed was there any open breach.

The meeting was called by Mayor Johnson at 10 o'clock yesterday morning. Afternoon and evening sessions were held and it was decided to continue the sessions daily until agreement or disagreement is reached.

Printed pamphlets prepared by City Solicitor Baker, comparing the Baker and White ordinances and indicating thirty-nine points of difference in the two drafts, were used as the basis for the discussion. Mayor Johnson stated that in addition to the thirty-nine points to be threshed out others to the total number of fifty had been discussed verbally.

With the railway officials concurring, Mayor Johnson announced that either side may pass any point of difference to be brought up later on, and that the points agreed upon should not be binding upon either side, but could be made the subject of change on further consideration of the points involved.

Discussion of the points at issue was carried on largely by Mayor Johnson, City Solicitor Baker, President Andrews, Federal Judge Tayler and Attorney John G. White. The latter was present by special invitation of the council at the request of President Andrews. Mr. Andrews explained that he desired the presence of Attorney White on account of his familiarity with the legal phases of the question, but in the capacity of citizen and not as an attorney for the company.

Differ on Arbitration Issue.

The extent of the control to be exercised by the council over street railway affairs and the treatment of the question of suburban service developed the widest divergence of views at yesterday's sessions. Other questions passed over for further discussion involved the subjects that may be submitted to arbitration under the terms of the ordinance and the method of approaching arbitration.

A legal question as to whether the grant should date from the passage of the ordinance or from the date of the referendum vote was disposed of by adopting a suggestion by Baker to make it terminate May 1, 1934.

The inclusion of the Neutral street railroad in the grant as provided in the White ordinance was agreed to without discussion. This question, however, brought out demands from councilmen for the inclusion of the E. 66th-st. line and for the extension of the Lorain service to the city limits. Mayor Johnson stated that these questions involved the securing of consents and recommended that they be passed over. Councilman Walz, backed by a delegation of residents at the east end of the Lorain line, was insistent upon early action. Walz announced that he was ready to procure the consents.

The extension of city service out Lorain-av. to the city limits is complicated by a contract of the Cleveland railway with the Cleveland & Southwestern whose rights on this stretch of track extend to 1922. Unless terms can be reached with the interurban line additional tracks will have to be laid. President Andrews said that he did not care to violate an existing contract with the Southwestern line and that the question of buying the tracks from the latter was complicated with conditions in the mortgage of the latter. Walz stated that he would have another ordinance introduced.

Pass Free Territory Clause.

The free territory clause of the ordinance was passed for future agreement. The White ordinance interjected the word "reasonable" as qualifying the terms the council may prescribe for the joint use of tracks. Mayor Johnson suggested a specific valuation of \$20,000 a mile in determining the cost of joint use with a proportionately larger charge for special work.

President Andrews said that the valuation might in future years become as high as \$100,000 a mile through the inauguration of underground in place of overhead trolley wires or other improvements. He also called attention to the introduction of nickel steel rails at a relatively high cost. City Solicitor Baker suggested that the matter of valuation in free territory be made one of the subjects of arbitration.

The clause concerning the provisions for pay-enter cars was also passed. The White ordinance makes the provision in favor of the company that it will install 450 pay-enterers within five months in case it is able, acting in faith, to raise the money. President Andrews, however, objected to both the White and Baker provisions. He said that he was studying carefully the development of the pay-enter system but that he was not yet convinced of its success. There was a saving, he said, in some cases of 8 to 10 per cent. but in others there was none whatever. The type of pay-enter

also is changing and Andrews did not want to go ahead and equip the whole system and find at the end of the year that the equipment was totally behind the time.

Mayor Johnson declared that the pay-enter system should be adopted as soon as possible. He said that the running board with its dangers should be abolished.

Section 9 of the Baker ordinance, reserving the entire control of service and schedules to the council, developed a lively contention. This is one of the provisions that promises serious obstacles to a settlement.

Attorney White declared that it was possible and not improbable that the city authorities in their desire for low fare may do great damage to the city or may, for personal reasons, favor one part of the city against another. He referred to the failure of the recent referendum vote as due to the unsatisfactory service rendered by the Municipal Traction Co.

Mr. White stated that when the company was permitted to charge 5-cent fare and absorb all the profits its interest was to reduce service and enlarge profits, but that under the new order of things conditions would be reversed. The railway company, with its 6 per cent. assured, has no interest but to give the service desired while the city officials are under pressure to reduce service in order to produce low fare.

Mayor Johnson and City Solicitor

Baker refuted this argument, contending that if the service was not kept up the council and the administration would be voted out of office. Baker contended that it was a matter of the police powers delegated by statute to the city. Mayor Johnson contended that in future years it was probable that following the evolution of the times the railway property would be owned by large outside interests with other street railway properties under their control, and that it would be to their interest to make the public believe that low fare in Cleveland had turned out high fare. He had only consented to the Judge Tayler plan, he said, when a way had been found to vest the control over the service in the hands of the city.

At the suggestion of Attorney White that a change in fare to the point next higher up might not provide fully for operating expenses and interest owing to the fact that changes can be made only at stated intervals, Baker agreed that changes should be made to any rate in the agreed schedule to meet the contingencies required.

The city officials agreed to modify the clause relating to the powers delegated to the street railway commissioner. Baker explained that he had not intended that the commissioner should have any powers whatever. His function is to keep the council informed, all authority to act being vested in the council.

In reply to a question from President Andrews Mayor Johnson suggested a salary of \$12,000 per annum to the street railway commissioner. On recommendation of Andrews this was changed to a monthly compensation at the same rate, so as not to carry the inference of a yearly contract. Andrews thought that the limit of expenditure placed on the commissioner's office, amounting to 1 per cent. of the operating expenses, in the Baker ordinance was too high. He said that it would meet with popular disapproval. Baker read from reports showing that the cost of the commission in Chicago amounted to about \$80,000 a year, the commissioner and three engineers getting \$45,000 per annum.

The arbitration clause led into a lengthy discussion of the status of the suburban grants. The Baker ordinance provides for the maintenance of all present contracts with such communities as East Cleveland, but Attorney White argued that when these grants expire the outlying properties would have no status but their junk value unless treated in the same way as the city properties.

Mayor Johnson raised the old

question as to whether the patrons of the city lines should be made to contribute to the cost of operating lines beyond the city limits at a loss. President Andrews declared that if this question is to be raised again the result would be that the company would never want to invest another dollar in lines beyond the city limits. The question came up as purely incidental to matters that would be the subject of arbitration, but the sharp lines drawn in the discussion indicate that the treatment of the suburbs will be a bone of contention when it comes up in its regular order.

President Andrews objected to the penalty the stockholders would have to pay in suffering a reduction in dividends in case the directors failed to abide by the rulings of the arbitrators. City officials said they did not like the provision themselves, but could find no other way to make the rulings of the arbitrators effective. The penalty of 1 per cent. reduction may be reduced.

MAIN ISSUES ARE COMING TO VIEW

Traction Debates on Second
Day Develop Three Chief
Causes of Difference.

City Control, Rates of Fare
and Bond Liability the
Knotty Points.

4-CENT FARE POSSIBLE

Second of Daily Discussions for
Traction Settlement Develops
Leading Differences Between Interests—Mayor Firm for Large Measure of City Control Over Lines—Also Opposes Having City Assume Liability for Bonds if Road is Taken Over.

Three knotty problems developed yesterday that promise some trouble in the framing of the new traction ordinance.

These were the extent of control of the council over service, the maximum and initial rates of fare and the status of the question of eliminating stockholders' liability on the bonded indebtedness of the company in case the city should buy the property.

Sharp divisions of opinion developed on all of these questions and they were passed over without agreement. Mayor Johnson and City Solicitor Baker, together with a majority of the council members present, made an unyielding stand on the absolute control of the council over matters pertaining to general service, against the plea of Judge Tayler and Attorney White for arbitration.

Mayor Johnson alone stood out against the insertion of a provision by which the city is to assume the bonded debt in case of municipal ownership, while members of the council offered strenuous objection to a max-

imum rate of fare as high as six tickets for 25 cents.

The feature of last night's session of the conference was a statement by President Andrews of the Cleveland Railway Co., that he favored putting the maximum rate of six tickets for a quarter into effect as the initial fare under the new plan.

Mr. Andrews maintained that this rate was needed to give the city adequate service and to attract capital to the street railway enterprise.

After debate it seemed possible that Mr. Andrews and the city council might come to an agreement as to the initial fare by placing the rate at a straight 4-cent cash fare.

On one occasion only was the harmony of the negotiations yesterday disturbed. This was when Mayor Johnson resented repeated assertions by Attorney White that the reason the people voted down the last settlement was because of the inefficient service rendered by the Municipal Traction Co. The mayor challenged the assertion, charging that Mr. White was not speaking from experience, but from the assertions by certain newspapers interested in defeating the settlement.

This tilt took place at the end of a long debate on the question of vesting the control over the service in the hands of the council. Judge Tayler argued for arbitration by an impartial and disinterested board in cases where the company and city could not agree.

Judge Pleads for Arbitration.

"Fundamentally," said Judge Tayler, "and so far as this plan of settlement is concerned, the company is not concerned in the control over service. I think that a large control over the nature of the service and the routing of the cars should repose with the council, but the council is human and I do not think that we can always trust ourselves.

"The community will feel safer and in better humor with the plan if it is provided that in the event of differences between the railway company and the council the decision should be left to impartial arbitration. I do not think that serious differences should occur for the reason that the company is guaranteed 6 per cent. on its investment and is under no impulse to increase or reduce the service on its own account. The company will be ready to do as asked by the council.

"So also the council has no interest but that of efficient service that will satisfy the people. But other influences may in time operate either upon the company or the council. In that event the community would feel safer if it were known that the differences would be settled by an impartial board of arbitration whom we could trust better than ourselves."

Mayor Johnson declared that he could not agree with Judge Tayler. He said that the company had a positive, pecuniary interest to raise the fare to the limit, and declared that the service could be maintained at an extravagant level through delays in securing an award by arbitration. He declared that there was no other place in which the control of the service could be reposed than in a council that is responsible to the people.

City Solicitor Baker supported Mayor Johnson in his contention. Baker said that every ordinance passed since 1849 had provided for council control in conformity with the statutes, and that it would be abandoning historic powers vested in the city to surrender that control.

Councilmen Kramer and Horner called attention to the fact that the people of any particular section had little chance of recourse for better service by appeals to the council or by voting their councilman out of office. Reference was made to the cases of the E. 66th-st. line and to the troubles last summer over service on the Union line.

"It is no use, Mr. Mayor, to shut your eyes to the facts," said Attorney White, taking up the argument. "There was dissatisfaction with the Municipal Traction Co. over the service. The people care more for good service than they do for the rates of fare. They do not want to pay more than the cost of that service, but they want the service good. The people will defeat this ordinance if it does not provide for good service."

Attorney White went at great length into the question of service and repeatedly referred to the failure of the Municipal to give satisfaction.

"Mr. White has taken occasion to bring in the service of last summer," rejoined the mayor. "He has made a number of remarks regarding the service and I have listened without presenting any arguments in reply. He doesn't confine his observations to his own experience only. He is speaking on the authority of certain newspapers that blackguarded those who were managing the system. It is true that not enough service was given, but that was to avoid making a deficit that was brought about by some of the people who are trying to bring about this trade. Last summer exhibited some of the meanest of tricks by people who have made promises and didn't live up to them.

"The most crowded conditions we have ever known exist today in this city. I have never known cars so crowded as the Central and Woodland cars are today."

Supt. Bemis argued in favor of placing the power of regulating service in the hands of the council, declaring that no body would as well represent the wishes of the people as the council.

City Clerk Witt then asked for the floor and declared that the cause of bad service last summer was that the council refused to exercise the authority it had, because it feared that interference with the management might result in a forfeiture of the lease.

"By putting the power of regulating the service into the hands of a board of arbitrators you are saying that the creature is larger than the creator," he said. "If you members of the city council are willing to say that you haven't got the capacity to do this and that all who come after you have not the capacity, then surrender your power."

The city clerk declared that the question of fare was uppermost in the minds of the people and that the strongest argument used against the security grant at the referendum election was the six-for-a-quarter argument.

"If that argument had not been used the opposition could not have mustered the 39,000 votes they did muster," Witt said.

After yesterday afternoon's session City Solicitor Baker made the suggestion that both ordinances might be submitted to the people for a settlement of the question of placing the power of regulating service and that the one receiving the greater number of votes should be put into force.

On the question of the city's assuming the bonds of the company in case the property is taken over, Attorney White and President Andrews

insisted that unless this was done double liability would revert upon the original shareholders for the amount of the bonds, as the mortgage antedates the period of the removal of the double liability.

White stated that the city could not acquire the property without assuming responsibility of the bonds as an integral part of the capital investment. Mayor Johnson was of the opinion that the mortgage security itself was ample and that for the city to assume the bonds would defeat municipal ownership.

The problem of the interurban cars was discussed at length and it was decided to give representatives of these lines a hearing Monday morning. Members of the council were in favor of stopping the interurbans at the city limits. Solicitor Baker looked up the statutes and rendered the opinion that the interurbans could not lawfully be excluded from the city. President Andrews said that the contracts of the Cleveland Railway Co. with the interurbans were of a continuing nature to be renewed under the old conditions with each new city grant. Andrews called attention to the large capital investments these lines had made in terminal improvements in the downtown district and said that any severe restrictions might cause them irreparable damage.

In reply to a question from the mayor Mr. Andrews said that the interurbans were from two to three times as hard on the tracks in the matter of wear and tear as the city cars. Mayor Johnson declared that the interurbans should be permitted to enter the city, but that they should be self-supporting. He favored restrictions as to the weight of the cars and the depth of the flange used on the wheels.

Attorney White reverted to the question of wages of employes. He said that from the legal standpoint the company could not delegate its powers to contract with labor to any other person or city. At the request of Harry D. Thomas of the United Trades and Labor council the question was put over until next week. The mayor declared that the labor provision as it stood suited neither party and that it would be revised.

CAR QUESTION LOOKS LIKE BIG CAMPAIGN ISSUE

City Candidates Expected to Stand on Traction Platforms This Fall.

PEACE NOT IN SIGHT

Mayor and Andrews Disagree on Many Points—White and Baker Have Spat.

Everything indicates that the street railway question will again be the big issue in the city campaign next fall. Candidates for mayor will stand or fall on the traction planks of the platforms.

For three days Mayor Tom, Horace Andrews, Atty. John G. White, City Solicitor Baker, Judge R. W. Tayler, John J. Stanley and the

councilmen have been at the city hall trying to work out a plan of settlement between the city and the Cleveland Railway Co.

They are considering the White and Baker ordinances, both embodying in a degree the Tayler plan of a sliding fare to provide 6 per cent to investors.

RUN TO 1934.

In that time it has been agreed the ordinance, if ever passed, shall run until May 1, 1934; that there shall be a provision for joint use of the property of the Neutral Street Railway Co., and that the word "lines" shall be substituted for the word "system" wherever it appears in the Baker ordinance.

There has not been an agreement on one point of importance. These have all been passed for further consideration. Saturday morning the two sides did take up the manner of arbitrating points of difference between the city and the company in case an ordinance should pass.

Both sides had fixed notions as to what this should be. Neither showed any disposition to recede. It looks as if Mayor Tom will settle if the settlement is as he wants it, and the Concon is willing to agree if it can have what it wants. There is a chance that public sentiment and Judge Tayler may force the opposing factions to agree.

The more likely thing, however, is that neither side will make sufficient concessions to bring about an agreement, and that both will wait and take a chance on getting a friendly council at this fall's election.

Whether the old Concon crowd would back Baehr or McKisson might be problematical. Baehr has never been particularly strong with the Concon. McKisson is expected to have the support of the Cleveland Electric Illuminating Co.

Question of control of service and schedules again kept Mayor Tom and Cleveland Railway representatives widely apart at Saturday's conference.

Councilman Zinner advocated breaking off negotiations if an agreement is not soon reached on the question of control.

Mayor Tom and members of the council are insistent on council's control of street car service and schedules. The Cleveland Railway people want differences over operation settled by a board of arbitration.

Some sharp language crept into the discussion.

"According to the newspapers City Solicitor Baker says the entire income of the railways could be used for service," said White.

"I never made such a statement," retorted Baker.

"Why, I heard you say it," White said.

"No, you must have been napping," replied Baker.

In arguing for council control of the railways, Mayor Tom pointed out that since 1859 Cleveland's councils have always had power to control service.

"Since the beginning no specific case of abuse of this power can be pointed out," claimed Mayor Tom.

President Andrews of the Cleveland Railway and Atty. White showed where disagreements between the railways and councils in New York and Detroit had been carried to the courts.

"Those places are not Cleveland," Mayor Tom said.

"The council will always see to it that the stockholders of the Cleveland Railway get their 6 per cent on their investment," said City Solicitor Baker, in arguing for control by council. "The people will soon learn that the cost and quality of service depends on the councilmen, and that will keep schedules and rates of fare evenly balanced."

"Today the people are patronizing the lines where there's cheap fare," Mayor Tom said. "This shows they'd rather have cheap fare than too good service."

A meeting will be held at 7:30 p. m. Saturday. It is not improbable that Mayor Tom will ask for sessions on Sundays.

TRADES TO BRING TRACTION HARMONY

Probabilities Strong Compromise Will Effect Settlement of Question.

Maximum Fare, Vital Point, Demands Large Part of Discussion.

DISCUSS DATE OF OPTION

After Another Day's Discussion Vital Points in Car Problem Seem Nearer Solution—Main Issues Are Maximum Rate of Fare, Date of Option, City Control and Initial Fare—Talks of Trades and Compromises Now Begun—Chicago Plan is Discussed by President Andrews.

If a street railway settlement comes on the Tayler plan it will be the result of trades made on contested points at the conclusion of the negotiations.

This was the opinion last night after three days of negotiations in which little or no progress was made upon the main disputed points so far as surface appearances are concerned.

Below the surface, however, the majority opinion of the negotiators is that the differences can be reconciled and that the principals on both sides are standing firm on many points in order to be able to trade when the final test comes.

When the traction meeting closed last night five important points, covering practically the entire field, had been discussed—the control of the council over service, rate of fare, capitalization, city purchase, and valuation.

On none had decided agreement

been reached, but on none was there bitter contention.

A vote taken last night showed 14 to 9 in favor of a maximum 4 cent fare, a cent for transfer and rebate, against seven for a quarter, 5 cents, a cent transfer, no rebate. A new development was Horace Andrews' suggestion that the option figure be 120, instead of 110, as Solicitor Baker's ordinance provides.

Answering a question, Andrews declared it is imperative that the company raise \$4,000,000 by Jan. 1, 1910, or it would meet serious trouble.

Possibilities of a deadlock are admitted that may only be determined when a final draft of an ordinance is submitted for acceptance or rejection, but the sentiment for settlement is strong upon both sides and the apparent deadlock of last week was declared to be in no sense vital to an agreement.

Maximum Rate is Vital.

The vital points upon which deadlock may come are the maximum rate of fare, the date at which the option becomes effective, and the extent of the council control over service. Of these it is declared the only really vital points are the maximum rate of fare and the date of the option. The question of city control over the service and the acts of the company is said to be a vital one only in a cumulative sense.

If all of the collateral questions discussed that are incident to city control, and a number of other contested points, should be insisted upon, it is said that the railway company could be so tied down with red tape that the plan would be a failure from a financial standpoint. It is stated, however, that these various questions are susceptible to compromise in some form or another.

On the really material point of the maximum rate of fare provided in the sliding scale considerable progress was made yesterday.

On a suggestion made by members of the council that the 5 cent cash fare be eliminated from the scale, a vote was taken, and it was the opinion of members present that the two higher sets of fares in the Baker ordinance be stricken out. This left the third in the Baker scale, which calls for 4 cents cash, one cent transfer, and one cent rebate as the maximum. The vote at the night session brought the same result.

President Andrews said that he would agree to a change from a six for a quarter maximum with universal transfers as in the White ordinance, to a 4 cent cash fare, with a penny for a transfer. This leaves the most important question of all, the maximum rate of fare, a divided issue only to the extent of the penny transfer, both sides being agreed as to the 4 cent maximum cash fare.

In money value this would amount to only a few hundred thousand dollars a year, and the margin is so narrow that it is thought that it should not prove a stumbling block. The maximum rate of fare is regarded above all else in the sense of the security that it gives to the stock.

Many bankers are still of the opinion that nothing less than 6 tickets for 25 cents will provide a 6 per cent. return to shareholders and maintain the property. Investors usually go upon bankers' advice in making their investments, and the railway people

think that they can never reach the investor unless bankers are satisfied that the maximum rate provided is high enough to make the 6 per cent. return absolutely secure.

The second point on which deadlock may occur has not yet been discussed. This is the date of the option period. It is regarded by railroad officials as of equal importance as the maximum rate of fare.

Mayor Johnson has given no intimation as to whether it is susceptible of compromise. Railway officials, it is understood, will oppose any date short of fifteen or twenty years. A collateral question that may come up with this is the price of the option. This is stated in both ordinances at \$110. The placing of a lid on the price has, however, been opposed by F. H. Goff, and it is known that the railway officials think that the option figure should be higher.

Suggestions to that effect may be made when the subject comes up for discussion. Mr. Goff assigned one of the reasons for the failure of the Municipal to market its stock to the placing of a restricted figure upon the stock at 110. He declared it to be a serious mistake.

The initial rate of fare will be contested on the same grounds as those pertaining to the maximum rate. A low rate at the start, it is said, would endanger the financial success of the plan and possibly contribute to its defeat. It is urged, however, on account of the effect it would have on a referendum election. Most of the negotiators, however, do not think that the initial rate of fare is a question that is susceptible of defeating the ordinance.

Railway officials think that it might become vital if a low rate is forced through with a number of other terms which they regard as objectionable, such as the various clauses affecting the general question of control. They think that if left to fight out the question of finances with a free hand they might be able to work out the problem commencing at a moderate low rate, if the maximum was high enough and all other questions favorable. Their attitude, however, is that if the ordinance is cluttered up with a large number of conditions to frighten investors, nothing but the maximum fare to start with will pull them through.

The morning and afternoon sessions yesterday, with the exception of the progress made in arriving at a maximum rate of fare, developed nothing but futile discussion. Another split occurred on the question of a permanent arbitration board to decide questions relating to control of service. President Andrews and Attorney White argued that the arbitration board would be a parallel for the board of engineers in control in Chicago, and the public service commissions in vogue in New York. Mayor Johnson objected that the latter were state appointive offices, in which the corporations had no choice.

Attorney White reviewed the various restrictive measures put upon street railway and steam roads by state and municipal authorities, all in the past few years. He argued these as reasons why corporations should be protected by absolute conditions in the contract instead of leaving them to the general statutory provisions giving to legislative bodies in their general police powers.

At the close of the discussion neither side showed any disposition to yield, except that City Solicitor Baker agreed to become more specific and to satisfy Attorney White in the provision that no measure of council control over the city railway company should impair the ability of the company to make 6 per cent. for the stock.

White also sounded the keynote of the objection of the company to anything lower than a maximum fare of six for a quarter or its equivalent

when he said that inability of the company to earn the stated return under the maximum fare would not relieve the company under the statutes from its contract with the city.

Neither could the city, he declared, legally relieve the company from its contract obligation to furnish satisfactory service for the full twenty-five-year period if it was found that the maximum fare would not produce the results sought.

President Andrews at various times during the discussion called attention to the trend of the arguments of the mayor against arbitration of the question of improving the service. He accused the administration and the council by inference of a desire to cheapen the service rather than better it.

A resolution was introduced during the afternoon session by Councilman Pearce calling for a reduction of valuation on account of depreciation in good will and franchise values in the new settlement.

Several councilmen also demanded a revaluation on this score and City Clerk Witt enlivened the proceedings with a plea that the Forest City shareholders be given extra compensation in the new settlement.

Mayor Johnson and City Solicitor Baker advocated a new settlement upon the former basis of valuation.

"They have placed our friends of the Forest City company," said the mayor, "in the front rank. We cannot shoot at them without hitting our friends. I would not favor any action that would put any further hardship upon the Forest City shareholders."

When last night's session opened, Councilman Pears asked free rides for policemen and firemen, but Solicitor Baker announced that no discussion was necessary on that point, as a recent state law makes that provision imperative.

The cost to the city, should it purchase at the end of the option period, was taken up. Horace Andrews thought the price should be made 120 instead of 110 as in Baker's ordinance, as stock could then be more easily sold.

"We could leave the price 110," said the mayor, "and make the interest on bonds 6 per cent. It will be easier to sell the bonds than the stock."

Concerning the rate of fare.

Andrews thought it would be best not to put a maximum rate of fare in the ordinance. Baker said he was almost inclined to agree, but that people had become accustomed to having the maximum inserted and talked about.

In response to a question from Councilman Haserodt, Andrews said the road would have to raise \$4,000,000 by Jan. 1 next year, or else it would encounter great difficulties, half of this sum being needed to pay off certain indebtedness. President Andrews said he would like to have the people of Cleveland buy what new stock should be issued.

Andrews thought there would be no serious disagreement on the question of pay-enter cars, though he was inclined to believe the pay-enter system has not yet reached its full growth. He would, however, be in favor of pay-enterers.

On the option figure, the mayor held with Baker that 110 was sufficiently high.

"As far as possible, we want to remove the extent of possible fluctuation," he said. "The local small investor doesn't want to be a gambler in any sense. The lower the figure, the less opportunity for speculative sweep." On this latter President Andrews held against the mayor.

The mayor thought if the stock were properly managed, millions of it could be put on the market.

Andrews went on record against allowing people to stand on back platforms.

"I don't think the system can ever succeed if we allow it," he declared. It causes delay and crowding, and is being dropped by other cities," he said.

Attorney J. G. White's suggestion that any section of the city, aggrieved because of service in that section, might get up a petition and have the matter submitted to arbitration, was discussed.

FIXES 3-CENT FARE FOR INITIAL RATE

Council Determines First and Highest Charges Railway Will be Allowed.

Also Votes to Keep Control of Service, as Baker Draft Provides.

ANDREWS IS NOT PLEASSED

After Days of Discussion City Council Takes Stand on Fundamental Fare Question, Fixing Initial and Maximum Rates—Cleveland Railway Head Declares Terms Impossible—Council Receives Ordinance Granting New Company Rights to Develop Subway System in City.

Latest Traction Moves.

At special council meeting yesterday Supt. Bemis was called upon in resolution to prepare statements giving value of lines based upon the Goff-Johnson report, together with value of unexpired franchises.

President Andrews of the Cleveland Railway intimates that chance for settlement will be much impaired if the council insists on a revaluation of the property.

Maximum and initial rate of fare was fixed and agreement was made to keep the control of street railway service in the hands of the council.

The initial rate is to be 3-cent fare and a penny for transfer. The maximum rate will be seven tickets for a quarter and no charge for transfers, the cash rate being 5 cents. President Andrews refuses to accept the provisions named.

An ordinance granting the Cleveland Subway Co. the right to construct and operate a subway system is introduced.

Meeting as a committee of the whole the members of the city council last night voted to fix a maximum rate of fare of seven tickets for 25 cents with free transfers in the pending Talyer peace ordinance and to make the initial rate 3-cent fare with an additional penny for a transfer.

The council also voted to keep the control of street railway service as provided in the Baker draft of the ordinance but with a slight change that permits the company to appeal to a board of arbitrators when it feels that the council by its demands is impairing its power to make 6 per cent. on the investment.

At the close of the meeting President Andrews declared that both the fare and the city control provisions

agreed on by the council were impossible and could not be accepted.

Another feature of last night's traction developments was the introduction of an ordinance in the city council granting the Cleveland Subway Co. the right to construct a subway system of street railways beneath the main thoroughfares of the city. Ex-Senator Thomas P. Schmidt and his friends are interested in the project but Mayor Johnson denied last evening that the movement was a part of low fare warfare.

One by one amendments to thirteen ordinances calling for bids on the low fare grants covering territory where franchise rights expire next January were read by City Solicitor Baker at the meeting of the committee of the whole. The amendments were agreed to by the committee of the whole and the ordinances at the subsequent meeting were placed on second reading.

Superior Deposit is Biggest.

The dates fixed for the receiving of bids are May 10, 11 and 12 and a bidder on all thirteen of the ordinances will have to deposit \$255,000. The highest amount fixed as a deposit for a single line is that of \$45,000 named in the Superior-av. line ordinance. A deposit of \$50,000 is required in the case of the ordinances covering E. 93d-st. and E. 105th-st. lines, which combined form the present E. 105th-st. line.

Supt. Bemis of the water works department estimated last evening that the initial fare agreed upon by the council meant an average rate of fare of 3.25 cents and that the maximum rate meant an average rate of fare of 3.70 cents. An increase from the initial rate to the maximum will mean an addition of \$500,000 to the yearly earnings of the company, Supt. Bemis estimates.

After the meeting last evening President Andrews expressed regret at the vote taken by the council and stated that all that had been done before had been undone by this action.

"There is no use in agreeing to such provisions if there is no one to agree with," he said. "Both provisions are impossible." Mr. Andrews expressed an opinion during the session when the rates of fare as low as those agreed upon by members of the council were suggested that the system could not be financed under such terms.

At the opening of the meeting City Solicitor Baker suggested that a provision might be left in the ordinance that would allow the council to pass a new ordinance that could be submitted to a vote of the people in the event that another maximum fare was sought by the company. This suggestion was commented upon favorably by President Andrews, but the matter was lost sight of later when votes were taken on definite rates of fare.

President Andrews declared in opening that Judge Tayler's bond plan for the financing of the system would not be to the interest of stockholders.

"I would hope to see the bonds paid off as far as possible," he said.

"I agree with Mr. Andrews on that point," said Mayor Johnson. "It ought to be a stock proposition instead of a bond one."

When the mayor called for a motion on the question of the maximum rate of fare City Solicitor Baker

moved that the maximum rate of fare be 5-cent cash fare, seven tickets for a quarter with 1 cent additional for a transfer. Councilman Zinner moved to amend this by substituting 4-cent cash fare for the 5-cent provision but the amendment was defeated by a vote of eighteen to nine.

As a substitute to the original motion Councilman Wertman moved that the maximum rate of fare be made seven tickets for 25 cents. The substitute was agreed to by a vote of

eighteen to twelve and a motion by Councilman Koch that the initial fare be made 3 cents with a penny for a transfer, also carried.

As at a previous meeting Councilman Horner declared that he was not in favor of starting with a lower rate of fare than the other schedules provided in the ordinance, because it would be deceptive and appeared to be an attempt to trick the public into voting for the grant.

Twenty-two members of the council voted for the plan to have control of the service of the street railway lines kept in the hands of the council. Councilmen Wright, Horner and Remy voted against this plan. Horner moved that 10 per cent. of the voters of a ward be given the right to petition for the creation of a board of arbitration in instances where there was a decrease in service. This plan was voted down. Councilman Walz voted with the Republicans in favor of this suggestion.

At the request of Secretary Harry D. Thomas of the United Trades and Labor council representatives of the organization will be given a hearing Monday noon by the council. The organization wishes to have its representatives present their views on the street railway ordinance.

City Solicitor Baker also suggested restriction as to the bringing into the city of freight cars.

council chamber.

City Solicitor Baker has been at work on this tabulation for the past few days. It will show that there are forty-nine points of difference and that fourteen of these are of a minor character. It is expected that negotiations will be materially aided by this statement as each item in the list can be gone over without referring to the original ordinances.

Councilman Haserodt declared yesterday that he is not in favor of the feature of the ordinance drawn up by City Solicitor Baker, which provides that the salaries paid by railroad companies in three cities shall serve as a basis for the salary schedule of motormen and conductors in Cleveland.

He declared yesterday that a maximum salary of 30 cents an hour should be provided and that it should be stipulated in the ordinance that the company could not go above this rate without making application to the city council.

"The 30-cent rate will mean \$3 for a ten-hour day," said Haserodt.

BAKER WANTS CITY TO RUN HOSPITALS

Solicitor Proposes That All Institutions for Sick be Under Municipality.

Prefers This Plan to Taxing People to Pay for Charity Patients.

At a meeting in the office of Mayor Johnson yesterday with representatives of eleven of the leading hospitals of Cleveland, City Solicitor Baker proposed that all the private hospitals be turned over to the city so that the city could conduct them.

This suggestion was made by Mr. Baker after he and Mayor Johnson had spoken against the plan of authorizing a tax levy to pay for the care of at least half of the charity patients treated at the private hospitals.

The law gives cities the right to make a levy for such a purpose, but Cleveland has never availed itself of the power under the existing statute. It was to lay before Mayor Johnson and the city solicitor the plan of making this provision at the present time that the committee representing the eleven large Cleveland hospitals called at the mayor's office yesterday.

Both the mayor and the city solicitor admitted that the city's facilities for handling all of the charity patients have been inadequate but both expressed opposition to the plan of levying a tax to assist in paying for the support of those cared for by the private hospitals, on the ground that it is the function of the city to care for charity patients.

Calls Proposal Frivolous.

When City Solicitor Baker suggested further that all the private hospitals should be run by the city Dr. F. E. Buhts, one of the members of the committee, declared that the

MAY ABANDON TRAINS.

American Conductors in Mexico Protest Against Inspectors and Daily Checking Up.

MEXICO CITY, April 5.—While neither side will talk, according to current rumor it is probable that every American passenger conductor employed by the merged roads of Mexico will either resign or submit to a daily checking up of accounts by Mexican train inspectors, who were put on all trains on April 1, over the vigorous protests of the conductors.

STUDY TRACTION BILLS BY TABLE

Council Will Go Over Ordinances by Solicitor Baker and John G. White.

Tabulation Will Show Differences Between Two Measures.

A printed statement showing in tabulated form every point of difference that exists between the street railway ordinance prepared by City Solicitor Baker and that drawn up by Attorney John G. White will be presented to each member of the city council at the opening of the public meeting of the council committee of the whole this morning in the city

remark was frivolous and that the proposition made by the city solicitor was absurd.

"It would be absurd to give up the work of thirty years of humane effort and turn it over to the city because the city has been remiss," Dr. Bunts said.

Notwithstanding the opposition of the mayor and city solicitor the committee will not abandon its efforts to obtain the levy. Chairman M. A. Fanning of the committee announced after the meeting yesterday that the committee of hospital representatives would meet today and that a direct appeal to the council may be decided upon.

It is probable that a communication will be sent to the council asking for a hearing before the proper council committees. It was the hope of the committee that provision for the levy would be made in the budget of the mayor that reached the council Monday night, but the mayor pointed out that it provided for the erection of a new city hospital building and additions to the present structure.

The committee that called upon the mayor yesterday consisted of M. A. Fanning, chairman; Dr. J. F. Gallagher, Dr. F. E. Bunts, Dr. A. J. Ranney, Dr. Joseph Hobson, Dr. T. A. Burke, Elroy M. Avery, Henry Sensel, R. E. Collins, Wilfred Mahon and Rev. Francis T. Moran. The following hospitals were represented by the committee: Mt. Sinal, German, St. Luke's, St. Ann's, St. Vincent's, Lakeside, Huron-rd., Maternity, Lutheran, St. John's and St. Alexis.

The law gives the council the authority to cause a tax not exceeding one mill on the dollar to be levied on each dollar of taxable property for the support of indigent patients cared for without charge by the private hospitals.

Chairman Fanning urged that the hospitals have had great difficulty in collecting the \$250,000 which is expended annually in the care of indigent patients and that the city cannot possibly care for all of the charity patients. He suggested that at least half of the amount expended should be turned back to the hospitals by the city. This would require a levy of half a mill. He further pointed out that some indigent people would rather die in their homes than be taken to the City hospital and that it was only fair that the city should assist in the care of these people.

In reply the mayor said that the care of indigent patients was particularly the city's business and that he did not approve of delegating the authority to any one. He stated further that he realized the city's facilities have been inadequate. He said, however, that provisions for the enlargement of the City hospital have been made in his 1910 budget. The mayor declared that if he were sick he would as willingly go to the City hospital for treatment as to any private institution, and the city solicitor stated that his feelings were the same.

"The city should have ample facilities for the care of all its patients," said Baker, who urged further that although the city has been thus far remiss, all interests ought to get together now and work for the erection of a modern municipal hospital.

Director Cooley expressed an opinion yesterday that \$200,000 of the \$300,000 provided in the mayor's budget for city hospital purposes would be sufficient for the new building. The rest will be used for additions.

HOSPITALS TO TAKE FIGHT TO COUNCIL

Private Institutions Will Go Over Mayor's Head in Request for City Aid.

Disregard Suggestion Establishments be Under Municipality.

A general committee consisting of representatives of all the leading hospitals of the city will meet in the office of M. A. Fanning Saturday afternoon to discuss the next steps in the movement to secure the city council's consent to a tax levy which would assure a contribution from the city toward the support of charity patients kept in the private hospitals.

Mayor Johnson and City Solicitor Baker expressed disapproval of the plan at a meeting with the hospital executive committee Tuesday and the city solicitor further suggested that the city should have the management of all the hospitals.

The executive committee at a meeting yesterday in the office of Chairman Fanning decided to report to the general committee at a meeting Saturday afternoon. Two representatives of each of the following hospitals will be present at the meeting Saturday: St. Clair, St. Ann's, St. Luke's, Huron-rd., St. Alexis, German, Lutheran, St. John's, Lakeside, Maternity, Mt. Sinal, St. Vincent's.

Director Cooley, head of the city charities and correction department, expressed an opinion yesterday that if the city paid a share of the cost of maintaining private hospitals it should also have a voice in the management of the institutions, to the extent of assigning charity cases.

"If money is given to the private hospitals by the city the city should have the power to assign charity cases," he said. "Now we have to take the cases which private hospitals will not take. I believe that the contributions from private sources would fall off if the hospitals were given assistance by the city."

"The city of Cleveland should have a great hospital of its own," asserted Health Officer Friedrich. "The city should lead. Because some of the doctors express disagreement with Mr. Baker in his stand on the question of private hospitals, it does not necessarily follow that all of them are of the same mind. We all of us have a right to our own opinions."

KILL OVER 400 WARRANTS

City Solicitor and Police Prosecutor Decide to Withdraw Useless Accusations.

City Solicitor Newton D. Baker and Police Prosecutor George Baer conferred yesterday over a number of old warrants which had been in the hands of the police for a long time and decided upon the withdrawal of over 400 which had been issued at the instance of the Humane society.

All these warrants were sent out before the society came under its present administration.

Two reasons were given by Prosecutor Baer for the wholesale abandonment of the cases. The first was that General Agent F. D. Poole of the society,

who swore to many warrants, has since severed his connection with the organization, and the other was that, since the complainants were filed, many of the family difficulties which led up to them have been patched up outside of court.

OLD ORDINANCE IS GREATLY CHANGED

City Solicitor Says Draft of New Traction Grant Will Hardly be Known.

Interurbans Expected to Take Stand in Favor of Present Contract.

City Solicitor Baker is making good progress in reconstructing a new street railway ordinance from the original Baker and White drafts.

The modified draft will embody the specific terms agreed upon at the meetings held to date and will be ready for submission to council when the conferences resume on Monday.

Mr. Baker visited Judge Tayler yesterday afternoon with the product of his new labors and a long conference was held. Following the meeting Baker stated that the new draft would not be recognizable, as compared with the original, as so many changes in the text had been made. He will submit the draft to Attorney White today.

The meeting Monday promises sensational developments when the interurban question comes up for discussion again. The interurban companies are greatly opposed to some of the restrictions proposed by Mayor Johnson.

"We are perfectly well satisfied with our present contract with the Cleveland Railway Co.," said an official of one of the leading interurban lines yesterday, significantly. "We think that the Cleveland railway is quite responsible for its contracts and we will hold them to it."

This statement is taken as an intimation that the interurban lines will stand upon their contract rights with the local lines and decline to make terms with the city.

Since the new subway scheme came into the limelight as a possible factor in the street railway tangle some of the interurban managers think they see a plot to bring them into a favorable frame of mind for dealing with a new down town terminal company on terms favoring the latter. They make the claim that the city is throwing in obstacles to their operation over the surface lines, so that they will be glad to fall in line with negotiations with the subway company, which has been heralded as an interurban rather than a city project.

The interurban managers have taken these facts as an explanation for the demand that they modify their terms with the city lines under the new Tayler ordinance. They say, however, that if the subway company is adequately financed by responsible people and a feasible project is submitted by which they can get down

town over fast terminals they are ready to meet the proposal.

The intimations given out are, however, that they will not abandon their present contracts with the Cleveland Railway Co.

It was stated at the headquarters of the Nickel Plate yesterday that the proposed scheme to electrify the tracks of the latter within the city has never been formally presented to officials of the road.

A hearing will be given at 9:30 this morning in Judge Tayler's court on Special Master Belford's report on preferred claims, and it is expected that the court will order a disbursement to creditors of the Municipal Traction Co. The amount available is in the neighborhood of \$300,000. It should be disbursed before tax listing day or it will be subjected to the usual appraisal for taxation.

SUBURBAN MEN AND TOM 13CTS APART ON TOLLS

Traction Men Want to Pay 18 Cents a Mile — Mayor Demands 31 Cents.

Mayor Tom and Horace Andrews of the Cleveland Railway Co. steered clear of the question of fare at the council meeting Tuesday, and gave most of their time to a discussion of the charge to be made the interurban lines for the use of the city's tracks.

They are trying to agree on a franchise, based on Judge Tayler's plan of a fare large enough to yield 6 per cent to investors.

The mayor thinks this charge should be 31 cents a mile on each trip of each car. The interurbans are not willing to pay more than 18 cents.

The mayor wants city crews put on the interurbans at the city limits.

HARDSHIP, THEY SAY.

The interurbans say this would be an unjust hardship for them.

Mayor Tom wanted but one fare charged on the Lorain line between the city limits and the Public square and on the A., B. & C. from Garfield park to the square.

"If this is not done we may have to give the city lines the right to operate on additional tracks within the city," he said.

Atty. Gale, for the C. P. & E., insisted that the company be given the right to retain more than 1 cent of every 5-cent fare collected on the St. Clair line from Stop 119 to the square. He said the company was operating over three and one-half miles of its own tracks from that point to the square.

Atty. Hogsett wanted a clause in the ordinance permitting interurban cars to use the subways if these were ever built.

MUST BE METAL.

"If the privilege is granted it must be provided that all cars shall be metal," said Mayor Tom. Solicitor Baker declared he was opposed to interurbans using the tunnels at all.

The interurbans also want the right to charge 5-cent cash far on all lines, with 10 cents on Euclid-av from East Cleveland. The cars to run over the city lines are not to exceed 80,000 pounds in weight and the rental to be paid is to be adjusted every five years.

Shivers in Tent Opener for Excell--99 Faithfuls Attend



It was so cold at the Democratic congressional campaign opening Tuesday night in Mayor Tom's tent at E. 51st-st and Superior-av that inside the big tent the hardy canvassmen put up a smaller tent, in which they kept from freezing by the heat of a gasoline torch.

Besides the canvassmen there were present Safer Excell, candidate; Mayor Tom, Solicitor Baker, Server Cooley, Mayor's Secretary Gongwer and Councilman Hasebrodt, with about 99 members of the Twenty-third Ward Democratic club; also one cartoonist.

When it came Mayor Tom's turn to speak he took off his overcoat for two minutes, so that the cartoonist could sketch him in a full dress suit. Then he made some apologies about the cold.

TOM READY FOR DANCE.

Mayor Tom said that after the meeting he was going to the Chamber of Commerce and then to a dance, and that he was glad that he was not too old to two-step.

Baker turned down the corners of his overcoat collar so as to un-

cover his mouth. He said he was for Excell for congress because Excell stood against ship subsidy and upward revision of the tariff.

Mayor Tom said he was for Excell for the same reasons, and also for the tuberculosis bonds, the grade crossing bonds and the viaduct bonds.

EXCELL'S STAND.

Matt B. Excell, candidate from the twenty-first district, started off with, "They say I'm a joke, but Cassidy won't debate with me."

Excell said Jas. H. Cassidy, rival candidate, stood for ship subsidy and upward tariff revision.

"I am not using a cent of money in this campaign," he said, and he declared against government by injunction.

CASSIDY IN EAST-END.

Cassidy addressed meetings in the twenty-fifth and twenty-sixth wards Tuesday night. He said he believed coal and lumber should be on the free list, and commended the Payne tariff bill in all other details. He told what he proposed to do for the Cleveland harbor, if elected.

Final arrangements have been made for the Republican mass meeting Saturday night in a tent at E. 55th-st and Cedar-av.

The speakers will be Senator Burton, Congressman Duncan E. McKinley of California, and Candidate Cassidy. Former Gov. Herrick will be chairman.

The Democratic tent meeting Wednesday night will be at Buckeye-rd and E. 93d-st. Mayor Tom, Excell, Baker and Cooley will speak. Republican meetings will be at the Tippecanoe club and in Marxon's hall, St. Clair-av and E. 72d-st.

Political Meetings Tonight.

DEMOCRATIC.

Tent, Woodland-av., S. E., and E. 33d-st.—Speakers, Mayor Johnson, M. B. Excell, Newton D. Baker and Harris R. Cooley.

Instructions had been given by the council in special session yesterday morning to the city solicitor to prepare an ordinance or ordinances as nearly as possible patterned after the Judge Tayler plan for consideration of the council at the next regular meeting on March 22.

Ho, for the Marathon in Speed, and

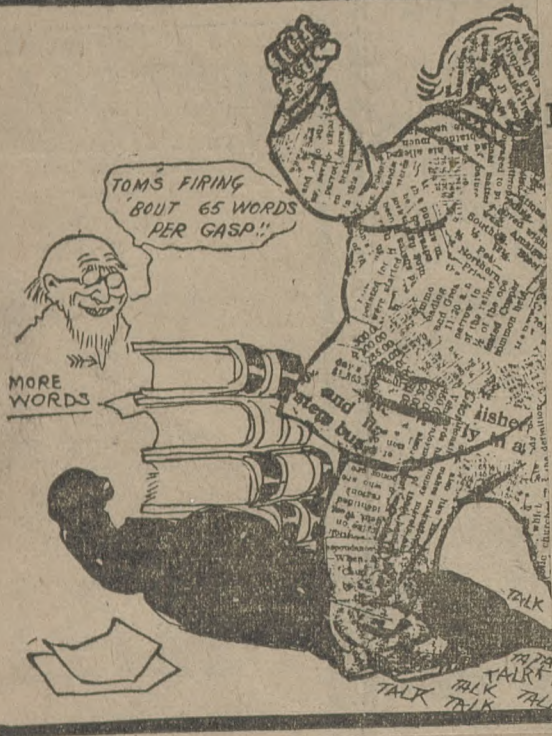
VAUDEVILLE AT HIP AGAIN; THEN SUMMER CHANGE

Now Policy for Warm Months at Big Playhouse—Gossip of Stage.

With the closing of the circus at Keith's Hippodrome, Manager Daniels announces four more weeks of vaudeville, ending May 22.

The theater will be opened May 24 under a change of policy that will last through the summer. Daniels declines to make public the nature of the entertainment.

In the remaining four weeks Daniels will have as the stars of his shows, Harry Bulger, Alice Lloyd and Annette Kellerman. Miss Kellerman, known as "The Diving Venus," was a sensation in New York for many weeks. Wm. Morris took her away from Keith, who went to the courts, and the latter decided she must fill her Keith engagements. She will be here two weeks, May 10 and 17. Marie Cahill has decided to



Attractions in the Cleveland theaters week of April 26 will be: **OPERA HOUSE.**

"The Round Up," of whose success every theatergoer has heard much, is sent here by Klaw & Erlanger.

The great endurance conversazione or Marathon talkfest reached its thirty-first session in the city council chambers Friday, when Mayor Tom lined up against Horace Andrews, with each ably supported by a prize corps of assistant conversationalists, discussionists, disputants, figure sharks and controversialists.

The rumor gained ground early in the day that the subject of the endurance conversazione was to be "the street car question," which appears to have to do a greater or less extent with street cars.

JUST WHAT THAT RUMOR IS BASED UPON.

This rumor was based on the fact that this street car question, whatever it is, was subject of discussion at the previous 30 meetings.

The writer, after sitting through the thirty-first session and listening as attentively as possible to the most exciting of the figures, averages, terms, phrases, statistics and other hot stuff, is able to say that the rumor is indeed true. The talk was mostly about street cars.

OVERHEAD CHARGES PROVE DRY STUFF.

True, some reference was made to overhead charges. But persons in the audience, finding themselves unfamiliar with the nature or habits of overhead charges, and finding themselves unable to grasp the explanations offered, gave little attention to this talk. They said they did not care for overhead charges, and attempted to give out the impression they did not approve of overhead charges.

But no matter.

The important part of it all is this: When the session ended Mayor Tom still led by as many as 75,000

words, and his friends expressed confidence that Horace Andrews would never catch up.

Others made excellent scores at Friday's sessions of the endurance conversazione.

HERE'S THE SCORE: ABOUT 700,000 WORDS.

In all, between 650,000 and 700,000 words have been said since the Marathon started. Or rather, this is the number of words the stenographers have caught. It is just possible that some good words may have got away from them, but probably not enough materially to affect the results or justify a recount.

There were two sessions of the Marathon Friday. The first was in the morning. Mayor Tom, as chairman of the meeting, opened it. And right here it should be said in justice to Horace Andrews that Mayor Tom's position as chairman gives him a great advantage.

He gets in more or less talk in opening or closing the meetings for which Mr. Andrews has no come back.

WHEN IT COMES TO SPEED, NEWT'S ALL THERE.

Newton D. Baker can talk more rapidly than most of the others who are inclined to set their pace by watches, forgetting that it's the number of words quite as much as the time of the speeches that will count in the results.

In one recent meeting Mr. Baker started to sit down, and between the time he started and the time he was there he said 305 words, and when it was over the stenographer had to stop the conversazione and get a drink.

The immediate subject of the first session Friday was the wear and tear on tracks caused by suburban cars running over the tracks. Mayor Tom opened the conversation.

He said 509 words.

AND HORACE COMES BACK WITH 667.

As Mayor Tom paused to note the effect of his 509 words, Mr. Andrews rose in his place, glanced calmly about the council chamber, raised his hand in an appropriate gesture, and said 667 words.

Du Pont sprang to his feet and said 87 words. These, of course, counted for Mayor Tom.

Score:

Mayor Tom, 596 words.

Horace Andrews, 667 words.

Mayor Tom gave the sign to Bemis, who comes to all the meetings with a satchel of statistics and figures. Bemis sprang into the breach and recited 321 words, which brought Mayor Tom's score to 917 words and put him 250 words in the lead.

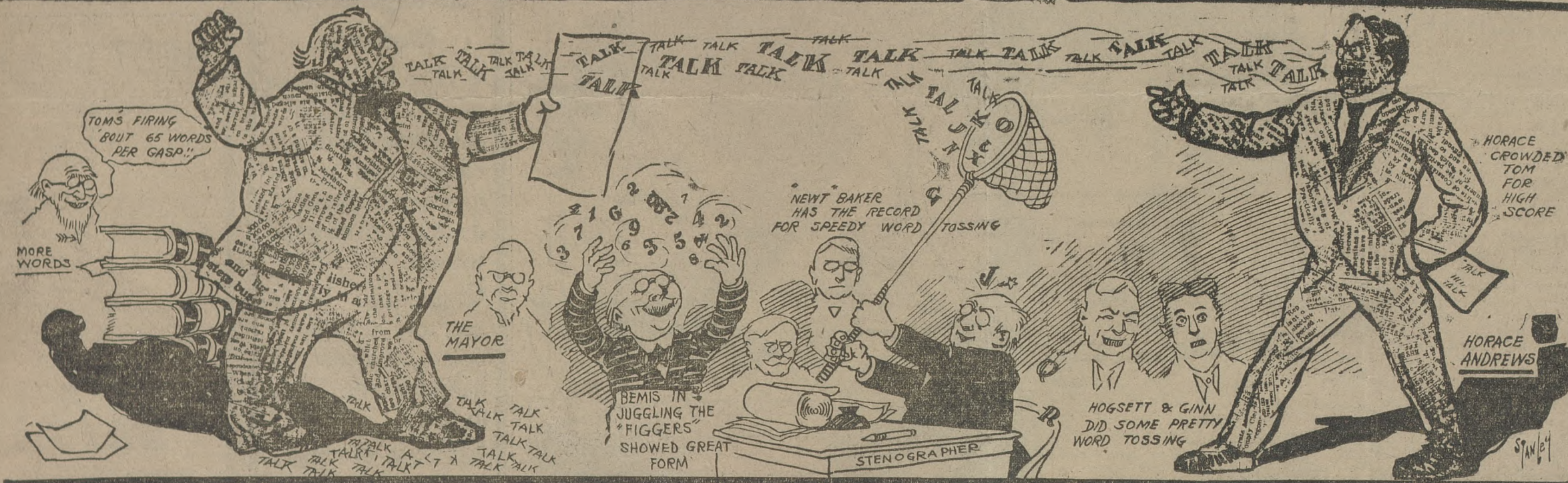
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a bit of talk from time to time. It's in fact a meeting of the council committee of the whole. Councilmen Zinner, Haserodt, Selzer and Horner have all scored in the Marathon.

Councilmen Gribben sits through all the sessions, but hasn't said anything yet. Some think he has resolved not to say anything. Others maintain he is saving his strength and plans to come in for a great spurt near the end of the conversazione when the others are exhausted.

Whitla and Cochran conferred with Chief Kohler, City Solicitor Baker and County Prosecutor Cline. Kohler, after consulting Baker about his power in the matter, agreed to send Police Capt. Shattuck and Detective Wood, who arrested the Boyles, to Mercer.

Ho, for the Marathon Talkfest! Tom Leads in Words, Newt in Speed, and Horace==Well, Horace is Long on Endurance



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duct of the freight so that the city could see what profits were being earned. In addition the city solicitor said that the company ought to be allowed to earn as high as 10 per cent. during the first ten years of operation and after that period 5 per cent. He explained that the company, in his opinion, ought to be allowed to make as high as 10 per cent. because it was an experimental enterprise and that this inducement should be given to capital.

It was agreed at the meeting that Mayor Johnson and the city solicitor will prepare a new draft of the ordinance and changes are to be made in the existing ordinance by Attorney Rawson, in accordance with the many suggestions made by the city officials at yesterday's meeting.

The mayor stated during the meeting that he doubted whether the enterprise could be carried out.

Mayor Tom, City Solicitor Baker and A. B. du Pont, traction expert,

are inveterate pipe smokers. When they are in a crowd and fat, juicy Havanas are passed they decline with thanks and load their briars. At the traction conferences the three pipes and a cloud of smoke are always in evidence. Some of the conferences proved too long for the ordinary supply a pipe smoker carries, and then the three brought cans. But the other day Baker came with a jar full of tobacco and all three got their juice from a central power station.

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MAYOR HAS LITTLE FAITH IN SUBWAY

Tells Promoters That There is Small Chance of One Being Built.

Does Not Discourage Project, However, and Will Protect City.

Underground freight and package service direct to the basements of the large commercial houses of the city was a new development of the subway project which came as a suggestion from President Springborn of the board of public service yesterday at a public meeting called by Mayor Johnson for a consideration of the pending ordinance.

The subway interests were represented at the meeting by ex-Senator Thomas P. Schmidt and Attorney L. Q. Rawson. The latter asserted that the ordinance was being Taylorized when City Solicitor Baker urged that an amendment should be added calling for public accounting in the conduct of the freight so that the city could see what profits were being earned. In addition the city solicitor said that the company ought to be allowed to earn as high as 10 per cent. during the first ten years of operation and after that period 3 per cent. He explained that the company, in his opinion, ought to be allowed to make as high as 10 per cent. because it was an experimental enterprise and that this inducement should be given to capital.

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AND NEWTON D. HAD TO ADDRESS MASTER BAKERS

Mayor Thinks Not of Solicitor's Last Name and Sends Him to Convention.

The master bakers of Ohio are holding their convention at the Hollenden.

Among them are bread bakers, coffee cake bakers, cruller bakers, and bakers of cream puffs, chocolate eclairs, pie, jelly roll, apple strudel, and even of seed cake.

But there are no cracker bakers. Cracker bakers have their own convention. So also do the pretzel varnishers.

Mayor Tom was to have addressed the bakers Wednesday, but sent Newton D. instead.

Let no one think there is going to be a joke here on Newton D.'s last.

The writer may so far forget himself as to say the bread bakers loafed around, but the last name of Newton D. shall not be mentioned.

Simon Hubig of Cincinnati, president of the association, made a speech, and Adolph Boettler of St. Louis spoke on "Future Outlook of the Bread Business in the United States." He said it looked good.

A resolution was prepared condemning the cornering of wheat.

Wives and daughters of bakers were given a reception and dance Tuesday night.

ATTACKS CONSENT LAW.

Solicitor Baker Says Supreme Court Will Have to Declare it Unconstitutional.

When Judge Phillips opened court yesterday morning to begin the hearing on the Edward S. Isom injunction case against the Low Fare Railway Co., the attorney for the Low Fare company offered a counter motion to that presented by the plaintiff, asking a decree in their favor on the facts and pleadings presented.

The day was taken up almost entirely with arguments upon the constitutionality of the law of consents. City Solicitor Baker attacked the law and declared confidently that the supreme court would have to declare it unconstitutional and at the same time back out of its decision in the Parrish case.

The Ohio supreme court stands alone in its reasoning in the Parrish case, in which case it held that it was moral and proper to barter consents of property owners for the construction of street railways in the same manner that merchandise might be bought and sold.

COUNCIL MUST SAY AS TO FIREWORKS

City Solicitor Rules Service Board Can't Give Society Desired Permit.

Proposal to Allow Small Crackers Will Also be Made.

City Solicitor Baker ruled yesterday that the board of public service would have no authority to issue a permit to members of the Sycamore club for a fireworks display in Brookside park on the evening of the Fourth of July.

"The council alone can authorize the celebration," Baker said. "The board of public service cannot issue a permit."

In addition to passing on this subject the council will have to vote on an amendment to the Pfahl anti-fireworks ordinance that will permit the use of small firecrackers, pin wheels and colored lights. The amendment will be introduced by Councilman Pelcinski.

"I don't forget that it was a child once," he said yesterday. "I voted against the Pfahl ordinance. The children should be allowed to have some pleasure on the Fourth of July. We should allow them to use the fireworks which are harmless. I hope that members of the council will approve my amendment."

While the evening celebration in Brookside park was not planned as a Sycamore club affair, active members of the organization approached Secretary Moore of the park department regarding the question of a permit. Moore carried the question to Director Leslie and the latter placed it in the hands of the city solicitor.

Councilman Pfahl, father of the anti-fireworks ordinance, said last night that he would not vote for Pelcinski's amendment or for any other amendment that might be introduced.

"I am in favor of giving the ordinance a test so that the people of the city can see how they like a Fourth of July without fireworks," he said. "I believe that the ordinance should be allowed to stand exactly as it was passed. Cleveland has been advertised all over the country on account of the passage of this ordinance and I believe that we should give the plan a trial."

RAILWAY TO SHOW CAUSE.

Meeting at City Hall Today Will Determine Finally That Street Barricade.

The question of the right of the Pennsylvania railroad to construct a barricade at the Grand-av. crossing will be discussed at a meeting between city and railroad officials in the office of City Solicitor Baker at 9:30 o'clock this morning.

Supt. Hamilton of the Pennsylvania, will be present at the meeting at the invitation of President Springborn of the board of public service, who notified the railroad official several days ago that the council had adopted a resolution calling upon the service board to remove the obstruction at the Grand-av. crossing.

Councilman French, author of the resolution has also been asked to appear at the meeting. French stated yesterday that he had arranged for Robert Crosser, his attorney, to be present. Crosser assisted Councilman French in an investigation of the records relating to the property that the Pennsylvania tracks now cross.

LAKE FRONT DOCK PROBLEM SETTLED

Passenger Steamer Lines and
City Officials Agree on
Use of E. 9th-st. Pier.

Companies to Expend \$205,-
000 and Control Dock for
Thirty-Five Years.

NEW CAR LINE PLANNED

Arrangement Made at Special
Meeting in Mayor's Office Yester-
day—Compromise on Rental Re-
sults in Settlement—Improved
Property Will Revert to City—
Will Begin Work in Near Future
—Special Railway Will Accom-
modate Passengers.

City and passenger boat company representatives have at last reached a tentative agreement as to the terms of the lease that is to govern the boat lines' use of the westerly lake front pier at E. 9th-st. for a period of years.

As a compromise rental suggestion City Solicitor Baker yesterday named \$3,500 a year for the first ten years, \$4,500 a year for the second ten years, and \$5,500 a year for the third ten-year period, and added five years' use on condition that at the end of the thirty-five years' period the city could regain complete ownership, including all of the improvements put in by the companies, which in all will amount to about \$205,000.

This suggestion was made at a meeting in the office of Mayor Johnson at noon, attended by the mayor, City Solicitor Baker, President Springborn of the board of public service, D. C. McIntyre, general freight traffic manager of the D. & C., and T. F. Newman, general manager of the C. & B.

The rental proposition that caused a split some months ago called for the payment of \$3,500 a year for a thirty-year period. As this would have left a balance of \$100,000 that the city would have to pay at the end of

TERMINAL CAN BE BUILT BY SPRING.

D. C. McIntyre of the D. & C. line declared last evening that if the council passed an ordinance in June or early July the companies could get a start on the improvement that would enable them to

have the work completed by the opening of navigation next spring.

A definite answer to the city's new proposition will probably be made by the boat companies tomorrow, as McIntyre has already written to the directors of the D. & C. at Detroit explaining the new terms made by the city and stating that he approved of them.

The companies have already decided on plans for their passenger depot.

thirty years in order to get complete possession of the property, Baker and Springborn both objected to the plan when it was first proposed by Mayor Johnson. The mayor afterward said that he was inclined to agree with Baker and Springborn after further consideration of the question and as the representatives of the companies stated that they would pay no more than this the negotiations came to a standstill.

Compromise Brings Settlement.

When Baker made his compromise suggestion yesterday both Newman and McIntyre stated that they would tentatively agree to the proposition and the meeting came to a close with this general understanding. In addition, both boat company representatives agreed to the plan of starting work in advance of the passage of a new state law making certain the city's right to lease piers if the council passed an ordinance that was satisfactory to them.

Street railway connections with the pier may be made through an ordinance granting the two boat companies a franchise to construct and operate a line of their own to the pier. This would probably be in use at the hours when passengers go to and return from the boats. The mayor and city solicitor both agreed to do what they could to assist in the passage of an ordinance of this character, as it was generally admitted that without the assurance of proper street railway connections it would be impossible to carry out the plan of transferring the large passenger boats to the lake front.

Will Ask Bids for New Railway.

The council will have to go through the form of advertising for bids when the two companies apply for the street railway franchise, but it is not considered likely that there will be any other bidders. At the opening of the meeting Mr. McIntyre asked the mayor whether he was still of the opinion that the companies ought to pay more than \$3,500 a year for the use of the pier and the mayor declared that he had not changed his stand on that question. The two boat representatives declared that they were not prepared to go above that figure and Springborn then suggested a compromise figure of \$4,500 a year. City Solicitor Baker declared that he did not approve of these terms, as they still would leave the city with \$77,000 to

pay at the end of the thirty-year period, in order to regain possession of the property.

The suggestion of a thirty-five-year term and a sliding rental arrangement was then advanced by him and all present seemed to favor the plan.

Under the present plan the boat companies are to advance the sum of \$55,000 to the city for the construction of the necessary improvements along E. 9th-st. and the lake front and the companies will expend in addition \$150,000 on the improvement of the westerly lake front pier and the erection of the necessary buildings.

BAKER DENOUNCES RACE AS BRUTAL

City Solicitor Makes Warm
Attack on Marathon, but
Protest is Too Late.

Pelcinski Fails to Get Fire-
works Amendment Out
of Committee.

The City Council Last Night:

Received a communication from the railroads suggesting that the city contribute the land needed for a new union depot.

Tabled the resolution by Dr. Walz warning the board of public service against holding a Marathon race with a fifteen-mile course.

Passed an ordinance paving the way for the construction of the new section of the intercepting sewer costing \$325,000.

Passed an ordinance authorizing the expenditure of \$6,650 for the opening of E. 65th-st., from Carnegie to Cedar-avs.

Passed an ordinance authorizing the purchase of a \$2,500 automobile for the waterworks department.

Received the electoral code and an ordinance authorizing the reorganization of the building inspector's office.

Received a new lake front pier ordinance embodying the rental features agreed upon at the meeting of city and passenger boat officials several several days ago.

"Murderous, brutal, wrong, vicious and dangerous" were adjectives used by City Solicitor Baker last night in addressing the city council on the fifteen-mile Marathon race that is to be conducted by the park department next Saturday afternoon.

Baker threw a bombshell into the administration ranks by making a strong appeal for the Walz anti-Marathon race resolution. The appeal came too late, however, as the city solicitor had arisen after a motion made by Councilman Zinner to lay the Walz resolution on the table had carried.

Baker made his address on the strength of a unanimous vote, but Councilman Walz was not allowed to say a word in behalf of the tabled measure which was merely in the nature of a warning to the board of pub-

lice service regarding the possible effects on the contestants of running a race over a fifteen-mile course.

"I'm not an expert on athletic matters," said the city solicitor, "but I'm entirely satisfied that the Marathon race, as conducted in this city and elsewhere, is a murderous and brutal thing. The board of public service and council ought to discontinue events of that kind. It's far better for a boy to have a fifteen-mile race in him than out of him."

The Walz anti-Marathon resolution was returned to the city council last night with a report from the board of public service, declaring that in the two ten-mile races conducted by the park department previously the contestants had felt no ill effects, and that in other cities the Marathon courses are 26 miles and 385 yards long.

BAKER OBJECTS TO CHAMBER'S REPORT

Mayor's Adviser Contends Accusation of Obstruction is Unjust to His Chief.

Records Sole Vote Against Resolution Asking Judge to Frame Grant.

REPORT DEMANDS ACTION

Speaking for City Administration, City Solicitor Baker Declares That Mayor Has Not Blocked Settlement of Car Problem—Asserts Cry for Immediate Haste in Settlement is a Scare—Chamber Intimates City Government is Trying to Delay Popular Vote.

By practically a unanimous vote the Chamber of Commerce last night adopted the report of the street railway committee urging Federal Judge Tayler to prepare an ordinance embodying his plan of street railway settlement. City Solicitor Baker's was the only dissenting vote of the 300 members present.

When appraised of the action of the chamber last night Judge Tayler stated that he could not say as yet whether he would accept the urgent invitation to prepare an ordinance, or whether if he accepted he would be able to have it ready for presentation at the traction meetings at the city hall this week.

The adverse vote of Solicitor Baker and his vigorous denunciation of the language of the chamber report were taken as the first intimation of a possible adverse attitude upon the part of the administration on the compromise lines laid down last Thursday by Judge Tayler.

Baker's persistent reference to the efficacy of the "club" in bringing the street railway company to terms and

his defense of the proposed Schmidt grant written with a direct statement that it was not the intention of the administration to surrender its position of advantage, were all taken as indications of possible opposition to the compromise plan when the negotiations are resumed next week.

After reading his report Chairman W. R. Warner of the street railway committee, who was introduced by President Brush, said that the mayor has tried to be fair in settling the street railway question, but that he has had bad advisers.

"I believe that the mayor wants to be fair and that he will be fair if he has good advisers," said he.

Mr. Warner then proceeded to tell a story of a caliph of 1,500 years ago who was told that everything he did was just right and who believed it for a time, but finally appointed a man, who always told him the truth. For a year he listened to the truth from this man and finally cut off his head. Then he appointed another man to fill his office and finally cut off his head.

"Our mayor needs such a man," continued Mr. Warner. "He needs some one to tell him the truth. He needs some one to guide him and to assist him in seeing the handwriting on the wall. Will you do it, Mr. Baker? The mayor has had some bad advisers. He has some true friends who will assist him. It's up to the mayor and it's up to his advisers to give him a proper understanding of the true situation."

Calls Report Unfair.

"The report in my judgment is unfair," responded Solicitor Baker. "It puts the council and the mayor in the position of having obstructed negotiations, of having been unwilling to accept the terms proposed by Judge Tayler. Every one of the suggestions made by Judge Tayler have been urged upon Mr. Andrews and he would not accept them until Judge Tayler and his exalted office got back of them. The position of advantage that the city of Cleveland holds tonight is the result of conflict. This conflict has been carried on by the courage of one man. It would be easy to settle now if the Cleveland railway would be allowed to pass its own ordinance.

"I am surprised that the chamber is about to act upon this question without knowing whether the valuation is fair. As public servants it is the duty of the council to be dead sure on this point before a settlement is made.

"The one thing that makes Mr. Andrews say now that he will settle is not Judge Tayler, but the possibility of a competing grant," he said. "Mr. Andrews and his associates have insisted on a lot of things that Judge Tayler has repudiated. I don't believe in being clubbed into submission by inequitable litigation.

"When the civil war was about to be fought all the chambers of commerce north of Mason and Dixon's line were in favor of letting the southern states go. They thought that the continued war would hurt business. The city officials have a sworn duty to fight for the interests of the people. This report is unfair to the mayor and to the council."

In a long preamble the chamber

street railway committee report reviews the eight years' street railway warfare. It declares that the struggle has engendered bitterness and strife, arrayed the suburbs against the city, created varying rates of fare, depreciated both the savings of the wage earners and of the investment classes and raised a doubt as to the good faith of the city in dealing with its public service corporations.

Charges City With Delay.

The report then goes on to review the municipal chaos into which the street railway situation was plunged by the failure of the Municipal Traction Co. and the ensuing receiverships. It declares that the newspapers and the public welcomed the Tayler plan with unqualified assent and charges the city administration with seeking to delay rather than advance a vote of the people on the Tayler plan. It scores the interjection of the Payne-av. 3-cent grant into the situation and protests against the passage of that or any similar grant.

Discussion of the report was opened by W. R. Warner, chairman of the committee.

Dr. Charles S. Howe, president of Case school, taking up the reference made by City Solicitor Baker to the use of the Forest City railroad as a club, declared that there was a strong suspicion that the owners of the club got more for it than it was worth.

"We have had some experience with these short lines before," said Dr. Howe. "It is supposed that the Forest City, which Mr. Baker has referred to as a club, was introduced by disinterested people, but when it came to settlement it will be observed that they were paid full price and a great many people think more than full price. I don't see where the sacrifice comes in. Now we have the spectacle of another short line to be used as a club.

"Why is it that Judge Tayler must be asked to prepare an ordinance? It is because obstacles have been raised at every point by either one side or the other. The situation is at a deadlock. Judge Tayler seems to be the one man that can solve this problem. We ask it of him because we believe in him.

"The property of the Cleveland Electric was taken away from them by a club. They were promised interest and they did not get it. They were promised that the property would be maintained but it has been depreciated and that by the treatment of the city authorities and for no other reason."

In response to a retort from Baker that the terms of settlement proposed a valuation as of Jan. 1, 1908, Dr. Howe said:

"It has never been suggested that the 'club' be revalued."

"We have not only agreed to revalue the 'club,'" came back Baker, "but we have agreed that the new valuation shall fall on the owners of the 'club.'"

Dr. Howe declared in answer to a statement by Supt. Bemis that the receivers had a large amount of funds on hand against maintenance that if the property was allowed to go on at present it would take 50 per cent. instead of 5 per cent. to take care of it. He declared that the property was literally going to ruin.

"The city administration declined to enter into an agreement to leave questions in controversy to Judge Tayler," said Attorney Thomas Hogsett.

"They gave an excuse that they could not delegate their powers. Nobody asked them to. All that was asked was to impose a moral obligation. They declined to do it but proceeded to enact an ordinance granting one Schmidt and his assigns a street railway one one of the streets at 3-cent fare without any obligation."

The people of the city have had enough of clubs; they cost too much. The question is: Will the chamber join with the people that the voice of the master be heard by the servants to the end that this controversy be settled and we will have peace?"

Attorney Homer McKeehan urged a vote of the people on the Tayler plan. He declared that the people who own the streets and who pay the freight want to be heard, that the electors wanted a Tayler ordinance and others to keep their hands off.

"We don't care how pure in mind or conscience is either Mr. Baker or Mr. Andrews. This city is stirred up. It wants a chance to vote, and if the Tayler plan is voted down even then we will have made progress."

Other speakers urgent in the call for an ordinance to be prepared by Judge Tayler were Col. O. J. Hodge, James R. Garfield, W. R. Greer and O. M. Stafford.

MAYOR TOM MAY REFUSE TO GIVE UP 3-CENT CLUB

"What We've Won, We've Fought for," Says Baker; "We Should Fight On."

COUNCIL MAY SPLIT

Administration Possibly Will Insist on Losses or Gains Being Borne Separately.

Mayor Tom may refuse to lay aside the club he has in the Schmidt 3-cent Payne-ay ordinance when he meets with council and Horace Andrews Tuesday at 2 p. m. to consider the Tayler peace plan.

This was indicated Saturday night by City Solicitor Baker, who, so far as known, is the only member of Mayor Tom's cabinet who has been in touch with him since Judge Tayler broached his terms for peace. Baker opposed the adoption of a resolution by the Chamber of Commerce which condemned the Schmidt ordinance as tending to retard traction peace.

CITY SHOULD FIGHT.

"The city never obtained any advantage in street railway matters except by fighting," he said Sunday. "Until the organization of the first 3-cent company it was helpless. Its present advantageous position should not be abandoned."

"Do you believe council should pass the Schmidt ordinance or that it should be held in abeyance pending peace negotiations?" he was asked.

"I do not think it would be proper for me to express any opinion except in open meeting of the council," he answered.

Baker called unfair that portion of the Chamber's resolution which condemned the Schmidt ordinance. "The position of advantage the city holds is the result of conflict. The one thing that makes Mr. Andrews say he will settle is not Judge Tay-

ler, but the possibility of a competing grant."

DANGER OF SPLIT.

Councilmen believe there is danger of a split on valuation. It is thought Mayor Tom will insist on a separation of the Concon and Forest City properties, and that he will demand that all losses or gains on the separate properties be borne by the holders of the stocks in the individual properties.

Cleveland Railway directors will meet Tuesday at 9 a. m. to discuss the Tayler plan. President Horace E. Andrews returned from New York Sunday morning. He immediately sent out the call for the meeting.

"The Cleveland Railway Co. will announce Tuesday that it is ready to accept any ordinance along the Tayler lines," Andrews said Sunday. "No one will object to any feature of the plan. If council will agree to the terms there will be no delay. Although there are some provisions that did not meet with our views, we have no thought of not accepting an ordinance."

TO CAUCUS FIRST.

Democratic councilmen will probably caucus in Mayor Tom's private office Tuesday morning. A program of action will be arranged.

No one seems to know just when Mayor Tom will return to Cleveland. When he left for New York he said he would be back either Saturday or Sunday morning. He had not reached Cleveland Sunday night.

Judge Tayler has not abandoned his effort to get another judge to preside this week in the United States court at Toledo. He will not be able, however, to be here Tuesday. Sunday he said he hoped to return later in the week.

He will not say whether he will grant the request of the Chamber of Commerce to draft an ordinance until he has received formal notice.

HOW THEY VOTED.

Those voting for the maximum proposed by McKenna were: Mayor Tom, Vice Mayor Lapp, City Clerk Witt and Councilmen Bernstein, Dister, Durkin, Feighan, Flandermeyer, French, Gribben, Hanratty, Koch, Kraus, Lowe, Mathels, McKenna, Noss, Pearce, Pelcinski, Schwarzer, Selzer, Thompson, Wertman and Zinner.

Those voting against it: City Solicitor Baker, and Councilmen Flower, Haserodt and Pfahl, Democrats, and Horner, Kramer, Pears, Remy and Wright, Republicans.

Prior to the vote being taken Baker urged the adoption of the maximum of seven tickets for a quarter with a penny charge for a transfer and 5 cents cash fare, including transfers, suggested by Judge Tayler.

ANDREWS HAS NO HOPE.

It was evident at the opening of Wednesday's meeting that Andrews had little expectation of anything being accomplished that would tend toward peace. Mayor Tom asked Andrews whether he had anything to suggest as to what should be considered.

"I have nothing at all that I care to suggest," said Andrews.

It soon developed that City Solicitor Baker has prepared a new section for the ordinance following the provision suggested by Judge Tayler, relative to the surplus earnings during the last 15

years of the grant. Judge Tayler believes this should be used to reduce capitalization. Baker's section provides that any surplus earning in the last 15 years be used:

First, to pay any floating indebtedness;

Second, to pay outstanding bonds;

Third, for the acquisition of capital stock in the hands of a trustee to be named by the company.

The capital stock of the company is to be reduced by the amount paid on floating debts, bonds, or for stock.

Railway officials were inclined yesterday to believe that the protest of Solicitor Baker at the chamber meeting Saturday night against the resolution condemning the 3-cent grant now pending in the city council forecasted trouble at the peace meeting tomorrow. Judge Tayler went over the remarks of Baker with great interest, but withheld any comment.

DEMOCRATS FIGHT MAYOR IN CAUCUS

Vote for Tayler Settlement in Strong Session, but Later Reconsider.

Hot Debates Follow Johnson's Threat to Veto, but Change is Made.

The caucus of Democratic council members in Mayor Johnson's office yesterday afternoon in which the councilmen first voted to accept Judge Tayler's maximum rate of fare and then reconsidered their action on Mayor Johnson's initiative is said to have been the stormiest caucus ever held at the city hall.

Twenty-five of the Democratic members are said to have been present, and at the opening of the traction debate sixteen were unqualifiedly in favor of settlement. City Solicitor Baker is the man whose lead it is declared they followed. Baker and Councilman Flower pleaded strongly for peace, and Flower is one of two councilmen who stood opposed to Mayor Johnson's plan from start to finish.

Baker and Flower made lengthy addresses in favor of the Judge Tayler plan of settlement. Opposing councilmen took the position that since the Cleveland Electric Railway Co., two years ago offered seven tickets for 25 cents in settlement, that it would be fatal to accept any higher rate of fare now. They insisted that this be the maximum.

Views of each Democrat were expressed before a vote was taken, and when it resulted 16 to 9 in favor of accepting Judge Tayler's maximum, Mayor Johnson at once expressed his regrets and said he would feel like vetoing such an ordinance if it was passed.

This provoked warmer discussion, and finally after a number of appeals to stand by the administrator program had been made the caucus members reconsidered their action and by a vote of 23 to 2 decided to support Mayor Johnson's program.

The Question Today.

City Solicitor Baker, who may be considered as in the confidence of Mayor Johnson, indicated by his remarks at the meeting of the Chamber of Commerce that the city administration sees no reason for haste in the settlement of the traction question. Mr. Baker has for years been recognized as the first of the mayor's advisers, and his suggestions have undoubtedly carried considerable weight. He is known as an able lawyer and a man of fearless independence. He has plainly indicated his desire for traction peace. It is, then, doubly deplorable that Mr. Baker should take the position that there is no reason or popular demand for celerity in bringing the negotiations to an end.

Neither Mr. Baker nor the mayor should allow himself to be moved by any feeling of pique against the Chamber of Commerce. Many, probably a large majority, of the members of that body recognize the good that has been accomplished by the city administration; but with a complete unanimity that accurately reflects the sentiment of the community the chamber demands that talk and haggling give place to action. The chamber represents no clique or coterie or element of citizens, but the entire city, when it urges that the latest Tayler proposition be accepted in its entirety and without delay.

Hesitation or procrastination or evasion at this time would be extremely dangerous. Wrangling would be carried to such a limit that the breach which may now be easily closed would become wider than ever. Especially would this be the case were a threat to be made a prominent feature of discussion. The low fare grant on Payne-av., frankly designated as a "club" by the city administration, has no place in the negotiations and should be eliminated. What Cleveland demands is a settlement of existing difficulties and not the beginning of another war. Tactics which savor of bulldozing may have been effective to some extent in the past, but they are worse than useless at the present time. The Cleveland Railway Co. desires to settle and shows a disposition to concede much to bring peace. The threat of the new "club" is peculiarly offensive in that the "club," if it is used at all, will be directed as much against the interest of the old Forest City stockholders, who staunchly supported the mayor in his campaign of competition, as against the formerly hostile interests of the old Cleveland Electric.

There is reason for haste, too, in the poor physical condition of the traction property. The tracks on many streets should be relaid. There are not enough cars to accommodate the summer crowds without great discomfort. There are other improvements that cannot be properly undertaken until the traction business of the city is restored to a stable basis. There is, in fact, every reason in the world for speedy, if not immediate, action; no just cause for further obstruction or postponement.

Many friends of Mayor Johnson believe that he will unhesitatingly accept Judge Tayler's proposition. If he declines it will be upon the basis of the casuistry that he represents the people who elected him for the purpose of securing other terms. The people never made Mr. Johnson mayor for any definite purpose of this kind. The old campaign cry of "immediate three-cent fare and universal transfers" has been proved to be without substance by trial under the mayor's personal direction. What the people desire is settlement on the best terms compatible with present conditions. They believe that these terms are embodied in Judge Tayler's proposition. Mayor Johnson can no longer pose as representing the people if he now declines to urge the city council to sanc-

tion peace. The people demand peace, they are fully satisfied that the Tayler suggestions amply safeguard their interests. If the city administration assumes any position that looks toward evasion or delay they will be representing none but themselves.

Today's meeting should make clear the administration's answer to Judge Tayler. It must be either "yes" or "no." No middle ground is possible. There must either be acceptance, with the allowance of brief, but reasonable, time to fix essential details, or it must be complete rejection and a renewal of the disastrous war, now become wholly needless.

Prospect of Traction Peace Recedes.

The city administration—Mayor Johnson and the council—had it in their power yesterday to end the eight-year traction conflict on terms advantageous to the public which they were elected to serve. By rejecting a vital feature of the Tayler plan, they have again complicated the situation and invited the chaos this community has so good a reason to remember and to fear.

The Cleveland Railway's acceptance of the Tayler suggestions put the issue squarely up to the mayor and council. They met in conference yesterday to give their answer. It unfortunately can be interpreted in but one way. It clearly presages war.

By reiterating its position in favor of a maximum rate of fare much lower than suggested by Judge Tayler, the council practically declared its belief that a continuance of traction war is to be preferred to a settlement upon terms that appeal to the community as fair to both sides. The Tayler compromise plan could not in the nature of the case survive mutilation. It had to be accepted in its entirety or rejected. The council has rejected it.

The Plain Dealer believes that the mayor and the council have committed a grave error—an error whose gravity will become more impressive as time goes on. To the mayor belongs the chief responsibility, for any reasonable recommendation he might have made to the council would have been unquestionably followed.

Judge Tayler's formal withdrawal from further part in the controversy is to be regretted, yet not criticised. The public had a powerful agency for peace while the judge was a member of the traction conferences. But no one will misinterpret his action, for to him it must appear that the administration has wantonly sacrificed the public interest. He could be of no further service.

To City Solicitor Baker, alone among the prominent members of the administration, belongs the credit of seeing through the unimportant details to the vital issues at stake. To him the community owes a debt of gratitude for standing for the public interest against the influence of most of his associates. With him voted last night three Democratic councilmen, Flower, Haserodt and Pfahl, and the Republicans.

The Plain Dealer, while loath to accept yesterday's results as precluding the possibility of a settlement, yet must accept the apparent verdict that peace, if not now impossible, is at least extremely improbable.

City Solicitor Baker and Mayor Johnson worked on the substitute ordinance until a late hour last evening. Mayor Johnson as chairman of the council committee of the whole has called another meeting for 10 o'clock this morning.

CITY AND ANDREWS MAINTAIN STANDS

Council Votes to Defer Final Action on Maximum Fare, but Doesn't Yield.

Railway Head Says Negotiations Are Useless Unless Mayor Concedes.

Democrat City Legislators Caucus on 3-Cent Grants, but Tell Nothing.

RESUME DEBATE TODAY

Traction Issue Still Open, Although Cleveland Railway Head Declares Further Talk is Vain Unless Council Reconsiders Its Action Against Tayler Maximum Fare—Effort to Reopen Question Repulsed by Majority of Council—Railway Directors Meet Today at Noon to Frame Message to Council.

The Traction Crisis.

Council and President Andrews again fail to come to terms on line of procedure; negotiations hang in state of deadlock.

Both sides still refrain from breaking off negotiations; break may come today.

President Andrews repeats that case is hopeless; says only alternative is submission to be clubbed by council; declares he will not be clubbed.

Council talks reconsideration of maximum fare, but finally puts it over until after valuation is settled. Then asks Cleveland Railway board again to consider situation.

Andrews calls board meeting for noon and will meet council again at 2 o'clock.

Democratic councilmen caucus with city officials over plans for the Schmidt grants.

Retail board of Chamber of Commerce declares failure to settle a calamity.

Another emphatic declaration by President Andrews that further negotiations would be useless unless the council reconsiders its course on the Tayler compromise, and an ineffectual effort on the part of members of the council for a reconsideration of the

maximum fare question without reversing its former action, were the only results of yesterday's traction conference.

No headway was made toward patching up the differences at issue, but both sides again refrained from saying the last word that would break off negotiations.

City Solicitor Baker offered a resolution just before adjournment that the board of directors of the railway company be advised by Mr. Andrews of the council efforts to line up a new method of procedure. A meeting of the board has been called for today at noon and another meeting of the council committee of the whole has been called for 2 o'clock this afternoon to receive the reply of the board.

A caucus was held by city officials and Democratic councilmen at the mayor's office at the close of yesterday's meeting to discuss the situation.

Baker Reads Amendments.

The meeting yesterday opened with the reading by City Solicitor Baker of amended clauses to the ordinance incorporating the Judge Tayler provision for the application of surplus funds to the reduction of capital value in the last fifteen-year period of the grant, and providing for the East Cleveland situation.

Baker's provision for East Cleveland provides that the Euclid-av. lines be accepted in the valuation, but that the present Euclid-av. grants be not renewed. The Euclid line would enjoy the same fare as other lines, but the question of dealing with East Cleveland on a new contract would be open by July, 1913, when the present grant expires.

President Andrews, when asked for an opinion on the changes in these sections declined to discuss them while matters of larger moment were still left in an unsettled state.

"I propose instead," said Mr. Andrews, "to state to the council and the mayor the position in which the company finds itself since the council declined to accept Judge Tayler's suggestions. We had felt that the council was committed to settle on the Tayler plan. We endeavored for weeks to harmonize the differences, but we found ourselves unable to agree. Then came the suggestion that all differences be submitted to Judge Tayler, both sides to be bound by the results. Judge Tayler has indicated his views on the disputed points. We have agreed to accept, although in some cases much against our own judgment.

"The maximum rate of fare is the most essential feature. The council by a large majority last night declined to accept the rate of fare named by Judge Tayler. I cannot see the advantage of discussing minor details while placed in an embarrassing position as to the maximum rate of fare.

"Judge Tayler himself has shown his feelings by withdrawing from the negotiations. I myself have tried to have patience, to be fair, to remove all personalities, and to show that we meant what we said when we agreed to settle on the Tayler plan. The council has made that impossible.

"I have nothing further to offer and can see no further use in prolonging these meetings.

"I have had opinions of my own that I have suppressed because I am here in representative capacity. I have restrained my feelings in the interests of the people whose fortunes are all tied up in this property and whose interests as reposed in me I regard as a sacred trust.

"I am very serious when I say that the company has done all that it could. We have now before us the alternative of submission to the council's will or to be clubbed into submission. I myself refuse to be clubbed."

Councilman Walz said that he did not think the negotiations should be broken off for trivial cause. He was willing, he said, to reconsider the question of the maximum rate of fare and to adopt the Tayler maximum if it would reopen the negotiations.

Mayor Johnson several times ruled City Clerk Witt out of order for criticising motives. The mayor finally ordered Witt to take his chair for infraction of the rules.

A resolution offered by City Solicitor Baker that discussion of the maximum rate of fare be deferred for a final determination of the question of valuation was carried. This was put through after much discussion of resolutions designed to reopen the maximum fare question in which several councilmen indicated a desire to reconsider their action of Tuesday night that caused the withdrawal of Judge Tayler.

President Andrews said that the proposal of Mr. Baker did not appeal to him.

"It will simply leave matters open at the end of negotiations for further charges of bad faith," said Andrews. "Settle all these questions first and leave only the valuation for arbitration. This is the plan we were working upon the other day, and I think it the better.

"I will now say," continued President Andrews, "that what I said at the opening of this meeting was at the direction of the board of directors. I called a meeting hastily today and what I said to you was at their instruction."

A substitute to the Baker resolution by Councilman Horner that the Tayler compromise lines as announced on May 28 be taken as the basis for a settlement and that the council go ahead on those lines, was voted down, only the three Republican members present voting for it. Democratic members regarded it as an approval of the Tayler compromise in total and voted against it.

Solicitor Baker moved that the city clerk be instructed to notify the attorneys for the interurbans of the date of the next meeting and ask them to be present to submit their reports.

The Herman Schmidt 3-cent grants were discussed at the caucus of Democratic councilmen in the office of Mayor Johnson yesterday afternoon after the public meeting in the city council chamber. No definite program was outlined. The discussion was of a general character and it was pointed out that future developments would depend on the outcome of this afternoon's meeting.

The Payne-av. grant could be passed at the coming meeting of the council without a suspension of the rules, as it has been given two readings. The extension ordinance covering all of the other territory where franchise rights expire in January of the coming year was given its first reading at the last meeting of the council.

President du Pont of the Municipal said yesterday that if the Schmidt grants were passed there would be only three 5-cent lines left in the city after next January. These would be the Euclid, Broadway and Cedar-av. lines, in his opinion.

"I don't remember any others than these on which a fare of 5 cents could be charged at that time," he said.

Solicitor Baker devoted himself particularly to an explanation and defense of a stipulation in any ordinance that if one or more sections of the ordinance are found invalid the whole grant must fall. Such a provision, he argued with great earnestness, was vital to the protection of the car riders and community.

Mr. Baker explained how attorneys for the railway company would attack every section in the grant providing for the protection of the community if the knocking out of these sections could not affect the privileges extended to the company in the rest of the ordinance.

"I will not fawn upon Judge Tayler," said Solicitor Baker. "It is hardly necessary for me to tell of my great admiration for the man. Yet Judge Tayler has prepared an ordinance of 1,900 lines or more, in every line of which there is the possibility of two law suits.

"But even if Judge Tayler could settle the railway question to the satisfaction of all I would not favor it. That may seem like a surprising statement. But I believe popular government is of more importance than a settlement of the railway question."

Returning to argue for the defeat of the entire ordinance, no matter what the terms, should any of its provisions be declared invalid, Mr. Baker said: "What we are trying to do is to fix an ordinance so that no matter what or how the supreme court rules the provisions for public protection can be enforced or the railway company will have no grant."

MUST NAME MAN TO SUPPLANT SAFERS

Mayor to Appoint Director Under New Code by Aug. 1.

City Solicitor Baker notified Mayor Tom Saturday that under the Payne law he must appoint a director of public safety Aug. 1.

This director will take over the duties of the safety board, including the charity, correction and building departments.

One man will supplant Safers Buckley and Excell. According to Baker the statute provides that members of the service board, Springborn, Cooley and Leslie shall serve out their time.

City Solicitor Baker has decided that validity of petitions cannot be attacked because they were signed prior to the signing of the Schmidt ordinance by Vice Mayor Lapp.

City Solicitor Baker spoke for the Schmidt grant and eulogized Mayor Tom.

Mayor Tom will hold tent meeting at Superior-av and E. 86th-st Monday night. Baker and Witt will also speak.

Mayor Tom, Solicitor Baker and City Clerk Witt will be the speakers at a tent meeting at Superior-av and E. 86th-st, Monday night.

TO SETTLE QUESTION

City Council Expects to Vote on Long Delayed Collinwood Question Shortly.

Members of the city council expect within a week or two to be able to take a vote on the question of annexing Collinwood to Cleveland.

City Solicitor Baker will leave for Columbus this morning to represent the city at the supreme court hearing of the injunction suit brought by W. A. Miner of Collinwood to prevent annexation. The common pleas court last week dissolved the injunction and this action was sustained by the circuit court after a hearing Saturday.

While the council as soon as it receives word of a favorable decision from the supreme court, could take action in one meeting that would bring about a rapid consummation of annexation formalities, Chairman Zinner of the council committee on judiciary is strongly opposed to this course.

COUNCIL HAS LAST WORD.

If Mayor and Commission Oppose Private Hospital Levy, Veto Won't be Final.

If the mayor allows the tax levy ordinance to pass unvetoes, it must still pass the city tax commission, a body that has authority to reject any items of the ordinance that it pleases.

A report in circulation yesterday in city hall circles had it that the matter of allowing the half mill levy for private hospital purposes to stand might be put up to the tax commission. The mayor cannot veto a part of the ordinance, City Solicitor Baker said yesterday.

Should the tax commission vote to throw out the half mill levy the council could reinsert it over the head of the commission by a three-fourths vote.

City Solicitor Baker reviewed the Taylor ordinance and the so-called Baker plan.

"I have fought street car wars with the Condon's shrewd lawyers for eight years, and now I want an ordinance so that if there's any fighting those lawyers will be fighting for the people, to sustain the ordinance," said Baker.

TOM NOT BACK.

Mayor Tom left New York Thursday for Cleveland. He is making the trip in an auto, and will not reach Cleveland in time for Friday's tent meeting at W. 25th-st and Clark-av. City Solicitor Baker and Peter Witt will hold the center of the stage. Dr. Walz may be present. He has said he would attend Mayor Tom's meetings on the Westside, and if given an opportunity he would urge the people to defeat the Schmidt grant.

Baker has abandoned an European trip, planned for this summer, in order to take an active part in the referendum campaign.

HOSPITAL TAX LEVY FOUGHT BY MAYOR

Council, After Argument, Lays Matter Over for Consideration by Baker.

Solicitor Suggests Law May Prevent Funds Going to Institutions.

The City Council Last Night.

PASSED an ordinance authorizing the board of public service to lease the westerly lake front pier, near the foot of E. 9th-st., to the highest bidder.

DECIDED to postpone final action on the city tax levy ordinance for a week after a vigorous debate on the question of the advisability of allowing the special levies for hospital purposes to stand.

AGREED to an amendment to the ordinance reorganizing city departments to conform with the requirements of the Paine law, raising the salary of the director of safety from \$4,000 to \$5,000 a year.

PASSED an ordinance authorizing the diversion of Random-rd., S. E., to allow Belt line grade crossing work to proceed.

RECEIVED an ordinance calling for an additional appropriation of \$1,700 for the zoo bridge in Brookside park.

RECEIVED a formal application from Herman Schmidt asking for extensions to the Payne-av. grant covering all of the territory where present franchise rights expire in January.

Administration councilmen, anticipating immediate action on the tax levy ordinance, at last night's council meeting made a strong effort to cut off the proposed levy of one-half mill for private hospital purposes.

After a long debate in which the mayor joined those who were fighting the proposed half mill levy, Councilman Kramer moved that the matter be held over for a week. This action prevailed.

The postponement was suggested in order to allow City Solicitor Baker further opportunity to examine the laws relating to the special levies for the care of indigent patients in private hospitals. It was suggested by the city solicitor that a sentence in one law declaring that a tax levy is not to be made for religious or sectarian hospitals might prevent nearly all of the city institutions from receiving any of the funds derived from the half mill levy.

"The public ought to control a public hospital," said the mayor. "Public and private interests should not be mixed."

City Solicitor Baker then declared that the law did not give the council any control over the expenditure after the levy had been made.

An amendment to the Flower ordinance calling for a reorganization of city departments under the Paine law, was agreed to. The amendment raises the salary of the director of safety from \$4,000 to \$5,000.

An additional \$1,700 for the Brookside park zoo bridge was authorized by an ordinance introduced. An ordinance authorizing the board of public service to divert Random-rd., S. E. to allow the Belt line grade crossing to proceed, was passed.

URGES PEOPLE TO STAND BY MAYOR

Solicitor Baker Opens Administration's Campaign on the West Side.

Pays Remarkable Tribute to Johnson, Who is Absent From Tent.

CITES MANY SACRIFICES.

Emotionally Declares That Mayor Has Lost Fortune and His Family Has All But Been Exiled Because of His Fight for Public—Speaker Says Executive Cannot Live Many More Years and Only Monument He Wants is Reward of Victory for People.

A remarkable eulogy of Mayor Johnson, as a public officer and a private citizen, featured the opening of the administration campaign for the Schmidt traction ordinance on the West Side last night. The tent, pitched in the heart of the 3-cent fare territory, was filled to capacity.

Taking advantage of the absence of the mayor, City Solicitor Baker paid him tribute with such a display of feeling and sincerity that the voices of enemies within the tent were stilled while friends of the city executive shouted in their enthusiasm. Twice during his forensic effort the voice of the speaker broke with emotion.

The city solicitor approached a meed of praise for his chief that he could not well have pronounced were the mayor present by detailing what depended upon the result of the referendum vote. He portrayed the bitterness and strife of the campaign just ahead. He told of how "venomous shafts of malice and hatred" would be aimed at the mayor. He asked the people of Cleveland to stand by Mayor Johnson in "this, his greatest fight for the people."

"But a few years await Mayor Johnson before the muffled pick will open the grave," said Mr. Baker. "He wants no monument of bronze or marble. But he does want a monument that will be his, if this great railway war is settled and settled right."

Asks Reward for Sacrifice.

"It is up to the people of Cleveland to build this monument by standing by their guns in this campaign—to reward a man who has given everything for the people, to stand by the leader who has constantly bared his face where the blows were the thickest, to stand by a man whose enemies have assailed him with a venom almost beyond belief, a man who has lost rather than put together a for-

tune, a man whose family has all but been exiled because of the bitterness of this great fight."

Solicitor Baker converted his audience into a jury at the opening of his speech. In the simplest language he compared the Baker and Tayler ordinances, section by section and asked his auditors to reflect and return their verdict at the ballot box.

Solicitor Baker stood forth personally to answer criticism of the action of the city council in signifying its intention to revoke the low fare franchises now in the hands of the Cleveland Railway Co. He made no attempt to explain or palliate the action. In vigorous terms he declared the proposed action to be right and just and holy rather than criminal, as charged.

"I abominate the Cleveland Railway Co. directors who repudiated a plain gentlemen's agreement and now presume to hold the low fare lines," he said. "I have told the directors so to their faces. But thank God for the revocable features of the grants. I am glad for any part I played in inserting the revocation clause in the ordinances. It is the evident belief of the railway company that it can steal the golden goose, put it in a bag and get away without any squealing. How mightily mistaken they are."

As at previous meetings Solicitor Baker spent considerable time in explaining what, in his opinion, is the vital necessity of his contention that if any one section of the traction ordinance fails the entire grant must fail.

"Any ordinance whether written by Judge Tayler or not must be so framed that the rights of the people will be preserved no matter how cunning lawyers connive or courts rule," he said. "The voters of this city have the club in their own hands now. If we have got to continue the fight with the railway company the time to fight is before any grant is made and not after. We want an ordinance so framed that the attorneys for the railway will have to fight with the attorneys for the city in order to preserve their privileges."

Councilman Selzer, who presided, and Councilman Bernstein, who opened, told of completed arrangements to pass extensions to the original Schmidt Payne-av. grant at the council meeting Monday night under a suspension of the rules. This means, it was explained, that on Aug. 3 the city will have a chance to get 3-cent fare on 80 per cent. of the lines of the present railway system with universal transfers.

The safeguards to the city, as included in the extension grants, were explained. The crowd was told that every good feature of the Tayler plan was included in the provisions of the Schmidt extensions.

MAYOR TO SUPPORT NEW HOSPITAL TAX

Declares for Levy at Meeting of Council Committee.

Mayor Tom declared favorably Thursday afternoon for the proposed tax of ½ mill to pay for the care of indigent city patients cared for by private hospitals, provided a valid contract between the hospitals and the city can be drawn. City Solicitor Baker believes that under present laws the special tax would be illegal.

HITS AT TAYLER GRANT

City Solicitor Agrees With McKisson That Ordinance Can't Pass Public.

City Solicitor Baker yesterday declared his belief that the people of Cleveland will never ratify the Tayler traction ordinance as it stands at a referendum election. He believes Robert E. McKisson, candidate for the Republican mayoralty nomination, has correctly pronounced the Tayler ordinance to be unpopular.

"McKisson is a shrewd man," says Baker. "There is no doubt in my mind that he has sounded sentiment and discovered the Tayler ordinance to be generally unsatisfactory."

Baker also says McKisson is sadly at sea in his railway solution suggestions.

"If I understand correctly, McKisson says the city should own the railway tracks," says Baker. "Can he explain under what law or in what manner the city is to acquire the tracks or where the money is to come from if there was any way to acquire the property?"

Traction hearings will be resumed at the city hall this afternoon. The council, sitting as a committee of the whole, will consider the Schmidt extension ordinances. Amendments will be proposed to the Tayler ordinance, among them stipulations which both Federal Judge Tayler and the Cleveland Railway Co. have already refused to consider.

A soused gentleman staggered into City Solicitor Newton D. Baker's office in the city hall Saturday morning.

"I'm a driver," he managed to say. "Got fired. Boss owes me some wages yet. I want you to go right down and demand my pay."

"But, my dear sir," protested Baker, "that would be interfering in a private contract between you and your employer. It could not in any way be brought under the head of city business."

"Then you can't get me my money?" queried the jag.

"No. You see"

"Well, say; what are you here for?"

"That's a question I never could answer," said Baker, after the irate driver had steered his course out of the office.

Council May Settle Pier

Problem at Next Meeting.

City Solicitor Baker promised Councilman McClain last night that he would make every effort to have the substitute lake front pier ordinance ready for the council at the coming meeting so that final action can be taken at that time, if it is thought best.

The new ordinance, instead of embodying a lease of the pier just west of the foot of E. 9th-st. to the D. & C. and C. & B. boat lines, will authorize the board of public safety to advertise for bids on a lease.

In a talk with Councilman McClain yesterday General Manager Newman of the C. & B. said that the companies would have the lake front improvements completed by the opening of navigation next spring, if they could start work by Aug. 1.

WON'T FIGHT VOTE BY NEW DECISION

Mayor Says He'll Not Try to Nullify Referendum Because of Machines.

Turns His Face Forward for Schmidt Contest Ahead.

Mayor Johnson will not use the decision of the supreme court knocking out voting machines in an attempt to overthrow the referendum election on the security grant.

"I am not planning any action of the kind," he said yesterday. "I am for the Schmidt grants. The people are for 3-cent fare. You hear it all over the city now. The Schmidt grant will be sustained."

City Solicitor Baker said yesterday that he had no new plans in view as the result of the supreme court's voting machine decision. Councilman Bernstein asserted that he would not vote for the security grant in the event that the election of last fall was overthrown.

"The price paid was too high," he said. "I am against those terms."

"While I am not familiar with the question, it is possible that if the question were carried to court the court would simply throw out the vote in the precincts where voting machines were used instead of throwing out the entire vote.

"This is the usual procedure. If the decision in this case were in favor of those contesting the election it would mean that the security grant would be sustained by a majority of 800 votes."

Secretary Haas of the board of elections said yesterday that votes are only thrown out by the court when fraud is proved and that it would be impossible to go behind the returns.

"The city solicitor has never contended that the machines were illegal," Haas said. "He merely contended that the words 'for' and 'against' should have been used in place of 'yes' and 'no.'"

Deputy Clerk Day of the board of elections is just as positive as Haas in his views on the question of the liability of the overthrow of the last referendum election.

"Both sides accepted the machine vote when they used them for voting," he said. "The mere act of using them for voting purposes meant an acceptance."

The board of elections may discuss the voting machine question at a meeting tomorrow, but the sentiment at the board headquarters yesterday appeared to be against any immediate action on the question of disposing of the seventy-six machines.

BAKER EXPLAINS STAND

City Solicitor Tells View of Tayler-Walz and Tayler-Baker Grants.

Emphasizing the importance of fixing a definite maximum rate of fare in the franchise City Solicitor Baker last night sent the city council a detailed comparison of the Baker-Tayler ordinance and the Walz-Tayler ordinance.

"In section 22 of the Walz ordinance," he declared, "the maximum rate of fare is fixed at 5 cents cash fare, seven tickets for 25 cents and 1 cent for a transfer, with rebate excepting upon only cash fare. I am told that this rate of fare is higher than 5-cent cash fare and six tickets for 25 cents with universal transfers, and that it would produce about \$300,000 more revenue per year than the rate fixed by the council in the Koch ordinance of 4-cent cash fare, seven tickets for 25 cents and rebated transfer, or \$1,100,000 more per year than 3-cent fare and rebated transfers. The importance of setting the maximum rate of fare under the Tayler plan is not deemed to be great. Nevertheless, in view of the statement of Mr. Andrews during the negotiations that it would be necessary to charge the maximum rate of fare to operate the road and, as under either of the ordinances, the operation of the property would be in the hands of Mr. Andrews, the council should consider carefully the safeguards involved in the maximum rate of fare."

"Section 33 of the Walz ordinance, which provides that a payment be made by the licensee in the acquisition of the property, leaves a doubt as to whether there should not be first deducted from the capital value the bonded indebtedness assumed or paid before the addition of the 10 per cent. thereto. The question should not be left in doubt, and should it ever rise it may easily be foreseen that the company would have the advantage of any doubt, which on the basis of its present bonded and floating indebtedness, would involve something over \$1,000,000."

In dealing with the question of reimbursing the company for the expense of paying the city solicitor declares that the payments made by the street railway company for street pavement are in the nature of a franchise tax and they should not be repaid at any time. In addition Baker declares that the feature of his ordinance which provides that, in the event that any section is declared illegal, the whole ordinance shall fall, is a necessary safeguard. He also declares that the ordinance should provide that the valuation should be agreed upon before the referendum.

Without any prelude Solicitor Baker took up a detailed discussion of the Baker, Tayler and Schmidt ordinances and the Tayler plan.

Condemns Tayler Grant.

"The Tayler ordinance is utterly impossible," he said. "Nobody is for it and nobody ought to be for it. If ever enacted by any city council it ought to be repudiated by the people."

Mr. Baker then proceeded to criticize the Tayler ordinance, saying, in the beginning, that the trouble with Judge Tayler is he does not know the Cleveland Railway Co.

"He has not had the bitter experience that compels me to say the off-

Tent Debate Proposed.

Councilman E. B. Haserodt, of the Twenty-third ward, and State Representative John Evans may debate the traction question in a tent meeting at Superior-av., N. E., and E. 51st-st. Friday evening. Haserodt challenged Evans to a joint discussion of the referendum, following Evans' speech at the Chamber of Commerce when the committee of 100 was organized.

cers of that company are not to be trusted. They are absolutely faithless when it comes to keeping public contracts.

"So trusting the company, Judge Tayler has left the public safeguards at the mercy of private attack. The section providing that if any clauses protecting the public are declared invalid the entire grant must fall is missing from the Tayler ordinance. That is the particular thing that makes the ordinance impossible. That is why I say without fear of contradiction that the Tayler ordinance has not got a single friend.

"There is some talk in the citizens' committee bulletin that Herman Schmidt might sell out to the Cleveland Railway Co. Suppose he did? The Cleveland Railway Co. could only charge 3 cents on those lines and would have to give universal transfers. I have no notion that Mr. Schmidt intends to do that. But I am not Mr. Schmidt. So I say what difference does it make when the franchise, whoever operates under it, is a straight 3-cent fare grant.

"The first citizens committee bulletin displays a complete ignorance of the law and a complete absence of the truth. Whether the apparent gross ignorance of the law is assumed, I do not know. But one thing is sure, the lawyers employed by the committee ought to know better, and I guess they do.

"What is this opposition anyway? It is a brand of men representing special interests, trying to pull the Cleveland Railway Co. chestnuts out of the fire. You remember the story of Esau, 'The Hand is the Hand of Esau, but the Voice is the Voice of Jacob.' In this instance the hand is the hand of the citizens committee, but the voice is the voice of the Cleveland Railway Co. And the people of this city will not be deceived."

BAKER HOLDS NEW TAX LEVY ILLEGAL

Says City Can't Raise Funds to Pay Private Hospitals.

City Solicitor Baker Thursday afternoon in an opinion given before the city council committee, held the proposed special hospital tax levy unconstitutional. Provision for the tax of one-half mill had been incorporated in an ordinance introduced in council last Monday. The funds this raised were to pay for city indigent patients cared for by private hospitals.

DR. THWING WINS CASE

College President Testifies
Against Autoist Who
Ran Him Down.

"I do not wish to prosecute for personal reasons but as a warning to reckless automobile drivers and as a protection to the public," said Charles W. Thwing, president of Western Reserve university, when he appeared in police court yesterday against Harlan Foote, liveryman of Ottawa, O.

Foote was charged with violating the automobile law. On the night of June 10, he ran down and injured President Thwing at E. 79th-st. and Euclid-av. Dr. Thwing was leaving a west bound car when the auto struck him, knocking him down. According to the testimony Foote drove on without stopping. He asserts, however, that he did not know he had run down anybody.

"If Mr. Foote had asked my pardon," said President Thwing, "I might have rejoined in the prosecution. When the machine struck me my first thoughts were, 'This is so sudden, so unexpected and so singular. I wonder if it will be fatal.'"

City Solicitor Baker, in person, conducted the prosecution. Police Judge McGannon found Foote guilty and fined him \$25 and costs, giving him the maximum.

DECLARES LEVY IS LEGAL.

Attorney Tells City Solicitor Court
Has Upheld Tax for Private
Hospitals.

Attorney Wilfred Mahon pointed out to City Solicitor Baker yesterday that the circuit court upheld the law which gives the city councils the right to levy tax for the care of indigent patients in private hospitals, in a suit filed in Zanesville a number of years ago.

Baker contends that the law is a violation of the section of the constitution which says that public and private funds shall not be united.

Attorney Mahon pointed out that in the Zanesville case the court held that this section of the constitution applies merely to public funds united with funds of an institution run for profit and that hospitals were benevolent institutions.

BAKER HAS HOPES FOR SECOND PIER

City Solicitor Thinks East
Dock Will Follow West in
Usefulness to Public.

Sees Day When Excursions
to Beaches Will Start
From This Point.

In a statement showing plans for the improvement of the westerly lake front pier, City Solicitor Baker

made it clear yesterday that the improvements the city is soon to undertake in connection with this work will open the way to the use of the easterly pier as well and expressed an opinion that the time would probably soon be at hand when steamers will run from this pier to Euclid beach, Gordon park and other near by points.

Capt. C. E. Benham, who has been organizing a company to operate a steamer between the down town lake front dock and these points, said yesterday that nothing would probably be done by this company before next year as the docks are not in shape.

"I am very eager that the people shall understand what is proposed to be done on the lake front by the council and the board of public service," said City Solicitor Baker yesterday.

"The city now has two piers at the foot of E. 9th-st. The westerly of these two piers is to be widened and rebuilt at the expense of the boat companies, and large and beautiful buildings constructed on it to facilitate lake travel to Buffalo and Detroit. This will get these large steamers out of the river and make it much more convenient for freight boats to use the river.

"But in addition to this the plan brings about the improvement of E. 9th-st. so that Lakeview park will be very much more accessible to those who desire to enjoy it, and the easterly of the two piers, already constructed there, will be available for excursion passenger traffic and pleasure boats in a way that has never before been possible.

"The time ought not to be distant when steamers will run from the easterly of these piers to Euclid beach, Gordon park and other near by lake points, and the improvement both increases the usefulness of Lakeview park as a park and also of its water front for the pleasure purposes of the people of the city."

The board of public service will advertise for bids on the lease of the westerly lake front pier before the present week is over. The D. & C. and C. & B. boat lines will submit a joint bid. The \$55,000 which the companies will turn over to the city for improvements will be in the nature of advance rental. The lease will extend over a period of thirty-five years.

City Solicitor Baker began his address by saying the last ten years had been years of great progress in Cleveland.

"All Tom," shouted an admiring listener.

"Yes, all Tom," Mr. Baker replied. The solicitor's speech was largely a technical discussion of the Schmidt, Baker and Tayler ordinances.

The first applause of the evening came when Mr. Baker said the eight-year traction war showed above all else that the Cleveland Electric railway could not be trusted by the people.

"They wakened up; I thought they were asleep out there," Mayor Johnson shouted.

Sees Many Lawsuits.

"In the Tayler ordinance there are multitudes of lawsuits," said Mr. Baker. "Nobody in his senses can say the Tayler ordinance should pass. The Cleveland Railway people only want that ordinance so they can fight. We are to have a paper soldier fight. The citizens' committee is engaged in making a great hub-bub about a circular issued by the mayor. The business of the people is not hurt at all by the traction question not being settled, with perhaps the exception of the bankers. I want to see the people rise above the stampering influences of trade and commerce and settle this question right."

COUNCIL SEES AFAR ITS VACATION DAYS

Must Stay in City to Pass Or-
dinance Governing Public
Service Department.

This is Made Necessary by
Provisions of the
Paine Law.

In order to pass an ordinance fixing the salaries of the thousands of city employes in the department of public service the council will have to postpone its summer vacation.

A reminder that the Paine law requires the council to fix salaries of all city employes by ordinance came yesterday in the form of a letter from City Solicitor Baker to City Auditor Coughlin. The municipal code requires the board of public service, by resolution, to fix salaries of all its employes. All other departments are already governed by council ordinances.

Under the Paine law, which becomes effective Aug. 1, the council must fix salaries for every man employed in the public service department, including the director of service.

At times there are more than 3,000 men on the public service pay roll.

Change is Made Aug. 1.

The council at its last meeting passed an ordinance calling for the appointments of a director of public service and a director of public safety, each at a salary of \$5,000.

The director of public safety will step into office Aug. 1 and the board of public safety will step out. It is generally reported that Director Cooley of the board of public service will be given the new appointment.

City Solicitor Baker's letter to the city auditor follows:

"On the first day of August the Paine law amending the municipal code becomes operative. The law will then be with regard to salaries and compensation of persons employed in the city government as follows:

"The council shall by ordinance or resolution, except as otherwise provided in this act, determine the number of officers, clerks and employes in any department of the city government, and shall fix by ordinance, or resolution, the respective salaries and compensation and the amount of bond to be given for each officer, clerk or employe in any department of the city government, if any be required, and said bonds shall be made by such officer, clerk or employe with surety subject to the approval of the mayor of said city."

Another Delay Threatens.

"As you are aware, existing ordinances of the council fix the number of employes, and their salaries, in the several public departments, but in the departments of public service the law, as it now exists, authorizes the fixing of salaries by the department of public service without reference to the council. It will therefore be neces-

sary to have a salary ordinance prepared for consideration by the council and in my opinion this should be done at once so that the ordinance can be passed during the month of July, become effective on the first day of August, and thus authorize the payment of compensation to persons in the public service department after the new law becomes operative. As your office has the data necessary for this task, I am suggesting that the ordinance be drawn in your office."

Another matter will also necessitate a delay of a week in the council vacation. The appropriation ordinance will be passed on the evening of July 12. Instead of going on its vacation the council will have to hold another meeting to pass a number of expenditure ordinances. If this is not done city business will be held up until the council returns from its vacation.

Still Pounding the Bogey Man.

Mayor Johnson and his fellow supporters of the Schmidt franchise continue their favorite pastime of setting up straw men and pummeling them until they leak their artificial stuffing at every pore. No trick known to stump speakers is more transparent.

The straw man of the present campaign is the so-called Tayler ordinance. No one, we believe, seriously defends this ordinance, for its defects are patent and vital. Yet consider this excerpt from City Solicitor Baker's address of Tuesday night, as reported in the Plain Dealer of yesterday:

The Tayler ordinance is utterly impossible. Nobody is for it and nobody ought to be for it. Trusting the (Cleveland Railway) company, Judge Tayler has left the public safeguards at the mercy of private attack. The section providing that if any clauses protecting the public are declared invalid the entire grant must fail is missing from the Tayler ordinance.

Why does the city solicitor, who is the mayor's chief aid in the present oratorical campaign, spend so much time criticising the Tayler ordinance, since he himself declares that "nobody is for it and nobody ought to be for it?" Why not spend your time, Mr. Solicitor, upon some live topic that has some relation to the contest?

The answer, of course, is that the Tayler ordinance has been set up as the official straw man of the administration for the present fight. Its demerits are so apparent that even the lowliest of city hall orators may hammer it with entire impunity.

Hardly a night passes that the mayor himself does not take a few full chested whacks at this bogey man of a Tayler ordinance. The exercise is perfectly safe. The ordinance cannot answer for itself and since "nobody is for it" it follows that nobody will arise to defend it. So the merry fight of the mayor and his followers goes on. Nightly the straw man is dragged out and nightly pounded into a shapeless mass, to the complete satisfaction of the city hall adherents perhaps, but certainly to the amusement of every intelligent citizen who gives the issue a serious thought.

Why do not the mayor and the solicitor devote their whole attention to the real issues involved? Why waste time on a measure which "nobody is for?"

The Tayler ordinance is dead. The Tayler plan, however, partially and with some success interpreted by the so-called Baker ordinance, is very much alive and well, if the public be alert and responsive, be enacted into law after the present attempt to deliver a valuable franchise to a mere "dummy" has been defeated at the polls on Aug. 3.

The Tayler plan is what Cleveland wants. The way to get it is to vote "no" on the Schmidt grant.

"What is before you is a plain economic question," Solicitor Baker had said, who opened the meeting. Politics has nothing to do with it. It is a thousand miles removed from a partisan issue. With all the earnestness at my command I urge you to forget all prejudice. Forget the personalities involved in this campaign. Meet and settle this question on its merits."

An auditor, who was full of socialistic doctrine, interrupted Mr. Baker with a series of questions concerning existing economic conditions.

"I think the gentleman is right although his questions are somewhat incoherent," said Mr. Baker.

"Of course I'm right," yelled the man.

While the crowd laughed, the man asked another unintelligible question. Officers cautioned him to be quiet despite orders from Mayor Johnson to let him alone. In discussing the Tayler plan Solicitor Baker said:

"If this hydra headed organization that calls itself the committee of 100 says the people ought to have a chance to vote on the Tayler plan you say the Cleveland Railway Co. has flatly refused to settle on the Tayler plan. The answer is that the Baker ordinance was based entirely on the Tayler plan.

"The Tayler ordinance is entirely different. It has vital defects, as is being explained nightly, that make it impossible. Do not overlook the great importance of the maximum rate of fare in the Tayler ordinance. Remember it is 5-cent fare with a penny charge for a transfer and no rebate, and then remember President Andrews' repeated assertions that the company would certainly charge the maximum rate.

"If there is to be any settlement of the street railway question it ought to be for peace. If there is to be any fight with the Cleveland Railway Co., let it come now and not after the company gets a grant and can snap its fingers in the faces of the people.

"We live in a great city, a city of 500,000 people, and our moral sense is at test. The real question is whether we are moral in this city. The present campaign in more than anything else is a call upon the conscience of this community."

FIXES FUNERAL AUG. 3

City Solicitor Says That is Date of Burial for Tayler Ordinance.

"I have said nightly that the Tayler ordinance is impossible," said Solicitor Baker at both meetings last night. "The Plain Dealer cries out 'why do you keep talking about the Tayler ordinance, why kick a straw man?'"

"I know the Tayler ordinance is dead. I know it as well as the Plain Dealer. The funeral will be held Aug. 3. But why do we talk about the Tayler ordinance?"

"Because the Chamber of Commerce and the citizens' committee stands for the Tayler ordinance, not for the Tayler plan. The Chamber of Commerce got up this stampede for the Tayler franchise, not the Tayler plan.

"Judge Tayler has written an ordinance at the request of the Chamber of Commerce. He says it is the only ordinance he proposes to write and has gone away. And the Chamber of Commerce stands for that ordinance, the Tayler franchise, not the Tayler plan.

"Only this morning resolutions adopted by the retail merchants' board of the Chamber of Commerce appeared in the Plain Dealer. In these resolutions this organization says it stands for the Tayler franchise, not the Tayler plan. If words mean anything, it would seem that the Tayler ordinance is of great importance in the present discussion.

"I know very well the Tayler ordinance is dead. After all, however, the Plain Dealer is the only newspaper in town, certainly the only

morning paper. But it is presenting a ludicrous spectacle just now. The stampede took the Plain Dealer, printing press and all. It is not going to continue. The Plain Dealer will right itself. I have every confidence in that."

CALLS BAKER ILL PAID

Mayor Says Solicitor Makes Sacrifice When He Works for \$6,500 a Year.

Asked yesterday to express his opinion concerning the ordinance to be introduced by Councilman Flower raising the mayor's salary from \$6,000 to \$10,000 a year, Mayor Johnson asserted that a number of the head city officials are underpaid.

"It is a sacrifice for a man like Baker to work for \$6,500 a year," he said.

The present city council has raised the salary of the city solicitor and salaries of the members of the board of public service were also raised within the past few years. For about twenty years the salary of the mayor of Cleveland has been \$6,000 and Councilman Flower believes that a city of the size of Cleveland should pay its chief official a larger sum for his services.

"I do not know whether the ordinance should make the advance effective at once or the first of the coming year," said Councilman Flower last evening. "I will put this question up to City Solicitor Baker and do whatever he advises."

BAKER DRAFTING A LAW AGAINST 10-CENT GLASSES

City Solicitor Baker said Monday that he believed the selling of glasses by the 5 and 10-cent stores to children is outrageous and that he would use all in his power to stop it by legislation.

He and Councilman Matheis will meet Monday afternoon to discuss and make arrangements for drawing up an ordinance prohibiting the sale of glasses except by qualified opticians. Matheis will present it to the council next Monday night.

F. J. Weckesser, Wilkes-Barre, Pa., general manager of the F. W. Kirby stores, said Monday morning regarding the sale of 10-cent glasses in his stores:

"We place eye glasses on our counters to sell just the same as jewelers or other merchants might, and if the people want to buy they may do so. We make no pretense of fitting glasses or of testing eyes."

Chas. B. Vandusen, Detroit, general manager of the S. S. Kresge stores, said:

"We sell very few glasses to children, and if any disease is apparent we send the person who wants to be fitted to an oculist. We only sell glasses to people who have minor defects which an ordinary weak glass can help."



Tom L.: "Good boy, Newtie, but don't overdo it. We will need him next fall."

TOM TO CONTROL JOBS OF SAFER AND TWO CHIEFS

**Baker Holds They'll Keep
Places at Mayor's Pleasure
Between Aug. 1 and Jan. 1.**

The director of public safety and the chiefs of fire and police departments will hold office between Aug. 1 and Jan. 1 at the pleasure of the mayor, according to Solicitor Baker's interpretation of the Paine law, portions of which are effective Aug. 1.

Should the mayor choose to displace them, they have no recourse, says Baker.

"Heads of the police and fire departments are removed from civil service rule and are under the unclassified," said Baker Monday. "The law says the mayor has the exclusive right to suspend, and that the suspended officer may appeal to the board of public safety or the civil service commission. As the board of public service is abolished Aug. 1 and the civil service commission is not appointed until Jan. 1, an officer removed would have no appeal. Should the mayor undertake to remove any of them for cause after Jan. 1, they may appeal to the civil service commission."

BAKER WOULD TALK AT CITS MEETINGS

If the Cits will agree, City Solicitor N. D. Baker will appear on their platforms in the tent meetings from now until the end of the referendum campaign.

He has not deserted Mayor Tom and he has no thought of making a fight against the Schmidt grant. On the contrary he wants to fight the Cits in their own territory. In a letter addressed to the Cits Monday, he said:

"As a member of the Chamber of Commerce, as a citizen and as a public officer to whose lot it has fallen in part to prepare and critically to examine all of the street railway ordinances under discussion in the present referendum election, I respectfully ask permission to appear and speak in the tent meetings which have been organized by your committee for public discussion of the traction question. My engagements already made are such that I can easily speak early in the evening at other places and come later to the meetings arranged by you. I shall, of course, be glad to submit to the rules governing discussion made by you and to answer any questions which either speakers or persons in the audience may desire to ask."



Overcome with the heat.

BAKER WOULD INVADE FOE

City Solicitor Asks Leave to Address Audiences in Citizens' Tents.

Providing the citizens' committee of one hundred will agree, Newton D. Baker, city solicitor, will attend the tent meetings of the committee and speak every night until the referendum election. Baker sent the committee a letter yesterday in which he presents himself as traction expert, through his close contact with the work of preparing the ordinances.

"As a member of the Chamber of Commerce, as a citizen and as a public officer to whose lot it has fallen in part to prepare and critically to examine all of the street railway ordinances under discussion in the present referendum election, I respectfully ask permission to appear and speak in the tent meetings which have been organized by your committee for public discussion of the traction question," the letter reads.

"My engagements are such that I can easily speak early in the evening at other places and come later to the meetings arranged by you. I shall, of course, be glad to submit to the rules governing discussion made by you and to answer any question which either speakers or persons in the audience may desire to ask."

Councilman Zinner opened the meeting by presenting Councilman McKenna as chairman and with no formalities City Solicitor Baker was introduced as the first speaker. He entered upon his customary detailed discussion of the Schmidt, Tayler and Baker ordinances and the Tayler plan, but departed from the regular speech to dwell upon the broken agreement entered into when the security grant was passed and to warn the people against things that the other side may say in the closing hours of the campaign.

"The things that we have said have not been challenged," said Baker. "Now, in the closing hours of this fight the other side will become bold in the use of printers' ink and make charges that will startle you. They have been quiet until the last hours to spring their trap."

Both City Solicitor Baker and Mayor Tom spent considerable time discussing the "Chamber of Commerce Con Con Cowardly Committee" and their circular distributed Monday, at Tuesday night's tent meeting at Whitehead-av and Harvard-rd.

"In the Cits' circular they enumerate many things that are not contained in the Schmidt grant. Of course, they are not in it," said Baker, in talking of the circular

put out by the six Cs. "The things which they say were left out were kept out because in the grants given these things have been declared invalid. If put in at all they would be placed there by someone to help the Cleveland Electric to have the whole grant declared invalid.

The circular of the Cits shows complete ignorance of the law and utter disregard for the truth."

City Solicitor Baker opened t meeting with a discussion of the Tayler ordinance and plan, and the Baker ordinance. He referred to Dr. Walz as "the gentleman who represents the people of this ward."

"I am going to call the committee of 100, marked down to 98, the Bargain Committee."

"Aren't you a member of the Chamber of Commerce," he was asked.

"I am," Baker replied.

"Why don't you quit them?" the person said.

HOPES TO SAVE.

"I would," replied Baker, "only I think that even my small voice may some day teach some wisdom. If I were like the rest of them, I would quit."

Questions and Issues.

The voice is Newton D. Baker's voice, though the hand is the hand of Johnson.

The letter in another column on this page, appearing over the signature of Tom L. Johnson, requests the Plain Dealer to answer several questions of considerable pertinency. These questions are nothing more nor less than the embodiment of the comparisons between the Baker and Tayler-Walz ordinances made nightly in the campaign tent by the efficient and scholarly city solicitor. The Plain Dealer has endeavored, more than once, to make it clear that it has little fault to find with the deductions drawn by Mr. Baker in favor of the admirable ordinance which he has honored by christening with his own name. The Plain Dealer's only censure, mildly expressed, has been that the logic and eloquence of Mr. Baker have about as much bearing on the referendum election of Aug. 3 as the price of turnips in Texas or a cabinet crisis in New South Wales.

In order fully to appease Solicitor Baker's appetite for answers the Plain Dealer is willing to offer another consignment for his consumption.

"Will you state," says the voice of Baker, "whether you prefer the provisions of the Baker or the Tayler ordinance on each of the following subjects?"

The Plain Dealer will state, and with much pleasure.

"1. The East Cleveland contract."

The omission of the Euclid-av. line in the Baker ordinance is wise and proper. Cleveland should not be compelled to pay \$300,000 a year, or whatever the figure may be, in order to provide for the carrying of suburban residents at a fare that is less than the cost of transportation. The Euclid-av. franchise should not be extended until the expiration of the existing contract with East Cleveland.

The Baker ordinance is preferred.

"2. Double fares on Lorain-st."

The zone of single fare should most assuredly be extended to the new city limits. The Baker ordinance provides for such extension. To be wholly fair and consistent the single fare zone should also be extended to that part of Linndale which has been annexed to the city, and provision made for single fare operation on Gibson-st. and other thoroughfares to the southwestern extremity of the city.

The Baker ordinance is preferred.

"3. Operation of city cars to Garfield park."

Most decidedly yes.

The Baker ordinance is preferred.

"4. Right of the company to refuse better service without trial."

The Baker ordinance provides that the council may at any time require such betterment of service as it may deem desirable, with the proviso "that whenever in the opinion of the company any resolution or ordinance of the council regulating service will, if such service be installed at the maximum rate of fare, not produce, to be credited to the interest fund, money enough to make good and meet the requirements"—of 6% return—"then and in any such event the company shall at once install such service and may require the question whether the continuation of such service would, at the maximum rate of fare, impair the ability of the company to meet the requirements * * * to be submitted to arbitration as hereinafter provided, and if the board of arbitration decides that such service will not produce the moneys needed as aforesaid, then the resolution or ordinance shall not be further complied with by the company."

The Tayler-Walz measure, on the other hand,

provides that when such betterment of service is demanded by the council as the company deems incompatible with a 6 per cent. return under the maximum rate of fare the company may decline to comply with the council's order and appeal at once to the board of arbitration. Under the Baker ordinance the betterment must be made before the appeal, under the Tayler-Walz ordinance the appeal may be made before the betterment has even been given a trial.

The Baker ordinance is preferred.

"5. The control of interurban terminals and routes by the city."

Extended provisions for the control of interurban cars are included in the Baker ordinance and omitted from the Tayler-Walz ordinance.

The Baker ordinance is preferred.

"6. The determination of the value of the property by Judge Tayler or by somebody appointed by Judge Tayler."

The Baker ordinance provides that Judge Tayler shall be sole arbitrator to fix the valuation of the Cleveland Railway Co. The Tayler-Walz ordinance provides for three arbitrators, one named by the company, one by the council, and "one impartial, disinterested and expert person to be named by the person who is judge of the district court of the United States for the northern district of Ohio, or the presiding judge of the United States circuit court for the sixth judicial circuit." The Baker ordinance submits the important question to men of known ability and disinterestedness; the Tayler-Walz ordinance leaves it to the judgment of someone whose identity cannot be surmised.

The Baker ordinance is preferred.

"7. The determination of the value of the property before a referendum or after."

The Baker ordinance stipulates that the valuation must be completed within thirty days after the acceptance of the ordinance; while the Tayler-Walz ordinance makes no such provision. Under the terms of the Baker ordinance the people, at a referendum, would know exactly what they were voting upon, while omission of valuation would add an element of very undesirable uncertainty to a referendum on the Tayler-Walz measure.

The Baker ordinance is preferred.

"8. Security to the Forest City stockholders for their investment, or in other words enforcement of the 'gentlemen's agreement.'"

Whether or not the so-called "gentlemen's agreement" can be carried out is a matter which the courts must decide. It is now a legal question. The intent of the Baker ordinance is commendable.

"9. Whether pavement should be included in the value of the property at the end of the grant in the event of purchase by the city."

The Plain Dealer believes that the Baker ordinance is correct in excluding pavement as an item of valuation.

The Baker ordinance is preferred.

"10. The protection of the public safeguards by making the whole ordinance fail if any of the public safeguards are declared invalid."

The features of the Tayler plan which are referred to as public safeguards are bound together by a "curative section" in the Baker ordinance. This section provides that if any of the sections stipulating public safeguards are invalidated by legal decision the entire ordinance is thereby automatically invalidated. This curative provision is eminently proper. Should the ordinance be accepted by the Cleveland Railway Co. it was deemed possible that attack might be made on certain sections for the purpose of eliminating

them and leaving the grant more favorable to the company. It was considered at least possible that all these sections might be knocked out, and the ordinance still left valid, so that the Cleveland Railway Co. could operate at its own sweet pleasure. To make such action impossible, and to protect the people's interests, the Baker ordinance shrewdly stipulates that in the event of any such successful attack by the traction company against the provisions of its own franchise it would be left without any franchise at all. The Tayler-Walz measure includes no such stipulation, and would deserve condemnation for this reason alone if for no other. The history of the traction conflict in Cleveland has proved the resourcefulness of the traction leaders in raising up legal difficulties, and the Baker ordinance endeavors to profit by experience, while the Tayler-Walz ordinance blindly ignores the lessons of the past.

The Baker ordinance is preferred.

The Plain Dealer has answered all these questions to the best of its ability. Except in the case of the "gentlemen's agreement" it has not taken account of legal difficulties, but has answered from the standpoint of public welfare. It is possible that some of the features in the Baker ordinance that are commended may not be capable of standing in the courts. But, on the face of it, the Baker ordinance is, as the Plain Dealer has repeatedly pointed out, immensely superior to the Tayler-Walz measure.

The letter of Mayor Johnson further asks what amendments to the Baker ordinance it would propose in order to make it possible of acceptance by the Cleveland Railway Co.

First of all the maximum rate of fare should be increased to seven tickets for 25 cents with extra cent for transfer or 5-cent cash fare and no charge for transfer. There would be no possibility of ever having to resort to this rate, but it would serve its purpose of providing for adequate financing. Once more let it be borne in mind that under almost exactly similar conditions Mayor Johnson urged the voters to sanction a six-for-a-quarter security grant. Mayor Johnson then was honest in his declaration that under no conditions would it be possible ever to have recourse to this rate. He should be fair enough to admit that under the Baker ordinance there would be no possibility of ever having to resort to the maximum provided in the grant.

He says that, while advocates of low fare were then in control, enemies of low fare would be in control under the Baker ordinance. But a street railroad commissioner, with a salary of \$1,000 a month, named by Mr. Johnson as his personal representative, would be in authority over the highest officials of the company, and would have no duty other than to see to it that no rate of fare could be effective in excess of that required to provide adequate service and 6 per cent. return to the stockholders.

Considering all the safeguards in the Baker ordinance, and the safeguard of the safeguards, it must appear that the insistence on the lower maximum was for no purpose other than to make the measure impossible of acceptance.

Other differences are minor in comparison. There might be some hitch as to the period within which the city would have the right to nominate a purchaser for the company's property; some question as to the method of valuation and the items to be included. But the Cleveland Railway Co., avidly desirous of a new franchise, would make small difficulty over such matters. Amend the Baker ordinance so as to provide an adequate maximum and the Plain Dealer believes the rest would be easy sailing.

The Plain Dealer does not speak for the Cleveland Railway Co., and has no assurance that it would accept the Baker ordinance or any other ordinance. Common sense, however, inclines the Plain Dealer to the belief that the traction company, beaten as it has been in so many battles, would accept the peace tendered upon these terms, terms distinctly favorable to the people, terms that would have never been possible but for the tireless efforts of Mayor Johnson to provide Cleveland with low fare. The mayor won his seven years' fight, he brought his enemy to its knees—and then, in the moment of victory, turned and ran.

* * * * *

So much in answer to the mayor's questions. Merely as an afterthought it is well to note that all that has been said here has no bearing on the referendum election of Aug. 3. This is not to be a choice between the Baker and Tayler-Walz ordinances. This is to be a choice between an amended Baker ordinance, or some other ordinance embodying the features of the Tayler plan, and the Schmidt grant; a grant which does not mean settlement, which would bring new disturbance, new confusion, new uncertainty; a grant from which the people would derive small benefit even were Schmidt and his backers to construct all the lines included in the Payne-av. ordinance and the extensions; a grant from which it is doubtful if anything could result beyond dicker-ing and bickering and threats.

Why does Mayor Johnson in his letter, why does Solicitor Baker in the tent, endeavor to confuse the issue? Why do they seek to blind the voter by grave and studious comparisons of the Baker and Tayler-Walz ordinances?

Why, not frankly admit that the choice is between the Tayler plan as embodied in the Baker ordinance (with the altered maximum) and the Schmidt grant for a new competing concern? Why not admit that it is a choice between advantageous peace and continued war? Why not admit that the sole motive and inspiration of the fight is the determination not to settle with the Cleveland Railway Co. on any terms?

The Citizens' Speaking Campaign.

The opening of the speaking campaign under the auspices of the citizens' committee of 100 was far from commendable. The speakers not only indulged in personal abuse, but deliberately misrepresented facts. Such tactics will do no good to the cause which the citizens' committee represents. The committee should see to it that the offenses of County Prosecutor Cline and Attorney Walter D. Meals are not repeated. If these men are determined to conduct their speaking campaign on a basis of misrepresentation and personal abuse they should be at once suppressed and other speakers selected to fill their places. The campaign is too vital in its importance to allow buffoonery, villification or deliberate misrepresentation on the part of men officially connected with the presentation of the people's side.

While less offensive than Mr. Cline or Mr. Meals, Attorney H. H. McKeehan seriously harmed his case by his allegations that Mayor Johnson was financially interested for profit in the Forest City Co. Such an attack is wholly vicious at any time, especially so at this time, when the people of Cleveland, by a clean and clean cut fight, hope to be able to express their disapproval of the latest move in the traction program of the mayor. Cleveland citizens, those who are not animated by blind malice or by self-interest, do not attack

the honesty or suspect the motives of Mr. Johnson and City Solicitor Baker. They believe that these men have gone too far in their traction fight and that the public welfare demands that a halt be called. So far, and no further, will the Plain Dealer go with the citizens' committee of 100.

Prosecutor Cline, at the opening meeting, not only charged Mr. Johnson with dishonest personal interest in former low fare enterprises, but also went so far as to state that the traction strike was organized by him. Such talk is the height of folly and cannot fail to react upon Mr. Cline and those whom he represents. The same allegation of dishonesty was made, in a more or less veiled way, by Mr. Meals and Mr. McKeehan. The citizens' committee has certainly made a most inauspicious start in its loudly heralded speaking campaign.

The committee should instruct its speakers to devote their energy to the Schmidt grant and to endeavor to point out why the public interest demands its defeat at the referendum election. Men with large comprehension of the fitness of things and possessed of even temper should be selected as speakers; men who are thoroughly familiar with the provisions of the Schmidt grant and of the various Tayler plan ordinances. It must have been somewhat humiliating for Mr. McKeehan to admit, in response to a question, that he was unfamiliar with the reasons why the Euclid-av. grant is not extended in the Baker ordinance; that it was a matter which he had not considered. Men who assume to expound should at least know what they are expounding.

As a matter of fact, none of the speakers at the tent meeting Monday night attempted to expound anything. They had little or nothing to say of the questions at issue. They talked loudly and fiercely, but did practically nothing but attack Mr. Johnson and Mr. Baker, their motives, their ability, their intelligence. For a milder offense the Plain Dealer has severely criticised Mayor Johnson. It now begins to appear that the mayor was not far wrong when he alleged that the campaign of his opponents would be one of bitterness and mud slinging.

It is not too late for the citizens' committee to turn over a new leaf. The public welfare demands the defeat of the Schmidt grant and every effort should be bent to accomplish this result. Circumspection and decency are two prime requisites in this campaign, as in any other campaign in Cleveland. Mud slinging has failed so often as a means of attack upon Mayor Johnson that it is astonishing that the citizens' committee, self-constituted representatives of the best public opinion, should have allowed themselves to be brought into the position of approving or countenancing such utterances as those of Monday night.

By a mere presentation of facts and conditions, by a plain statement of the results to follow the success or failure of the Schmidt grant, a majority of the thinking people of Cleveland should be brought to cast their votes in the negative. Patent falsehoods and inexcusable onslaughts upon private character never won a vote in Cleveland.

The Schmidt grant means indefinite continuation of hostilities. It should be defeated because the people of Cleveland are weary of a traction war that has become needless and inimical to progress and prosperity. It should be defeated in order to pave the way for the passage and popular approval of an ordinance drawn in accordance with the Tayler plan to renew the franchises of the Cleveland Railway Co. Such a measure would contain provisions for all the benefits for which Mayor Johnson has so long contended, would assure immediate settlement and would give Cleveland the model street railway system of the United States. For these reasons, and for these reasons alone, the Schmidt grant should not be approved on Aug. 3.

WHEN DID I LIE? BAKER DEMANDS

City Solicitor Baker now demands that he be given an opportunity to appear in the Cits tents. Monday he requested permission to talk from their platforms. In answering Baker's letter, Homer McDaniel, Cits chairman, told the solicitor he would not be allowed to appear, charged him with the abuse of respectable citizens, and with making false statements in Mayor Tom's tents.

In his second letter to the Cits Baker says:

"I have received your letter of July 20. Coarse people, whose idea of argument is abuse and insult, sometimes take the astonished silence of those whom they insult as an admission of the truth of their vulgar epithets. In order that neither you, nor the gentlemen who are permitted to speak in your tents, shall draw any such inference from a failure on my part publicly to resent the statements made in your letter, I now deny that I have made any false statements in any meeting in this campaign, or indulged in any abuse of any citizen of Cleveland, respectable or otherwise, and I call upon you to specify any such statement or any such abuse. Unless your committee has entered recklessly upon a course of assassination of character and personal abuse, I demand that you specify false statements made by me, and abuse attributed to me of respectable citizen of Cleveland. I further demand the right to appear in your tents and have your specifications of false statements and abuse made in public, with an opportunity to me to answer."

Baker confined his speech to a discussion of the Tayler and Baker ordinance and the action of the Chamber of Commerce in the campaign.

"We are all on trial," he said; "the Chamber of Commerce just as much so as I, and you people are to be the judges."

"I understand that one of the speakers of the opposition Monday night criticised me for saying that the council should not pass any ordinance presented by Judge Tayler. I still say, as I said before, that even if Judge Tayler should draw up a perfect ordinance the council should not pass it without seeing it."

"Judge Tayler does not know the railroad company as I do. He has been in Washington fighting Mormons, while I have been fighting the Cleveland Electric Railway."

"The Chamber of Commerce is like a cuttlefish. They spill their inky fluid and make believe there is a mystery. They ask who is Schmidt, when they know."

BAKER TELLS OF INTERLINEATION

Solicitor Baker said Wednesday that he would issue a formal statement answering the charge made by Homer H. McKeehan that he had deliberately changed the "gentlemen's agreement" without the consent of F. H. Goff.

"The interlineation, in pencil, was made during a conference in this building between Mayor Johnson, Mr. Goff, Atty. Westenhaver and myself," he said. "At that time we were discussing new negotiations. I called attention to changes that should be made in the agreement. In the presence of Mr. Goff, Mayor Johnson and Mr. Westenhaver I wrote in Mayor Johnson's copy, 'and until after a possible referendum.'" Mr. Goff's copy was not there and it has never been changed."

Cooley was followed by Newton D. Baker, who also attacked the Cits.

"I am happy to think that I have been deemed worthy of the abuse of the Chamber of Commerce committee," he said. "The mayor did not break the gentleman's agreement as they charge. It was broken by the Cleveland Electric and the men who are now dodging behind the Tayler plan."

When Newton Baker wants to rest his voice and think up new speeches for tent meetings, he leaves his office in the city hall and hides in one of the big jury chairs in police court.

Baker has four assistant prosecutors to work in police court. He watched them in action Tuesday.

"Going to try a case?" he was asked.

"No, siree; I'm just resting," he said. "I can't talk all the time, so I come down here for a little relaxation."

Speaking to an audience that overflowed the tent in the first ward, the district represented by Dr. F. W. Walz in the city council, Mayor Johnson and City Solicitor Baker both paid their compliments to the citizens' committee opening last night.

Mayor Johnson devoted considerable attention, too, to the circular issued by the committee under the title, "Referendum," while Baker warned the audience of things that would be said by the other side in the last days of the campaign.

"We have a good thing over here," cried out one man finally. "We people along Lorain-av. have 3-cent fare. We don't need to ask any questions."

The first speaker of the meeting was Solicitor Baker. He was introduced by Barney Schwarzer, fourth ward councilman.

"I hope that at least one monopoly shall be allowed the opposition," said Baker. "I refer to the monopoly of abusive statement and half truth. At the meeting held last night by the committee of 100 much abuse was heaped upon Mayor Johnson and myself. Many half truths were told. Personally I hope never to depart from straightforward, frank argument."

Mr. Baker then plunged into a contrast between the Tayler ordinance and the Baker ordinance.

"When the citizens' committee tells you that the council ought to have given the public a chance to vote on the Tayler ordinance," said Mr. Baker, "answer them that the council did pass a Tayler ordinance, the one I drew in consultation with Tayler and the mayor signed and the Cleveland Electric railway refused to accept."

"The street car company came around and wanted council to promise to pass an ordinance to be drawn by Judge Tayler. Council refused and I advised council to refuse. When great ill has come to a community, it was always when that community thought it had discovered a man who knew more than any one else. I refused and shall refuse to abdicate my office to Judge Tayler or any other man. I refuse to believe that Cleveland has found the perfect man."

"During the eight years of the street car fight I have learned some things about the street car company. I have learned that if there are any dealings to be had with the company I have learned to suspect the company, those dealings should be had before and not after an ordinance is passed."

BAKER HURLS BACK M'KEEHAN CHARGE

City Solicitor Denies He and Mayor Violated Famous 'Gentlemen's Agreement.'

Asserts Interlineation in One Copy Couldn't Break Compact.

Mayor Johnson, City Solicitor Baker and City Clerk Witt held a stormy meeting at St. Clair-av., N. E. and 72d-st., last night and faced an evenly divided audience of 5,000 people.

Councilman Haserodt, in whose ward the meeting was held, acted as chairman, and introduced Mr. Baker, who met with much applause.

The city solicitor devoted half an hour to a defense of his own actions and to an attack upon the declaration made the preceding night by Homer McKeehan to the effect that he had tampered with the "Gentlemen's agreement."

"I don't blame McKeehan," he said. "He owed me one. He wants to get even and I don't kick—I did write in pencil on the margin of Mr. Johnson's copy of that contract. I couldn't tamper with an agreement, though, if I only touched one of three copies.

"I would not want McKeehan to believe what he said—I don't think he does—I'm sure he gives me credit for more intelligence than that.

"I am a member of the Chamber of Commerce, but if the executive committee of the committee of 100 represents that body, I am ashamed to be connected with it. I won't quit, though. I won't be driven out. They can't drive me out.

"Instead, I will drive myself in and they'll know it when I get there.

"I wrote a perfectly polite letter asking permission to speak in their meetings under their rules. I was a member and I had the right, yet they wrote me an insulting letter. They charged that I spoke falsely and denied me the chance to meet them face to face.

"Insults won't win this campaign. Any fishwife in Billingsgate can utter more abuse than a gentleman can answer in a week.

"I demand the right to go before them and answer their charge of falsehood. I mean to have fair play if it takes all summer."

Mr. Baker briefly described the birth of the Baker and Tayler ordinances and then, when a listener asked why the Municipal Traction Co. had failed to make a success of 3-cent fare, attacked the Cleveland Railway Co.

"The Municipal failed to meet success because although the Cleveland Railway Co. had sold it its good will, from the first it plotted and conspired to prevent success. It brought about a strike which broke our hearts, it organized clubs to cheat us out of fares and it ended by bringing in New York bondholders who forced a receivership.

"And who were the attorneys for these men? Hoyt, Dustin & Kelley, McKeehan and Andrews.

"We all know that Homer McKeehan was attorney, first for the Cleveland Railway Co. and now for the receivers, but we don't want the Schmidt grant judged on McKeehan's record as an attorney. We want it judged on its merits, for that is the real question under your consideration."

At this point a man rose in the rear of the tent and demanded to know why the safeguards which had been promised for the rights of the people had not been inserted in the Schmidt grant and Baker declared that, since the case was thoroughly covered in the extension grant they were unnecessary.

Mr. Baker had passed on to the provision that, after a time a purchaser for the franchise might be nominated, when another listener demanded to know if Tom Johnson was to nominate that purchaser.

"I hope so!" shouted Baker. "I hope so. I hope that when the time comes for such action Johnson will still be mayor and will still be fighting your battles for you."

Baker attacked the Tayler ordinance from every angle and declared that, although the citizens' committee had recently disclaimed that it stood for a franchise along its lines its letterheads showed that they stood for "an ordinance drawn by Judge Tayler."

In closing Mr. Baker again defended his speeches during the past few weeks of the campaign.

"I regret to say," said he, "that the campaign has begun to grow very bitter. It began night before last with the first meeting of the citizens' committee. But let me ask you this. Have I spoken falsely? Have I abused anyone tonight?" Perhaps a dozen voices answered, "No."

"I am usually five feet six," went on the city solicitor, "but after I got that letter yesterday from the Chamber of Commerce, after they had hung upon my brow the laurel of their slander, I rose to be seven feet tall."

Baker stopped and Councilman Haserodt introduced the mayor, who, after a few words in regard to the hisses heard when he rose to his feet began a discussion of the attitude of the newspapers in the fight.

"PRESS RIGHT; LESS MUD."—MAYOR TOM

Peter Witt, Mayor Tom and City Solicitor Baker spent much of their time Wednesday night in the tent meeting at St. Clair-av and E. 72d-st in discussing newspaper editorials and newspapers. The Chamber of Commerce received its usual share of knocks.

S. Denison, Socialist, interrupted Mayor Tom's discussion by asking that he be given three minutes on the platform. Refused, he quoted from Mayor Tom's pamphlet "Questions and Answers," and demanded that a vote of the audience be taken. Mayor Tom put the question and it was carried overwhelmingly.

"The campaign cannot be won by insulting letters and language; there is no argument in epithet," said Baker. "I demand the right to speak at the Cits meetings, and I will have it if it takes all summer."

"The Press stated Wednesday a policy I am in favor of," said Mayor Tom. "It criticises both sides for dodging the real issue. It also criticises me for talking of pink whiskers. I said that as a joke with provocation. Burrows said that we made each city employe write out a resignation before he got his job. He was wrong. I agree with The Press; let's discuss the question."

"The Chamber of Commerce is the same old crowd. They say I am in the fight for money. If I was I would be on the other side. That is where the money is."

City Solicitor Baker opened the meeting and was the only speaker to refer to Robert E. McKisson's entrance into the campaign. Baker coupled McKisson with W. D. Meals, in replying to statements made by both men in different meetings Wednesday night. Each of those speakers, in their meetings, asserted that safeguarding clauses were as legal in original as in extension grants. Meals tried to prove this by court decisions.

Baker went into the court decisions fully and denied emphatically the claim the opponents had made. Prior to the meeting the mayor was asked if he had received Robert E. McKisson's challenge to debate. The mayor said he had not and refused to comment on the matter. City Clerk Witt's friends, though, are trying to arrange for a debate between Witt and McKisson for Sunday.

For the first time in a campaign Baker was hoarse when he arose to address the audience last night. He explained that the administration deemed it the imperative duty of the city to provide for street railway facilities in the event that the Cleveland Railway Co. attempted to tear up its tracks when grants expired next January, thereby repeating the Central-av. experience, and he gave this as the cause for the preparation and passage of the Schmidt grant.

The solicitor then went into a history of negotiations for settlement that produced the Tayler plan and later the Tayler ordinance. It was in this connection that he took up the argument of Meals and McKisson on original grants.

"I noticed that last night," he said, "Mr. McKisson and Mr. Meals, both lawyers, said that it was possible to place safeguarding clauses in an original grant, basing their claim on a circuit court decision. Judge Lawrence held one of our first 3-cent fare ordinances invalid because it contained a provision requiring the giving of transfers, but refused an injunction on the ground that the plaintiff had delayed too long in bringing suit, the defendant having already expended \$40,000 under the contract.

"In the circuit court, on appeal, the court refused an injunction on the ground of estoppel, but they said the transfer provision did not invalidate the ordinance. Some years before, however, when the Hoejgen ordinance was passed the council included in its provisions a passage requiring arbitration of labor disputes and a number of other clauses that the council believed were in the interest of the public. The circuit court, Judges Marvin, Caldwell and Winch, held each and every one of these clauses to be sufficient to void the ordinance. They held that the only thing that could go in an original grant was the rate of fare.

"The only way in which we could regard that was that the circuit court held that transfers are a part of the fare provision, but the question has never been passed upon by the supreme court and we decided the only safe thing to do in the Schmidt grant was to leave all of these provisions out.

"I take the full responsibility." Baker then explained the latitude allowed in extension grants and said every safeguard was in the Schmidt extensions, which require further that Schmidt accept these safeguards in the original. He gave a verbatim statement of this clause and explained in detail every safeguarding section in the extension.

The remainder of his address was devoted to detailed explanations of the Baker, Tayler and Schmidt grants except when he referred to the citizens' committee near the cross, naming it the committee of 99 or "bargain committee," and thereby incidentally referred to the declaration of Al Behner that he is "a broken down orator."

"I was very much aggrieved at the citizens' committee when it refused to permit me to talk in its tents, but when they permitted Mr. Behner to do so I now believe they complimented me in their refusal."

In a letter addressed to City Solicitor Baker the Cits Tuesday refused his request that he be allowed to speak from the platforms in their tents. In part the letter says: "It certainly is not to be expected that this committee will afford you additional opportunity to make further misstatements.

A defense of himself by Newton D. Baker, produced by the charge of Homer McDaniel, chairman of the citizens' committee, that he is untruthful, marked the meeting of Mayor Johnson and the friends of the Schmidt grant at E. 71st-st. and St. Clair-av., N. E.

The city solicitor also replied to Homer McKeehan's charge that the "gentlemen's agreement" in the security franchise was tampered with either by the mayor or Baker.

A large crowd heard the arguments and it was as much unfriendly as friendly. In fact it paralleled the Fulton-rd. meeting, where the friends of the Schmidt ordinance were admittedly in the majority. Mayor Johnson talked along the lines of his last few speeches.

CITIZENS CRITICISE BAKER

Charge Him With Disseminating Untruths and Refuse Him Permission to Talk.

In a pointed letter to City Solicitor Baker the citizens committee yesterday refused to allow him to speak on its platform as he requested, and accused him of making misstatements "with premeditation and design." Part of the letter follows:

"We apprehend that you have failed to appreciate the object of these meetings. These meetings are held for the purpose of disseminating the truth and to correct misstatements made in the tent meetings conducted by Mr. Johnson, yourself and other officeholders. "It is not to be expected that you will retract misstatements made with premeditation and design. It certainly is not to be expected that this committee will afford you additional opportunity to make further misstatements for the purpose of deceiving other people, or to give you permission to go upon platforms for the purpose of abusing good citizens and making statements which you know, or ought to know, are untrue. Your request is, therefore, refused."

"Mayor Tom doesn't seem to be worried much by the referendum campaign," one of his admirers remarked the other day. "Neither does A. B. du Pont seem to. I notice them both at nearly every base ball game, and to see them laugh and cheer and root you wouldn't think they were principals in the hottest fight Cleveland has seen in years."

City Solicitor Baker takes his relaxation differently. Last summer he took his vacation by locking himself in his private office and studying the hardest kind of law for three weeks. The other day, tired out by his nightly speeches, Baker went to police court and watched the comedies and tragedies of life as they came out in trials."

City Solicitor Baker opened with a discussion of the Tayler and Baker ordinances.

"There isn't one member of the committee of one hundred who dares come out and say he is against the Tayler ordinance.

"I was grieved when the Cits denied me the privilege of speaking at their meetings. Now that they have Behner I think they complimented me by their refusal.

Councilman Haserodt presided at the meeting and in opening it called attention to the fact that the next four days have been set aside as special registration days. He said everybody must register or secure removal certificates at the city hall between 9 a. m. and 9 p. m. Baker was presented as the first speaker and in the early part of his speech he devoted himself to a detailed explanation of the Tayler, Baker and Schmidt franchises.

Court decisions prohibiting safeguarding clauses in original grants were pointed out in detail, after which he explained that Schmidt has already accepted extension ordinances to the original and that the extensions specifically provide that all safeguards in them shall apply to the original grant.

"All safeguards are a part of the original, the same as if they were written in," said Baker. "So that by contract every foot of track is covered by all safeguards and Mr. Schmidt could neither repudiate them nor get away from them. If anybody disputes, you can quote Mr. Homer McKeehan on the question of the validity of safeguards in original grants. He admitted that nothing but transfer regulations could be included."

After giving the details of the Tayler and Baker ordinances Baker said:

"The citizens' committee is against the Schmidt franchise, not because it is bad, but in order that the Tayler ordinance, which everybody admits is dead, may be brought to life and forced on the community."

He charged the citizens' committee with being deceitful about its purposes, charging that they were trying to make the people believe it is the Tayler plan it desires, whereas it really wants the Tayler ordinance. He quoted from Chamber of Commerce petitions and committee stationary in which the two bodies frankly state they desire the defeat of the Schmidt grant in order that a vote may be had on the Tayler ordinance.

In taking up the letter writing fight between himself and the citizens' committee, Baker went into the history of its start, telling how he wrote a letter seeking permission to talk in the tents. He said the permission was refused on the ground that he had been abusing respectable citizens and that he had stated untruths.

"I have said the same things I said tonight," said Baker. "Have I abused anybody?"

There were cries of "no," "no," from the audience.

"Now I happen to know the distinguished gentleman who wrote that letter. He's making a speech in the other tent tonight."

Baker told of his insistence for specifications and said, "So after a couple of days I got this," producing the McDaniel letter.

"Oh! it's astonishing."

He quoted from the letter and took up the charges section by section, admitting errors in some places, but denying them in others and in one instance, the case of a court decision, declaring that the citizens were absolutely wrong in that the decision in question was the very opposite of what they claimed.

He charged that Attorney John G. White wrote the part of the letter dealing with the legal questions and after paying him a tribute personally and professionally he said:

"He is just as full of prejudice on this subject as an egg is of meat."

In disproving some contentions made on the legal phase of the situation Baker read from stenographic reports of council meetings to show the committee in error in its letter. In summing up he said in part:

"They got up a series of meetings to discuss a subject that becomes peculiarly of interest to me by reason of the functions of my office. I wrote them a letter, as dignified and courteous as possible, requesting the privilege of speaking from the platform of a citizens' meeting and they send me a taunting, abusive letter in answer.

"I wrote them today that I had made a mistake, that when I requested the privileged I was eager to talk in their meetings, but since I see what is said and the people who are permitted to say it, I feel they paid me a compliment by denying me the right, but they cannot deny me a hearing. The people of this city are too fair to condemn unheard.

"I shall talk from a soap box on the street car with the starry heavens as a covering to ears that will listen and hearts that will judge it rightly. I beg your pardon for having referred to personal matters. I'm not the issue. I'm too little. The Schmidt grant is the real issue."

In concluding, he ended with a peroration that roused the audience.

Mayor Johnson, in beginning, said his voice was only in fair condition, and that he is trying to save it for the debates Tuesday and Wednesday. He said the convincing, unanswerable arguments of Mr. Baker left the opposition without a leg to stand on.

CITS SEND ANOTHER HOT ONE TO BAKER

The Cits Saturday sent another letter to Solicitor Baker refusing him permission to appear in their tents. Baker had demanded that they specify what misstatements he had made and how he had abused citizens.

"It is unusual for gentlemen to invite themselves to gatherings, social or political," says the letter. "The committee, however, instead of consigning your letter to the waste basket, undertook to do two things—first to tell you you were not wanted in the tent meetings, and, second to tell you why you were not wanted."

They say his last letter is abusive. His demand to speak in their meetings, they say, is "the height of effrontery." In closing, the letter says:

"We hope you will not seek further to intrude yourself at places designed for public discussion in quiet and good order. We hope this letter is sufficiently explicit on the subject to obviate further correspondence."

BAKER HITS AT McDANIEL.

City Solicitor Replies to Citizens' Accusations by His Strongest Campaign Speech.

Answering the letter of Chairman Homer McDaniel of the citizens' committee, in which City Solicitor Baker is accused of making twenty-six erroneous statements in the present campaign, Baker in Mayor Johnson's tent last night delivered the most forceful campaign speech he has made in the present fight. Mayor Johnson and City Clerk Witt paid their respects to Robert E. McKisson.

The tent, pitched on Superior-av., N. E., opposite Giddings-rd., was packed. The audience was friendly throughout and Baker, though handicapped by severe hoarseness of voice, roused his auditors to great enthusiasm.

"Baker, little as you are, you are a giant compared to those on the other side," finally came a voice that broke the spell and in an instant the tent was filled with yelling men and women, many of them rising in their seats.

Baker finally advanced to the front of the platform and as soon as he could be heard he replied to the demonstration with:

"Thank you."

Mayor Johnson had his biggest tent meeting of the week at Superior-av., N. E., and Giddings-rd., N. E., last night. Solicitor Baker stirred the crowd by a reply to the citizens' committee for its refusal to permit him to speak at their meetings. Both Mayor Johnson and Peter Witt hammered at former Mayor McKisson. The men representing the citizens' committee on the stump were ignored.

Rockwell-av. and E. 3d-st., 12 m. and 5 p. m.; speakers, Mayor Johnson, H. R. Cooley and others.

E. 105th-st., opposite Marlowe-av., N. E.; speakers, Mayor Johnson, Newton D. Baker and Peter Witt.

WON'T LET BAKER IN CITIZENS' TENT

Committee Raps Solicitor, Specifies Alleged Misstatements.

City Solicitor Baker was told again yesterday by the citizens' committee of 100 that his presence would not be tolerated in the committee's tent meetings and that further correspondence was unnecessary. Chairman Homer McDaniel, who in a former letter had charged the city solicitor with making untruthful statements, went a little further this time and enclosed some twenty or more specifications. In his letter Chairman McDaniel said:

"Your letter of July 21 has received consideration it does not deserve. It is unusual for gentlemen to invite themselves to gatherings, social or political, for the purpose of assisting at the exercises, or to seek an invitation for such purpose. The committee, however, instead of consigning your letter of July 19 to the waste basket unanswered, undertook to do two things—first to tell you that you were not wanted in its tent meetings, and second to tell you why you were not wanted.

Letter is Abusive.

"Your last letter is abusive in its nature. It was also unreasonable to ask us to make a scrapbook of many misstatements in your speeches. If you do not know what they were, you probably would not appreciate their character if they were pointed out to you. We nevertheless enclose a partial list, as requested. You will observe they number more than a score.

"In your speech of July 6 you said that the first bulletin of this committee 'showed absolute ignorance and contempt of the truth.' Is not this abusive? On June 28, 1909, you stated that it was the intent of this committee not to fight, but to 'stab.' Is not that abuse? Instances of similar accusation of others might be given, but of what use when in your tent meeting of June 11 you approved speeches which have been condemned by every newspaper in the city and every decent citizen. You called 'great' what they call slanderous and outrageous. You said: 'Here is Peter Witt, who has been making great speeches.' Enough is sufficient, and that one statement should be enough.

"As to your second request to speak at our meetings, while it is somewhat surprising that you should wish to mingle with 'coarse people,' as you describe this committee, it certainly is the height of effrontery to 'demand,' as of right, the courtesy of those who neither desire your presence nor your advice. We trust, therefore, you will not further seek to obtrude yourself at places designed for public discussion in quiet and good order. We may add that we hope this letter is sufficiently explicit on the subject to obviate further correspondence."

Names Instances.

Chairman McDaniel included in his letter the following specific instances: "You have repeatedly said there is no provision by which the railroad company is bound to accept the new provisions which the council shall make. This is not so. You know

that when one party to a contract provides that the other party shall have the right to make changes in the contract to accomplish the declared purposes of the contract, that he thereby agrees to accept such changes. Such provisions are contained in every important contract made by the city of Cleveland which has been approved by you.

"In your speech Monday evening, June 14, 1909, at Superior avenue and E. 36th street, you said, speaking of the Baker ordinance: 'The second section grants the rights to the Cleveland Railway Company upon all streets upon which cars are operated in Cleveland.' This is not true. The Baker ordinance, which was prepared with the Horner ordinance before you, does not give the right to operate on Wood street, on Rockwell or around the north side of the Public Square.

Baker Makes Answer.

In reply to the letter, Mr. Baker yesterday sent the following to Mr. McDaniel: "I have your letter of July 23. You say: 'It is unusual for gentlemen to invite themselves to gatherings, social or political.' Frankly, I did not suspect that your tent meetings were social affairs, nor did I imagine that you desired to have it known that they are political. I supposed that they were organized for the purpose of promoting public discussion and the dissemination of the truth with regard to the Schmidt franchise. At the time my first letter was written I had no reason to suppose otherwise. Under circumstances as they have developed, however, I am entirely content with your committee's refusal to permit me to speak in your meetings, and without further annoyance to you I will place my cause before the people of this city, who love fair play too well to deny me a hearing in a more effective way.

"Your letter to me of July 20 was plainly written in a temper. The attempted justification in your letter of July 23, is mere special pleading without convincing quality. You not only are not able to point out anything in my speeches that approaches abuse of respectable citizens, but you are driven to rest your case on that point on the fact that Peter Witt has made speeches which you do not approve. The long typewritten statement which you enclose to me, containing twenty-six numbered paragraphs, and being supposed to point out false statements made by me, contains many repetitions, but does not once convict me of misstatement. Even in rapid and condensed speech I seem to have been careful, when not quoting directly, to warn my audience that I was giving the substance of the speech of others. Your statements vindicate me from your charge.

"This campaign is upon a much more important subject than your committee's opinion of me, and I shall not seek to divert public attention from the really important issue. I cannot, however, close this correspondence without expressing my belief that the members of your committee are heartily ashamed of having denied to a public officer, a member of the Chamber of Commerce and a citizen of this city the right to appear in your meetings, when that right is accorded to Mr. Behner and others, with whom it is not improper even for me to say that my fairness, courtesy and honesty of purpose will bear favorable comparison."

FOR THE SCHMIDT GRANT.

Rockwell-av., N. E., and E. 3d-st., 12 m. and 5 p. m.—Speakers, Mayor Johnson and others.

Hoffman-av., N. E., between E. 82d and 84th-sts., 8 p. m.—Speakers, Mayor Johnson, Newton D. Baker and Peter Witt.

When the hour for calling the meeting to order arrived Councilman Durkin, who was to preside as chairman, was not on hand and City Solicitor Baker presented himself. Asked to identify himself the city solicitor answered:

"I am Baker, the heart broken orator."

He explained in detail the dry, technical features of the Schmidt, Tayler and Baker ordinances, took full responsibility for the lack of safeguarding provisions in the original Payne-av. grant, explained them in the extension ordinance and said:

"Herman Schmidt, by written contract, has modified the original grant and if voted upon Aug. 3 next, can never build a foot of track except under all the safeguards of the extension grants."

He charged that the opponents of the grant were misleading and not dealing fair with the people in their arguments and asserted that in reality the people were voting on 3-cent fare for 40 per cent. of the trackage in the city.

"If it were possible to get a binding agreement from the Condon that there would be no legal proceedings, I would be perfectly willing to agree that all of the experimental provisions included in any ordinance be placed in the Payne-av. grant, but inasmuch as they will make no such agreement, we have tried to make this ordinance water tight and proof against legal attack. Under any condition, even though Herman Schmidt were to sell the franchise to the Cleveland Railway Co., it could not operate a foot of track under the original or extension ordinances except at 3-cent fare and universal transfers.

"The Schmidt ordinances contain every safeguard."

In referring to the fight of the opposition Baker said:

"Mr. McKisson occupies one corner of the triangle. He's making a hubbub, but he isn't interested in the Schmidt grant. What he is trying to do is to beat Herman Baehr for mayor."

CROWD HALTS SPEAKER

Mistake by McKeehan Brings Outburst of Cries That In- terrupts Meeting.

Mr. McKeehan in his twenty-minute reply to Mayor Johnson faced an audience that before he had spoken a dozen words made evident its hostility. During the early part of his reply he was interrupted by a no end of questions and suggestions, mostly of an unfriendly nature and coming from all parts of the tent.

In explaining the railroad commission provided for in the Baker ordinance, Mr. McKeehan stated that power was given to the railroad commissioner not only to examine the books of the company but to compel the operation of additional cars if the service should be found not so good as that warranted by the earnings.

Mayor Johnson and Solicitor Baker joined in correcting Mr. McKeehan in his understanding of the clause. The audience, believing Mr. McKeehan had made a blunder, broke loose. Full vent was given to the hostility that all through Mr. McKeehan's reply had been apparent. In vain Mr. McKeehan attempted to overcome the hubbub. It was not until Chairman Boyd had reminded the audience of its duty of fairness that Mr. McKeehan was allowed to conclude his remarks. Mr. McKeehan in replying to Mayor Johnson said:

"Mayor Johnson has said that those who oppose the city administration have no plan. I shall answer him.

BAKER DISCUSSES SERVICE

Solicitor Says Opposition's Fear That Low Fare Won't Pay is Unfounded.

With City Solicitor Baker arguing the service end of the low fare proposition and Mayor Johnson dwelling on the claim for the necessity of competition to bring the Cleveland Railway Co. to terms, speakers favorable to the Schmidt franchise talked to a friendly audience at Storer-av., S. W., and W. 52d-st., in the extreme north-western section of the sixth ward.

Councilman Charles Selzer acted as chairman and it was against his councilmanic record that the auditors threw the most bricks. Mayor Johnson had declared him and Hepry Maulberger, his predecessor, the two best councilman that section of the city ever had and to bring the audience back to the street railway question then became a task of some difficulty.

In opening City Solicitor Baker said that Mayor Johnson always had his face to the front regardless of how black the outlook or how insurmountable stone walls ahead seemed and that "his face never knew the shadow of turning from the opposition."

He told the history of the 3-cent fare movement, particularly with reference to the building of the Fulton-Denison line, and then carried his audience through the dry, technical and detailed explanations of the Tayer, Baker and Schmidt ordinances.

"As an eleventh hour campaign cry the opposition is now trying to claim that somebody may be able to build a 3-cent fare line in Payne-av., but that they cannot give service under the rate of fare," said Baker.

He illustrated the service point by calling attention to the service given by the Municipal on Denison and Fulton before the general settlement. He asked what kind of service it was. "Rotten," came two or three responses.

"Before the settlement," emphasized Baker.

"Good, good," then came the answers.

"It was the best in the world," insisted Baker.

He then entered upon a discussion of the strike, the troubles it produced, picturing the breaking in of green men and the claim of organized efforts to embarrass the collection of fares, etc.

"The true comparison," continued Baker, "is the service of the Municipal at its worst and the service of the Cleveland Electric when it had its strike ten years ago. Now it you will compare the service of the Cleveland Railway when in trouble of its own making with that of the Municipal with trouble that the Cleveland Railway made you cannot do aught else than find the latter less trustworthy on the question of service than the Municipal."

The mayor in opening referred to the debates and said he had removed Mr. McKeehan from his list of cowards.

"He muffed some questions," said the mayor. "He dodged some. Still I admire a man who will come out and take his medicine. I have to and am willing to take mine sometimes."

Mayor Johnson pounded away on the question of competition at both meetings. City Solicitor Baker spent most of his time in discussing the question of service as raised by Mr. McKeehan in the debates with the mayor. He said a fair comparison of the service given by the Municipal Traction Co. last year would be with the service given by the Cleveland Electric Railway Co. during and following the strike on the lines of that company ten years ago.

"But first I wish to make clear, as I view it, the situation that confronts us. Mayor Johnson claims that the city of Cleveland owns its own streets. This is a truism. I admit the accuracy of this claim. But Mayor Johnson further states that unless the Schmidt franchise is voted up dire results will follow. He intimates that upon the expiration of the present Payne-av. franchise the Cleveland Railway Co. will tear up its tracks.

"On Jan. 26 it is true that the Payne-av. grant to the Cleveland Railway Co. will expire. Mayor Johnson says that on that date the Cleveland Railway Co. may abandon the line, thus leaving citizens of Cleveland to walk or run as best they may. But I say to you, but for one fact, Mayor Johnson could order the Cleveland Railway Co. to take up its tracks.

"Now the fact that prevents either the Cleveland Railway Co. from tearing up its tracks on Payne-av. or Mayor Johnson from ordering it to tear up its tracks is the fact that the United States court now owns the property of the Cleveland Railway Co. This, strange though it may appear, in a practical way is true.

"The Cleveland Railway Co., and every one of its officers are enjoined from laying a hand on the Payne-av. line or any other line now in the hands of the receivers.

"Every man in this tent knows that Judge Tayer will not permit the Payne-av. tracks to be torn up. And no man here realizes this fact any better than does Mayor Johnson.

"Why then turn the Payne-av. line and the extension lines over to Herman Schmidt and his unknown associates? Why give the club, about which Mayor Johnson has talked so much, to Herman Schmidt? You own the streets now. You will own them on Jan. 26. And the United States court will control the street car lines.

"I understand that Mayor Johnson is telling you to vote for the Schmidt grant, however bad it may be, because it is a competitive club. Well, if you care nothing for the service you are to receive from this Schmidt company, if it makes no difference to you whether you get free transfers or whether you pay for them, then, I too, say to you, vote for the Schmidt franchise.

"Mayor Johnson says Schmidt will be friendly to the people. Never in my life have I seen a public service corporation that was friendly to the people. Even the Municipal Co. ceased to love the people as soon as Mayor Johnson got control.

"Mayor Johnson says we have no plan. I say there was a day when the Cleveland Railway Co. surrendered. There was a day when that company said, 'We can fight no longer. We are willing to take any franchise that Judge Tayer, Mayor Johnson and Solicitor Baker will agree upon.'

"In other words, the company trusted Judge Tayer to be fair with them. And you, people of Cleveland, you had better begin right now to trust Judge Tayer.

"Mayor Johnson says that ultimately he desires a settlement. But he says he wants that settlement to be gained through the instrumentality of a club wielded by the hand of Herman Schmidt.

"So far as the street car company is concerned, there is just as much chance of a settlement on the Tayer plan as there ever was. Yet Mayor Johnson has stated tonight that if the Schmidt grant is defeated he will not again meet with Judge Tayer."

At this point Mr. McKeehan was interrupted by the audience.

"Mayor Johnson never made any such statement," came the cry.

"The simple plan proposed by those who oppose the Schmidt grant," Mr. McKeehan continued, "is not that any ordinance should be crammed down your throats, but that you should be given an opportunity to vote upon an ordinance comprehensively embracing the Tayer plan. At that time the many questions which Mayor Johnson now insists upon discussing will be proper.

"In answer to my question concerning the omissions in the Schmidt franchise of the railroad commission and of a limit on the operating expenses, Mayor Johnson has said that these were not necessary in a franchise that fixed the fare at 3 cents.

"If this be true then Mayor Johnson must conclude that 3-cent fare will just pay; that a lower fare is impossible. He must also further infer that service is to be left to take care of itself.

"Mayor Johnson suggested in answer to my question that the city auditor under the Schmidt franchise has authority to examine the books of the Schmidt company, and that therefore a railroad commissioner is unnecessary. It is true that the city auditor may examine the books. But in the Baker ordinance the railroad commissioner not only was given the authority to examine the books, but also to order out additional cars."

It was here that Mr. McKeehan was interrupted by the correction of Mayor Johnson and Mr. Baker.

"We must not break the precedent of good citizenship already set," said Chairman Boyd in his effort to quiet the storm of disapproval that broke upon Mr. McKeehan. "Will the women kindly persuade the men to keep quiet. I told you women not to permit any smoking and we have had none. I tell you now to maintain order."

Order restored, Mr. McKeehan said: "It is my understanding that under the Baker ordinance the railroad commissioner can order cars out in anticipation of such action on the part of the council."

To this Mayor Johnson and Solicitor Baker agreed.

"Yes," continued Mr. McKeehan, "the city auditor could examine the books, but he could not start a car. Why, there sits my friend Coughlin. He is city auditor, and he can't even start Mayor Johnson's clock.

"Mayor Johnson has said that there is water in the Cleveland Railway Co. stock. There may be. I don't know. But in the Baker and Tayer ordinance it is provided that the valuation shall be determined by arbitration. Mayor Johnson could pump the water out. But there is no such a provision in the Schmidt ordinance.

"Mayor Johnson told us but two of the largest holders of Forest City stock. But I wanted to know who were the four or five of the big stockholders. And I wanted to know how much Otto Leisy owned and how much Ben Cable owned and how much Herman Schmidt owned.

"Finally Mayor Johnson says that he wants peace. Of course, we all want peace. But here's how Mayor Johnson wants it: 'It is war; I'll fight to the bitter end,' he says."

THREATENS SALARY RAISE.

Mayor Will Veto Measure Increasing Remuneration of Employees, if He May.

City Solicitor Baker is of the opinion that Mayor Johnson has no authority to veto one or more items of the resolution fixing the salaries of the employees and raising others without vetoing the entire measure. But it is thought the mayor will take this course, as it was pointed out to him yesterday that four years ago he vetoed one item of an ordinance fixing salaries in the city auditor's office.

Records in the city clerk's office show that on Aug. 22, 1905, he vetoed the item in this ordinance raising the salary of Chief Clerk Kneen from \$1,700 to \$2,000 and approved the rest of the ordinance. The opinion was expressed at the city hall yesterday that the language of the section of the municipal code dealing with the mayor's veto power indicates that the chief executive can veto one or more items of any ordinance calling for the expenditure of money.

Mayor Johnson said yesterday that he would soon take up the matter. The mayor says if he has the authority he will veto certain sections of the ordinance.

MAYOR WILL BE SATISFIED

Says People Will Settle Traction Fight Right at Today's Election.

Speaking before probably the largest audience of the campaign, outside of the debate gatherings, Mayor Johnson was tendered an ovation in the tent meeting at Cedar-av., near the C. & P. crossing last night in making his closing speech of the Schmidt referendum fight. The territory is supposedly unfriendly, but in no meeting was more enthusiasm displayed than was given all three speakers last night.

With the exception of those in City Solicitor Baker's speech no new arguments were advanced. Mayor Johnson's talk was brief, due to the weakness of the mayor's voice. He spoke last, Peter Witt preceding him and Baker opening. Harris R. Cooley presided as chairman.

In opening his talk Baker made the claim that the rejection by the Cleveland Railway Co. forced procedure along the lines of the Schmidt ordinance.

"This is the last hour in a great fight," he said in closing. "It may be that the Schmidt grant will be voted down. I do not know. It is your question and not mine."

"The people have made up their minds to be their own rulers and whatever the result may be I shall be filled with a new kind of optimism about the future. This people have shown in this campaign that they are truly citizens who deserve to govern themselves."

JOHNSON HURLS THE LIE.

Mayor Accuses Homer McDaniel of Falsifying in His Latest Statement.

Selecting Library park on Fulton-rd., S. W., in the heart of supposedly friendly territory, for the final Saturday night meeting of the campaign Mayor Johnson last night faced one of the biggest crowds of the referendum contest. The crowd received Solicitor Baker and City Clerk Witt, as well as the mayor, with enthusiasm.

"The Chamber of Commerce has been left far in the rear," said City Solicitor Baker. "The torch light procession has passed by. The Chamber of Commerce, never helping, has always hindered. It is an organization that has never once taken the side of the people on any important question."

"Three-cent fare is an established enterprise. But it took a terrific struggle. In the days of the fighting where were the Chamber of Commerce, Homer McKeehan and Walter Meals and the other orators of the citizens committee? That is for you to answer."

Cleveland's legal department keeps cool and clear-headed through the summer months by "buttermilk lunches," served daily in the law offices. City Solicitor Baker, his assistants, stenographers and an occasional guest take part. The menu consists of a bountiful supply of cold buttermilk, crackers and cheese.

Many advantages are claimed for these lunches. They are healthful and invigorating. They relieve the necessity of eating warm and sticky viands in a hot and crowded restaurant, and they keep the force together and make for esprit de corps. Much "buttermilk philosophy" flows at these feasts, 'tis said.

City Solicitor Baker took the boat for Detroit last evening directly after receiving the statement of the result of the vote.

"I'm just as happy as anyone in this town," he said. "The people of this town own the town and know how to run it. Any way they decide is good enough for me."

The city solicitor will attend the annual meeting of his college fraternity and will be away for three days. Herman Schmidt, whose grant has been the issue of the hot fight that terminated with yesterday's election, said when asked for a statement that he had nothing to say.

PEACE MEETING OFF TILL BAKER ANSWERS CAR CO.

He'll Reply to Statement of Company's Position, Which Mayor Says Yields Nothing.

Mayor Tom and the Cleveland Railway Co. disagreed Wednesday night on the old points of difference in the traction settlement and peace seems to be as far distant as ever.

Unable to make any headway, the meeting adjourned subject to call as soon as City Solicitor Baker had prepared an answer to the statement of the Cleveland Railway Co.'s position, which the mayor said yielded nothing. The company will have 12 hours to study Baker's document and to prepare a counter statement.

Provisions on which the city insists the company must make concessions are: East Cleveland contract, which the city says must terminate in 1913; valuation, time in which the city shall have the right to nominate a purchaser, rate of fare, arbitration, legal safeguards, wages and transportation of employees.

Andrews suggested that attorneys representing both sides get together and attempt to work out a basis for agreement. Mayor Tom objected. "We will attempt to work this thing out here, in this chamber, in open meetings," he said.

Cleveland Railway Co. Will be Given Twelve Hours in Which to Consider City's Reply to Its Statement—Council Will Likely Convene Tomorrow to Resume Negotiations—Concerning Immediate Settlement Mayor Says: "It Appears to be Up to People to Force Company to Make Concessions."

The city administration and the Cleveland Railway Co. are still widely at variance on the big questions

involved in the latest attempt to settle the traction controversy. Addressing the council committee of the

How Both Sides View It.

Neither Mayor Johnson nor President Andrews would discuss the developments of the meeting from the view point of a possible break in the negotiations.

"Is the statement of the company final on the important points at issue?" Mr. Andrews was asked.

"That depends on the answer of the council through Solicitor Baker," was the reply.

"Do you interpret the company statement as meaning there is no hope of immediate settlement?" was asked the mayor.

"It now appears to be up to the people to force the company to make concessions," was the answer.

whole, Mayor Johnson last night sharply criticised the written proposition of the company submitted by President Andrews in answer to the overtures of the administration made Tuesday night.

Mr. Andrews replied that the mayor had entirely misinterpreted the attitude of the company. He insisted the company was extremely conciliatory in its proposals, that it went way beyond concessions demanded by Federal Judge Tayler, and keenly desired an immediate settlement on any kind of a workable basis.

The negotiations will be resumed when Solicitor Baker has had time to prepare an answer to the latest statement of the company. The meeting last night was adjourned subject to the call of the chair. The company will be given twelve hours to consider the Baker answer that is to be prepared on behalf of the council. This means the next meeting will not be held before tomorrow, if then.

Mayor Criticizes Company.

"I want to inform the committee that, in my opinion, the company has made absolutely no concessions," said the mayor.

"All the disputed questions are as wide open as they were at the beginning of the negotiations. Taking all the substantial differences, at least nine in number, not one is in anyway affected by the statement of the company just submitted to you."

"The company ought to have made concessions. It must make concessions. We are just where we started last Saturday. This statement is a notice to you that concessions have all got to be made by the council, or the people, more properly speaking. It is very far from being encouraging for a settlement when we are met with such a distinctly unfair spirit."

"As far as minor questions are concerned the position of the company makes matters worse. I repeat that the position of the company is, you have to concede everything. The concessions are all on one side. I hope

I am wrong but it certainly does not look that way."

There was a distinct feeling of unrest in the council chamber following the speech of the mayor. There was immediate whispered talk about the room that another mayoralty campaign with the traction question the dominant issue was inevitable. Mr. Andrews, replying to the mayor,

said:

"I am extremely sorry that Mayor Johnson misinterprets the position of the company. He construes the attitude of the company as against a settlement. This is very far from the truth. We have pointed out clearly our position, suggesting it as a sort of basis for further negotiations.

"We stand ready to settle on any plan or ordinance approved by Judge Taylor. In our statement of tonight we have made important concessions not required in the Taylor ordinance. Contrary to the opinion of the mayor our position is not antagonistic. Our attitude is conciliatory all the way through. The company desires to agree with the city on any workable proposition that will succeed.

"I believe we have met the suggestions of the city fairly and that headway can be made by further negotiations. It might be expedient for attorneys representing both sides to get together and attempt to work out the basis for an agreement."

"That does not appeal to me," retorted the mayor. "We will attempt to work this thing out here in this chamber at open meetings. Our differences are one of principle and not of phraseology."

"I have no way of knowing what the officers of the company think," continued the mayor.

"All we can do is to judge from the written document. I repeat we have made absolutely no headway toward a settlement. In some respects we are further than ever apart."

The East Cleveland contract was made the subject of a lively colloquy between the mayor, Solicitor Baker and Mr. Andrews. In the formal statement of the company the proposition with reference to the tangle over the Euclid-av. franchise was:

"The company stands ready to consider any plan that will preserve the integrity of the ordinance and not do violence to the contract rights of the company with East Cleveland. We suggest a renewal for twenty-five years, reserving to the council the right to change the rate of fare on the Euclid-av. line July, 1914, the date of the expiration of the existing franchise, not impairing, however, the ability of the company to earn 6 per cent."

Both the mayor and solicitor characterized this as a flat refusal by the company to make any concessions. Solicitor Baker said the council was concerned with what the people of Cleveland would have to pay and not over any arrangement made by the people of East Cleveland.

"The situation with reference to the East Cleveland contract is plain and entirely simple," said the mayor. "The company has either got to agree to relieve the city of Cleveland of unfair burdens or the city has got to agree to perpetuate them."

Other important points on which the administration insisted the company refused to concede are valuation, time limit in which city may nominate a purchaser for the property, fare, arbitration, legal safeguards and wages and transportation of employes.

SHRIEKS OF PAIN WHEN "NOOT" D. TAKES A BATH

He Does Not Like Cold
Water, but It's Duty
With Him

IT PUTS AN EDGE
ON HIS ELOQUENCE

Once Mr. Foran's Boy Sur- prised Pat McKinney's Friends

Note—This series of character sketches will embrace a number of well-known Clevelanders who have figured more or less in the public eye recently.

(BY ARCHIE BELL)

Wife and two little children experience a daily nervous shock. Time does not diminish it. It occurs early every morning in the year. When "Noot" enters the bathroom and bolts the door, they grasp the back of a chair or something else quite as stable and hold fast waiting for the shriek of pain. Even the neighbors have heard it. Long ago they thought somebody was being killed or tortured. They whispered curiously concerning the outcry. Then somebody learned the truth and now they all know. Around about 7 o'clock each morning directly following the outcry, wife whispers to children and neighbor says to wife: "Newton D. Baker is taking his cold plunge."

He hates cold water as he hates the Chamber of Commerce; but he takes a daily plunge into both. One cools him off; the other heats him. Both put an edge on his eloquence, and there lies the consuming passion of Newton D. He'd rather talk than eat, drink or be merry.

Called "Angel Child"

Away back in Martinsburg, W. Va., they used to call him the "angel child," and sometimes he is still referred to in the same way. He never did grow up. When he was a youngster his boyish babble sounded like a sermon by Cotton Mather. When he was ten years old he had read Shakespeare, Milton, Homer and the Bible. When other kids his age were hiding behind the haystacks cramming their minds with "Cap Collier," Noot was seated in his father's office reading "Paradise Lost."

Foran Sent His Boy

The manner in which Noot dawned on Cleveland is characteristic of the city solicitor of the present. Martin A. Foran was scheduled for a political address. At the last moment he was taken sick and couldn't appear. Pat McKinney was chairman of the meeting. He looked toward Noot with a sneer, but the latter didn't mind this and merely looked wise behind a pair of spectacles.

"Mr. Foran is sick and cannot attend this meeting tonight," said McKinney. "He's sent his boy to speak for him. Come on, boy, and tell 'em what you know."

The crowd grinned as little Noot stepped forward looking as if he bore the weight of the pyramids on his brow. Nobody knew him then. They didn't even know that he was a full-fledged lawyer, a graduate of Johns Hopkins university, and the business partner of Foran. They didn't know that he had read everything on every subject, and

that at a moment's notice he could launch forth into an argument pro or con on any subject from the destratability of immortality, or the fundamental law of gymnospermous gynoecium, to disputed authorship of Norse sagas and the royal family trees of Abyssinia.

Surprised by the "Boy"

That was a great night for the young lawyer. Opportunity knocked at his door and he said "come right in." It wasn't so much what he said as the way he said it. Audiences at the theater or at political meetings like striking contrasts and surprises. They had been listening to old dyed-in-the-wool Democracy. The chairman whetted their curiosity by reference to "the boy." They were ready to yelp, and disposed to guff.

But Baker hadn't spoken three words before the wise ones pricked up their ears and listened. His speech was studded with pearls and encrusted with diamonds of wit and wits. The old fellows staggered and then when regaining their mental balance, cheered lustily and nodded their heads.

Discovered by Mayor

Tom Johnson, the David Belasco of local politics, always on the lookout for a young star whom he can thrust into the limelight with dramatic effect, cast his effulgent smile on Noot and with a Svengalian nod of the head, bade Trilby sing. And Noot has been talking ever since.

He has departed from the sound old Democracy of his fathers and become a thorough convert to the modern brand of government known as Johnsonism. Little wonder that he has been called "the oldest young man in Ohio." He has a hard job, perhaps the hardest that ever fell to the lot of mortal man since the historian Ferrara set out to prove that Nero was a nice young man who never had a naughty thought in his life.

Finds Legal Justification

In 1901 he was appointed director of law to fill an unexpired term. Then through the various elections of 1903, '05 and '07 he was continued in office. Johnson went ahead and did things in his own sweet and sublime way, and it was the business of his city solicitor to find legal justification for every act called to question.

Oftentimes the practical use of somewhat obsolete learning is called to question. Some people inquire what benefit the college youth will receive from his delvings into Latin, Greek and Hebrew. In Newton D. Baker the question is answered. There have been moments since the present administration came into power when ordinary Blackstone et al. served no purpose. Had Noot been an ordinary lawyer, he would have thrown up his hands in dismay. But not so with this particular man. If he can't find it in the ordinance, he will remember it in the Talmud, Koran or on a Babylonian brick. Knowledge bubbles forth from his tongue embroidered with arabesques of Sam Johnson English as recorded by Boswell, and illuminated by all the colors of speech known to Cicero, Daniel Webster and Sarah Bernhardt.

Once Studied Medicine

Noot was supposed to be "called" to the practice of medicine. His father, who was a physician of Martinsburg and had found it a profitable profession, wanted his young prodigy to succeed him as a bone-

"NOOT"—HERE HE IS AS SAT SEES HIM

"NOOT BAKER"



setter. For a while it looked as if Noot would be a doctor before he left grammar school. He devoured the books in his father's office, acquiring a lot of medical lore which he still retains, and was able to converse intelligently with his parent upon questions that would have stumped Pythagoras. Some of his friends attribute to this early experience his keen scent of death. They say Noot can tell when you're about ready for the tuberose and calla-lilies. Introduced to a former governor of Ohio, he shook hands and went into the next room to tell his friends that "his honor is dying from Bright's disease." Noot made good on that guess and now they're all careful about breathing in the same room with him. He can tell

if you're a goner, although there's a peculiar irony in the fact that he has not yet publicly spoken concerning a certain political death that is imminent.

Assisting the Surgeon

One day Baker, the elder, was called to the country to amputate a man's limb. While in the midst of the operation he received word that one of his patients was dying across the road. Noot was at his father's side, and the latter to attempt saving two lives, left one patient on the table, instructing his son to tie up the arteries as soon as possible. The doctor hustled across the street, prescribed medicine and rushed back, only to find that his young hopeful had tied

up the veins and would have left the man to bleed to death.

That settled Dr. Baker's mind concerning Noot's future. He could go to college and be anything in the world except a doctor; so the youth naturally drifted to the law as being about the most intricate and puzzling thing that could relieve the throbbing pulsations of his brain.

Likes Tobacco and Coffee

Noot is about thirty-five years old, but he is more eloquently versatile than Methusaleh could possibly have been. So age doesn't necessarily count. He is a dynamo of energy, much of which he attributes to his daily cold plunge and his

excessive use of tobacco and coffee. He smokes a particular mixture of the weed, which he prepares and keeps in a big jar near his desk. He puffs a big pipe (all small men do just as thin women wear stripes) and the bowl is constantly warm.

Then he literally dotes on coffee, which he says has an ingredient that counteracts the nicotine. He doesn't give a fig for society, but revels in music, art, science and literature. Once I heard him review an operatic performance in language that would have made Bill Sage's most Lead-erhoretic read like a Press news item. In this way he's a valuable member of society. If you have a hobby and think you're wise, a few moments' conversation with Noot convinces you that you're an ignoramus in your own particular field of study.

PEACE TALKS OFF TILL MONDAY NOW

It is not probable that another meeting of the traction peace negotiators will be held before Monday.

City Solicitor Baker did not complete his answer to Cleveland Railway communication Thursday. It will be ready some time Friday. The street railway company will have 12 hours after its delivery to study it.

It is not expected any additional concessions will be made by the city.

TRACTIONS BOUND TO BE AN ISSUE

Street Railway Matters Sure to Come Before Voters in Some Form.

Baker Can See No Obstacle to an Early Settlement.

Cleveland is facing another street railway campaign. Leaders in both the dominant parties agree that another battle in the long drawn out traction war is inevitable. The battle lines may be drawn at another railway referendum held in advance of the general fall election.

Should the city and railway company fail to agree on the terms of an ordinance it is conceded on every hand that the traction question will be the paramount issue in the mayoralty contest. Politicians say, however, that in such a contingency the direct issue will be Mayor Johnson—whether the voters desire to empower him for the fifth time to dominate the position assumed by the city on the traction problem. The campaign, these same observers say, would be one of personality—the personality of Mayor Johnson and his attitude on the railway question pure and simple.

There is a recognized possibility that an ordinance may be agreed upon in time to submit it at the general election, the negotiations now in

progress not bringing in an agreement in time for a referendum before the municipal contest. In such a case the voters will be called upon to settle both the surface and subway transportation problems as well as elect a complete municipal ticket. A referendum on the proposed subway grant to the Cleveland Underground Railway Co. in connection with the municipal election is already assured.

Solicitor Baker yesterday expressed the opinion that the traction question would be put before the electors in the shape of an ordinance for approval or rejection in advance of the November election. He said he saw nothing to be discouraged about in connection with the pending negotiations and believed that both the council and railway company wanted to reach an agreement and would get together.

Solicitor Baker yesterday completed the draft of his answer to the latest proposition of the railway company. It will be submitted to the mayor and members of the council street railway committee today. Mr. Baker said he hoped to get the document in the hands of the railway company "some time this week."

This probably means that the next peace meeting will not be held before next Monday. There was no general disposition yesterday to call a meeting for tomorrow. A meeting today appears out of the question as the company will have to have time to prepare an answer after receiving the administration document.

The executive committee of the citizens' organization that directed the recent campaign against the Schmidt grant is watching every detail of the present negotiations. Secretary Havens and Attorney T. A. McCaslin attend the conferences on behalf of the committee. Yesterday it was stated the committee is still determined to force immediate action on an ordinance that can be placed before the electors with the approval of Judge Tayler.

The committee is emphatically against any delay that will prevent a referendum on an ordinance proposing a settlement in connection with the general election if not before. If a tendency develops to drag the present negotiations to unnecessary lengths the executive committee will meet and plan a course of immediate action. A veritable bombardment of the council with demands for a chance to vote on a Tayler plan ordinance may be inaugurated.

CLASH ON PAVING BILL

City and Cleveland Railway Differ as to Paying for Fulton-rd. Job.

The city and street railway management may have a serious clash on the question of sharing in the expense of the paving of Fulton-rd., N. W., between Franklin circle and Lorain-av.

Engineer Clark of the Cleveland Railway Co. has expressed the opinion that the ordinance does not require the company to pave between the tracks and the "devil strip." After a study of all Fulton-rd. ordinances yesterday President Springborn of the board of public service and City Solicitor Baker reached the conclusion that the Cleveland Railway Co. is operating the line under the Forest City grant, which requires the company to pave a strip sixteen feet wide in the center of the street.

Springborn notified Clark of his decision and the latter stated that he would refer the question to Attorney A. C. Dustin.

The board of public service has just awarded the contract for the paving of Fulton-rd. and has assumed that the cost of the paving of sixteen feet of the street would be borne by the street railway company.

TAYLER, TOLLES, BAKER PROPOSED AS CAR ARBITERS

Cleveland Railway Co. Would Let Them Fix Safeguards for Traction Ordinance.

The Cleveland Railway Co. recommended Monday that Judge R. W. Tayler, City Solicitor Baker and Atty. S. H. Tolles be named as arbitrators to settle the dispute between the city and company as to safeguarding provisions of the traction ordinance.

In a long communication to council, President Andrews agrees to the section of the Baker ordinance covering safeguards, with several marked modifications.

The Baker plan stipulates that if any one of the safeguards is held invalid the whole ordinance fails.

Andrews would modify this so the company can operate for a fixed period even though any of the safeguards fail, the city reserving the right to fix new terms and conditions for operation in the interim, the company binding itself to accept these. Its ability to earn 6 per cent is not to be impaired, however.

BEND EFFORTS TO BREAK MAJORITY

Supporters of Tayler as Arbitrator Plan Attack on Mayor's Front.

Hope to Win Over Councilmen Before Meeting Tomorrow.

The Cleveland Railway Co. will make one more attempt to prevent a final break in the traction peace negotiations. If a break comes, the railway officials say they are determined the responsibility will not rest on their shoulders.

The company will make answer to the latest proposal of the city at the regular council meeting tomorrow night. The council will resolve itself into a committee of the whole immediately following the regular session. City Solicitor Baker will act as chairman.

The company, it is understood, will renew, with added emphasis, its plea that Judge Tayler be called upon to arbitrate the points of dispute. There was talk yesterday that organized pressure might be brought to bear on the members of the council between now and Monday in an effort to break the solid front of the majority in opposition to Judge Tayler as an arbitrator.

And Now Proceed to Business.

The barricade which was built to block the progress of traction settlement in accordance with the Tayler plan has been removed by the voters of Cleveland. The will of the majority, registered yesterday at the polls, is a positive demand for the Tayler plan and peace.

Mayor Johnson can hardly ignore the clearly expressed wish of the people. The councilmen who have stood by him can no longer disregard the wishes of their constituents. The low fare victory, won when the Cleveland Railway Co. acceded to the Tayler plan, must now be taken advantage of and made the most of.

The city administration—mayor, solicitor and councilmen—should now seriously resume the task of settlement that was interrupted by the referendum campaign. They cannot misinterpret the popular demand. Further obstructionist tactics could not be construed as in behalf of the people, or as inspired by any other motive than sheer obstinacy.

As expressions of the principles of the Tayler plan two measures have been presented for consideration; the Baker ordinance and the Tayler ordinance. The Plain Dealer is of the opinion that the measure drawn by the city solicitor is distinctly superior to that which bears the name of the originator of the plan. Some of the points of difference between the two ordinances are purely of a legal nature, lawyers' disagreements; while others are fundamental. On the legal points the Plain Dealer does not express an opinion. Aside from these considerations the Plain Dealer believes that the ordinance to be drawn to include the Tayler plan features should closely follow the Baker ordinance, save in two important details.

These details, which rendered the Baker ordinance impossible of acceptance after its passage by the council, are those of maximum rate of fare and time limit within which the city may designate a purchaser for the Cleveland Railway Co.'s property. The maximum rate of fare should not be lower than 4 cents cash, seven tickets for 25 cents, and 1 cent for transfer without rebate. This rate, it is understood, was in the ordinance as originally drawn by Mr. Baker, but was later altered. The Baker ordinance as it stands provides for a refund transfer charge in the maximum rate, while the Tayler ordinance provides for a 5-cent cash fare, seven tickets for 25 cents, and 1 cent for transfer without rebate. A proper meeting ground would be the 4-cent cash fare and the unrebated transfer. Such a maximum, it is generally believed, would be adequate for financing. Under the terms of the Tayler plan no rate in excess of that required for satisfactory service and a 6 per cent. return to the stockholders can be

charged.

Aside from providing an inadequate maximum the Baker ordinance stipulates that the city, after four years, may nominate a purchaser to whom the traction company must dispose of its property. An allowance for a possible transfer of property is by no means objectionable, if a sufficient limit is allowed. The Tayler ordinance fixes this limit at ten years, and in this is preferable to the Baker measure. No limit of less than ten years should be considered.

The essentially important question of valuation, upon which so much depends as to rate of fare, is handled much better by the Baker than by the Tayler ordinance. The Baker ordinance submits the question to Judge Tayler, a man of known impartiality and ability, while the Tayler ordinance leaves the decision to some man appointed by Judge Tayler, who may or may not come up to expectations. Moreover the Baker ordinance wisely and properly stipulates that the valuation must be made before a referendum, so that the people may know definitely what they are voting upon, while the Tayler ordinance leaves a loophole by which the valuation may not be made known till after the popular vote.

There are other matters of divergence between the two ordinances, such as the East Cleveland contract, double fares on Lorain-av., control of suburban cars and terminals. In each case, if legal difficulties do not intervene, the Baker ordinance is preferable. None of these, however, are vital points of difference between the city and the traction company.

* * *

The essential points, then, are three.

1—A workable maximum, under which the system can be financed; a rate of not less than 4 cents cash, seven tickets for 25 cents, 1 cent for transfer, and no rebate.

2—A limit of not less than ten years within which the city may assume the right to name a purchaser of the traction property.

3—Valuation by Judge Tayler, and a complete report before a referendum.

The first two points are not in the Baker ordinance, and must be in any ordinance that rightly embodies the Tayler plan. The third point is in the Baker ordinance, and should be insisted upon by the city administration. Immediate 3-cent fare, with 1 cent for transfers, is provided in both ordinances, and is acceptable to the traction company as an initial rate.

* * *

The popular desire is manifest.

The necessary work is easy.

The duty of the city administration is clear.

TRACTION HARMONY STILL ONLY VISION

Council Refuses Company's
Offer to Arbitrate and De-
lay Grows Longer.

Andrews Asserts City's Reply
to Railway Leads to
Nowhere.

WANTS DEFINITE PLAN

**Tells Baker Suggestion Concerning
Arbitrators Means Nothing and
Only Adds to Delay—City Makes
Concession in Matter of Naming
of Purchaser for Lines—Mayor
Johnson, Sick, Must Go Away, His
Physician Says—City's Latest
Statement Regarded Conciliatory
in Tone Only.**

The dispute over the protection of the public safeguards remains a menacing obstacle to any settlement of the traction question. The city council last night refused the latest proposal of the railway company to arbitrate this difficult problem.

The company renewed its proposition to have Judge Tayler, Solicitor

Baker and Attorney S. H. Tolles act as board of arbitrators. In addition, the company agreed to bind itself in advance to accept the judgment of the arbitrators and further agreed that the council might reject the recommendations if it saw fit.

In a reply adopted as a resolution the council committee of the whole declared its unwillingness to accept the suggestion. In its place the council in a formal communication said:

"The council is willing to have the company consult either the gentlemen named, or anybody else, and have such persons consult with the city solicitor upon any suggestions they may have."

President Andrews of the company urged the council to accept the arbitration proposal. He argued that the proposition of the city would not lead

anywhere.

Wants Definite Answer.

"But your suggestion of arbitration would not be final, the city is not bound to accept the terms," said Solicitor Baker.

"Yes, but it would get us somewhere," replied Mr. Andrews.

"Your counter proposal does not get us anywhere. It only tends to delay. What is wanted now is results. Of course I had hoped the council would agree to be bound by the judgment of the three proposed arbitrators."

"Your suggestion amounts to arbitrating the dispute over legal safeguards," said the mayor, addressing Mr. Andrews. "The council has already stated its opposition to any arbitration except on the question of valuation."

The council last night made a substantial concession on the right of the city to nominate a purchaser but conditioned it upon a concession of the company that arbitrators on valuation must be disinterested. Contingent upon this further concession by the company the council agreed to have the right of the city to nominate a purchaser postponed until 1917.

In concluding its latest statement the council says:

"The attitude of the company, as shown by its latest communications, justifies the feeling that there now appear to be no insurmountable obstacles to the immediate settlement of the railway controversy."

Sees More Delay.

Company officials regard the council pronouncement as conciliatory in tone only. Answer will be made at another meeting of the committee of the whole tonight. Developments today may turn so that the meeting will be the last of the attempts to settle through the medium of council negotiations.

Replying to the council statement last night, President Andrews asked why nothing was said concerning the proposal to arbitrate. Solicitor Baker said the answer was contained in the concession made by the city on the licensee provision. Mr. Andrews followed with his contention that the statement of the city only tended to delay rather than expedite the negotiations.

Mayor Johnson stated to the council that he would have to go away next week, if possible. He added that he was not going either on business or pleasure, but upon the advice of his physician.

Atty. S. H. Tolles and ex-Judge Jas. Lawrence be named to draft an invalidity clause in the proposed street railway ordinance on the condition that Judge Tayler be made a third member of the committee.

The agreement, signed by President Andrews, was filed with the city clerk.

The company maintains that it should have the right to meet the bid of any proposed purchaser for the property and, if it meets such bid, should be allowed peacefully to retain the property.

A caucus of Democratic councilmen may be held before the meeting of council Monday night. The Democratic majority will attempt to frame an answer in time to be submitted to the meeting. Any meetings of the council committee of the whole within the next week will be presided over by City Solicitor Baker as Mayor Tom left the city Saturday to be gone a week.

BAKER ACCEPTED AS ARBITRATOR

City Agrees to Tayler and Company to Solicitor to Pass on Safeguards.

These Two, With Tolles and Lawrence, Will Constitute Board.

The city council last night agreed to Federal Judge Tayler as one of the arbitrators on the public safeguards section of the proposed traction settlement ordinance with the proviso that City Solicitor Baker should be added to the list of conferees.

The railway company, it was stated, will agree to Solicitor Baker as one of the arbitrators in a statement to be in the hands of the council committee of the whole no later than tomorrow night.

As the negotiations now stand, the dispute over the legal safeguards will be left to a committee of four to be composed of Federal Judge R. W. Tayler, former Judge James Lawrence, S. H. Tolles and Solicitor Baker. In the administration statement, adopted by the council last night, it is proposed to consider the report of the arbitrators "on its merits." The council does not bind itself to accept the report and does not ask the company to bind itself.

The administration declaration on the right of the city to nominate a purchaser is that it can make no further concessions and its position remains unchanged. This is in reply to the company statement that it stands on the proposal of Judge Tayler that the city cannot nominate a purchaser before 1919. The statement of the city as adopted by the council committee of the whole last night reads:

"Replying to your communication of Aug. 23, we beg leave to say that your communication does not respond specifically to the suggestions contained in our communication of Aug. 20 with regard to the right of the city to name a purchaser.

Council's Stand Unchanged.

"The council's position on that subject is unchanged and is as set forth in our communication of Aug. 19, to the effect that the city is willing to yield a postponement of that right until Jan. 1, 1917, upon condition that the limitation upon the selection of arbitrators be restricted to the third arbitrator, as set forth in our communication of Aug. 20.

"Upon the subject of the plan upon which any prospective purchaser might bid, the company in its communication of Aug. 9, paragraph 46, made a specific recommendation, embodying the substitution of the language of Judge Tayler's ordinance for the language of the Baker ordinance on that subject. In the reply of the council of Aug. 10 we said, 'The change suggested in lines 1329 and 1331 is not conceded. The council

COUNCIL DELAYS CONSIDERING NEW ANDREWS LETTER

To Meet Again on Proposition to Add Tayler to Lawrence-Tolles Committee.

Action on Monday's peace proposal of Cleveland Railway was postponed Monday night by council.

The communication, agreeing to the selection of Atty. S. H. Tolles and ex-Judge Jas. Lawrence to prepare an invalidity clause makes, however, the condition that Judge Tayler be made a third member of the committee. It was referred to the council committee on street railways—an entirely new move under the present peace parley.

President Andrews, seeking reasons for this new move on the part of the city, was informed by City Solicitor Baker that a meeting of the committee would be called within a day or two and that action on the proposal by council committee of the whole would follow.

TRACTION MEETING CALLED BY COUNCIL

A meeting of the city council as a committee of the whole has been called for 8 o'clock Wednesday evening to resume settlement negotiations with the officials of the Cleveland Railway Company.

Chairman Koch of the street railway committee of the council said that he would get in touch with City Solicitor Baker during the morning Wednesday and arrange for a meeting between Baker and the committee on street railways to be held before the evening meeting, probably some time in the afternoon.

The mayor, when he went away, left the negotiations in the hands of Baker.

ACCEPTS CITY'S ARBITRATORS, IF TAYLER IS THIRD

Cleveland Railway Willing That Tolles and Lawrence be Named, if Judge is Also.

Cleveland Railway Monday agreed to the proposal of the city that

expresses its willingness to change the Baker provision on this subject, but the language suggested would destroy the value of the licensee provision entirely.

"The council regards the licensee provision as an important public safeguard. It recognizes the difficulty pointed out by the company in the language of the Baker ordinance. On the other hand, the language of the Tayler ordinance destroys the effect of the provision and would make it impossible ever to secure a prospective purchaser who would be willing to guarantee the good faith of his proposal by putting up a bond of \$100,000, agreeing to take a lower rate of interest upon his capital investment and paying for the company's property at 110 if his proposition was, when made and thus secured, a mere basis of negotiations between the city and the company, without any possibility of a favorable consideration of his proposal.

"In other words, if the time should ever come when occasion required the city to resort to a use of the licensee provision, the city and a prospective licensee ought to be at no greater disadvantage than that imposed by the increased price and the lower rate of return, and the council is entirely willing, as it said in its communication of Aug. 10 to agree with the company upon language which will minimize the objection to the Baker provision without incurring the infirmities of the Tayler provision. We would be glad to consider any suggestion from the company on that subject.

"The council notes the statement of your communication to the effect that you regret our 'unwillingness to seek the advice of Judge Tayler on disputed questions.' The council has at all times welcomed the advice of Judge Tayler, but our attitude upon that subject is not now in issue, and we respectfully suggest that if our discussion can be confined to the merits of the street railroad question there will be more prospect of progress.

"The suggestion of the council made Aug. 20 that the preparation of an invalidity clause be entrusted to Mr. Tolles and Judge Lawrence, omitting Judge Tayler and Mr. Baker, was for the purpose of securing suggestions from fresh minds upon a subject on which both Judge Tayler and Mr. Baker had expressed their views.

"In your communication of Aug. 23 you say, 'We are willing to refer the drafting of an invalidity clause to Mr. Tolles and Judge Lawrence in conjunction with Judge Tayler.' The company will, of course, be glad to have the city solicitor added as one of the conferees, and the council is glad to accept the suggestion of the company, with the addition of the city solicitor. We therefore suggest that the company and the city unite in a request to Judge Tayler, Judge Lawrence, Mr. Tolles and the city solicitor that they undertake an examination of the questions involved and the preparation of an invalidity clause which will accomplish the object upon which we have not agreed and which is stated in your communication of Aug. 19 that the safeguards to the city should be as good as the grant to the company.

"In order to expedite the matter as much as possible the council proposes as the form of this submission the following:

"The question submitted to Judge Tayler, Judge Lawrence, Mr. Tolles and Mr. Baker is the drafting of a section to replace section 47 of the Baker ordinance. It is agreed by the company and the council that the section to be so drawn as to make the safeguards to the city as good as the grant to the company." The safeguards in question are the several provisions running in favor of the city as they appear in the so-called Baker ordinance, being ordinance No. 14343-A, as modified by the agreements between the council and the company set forth in the attached copies of the correspondence between them.

"The company expressed its wil-

lingness to be bound by the result of this submission and to leave the city free, but as the city does not desire any advantage of the company, we are entirely willing to have the section suggested by these gentlemen considered freely by the company and the city on its merits."

COUNCIL STANDS PAT; IT MUST HAVE BAKER

Won't Yield Him as Invalidity Arbitrator.

City council Friday night, in an answer to the latest peace letter of Cleveland Railway, refused to yield City Solicitor Baker as a member of the committee to draft an invalidity clause in the proposed franchise. The company was asked to reconsider his rejection.

The old stand of the city on 1917 as the date by which the city can nominate a purchaser and its declaration that each side name an arbitrator favorable to its interests with third to act as "umpire," was reiterated.

The company's answer probably will be filed with Baker Saturday. A special meeting to consider it may be called for Saturday night.

RIGHT OF PURCHASE REMAINS OBSTACLE

Council Won't Concede More to Company Than Was Of- fered Week Ago.

City Also Stands on Demand That Baker be One of Arbitrators.

The city administration refused to make further concessions on the right of the city to nominate a purchaser for the traction property, in its reply to the latest statement of the company considered by the council committee of the whole last night. In reiterating its stand that the city must have the right to name a purchaser by 1917, the committee of the whole in its formal reply to the company declared:

"The council feels that it has conceded upon this subject all that the public interest will permit and all that the company can justly ask."

The city also stands by its demand that City Solicitor Baker be added to the board of arbitrators to draw a clause covering the legal safeguards in the proposed ordinance, so that the public rights shall be as good as the grant to the company.

Attorney Harry J. Crawford informed the committee that the company would be ready with its reply by noon today. President Andrews will return from New York this morning. Solicitor Baker said the street railway committee of the council would meet at noon to consider the company statement. If it is found possible to formulate a reply a meeting of the entire council will be called for 7 o'clock tonight. The

DISLIKES PATROL'S USE.

Mayor Advises Woman, Hauled Through Streets by Police, to Seek Redress.

A complaint from Mrs. Anna Bender, 5908 Central-av., S. E., arrested Wednesday by the Humane society and taken through the down town streets in a patrol wagon, will bring about changes in the rule regarding the use of the police vehicle.

Both Mayor Johnson and City Solicitor Baker say that the patrol wagon ought not to be used for minor charges. "Using the patrol wagon for slight misdemeanors is an outrage," said Solicitor Baker. "The mayor has advised Mrs. Bender to seek redress from the Humane society."

MAYOR AND BRYAN TALK GROUP PLAN

Executive Tells Democratic Leader That Beautification Scheme "Just Grew."

Recent Presidential Candi- date Meets Many City Officials.

"A dream that is being realized."

"A project that no man or group of men can claim the credit for."

"A plan that simply grew."

Such were the phrases used by Mayor Johnson yesterday in describing the Cleveland group plan to William J. Bryan when the latter paid him a brief visit prior to train time in his office at the city hall yesterday.

A birdseye view of the proposed group plan hangs above the mantel in the mayor's office. The picture caught the eye of the world traveler and he showed his interest in the scheme by putting many questions to the mayor and City Solicitor Baker.

City Solicitor Baker pointed out the locations of the various buildings in the group. After the group plan had been exhausted as a subject of conversation the discussion turned to Mexico.

"You've been to Mexico recently," said the city solicitor, "do they blame you for the uprising?"

"No, and they haven't blamed me for the flood either," replied Mr. Bryan.

CAR NEGOTIATIONS AWAIT TOM AND NEWT

There'll be Nothing Doing Till They Return.

Street railway settlement negotiations will await the return of Mayor Tom and Solicitor Baker from their auto jaunt. President Horace Andrews of the Cleveland Railway Co. said Monday there would be no communication sent the council until the two city officials completed their vacation.

Way is Clear; is Will Lacking?

It will require considerable effort on the part of the city administration and the Cleveland Electric railway to keep from coming to an agreement on all points preliminary to a valuation and the fixing of a maximum rate of fare. The city's representatives have, in the past, been not unjustly accused of haggling and petty quibbling; but just at present the chief offender is the traction company. Criticism of the administration that has been made by the company and its adherents may at this time be applied with complete justice to the company itself. Its recent acts have not been such as to inspire confidence that it desires a settlement at this time along the lines of the Tayler plan.

Large sections of the company's recent communications to the council have been devoted to grave and ponderous discussion of nonessentials. With vast dignity demands have been made that are puerile in substance, and the company has insisted upon regarding these as proper grounds for disagreement and delay.

For example, the company has insisted with great firmness that all the arbitrators shall be "disinterested." To find disinterested arbitrators would be difficult if not impossible. The two arbitrators, one named by the city and one by the company, would necessarily be advocates of the two different sides, and it is ridiculous to insist that they be labeled "disinterested." The third arbitrator, to be chosen by these two, would of necessity be disinterested and unbiased. Yet the company has sent communication after communication to affirm and reaffirm its unwillingness to recede and its insistence upon considering this one of the important points of disagreement.

To solve the difficulty of making the public safeguards of the Tayler plan safe without at the same time rendering the ordinance too liable to complete invalidation both sides agreed to the appointment of an advisory commission of lawyers. The traction company expressed its willingness to submit the problem to Judge Tayler, Judge Lawrence and S. H. Tolles, while the city demanded the addition of City Solicitor Newton D. Baker. Although the city expressly stated that the company need not bind itself to abide by the findings of this commission the traction representatives have remained obdurate in their opposition to placing Mr. Baker on the commission, and have actually created out of this a "point of difference." Such action is silly and reprehensible.

Two points, perhaps not of minor importance, but not of the greatest general interest, are apparently in process of peaceful settlement. These refer to the East Cleveland fare and the arrangements with the interurban railroads.

There still remains an undoubtedly honest difference of opinion as to the limit within which the city may be allowed to nominate a purchaser for the traction property. The city's first contention was for four years, while the company held for ten years. The Plain Dealer believed that the company's claim was just and proper, and that four years was altogether inadvisable. The city has now offered to raise the limit from four to eight years from Jan. 1, 1909, and this is a most material concession. The company has offered to accept ten years from Jan. 1, 1909, which really amounts to about nine years from the passage of the ordinance. The Plain Dealer now feels that if the city

will modify its concession so that the limit shall be eight years from the passage of the ordinance instead of eight years from Jan. 1, 1909, the company should at once acquiesce. The city, with some justice, claims that it should have some leeway inside of ten years, as the franchise must, under the terms of the Tayler plan, be renewed in ten years from the date of its passage. If not renewed the company may at once arbitrarily put in force the maximum rate of fare. Eight years from the passage of the ordinance leaves a margin of difference of scarcely more than a year between the city and the company.

Five points of difference, then, are at present under discussion.

Two of these, referring to East Cleveland and the interurbans, are now in process of settlement with practically no disagreement between city and company.

Two others, those of the makeup of the advisory commission on validation and of the "disinterestedness" of arbitrators, are mere quibbles on the part of the traction company and should be eliminated at once.

The fifth, that of time limit for nominating a purchaser, has already been subject for compromise. Though the Plain Dealer believes that the company's demand on this is not unjust, it feels that a slight concession might well be made to meet the large concession which has been offered by the city.

The preliminary differences, those that must be eliminated before proceeding to valuation and the fixing of the maximum rate of fare, are really so slight or so technical that they should and could be disposed of at once.

The question of maximum rate of fare, to be fixed after valuation by Judge Tayler, remains the threatening portent. But even this should be no block to immediate peace, if immediate peace is desired by both sides.

The Baker ordinance, for which in general the administration has stood, provides for a seven-for-a-quarter rate with one cent for transfers and one cent rebate. The company's demand is for a seven-for-a-quarter rate with a charge of one cent for transfers and no rebate. Obviously the justice of either claim depends largely upon the result of the valuation. The Plain Dealer suggests as a possible basis for settlement that if the valuation is found as great or greater than the Johnson-Goff valuation the company's claim for seven-for-a-quarter with a cent for transfers and no rebate be allowed as the maximum; if, as the administration affirms it should be, the valuation is lower than the Johnson-Goff figures, the city's rate of seven-for-a-quarter with rebated transfers be allowed. An agreement to this effect between the city and the company before the valuation would, the Plain Dealer believes, remove the last bar to settlement and would be consistent with the claims of each side.

Of course, what is desired by the people is a settlement in accordance with the principles of the Tayler plan. There can be no lingering doubt on this score. If, at this time, either side attempts delay by the discussion of mere technical differences or the introduction of fictitious difficulties the public will at once know where to place the blame. Neither side is justified in filibustering or in adopting guerrilla tactics in order to postpone settlement till after election.

MAYOR AND BAKER LOST! THEY'RE AUTO EXPLORING

Latest from Martinsburg, W. Va., Their Destination, Says
No Car Passed Since 1907--Arctic Club Specu-
lating Lots.

Members of the Arctic Club of Cleveland, which has headquarters in city hall, are spending much time in speculating as to the whereabouts of Mayor Tom and City Solicitor Baker, who left Cleveland last week on an exploring expedition.

When last heard of the two explorers were near the ninety-seventh parallel, which is located in West Virginia, exclusively in West Virginia, say scientists. They were then bound north.

The expedition was prepared in great secrecy and no appeal was made to the public for funds with which to equip it, all the supplies being furnished by Mayor Tom.

BAKER'S FIRST TOUR.

It was secret for this reason: Baker never had made an automobile tour, his experiences with the choo-choo wagons being confined to dashes from tent to tent during campaigns. Mayor Tom had asked him many times to accompany him on tours, but Baker had always declined.

"No, no," he always said, "I am a young man. I am entitled to a future. No perils of an auto tour for me."

In vain were all of Mayor Tom's pleadings until last week, when he "changed bait."

BACK TO OLD HOME.

"If you will come with me, Baker, I will take you to Martinsburg, W. Va.," the mayor said.

Martinsburg is Baker's old home, and he swallowed the bait, hook and line.

When last heard of, five or six days ago, they were in New Philadelphia eating dinner. Not a word has been heard from them since.

Members of the Arctic club say the expedition was well equipped with gasoline and tires.

The following dispatch was received Wednesday:

Martinsburg, W. Va., Sept. 15.—No sign of Mayor Tom and Newton D. Baker, either in an auto or on foot. Automobile passed through here in 1907, but none since.

COMPANY MAKES BIG CONCESSIONS FOR CAR PEACE

Cleveland Railway, in Latest Letter, Accepts Baker and Early Purchase Nomination.

Cleveland Railway Tuesday addressed a letter to council making important concessions in the traction negotiations.

The company concedes the right of the city to name a purchaser of the property any time after eight years after the ordinance goes into effect, providing the company shall have the right to retain the lines if it agrees to accept as low a return as the proposed purchaser.

More than that, the company announces its willingness to accept City Solicitor Baker as a member of the committee to draw up an invalidity clause.

The letter says the company is ready at once to submit the Taylor plan to the people at a referendum. It withdraws its request that no city employe be made a member of the arbitration commission to be named by the grant. But is still wants to have Judge Taylor determine valuation.

The company sticks to its original proposition of a maximum of 5 cents cash fare and one free transfer, or seven for a quarter with a penny charge for transfers, the initial rate of fare to be 3 cents cash, cent for transfers and double transfers on cross-town lines.

The company suggests that the East Cleveland and interurban controversies do not come into the negotiations while the company is endeavoring to get new contracts with the suburb and the out-of-town lines.

DENY REPORTS OF MAYOR'S ILLNESS

Executive's Wife and Solicitor Baker Brand Hospital Rumor False.

Husband Not Been So Well in Months, Asserts Mrs. Johnson.

Information from Baltimore that Mayor Tom L. Johnson was about to enter the Johns Hopkins University hospital for an examination that might result in an operation was vigorously denied here last night.

"There is absolutely nothing in the report from Baltimore," said City Solicitor Baker.

"Mr. Johnson has not been so well in months as he now is, and has no intention of entering any hospital,"

said Mrs. Johnson.

Mayor Johnson was in New York city yesterday. There was an exchange of telegrams between the mayor and members of the city administration. The mayor informed Solicitor Baker that he was ready to return at a moment's notice should the street railway or any other public business demand his presence. Unless called back by telegrams the mayor will make the return trip to Cleveland in his automobile, Mr. Baker says. He is expected back the last of the week.

Dr. Janeway, one of the most noted physicians of New York, is Mayor Johnson's physician and has been for years. The statement was made last night that the mayor had not even called on Dr. Janeway while in New York.

"I left the mayor Tuesday," said Solicitor Baker. "He was in splendid health and spirits. I have been in communication with him, directly and indirectly, since then. There never was a thought of his going to any hospital. Such a report is ridiculous."

URGES VIADUCT MEASURE.

Federal Engineer Declares Council Should Pass Closing Ordinance and Let Shippers Protest.

City Solicitor Baker reported to Councilman Selzer yesterday that the United States engineer had advised that it would be best if the city would pass the Selzer ordinance, which seeks to lengthen the periods when the Central and Superior viaducts may be closed during the rush hours, so that the vessel owners, if dissatisfied, can file protests.

If the protests are filed, the government will investigate. The Chamber of Commerce committee on harbors is looking into the ordinance, and the council will delay action until the chamber has reported on the measure.

The period in the morning is increased three-quarters of an hour and in the evening fifteen minutes by the Selzer ordinance.

Newton's Tip to Speakers.

Newton D. Baker made a remark the other day that seems to furnish a tip for those who would sway the proletariat from the speakers' platform.

"I have found," said Newton, "that it does not pay to jest in a public speech. Some time ago I stopped jesting entirely. This does not mean that a speaker may not tell a funny story, if he knows one, to lighten up his speech, but I say nothing in jest that is capable of being taken seriously. The general public may have a moderate sense of humor, but there are always individuals in every audience who are entirely devoid of the humor sense. There may be many a truth spoken in jest, but it's better to taboo the jest and speak the truth straight."

BAKER'S BACK FROM AUTO TRIP; TOM NOT

Mayor Not Expected to Return for Several Days.

City Solicitor Baker returned Thursday from an automobile vacation trip he took with Mayor Tom. According to information given out at Mayor Tom's office, the mayor will not be back for several days.

"We had a good time, but how good I can't tell you," Solicitor Baker said.

MAYOR JOHNSON VISITS OUR CITY

Famous Cleveland Executive Here

With Newton D. Baker.

SAYS HE WILL AGAIN

BE ELECTED THIS FALL

Talks Interestingly to a Newspaper Man Concerning Political Situation in Cleveland—Says Proposed Rate for Natural Gas Here is Too High.

Mayor Tom L. Johnson, of Cleveland, and City Solicitor Newton D. Baker, of the same city, arrived in Martinsburg last night on an automobile tour through this section of the country, and remained here until 9 o'clock this morning as guests at the Berkeley Hotel.

The famous Cleveland executive and his almost as widely known companion and chief lieutenant came unheralded, and but few people knew of their presence in Martinsburg until this morning. A number of persons who were acquainted with Mr. Baker, who is a former resident of this city, recognized him at the hotel and greeted him cordially, and in turn were presented to Mayor Johnson.

Mayor Johnson was the picture of health, although fatigued from the long automobile ride of the day. He greeted the friends of Mr. Baker with a smile and a cordial handshake, and was impressed all with his strong personality. A representative of The Evening World was accorded an interview with the distinguished visitor, during which Mayor Johnson spoke briefly but interestingly on several topics.

"I am off on a short vacation with Mr. Baker," said Mayor Johnson, "and we are traveling by automobile. Of course, I am greatly pleased to be able to spend even a brief time in Martinsburg and meet some of the friends of Mr. Baker, and regret that we will be unable to remain longer. While I am not acquainted here, I yet know of your little city by reputation, and as the former home of two of Cleveland's most brilliant and prominent attorneys—City Solicitor Baker and Attorney D. C. Westenhaver, Mr. Baker is very popular in Cleveland and has won an enviable name for himself, while Mr. Westenhaver is regarded as one of the foremost legal lights in Cleveland. Martinsburg may well feel proud of both."

Regarding the political situation in Cleveland, Mayor Johnson said:

"Yes, I have just been nominated for mayor for the fifth time, and naturally feel highly gratified at the honor. I expect to be elected—am confident of election. That's the only kind of politics the democrats of Cleveland know—the successful kind. The republicans, of course, will put up a hard fight and will use every effort to win, but I am confident that my administration will be endorsed by a substantial majority. Mr. Baker will again be made city solicitor."

A committee of councilmen from Baltimore recently investigated the natural gas question in Cleveland, when the members held a conference with Mayor Johnson, and as the company that proposes to pipe gas from the West Virginia fields into Baltimore has also secured a franchise in Martinsburg, Mr. Johnson touched upon this subject briefly.

"Natural gas is a splendid thing for any community, and has helped wonderfully in building up the commercial prosperity of Cleveland. In our city the rate is only 20 cents per 1,000 cubic feet for industrial purposes, but I understand that the rate proposed in this section is much higher. In my opinion natural gas can be piped into this section as cheaply as into Cleveland, and your people should insist upon a reasonable rate. I gathered that the rate for Baltimore will be 50 cents, and understand that the rate here will be about the same. This is too high."

Mayor Johnson and Attorney Baker retired at an early hour, and left this morning in their automobile about 8:30 o'clock.

NURSES APPOINTED FOR CITY SCHOOLS

Selected After Opinion From City Solicitor Declares Legality of Action.

New Salary Resolution Enacted and Commercial Curriculum Referred.

At a meeting of the school board last night several legal opinions from the city law department were read; two nurses appointed; the new salary resolution passed and the curriculum for the commercial high school referred back to the advisory board.

Some question as to the legality of hiring nurses to conduct dispensaries in the schools existed and City Solicitor Baker was asked for an opinion. After the reading of the favorable opinion, Miss Rose Foster and Miss Grace Cook of the Visiting Nurses association were appointed. Miss Foster will be in charge of Harmon school dispensary and Miss Cook of dispensaries at Eagle and Brownell schools.

Although the law department advised that the school board has the right to build a bridge across the gully separating East Denison and Denison school districts the lack of a bridge was the cause of Councilman Selzer's championing the cause of parents refusing to allow their children to go to East Denison school while they live in Denison district, nothing was done toward building it.

Among the other legal opinions received by the board was one regarding the redress parents would have if the Cleveland Dental society was permitted to hold clinics among the schools and children were improperly treated. According to City Solicitor Baker there would be no redress through the board of education if the children submitted to treatment of their own free will or if the parents signed a card giving their consent.

On being assured by Supt. Elson that the commercial high school would be opened a week from Monday if the curriculum was approved at the next board meeting on Monday, the course of studies was referred to Supt. Elson and the advisory board to decide whether algebra or arithmetic should be taught the first year students. Supt. Elson is in favor of algebra while the advisory board prefers arithmetic.

When the salary schedule, basing the pay of principal on the number of rooms in a school, was investigated it was found that some of the principals would receive less than they are now getting. To avoid any ill feeling among the principals an amendment by Dr. Ashmun was passed providing that no salary shall be less during the ensuing year than was received by the principal during the year that ended in June.

Another new phase of the Lakeview park situation developed last evening with the introduction of a resolution by Councilman McClain authorizing the trustees of the old sinking fund of 1862 to expend \$25,000 in the purchase of a strip of land in Lakeview park that was appropriated in 1870 for park purposes.

Two young men, residents of Connecticut, have presented what City Solicitor Baker says is a strong claim on the property. The two men are Sherwood B. Potter and John Dyer Potter. The land was owned by their grandmother, Mrs. John Wills, many years ago and was willed to her daughter, with the provision that she leave the property to her children. This gave her but a life interest and the city, not aware of the situation, acquired the property from her in 1870. At that time she was Mrs. Isham and had no children. After the death of her first husband Mrs. Isham married Mr. Potter and the two children now come forward and claim that their mother had not the right to surrender the property.

The property is at the southeast corner of E. 3d-st. and Summit-av., S. E. It has a width of 82 1-2 feet and extends to the water's edge.

Delays Annexation Meeting.

City Solicitor Baker is waiting for a report from City Auditor Coughlin as to the assets and liabilities of Corlett. He will not call another meeting of the Cleveland and Corlett annexation commission until this report is completed. The city auditor is awaiting a report from the treasurer of Corlett.

SCHOOL HEADS GET \$500 EASY MONEY IN "EXPENSE" BILLS

Authorized to Collect for Actual,
Itemized Expenditures, They Col-
lect \$41 Flat Monthly.

AGAINST LAW, RULES CITY
LAW DEPARTMENT ON IT

Five of Board Members Also Have Telephone
at Taxpayers' Cost, Long Ago Called
Illegal by Solicitor Baker.

Members of the board of education, according to the records of the clerk's office, have been drawing a monthly expense account of \$41 from the contingent fund. They have, in addition, with the exception of President Haserot and Member Sayle, telephones in their homes which are paid for by the board of education.

The city law department Tuesday declared this is in direct violation of the law.

The law by which the board members are drawing this "salary" was passed May 9, 1906. It says:

"Upon the third Monday in each January the clerk of the board of education shall certify to the board the number of pupils enrolled in the public schools; that there shall be set aside from the contingent fund a sum not to exceed 5 cents for each child enrolled, said sum to be known as the 'service fund,' to be used only in paying the expenses of said members ACTUALLY INCURRED in the performance of their duties; such payments to be made ONLY ON STATEMENTS of several members furnished at the last meeting."

NO EXPENSE ACCOUNT.

Although this law clearly provides, according to the city law department, only for ACTUAL EXPENSES INCURRED in school business, there has never been an itemized expense account turned in by any Cleveland school board member, and each one has drawn the maximum amount he is entitled to each month.

The resolution providing for the payment of this money to the members, introduced last January by Haserot, takes no account of the statute governing its disbursement, but specifically says that the total maximum amount collected should be divided pro rata among the members.

IT GAVE THEM \$3505.

Under the Haserot resolution it was said that there were 70,110 children in the public schools, and that by appropriating 5 cents for

each child there would be created a fund of \$3505.50 for the expenses of the school board members.

This money, the resolution said, should be prorated among the seven members. Vouchers for the amounts should be issued by the director, it directed.

Every member but Mrs. Hyre was present at the meeting, and they all voted for its passage.

Regarding the rights of members to have telephones installed in their homes by the board and paid for out of public funds, City Solicitor Baker in a letter written to Director Orr April 10, 1906, ruled against such procedure as being strictly illegal.

"WOULD BE IMPROPER."

"Where," said Baker, "expenses are incurred which are not required by law, but are merely convenient, it would be incompetent for the board to assume them. Under such a ruling it would, of course, be im-

proper for the board to pay for telephones for its members or to provide transportation, postage or other incidental expenses except in so far as they are associated with the immediate work of the board in the sense of being office accessories."

The telephones were installed in the houses of Members Canfield, Leopold, Orth, Ludlow and Mrs. Hyre, and each costs the board \$48 a year.

It's one thing to have authority and another to be able to use it, as City Solicitor Baker found soon after he had first taken office several years ago.

In the absence of Mayor Tom and the vice mayor, Baker was made acting mayor.

This mantle of authority had no sooner fallen on him than a disastrous explosion and fire occurred at the old cap works, on E. 105th-st. Baker hurried to the scene.

When he got there ropes had been drawn about the fire. Baker attempted to clamber under them.

"Here, get out of this!" yelled a burly cop, pushing the intruder back outside the fire lines.

"Why, I'm the mayor," Baker expostulated.

"What you givin' us," the cop demanded.

Baker's discomfiture was not soothed until he met a police sergeant who knew him, and was admitted inside the fire lines.

SHOWS DESIRE TO EXPEDITE PEACE

Arbitration Committee Pro-
ceeds With Consideration
of Traction Problems.

Intends to Determine Issues
Involved as Quickly as
Possible.

Federal Judge Tayler, City Solicitor Baker and Attorneys S. H. Tolles and James Lawrence, the traction arbitration committee appointed to draft invalidity and licensee provisions of the new traction settlement ordinance, met yesterday afternoon in Judge Tayler's office in the federal building.

The arbitrators discussed their work and planned the various lines to be pursued.

Another meeting will be held tomorrow, when it is expected considerable progress will be made. Each arbitrator will in the meantime give serious consideration to the various questions involved. The committee displayed a desire to reach a determination of the questions before it as early as possible.

The meeting was held after Judge Tayler had notified the city and railway company, through two letters, of his acceptance of the request that he act as arbitrator on valuation and maximum rate of fare and to serve on the other committee.

Aside from the activity on the part of this committee little actual work was done on the settlement ordinance

by either the city or the traction company yesterday. The traction company does not expect to write the city concerning further work until after President Andrews of the Cleveland Railway Co. meets the East Cleveland council tonight.

Mr. Andrews will notify the city of the negotiations with the village and progress of plans for reaching new agreements with the interurban lines.

On receipt of this letter a meeting of the council, as a committee of the whole, will probably be called and the city will then act on such matters as the railway company places before it. At the city hall it is expected there will be a meeting Saturday.

KOHLER PASSES ON POLICE PROMOTIONS

Chief Will Share in Selection of Ten Officers for His Department.

Temporary Board, Made Because of Lapse in Law, Will Fill Places.

A board consisting of Chief Kohler, Director of Public Safety Cooley and City Solicitor Baker will examine all who desire to join the police force or who seek promotion until Jan. 1, when the civil service commission, made up according to the Paine law, comes into power.

As an ordinance creating positions for four more lieutenants, four more sergeants and two more captains will be introduced into the council Monday evening by Chairman Wertman of the committee on police, it is likely that the rulings of the temporary board will be the basis of the most important promotions made in the police department in many years. It was said at the city hall yesterday that the additions to the force are being made because when the police force was increased to allow the police one day off in seven patrolmen were added but no new officers.

The additions to the force will give the department six captains in place of four, each to receive a salary of \$1,800 a year. The lieutenants get \$1,323 and the sergeants \$1,200 a year.

PITCHES TENT OCT. 14

Mayor Johnson Opens Campaign on the West Side Next Thursday.

The Democratic municipal campaign will be opened on Thursday, Oct. 14, with a tent meeting in Library park, Fulton-rd., between Lorain-av. and Bridge-av., N. W. Mayor Johnson, Newton D. Baker and City Clerk Witt will probably be the speakers.

The date and location of the opening meeting was decided upon at a meeting of the Democratic county committee in Mayor Johnson's office yesterday afternoon. Other details of the Democratic campaign were determined and the assessment on candidates was fixed at the usual 10 per cent. of the salary paid by the office for which they are candidates.

BAKER ABHORS BILLBOARD

City Solicitor Declares He Won't Buy From Anybody Who Advertises by That Method.

City Solicitor Baker does not believe in signs, and doesn't favor billboards in city streets.

As member of the board of appeals, which acts when people are opposed to the decision of the building inspector, City Solicitor Baker declared yesterday that he was opposed to all signs in the streets.

The case had been carried to the board by E. O. Wilcox of The Multiple Sign Advertising Co., which has planned to place a large sign at 72-76 Public square. Building Inspector Lougee declared at the hearing that he had refused a permit because the code did not permit signs of the size and construction planned. The board upheld the building inspector, but the mayor advised him to have the code amended if in his opinion the regulation governing this question was not just. "I don't believe in billboards," said the city solicitor. "The more attractive a sign, the worse it is from my point of view. I don't buy from anybody that advertises on a billboard."

AUTO AMBULANCE SYSTEM, RUN BY CITY, BY JAN. 1

Bernstein, Preparing Ordinance, Predicts Early Installation of Municipal Service.

Cleveland will have municipal auto ambulances at police stations by Jan. 1, if pending plans work out.

Councilman Bernstein will introduce an ordinance providing for city ambulances next Monday. As the ordinance is backed by Mayor Tom, Solicitor Baker, the health and police departments and by most of the councilmen, its passage is certain.

Baker is assisting Bernstein in drawing the ordinance. Great care is being taken, as opposition is expected from the ambulance owners.

MAY TRAIN COPS.

The chief provisions of the ordinance have been agreed upon. These provide auto ambulances to be stationed in patrol wagon barns. This will probably result in surgical instruction for patrolmen, since men skilled in first aid to the injured will accompany each ambulance.

The alarm system has not yet been settled upon, but it is likely the police service will be used in some way. It is expected that one automobile ambulance stationed in each of the 13 precinct barns will be able to do the work that now requires about 25 undertaker-owned horse ambulances.

"The new system should be in operation by the first of the year," Bernstein said Monday.

TO MAKE MODEST START.

"The healthers will control it. I think we will start with four or five

ambulances of the latest type and equipment. If the ordinance is put into effect gradually it will not require a bond issue to raise funds. A simple appropriation will start the work, and then, if my prediction is right, the city will be forced to extend the system.

"It is probable that a surgeon will accompany the central station ambulance. We have an ordinance providing for a doctor at central station. The work of caring for prisoners and attending the ambulance would keep one man busy.

"Municipal ambulances will mean that injured persons will be taken to the nearest hospital in the nearest ambulance."

NO INDEMNITY PLANNED.

Bernstein said Monday that the new ordinance will make no provision for taking the present ambulances off the undertakers' hands.

"Every reform strikes someone," he said. "The ambulance people plead that they have done a public service, but the fact remains that it wasn't a humanitarian spirit that caused them to do this service, but a commercial spirit of advertising.

"They will still have use for invalid carriages and dead wagons, and the ambulances can be used for these purposes. It is possible, too, that when the city takes hold hospitals will have their own ambulances, and they would probably buy those now owned by undertakers."

TAXES THE ISSUE MAYOR DECLARES

Opening Campaign Johnson Says Election of Appraisers is the Big Thing.

Newton D. Baker Tells Filled Tent Achievements of Administration.

COOLEY TALKS OF WORK

Outlines What Has Been Accomplished for Humanitarian Purposes—Springborn Discusses Business Side of City's Development and Solicitor Reveals His Visions of the Future—Mayor Asks That West Side Councilmen be Elected so That He Will Have Friends to Aid Him in His Plans.

Mayor Johnson, opening the Democratic municipal campaign with a tent meeting in Library park, Fulton-rd., S. W., last night devoted himself almost exclusively to taxation, asserting that the election of a quadrennial board of realty appraisers this fall is the most important question before the voters.

The mayor made clear that so far as the Democratic campaign is con-

cerned the contest will be fought out very largely on the taxation question. Under weather conditions suggesting Arctic explorations, the big

**Political Meetings Tonight.
DEMOCRATIC.**

Tent, E. 85th-st. and Superior-av., N. E.—Speakers, Mayor Johnson, Newton D. Baker, Harris R. Cooley and Peter Witt.

Second Ward Jackson club, Clark-av., near W. 52d-st.—Speakers, Mayor Johnson and others.

three-pole tent was filled from start to finish. Vice Mayor Charles W. Lapp presided, presenting in order Harris R. Cooley, Newton D. Baker, W. J. Springborn and the mayor.

The speeches of all except the mayor were largely of a nature of a report as to the stewardship the people had reposed in the hands of the present administration.

**PEACE IS ASSURED
BY COUNCIL'S ACT**

All Disputes Over Interurbans
That Can't be Reconciled
Go to Judge Tayler.

Mayor Sees Nothing to Stop
Arbiter Beginning Work
on Settlement.

The city council, as a committee of the whole, agreed yesterday to refer to Judge Tayler for arbitration disputed questions relating to operation of interurban cars, providing the city and the Cleveland Railway Co. cannot settle the disputed points. In doing so, however, Mayor Johnson, as chairman of the committee of the whole, reiterated the stand of the city that it did not intend to agree to submit disputes to the judge before the disagreements arise.

City Solicitor Baker informed the committee that the report of the arbitration board of four, dealing with invalidity or safeguard and nominee or licensee provisions of the proposed settlement ordinance, had been completed and would be submitted to the city and the company this morning.

"The report is ready for signature and doubtless will be signed and sent to the railway company and the city tomorrow morning," said the solicitor.

"The report is still in the hands of the committee and may be changed before being signed, so a meeting ought not to be called on this notice."

Solicitor Baker's suggestion of delay in calling the meeting was produced by a suggestion of Mayor John-

son that a meeting to act on the report might be held today.

Sees Peace Way Clear.

"I understand the committee has agreed," said the mayor, before Baker had reported.

"When that report comes into the council and is accepted I know of no other disagreements that would prevent Judge Tayler beginning work on valuation and maximum rate of fare."

"Are there any other differences?" asked Councilman Pfahl.

"I know of none," said the mayor.

"If there are I would be glad to have them pointed out, so that in carrying out the request of Judge Tayler we can have a complete ordinance up to the point where the judge can proceed.

"I shall call a meeting immediately on receipt of the report of the committee of four," continued the mayor.

Mayor Johnson's course at yesterday's meeting developed fully the mayor's desire to rush the completion of the ordinance and the calling of a meeting for today was delayed only by Solicitor Baker's intimation that the committee of four might still change its report.

Yesterday's meeting was preceded by a caucus of Democratic councilmen in the mayor's office.

When the regular meeting began business the Cleveland Railway Co.'s letter of Oct. 12 was read and the mayor then asked representatives of the company to define what they meant in the letter when they said the city had not completely answered the company's letter of Oct. 5.

**RIVER PROBLEM
MAY BE SOLVED
BY STATE'S SUIT**

Should Railroads be Ousted
from Canal Lands City Will
Seek to Straighten Channel.

City officials believe that the acquisition of the B. & O. and C. T. & V. terminals by the city would be an important step in the solution of the river channel problem.

Solicitor Baker says there is a possibility of the city regaining possession of the old canal lands through the action of the state to oust the railroads from occupancy under what purports to be a lease from the city. The state insists the city had no right to make the lease.

Councilman Chas. Selzer will meet members of the state board of public works in Cleveland next Tuesday and will ask that they accompany him on a trip over the old canal lands. He wants to point out the opportunity for straightening the river by the building of a new channel through the right of way now used by the railroads. He will ask state aid in the project.

City Solicitor Baker and Atty. Richard Bacon met at federal court Saturday.

"I notice," said Bacon, "that you've decided to boycott everything you see advertised on billboards."

"That is correct," answered the solicitor. "I will buy nothing and do nothing which a billboard advises."

"I'll bet I can make you break your resolution."

"I cannot imagine any such contingency."

"Suppose," said Bacon, "I should post a sign reading, 'Vote for Johnson.'"

Baker capitulated.

**FIRST OF TAYLER
PEACE MEETINGS
MONDAY, MAYBE**

Mayor Tom will represent the city in the hearings on the valuation, maximum fare and other points in dispute between council and Cleveland Railway before Judge Tayler. As soon as the company names its representative Judge Tayler will call a meeting. It will likely be Monday or Tuesday.

Saturday President Andrews and other officials were in conference with the interurbans attempting to reduce existing differences to a minimum.

City Solicitor Baker was instructed Saturday to draft the new ordinance incorporating all provisions excepting those to be determined by Judge Tayler. All meetings before him will be open.

The Cleveland Railway told the council in a letter Saturday that it was also drafting an ordinance. The company suggested that the two sides get together and agree on a single draft.

**BAKER'S PRESENCE IS
CHARMING, SHE SAYS**

S. Louise Patteson, Seeing Him,
Pays Him Nice Compliment.

A suit for \$37.50, brought by S. Louise Patteson, stenographer, against Attys. W. D. McTighe and M. A. Foran, and City Solicitor Baker was before Justice Morrow Saturday.

She claims the money is owed for taking testimony in a trial in 1902 and 1903.

The trial opened with Miss Patteson on the stand. She showed a clear remembrance of a conversation in which she claims Baker hired her. Asked why, she replied, chillingly:

"My memory is clear and distinct on that subject, owing undoubtedly to the fact that the conversation was carried on in Mr. Baker's most charming presence."

Tom Opens Campaign With Surprises For Us: No Street Car Issue At All



Four keynote speeches that contained no mention of the street railway situation made a political marvel of the opening Democratic campaign meeting Wednesday night.

Just taxation and good government were presented as the big issues in the fight.

Hardy men led by Martin J. Thumm, braving the icy blasts, had erected the big tent at Library park, near the corner of Bridge-av and Fulton-rd. This is Mayor Tom's favorite spot for campaign openers.

Folks came early and stayed late, despite the polar atmosphere. There was ice on the center poles and frost in the air, but the tent was filled. Those who had seats shrunk into their overcoats or heavy winter wraps. The standers, exposed to the blasts that found a way through crevices in the canvas, jumped on the ground and swung their arms to encourage circulation.

FIRE WARMED NOSES.

On the stage sat the leaders, Vice Mayor Lapp, chairman; Mayor Tom, City Solicitor Baker, Directors Cooley and Springborn. Their heads were sunk in upturned collars, their heavy overcoats tightly buttoned. They wore hats.

Behind the stage was the gas tank and the life saving station. The latter was a small tent equipped with woolen blankets and heated by a glowing gasoline torch. Thither the freezing victims might repair, like arctic explorer to the snug igloo, to revive his failing strength. Dr. Cooley repaired early and remained late.

IT WASN'T "FROST."

While there was thus a surplus of frost it was not reflected in the spirit of the meeting. The mayor got a lively reception, and there was applause for the points made by all the speakers.

It was nearly 10 p. m. when May-

or Tom was presented, but the crowd was still there. On behalf of a delegation of children, little Mary Farrell, Antoinette Farrell and Mary Kraker presented the mayor with two bouquets because, they said, he had saved the Fulton-rd sycamore. They also gave him a picture of the tree.

Mayor Tom exhorted everybody to register, and made a special plea for the election of Democratic councilmen to uphold the administration. Then he presented the taxation issue.

TALKED TAXES.

Under the new law, he said, property would be valued for taxation every four years. No more important duty confronted the people than to elect men who would do that work fairly. He read a platform signed by the Democratic candidates for appraiser, and said it would be submitted to the other candidates. It pledged them to see to it that taxes should be fairly levied.

"Under present conditions there is the grossest discrimination," declared the mayor. "The small home owner is taxed to the limit. The owner of great property escapes with a small percentage of the taxes he should pay. The men who have subscribed to this platform promise that they will place the valuations on maps and open them up to you so that you may know your assessment and that of your neighbors."

Baker, Cooley and Springborn described the achievements of the administration in many departments.

Newton D. Baker served the railroads with an ultimatum on the union depot proposition. He met the challenge of the Republican campaign opening to talk street railroads with a sharp discussion of this topic. Dr. Cooley told of his work at the same time that this same work was receiving Republican indorsement at the Baehr meeting.

BAEHR STILL GUM SHOES, AND FIXES NO OPENER DATE

Attends 11 Small Gatherings
Wednesday Night, but Hasn't
Decided on Big Meeting.

While Mayor Tom has formally opened the campaign, the Republican leaders have not decided upon the date for their first big meeting. It'll probably be some day next week.

Recorder Baehr, Republican candidate for mayor, is becoming increasingly busy in attending house and club meetings. He was at 11 of them Wednesday night. Chairman Rodway's plan of campaign has been to arrange for getting voters to the polls, and he has therefore devoted most of his time to organization.

The extent of Mayor Tom's activity will depend upon the traction peace negotiations. If he and City Solicitor Baker are required to devote days to the negotiations and nights in preparation for the next day's work, the big tent will be set up only three nights a week. If the mayor is free he will be in the field every night.

The second Democratic tent meeting will be held Thursday night at Superior-av and E. 86th-st. The mayor, City Solicitor Baker and Directors Cooley and Springborn will speak.



"Go!"

WORK TO HASTEN TRACTION PEACE

City Solicitor and Council
Seek for Quick End to
Negotiations.

Baker May Return Drafts To-
day for Action
Tomorrow.

City Solicitor Baker and counsel for the Cleveland Railway Co. are now working on drafts of a general traction settlement ordinance, except as to the Interurban, East Cleveland, valuation and fare sections. City Solicitor Baker will complete the city's draft this morning and submit it to the railway company some time today. At the same time the railway draft also may be handed the city's representatives.

Work on the ordinance was begun by both sides almost simultaneously yesterday. In the afternoon the company suggested in a written commu-

nication to the council that counsel for the company meet with the city solicitor in preparing the measure.

Solicitor Baker says the letter was received too late to permit of another meeting of the committee of the whole and he proceeded with the work, acting under suggestions of the committee given at yesterday morning's meeting. He so notified the railway company.

"I expect to give the company's representatives the first draft of the ordinance I am now working on sometime tomorrow," added Mr. Baker.

"We have been notified that a copy of the ordinance, up to the point of differences to be submitted to Judge Tayler, will be given us today," said a representative of the company last night. We do not know when we will receive it. Our counsel is also working on the draft of an ordinance.

Both sides are making every effort to expedite affairs so that Judge Tayler may begin his hearing on the remaining disputed questions either Monday or Tuesday. There is a possibility that the incompleting ordinance may be introduced at the council meeting tomorrow night. Such a course was suggested yesterday. The measure would be given its first reading and referred to committees.

It would be held by the committees and when Judge Tayler completes sections on which he will work these sections will be included in the ordinance by amendment. The instrument would be given its second reading a week from tomorrow and if Judge Tayler completes the remaining sections prior to election day a special meeting will be called

and the ordinance passed by the council.

The council yesterday morning, meeting as a committee of the whole, named Mayor Johnson as its representative in the hearings before Judge Tayler and announced that it is ready, through him, to attend any meetings called by Judge Tayler for the purpose of adopting a plan for holding meetings and for the presentation of the matters which are referred to the judge's consideration.

The council also instructed Solicitor Baker to prepare the ordinance as it is now agreed to, leaving blank the four remaining disputed questions. It was in conformity to those instructions that Mr. Baker worked until late yesterday on the first draft of the measure which will be submitted to the company today.

Political Meetings Tonight. DEMOCRATIC.

Tent, Broadway and Forman-av.,
S. E.—Speakers, Mayor Johnson,
Newton D. Baker, H. R. Cooley, W.
J. Springborn and Peter Witt.

Baker chose as his topic the high moral tone of the administration, covering in his speech tractions, the union depot, lake front and kindred questions.

The Spirit of The Administration



THE administration stands on its record, and we might well be content with the wonderful progress shown in all lines of municipal activity by the accounts given by the heads of the several departments. For 1900 years men have tried to solve the problem of dependent and delinquent people. The failure

of all these efforts, however, has been pitiful. Under Dr. Cooley's enlightened guidance more hope is given of betterment and reform among those committing petty offenses, and more cheer and happiness is held out to those whose condition is one of dependence upon public aid. The humanity and kindness of these methods commends them no less to our better nature than their evident success commends them to our business judgment. Mr. Springborn and Mr. Witt will show in speech and pictures the progress which has been made in the city's housekeeping; the paving, cleaning and lighting of streets, the building of sewers, the enlargement and improvement of parks, and all those physical things so necessary to the growth of a progressive city and the comfort of its people have been wonderfully advanced in the last eight years, and with it all there has been a graftless and uncorrupted administration of the city's affairs. Repeated and thoroughgoing examination through auditors employed by antagonistic agencies have failed to develop the existence of the sort of graft which eight years ago was not unknown in Cleveland and which even to this day is the despair of most great American cities. The phase of the administration, however, which I most like to dwell upon is its tone, its attitude toward large questions, its courage in the protection of public rights. The growth of public service corporations which require operating rights in public streets and upon public property and the immense amounts of money invested in such enterprises has for years made city government in America subservient to the private interests of the promoters of such enterprises. Railroads, street railroads and gas companies have, by pooling their interests so owned or over-shadowed public officers as to be able to dictate their own terms whenever they desired to appropriate public property to private use. Mayors and councils have trembled and danced to the voice of the business boss to whom they owed their election or from whom they expected large favors in return for their subserviency.

The worst enemy of the Johnson administration cannot point to an instance in which oppression or injustice has been permitted against any such interest. Their rights have been respected and their growth encouraged in the interest of wider and more efficient public service; but such an enemy would be equally unable to point to an instance in

which the administration has failed to assert and maintain the public right to public property. It has neither feared nor favored big business.

On the other side much is said about the building of a union depot. Nothing could be simpler than to procure the building of a union depot in Cleveland, and that one is needed cannot be questioned. The Johnson administration, at the time of the promotion of the group plan, encouraged the idea of placing such a station at the head of the group near the lake. Plans were drawn by the railroad companies for such a station. The building of it involved the use of about 33 acres of public land now in Lakeside Park. In return for this land the city asked a narrow strip of land by the railroad right-of-way next to the lake, running east from E. 9th Street, so that by extending the land out into the lake, dock frontage might be built with parks and playgrounds here and there interspersed with business and wharf uses, and over all of it a lake front boulevard erected which would complete the circle now extending from Gordon Park south and west to Edgewater, thus making it possible to drive upon a public boulevard entirely around the city. The railroads refused to consider such an exchange. The city then asked that they buy the 33 acres at a fair price. To this the railroad companies refused to accede, claiming the price set by the city too high, and declining to name one themselves. In a recent conference, however, the representative of the Pennsylvania Company disclosed the real difficulty. He said that his company did not desire to consider the building of a union station in Cleveland unless the city would dismiss the Lake Front case.

When Moses Cleaveland and his surveyors laid out Cleveland, they dedicated as public ground the Public Square and Bath Street, the latter being a narrow strip of land at the junction of the river and the lake. This strip of land by gradual accretions has become a very large tract, containing more than 50 acres. It is public property. It was intended to be forever an inheritance to the people of Cleveland to give them access to the river and to the lake. In 1849 railroad companies, by contract secured certain limited rights in this property, and thereafter claimed the absolute ownership of it. The Court of Common Pleas, so far the only court having jurisdiction that has passed upon the question, has decided that the title to all this property is in the City of Cleveland. The dismissal of this suit and the giving of the 33 acres of land seem to be the price demanded by the railroad for the building of a station. The price is too high. These public rights are too large and too important to be thus bartered away, and the attitude of the Johnson administration toward such matters has been steadfastly to maintain the public right to these valuable properties, and not to yield them up for the temporary and picturesque advantage of an ornamental union station which, after all, the railroad companies must sooner or later build for the accommodation of their own business.

The spirit that has guided the administration in the past is, I believe, the right one. Whatever we demand from the public service corporations must be determined by absolute justice and fairness and what they demand from us must be measured by the same standard. I believe that the people of Cleveland desire this. I believe that in the future the city will demand this of all her public servants.

Newton D. Baker

One of the most interesting features of the mayoralty campaign is the change in betting odds. Mayor Tom has gained ground from the start, when the odds were 100 to 80 that Baehr would win.

When the council agreed to settle the traction war on the Tayler plan, the betting offers changed to 100 even. Two days ago they were 500 to 450 on Mayor Tom. Saturday they were 500 to 400 on the mayor. Some of the bets at the Oyster Ocean:

500 to 400 on Johnson; 100 even on Johnson; 100 to 80 on Baker; 50 even on Coughlin; 75

The Men on the Ticket.

One of the many reasons why Tom L. Johnson should be re-elected is found in his remarkable judgment of men, and in the public records of the officials whom he has called to his aid during his four administrations.

Foremost among these stands Newton D. Baker, city solicitor and candidate for re-election. Mr. Baker's record as an able lawyer and wise advisor has been one of the important features of the Johnson regime. A man who could largely benefit himself financially by declining to remain in the city's service has nevertheless, as first lieutenant to the mayor in his fight for civic betterment, remained to carry out uncomplainingly and almost thanklessly the most difficult and arduous work. Newton D. Baker has won the respect and admiration of every element in Cleveland. Even the most violent opponents of Mayor Johnson have sought in vain for a point upon which to attack the city solicitor. Mr. Baker, as long as he is willing to serve the people of Cleveland, deserves the unanimous indorsement of the voters.

Important litigation must be faced by the next city administration. Newton D. Baker has gone before the supreme court of the United States and has vanquished a coterie of the most famous corporation lawyers of the country who were contending for perpetual rights of public service corporations in the streets of Cleveland. Wherever he has been needed Mr. Baker has been the right man for the place. It is scarcely among the possibilities that the voters will indicate a preference for the untried, though personally estimable, young man whose name appears as that of candidate for city solicitor on the Maschke-Sarstedt ticket.

"The Republican municipal platform would seem to be the Baker traction ordinance with the legal verbiage omitted," said Newton D. Baker. "We have swept in eight years from a haughty offer of six tickets for a quarter on a perpetual franchise to an humble concession of a settlement which shall provide for no more than a fair, 6 per cent. profit. Never in America has so advantageous a settlement been won by the people in any struggle with a public corporation.

"Mayor Johnson's has been a big administration—an administration of vast works. In 1900 American cities were cesspools of graft. Many of them are yet. Cleveland isn't.

"The opposition cried for a Union depot. If I gave the word tonight work would start tomorrow morning on a new Union depot. I don't give the word because too much else would go with it. The railroads will give us a Union depot if we give them about everything the city owns.

"We wanted the lake front for a boulevard. We offered to trade city land to the railroads for a strip of land along the lake front so that we could make and have our parkway. The railroads refused. Then they tried to grab it all. That's how the matter stands.

MAYOR ACCEPTS SINCERITY ISSUE

Questions Baehr's Attitude on Depot and Other Public Improvements.

Democratic Speakers Liken Republican Promises to Alladin's Lamp.

Accepting County Recorder Baehr's declaration that "sincerity" is the issue in the mayoralty campaign, Mayor Johnson said last night that he would test Baehr's sincerity by what he (Baehr) will tell the people he will do in the union depot and river improvement questions. The mayor, City Solicitor Baker and City Clerk Witt, in their talks, addressed themselves largely to arguments being made by the Republican orators.

"Administrations in power go before the people for re-election on their records. Administrations seeking power go into campaigns on promises and the character of the candidates to perform promises," said City Solicitor Baker in opening his address.

"For the reason that this administration has been in power it is necessary to examine its record and I do that with a great deal of pride. I notice our friends on the other side seem to enjoy the traction situation. It is the kind of pleasure one gets from taking laughing gas."

Baker then went into a discussion of the situation at some length.

"No army that ever went into war, no general ever led an army that has achieved greater victory than your mayor has in this war," continued Baker. "The street railway question is absolutely settled. It is settled on the principles of the mayor's platform."

Newton D. Baker went after Homer H. McKeehan, one of the Republican spellbinders.

"He used to be a serious man, and worth taking seriously," said Baker, "but now he is merely a tease."

Baker accused McKeehan of misrepresenting facts in his attacks on the street car receivership business.

CAN'T FIX CAR ORDINANCE BY ELECTION DAY

Tom, Andrews and Tayler Agree to Adjourn Traction Hearings After Saturday.

MAYOR HITS VALUES

Wants Judge to Knock Out \$1,721,000 Item for Cleveland Railway Paving.

The new traction ordinance will not be offered to council in its amended form until some time after election—just how long is problematical. Monday afternoon Judge Tayler, Mayor Tom and President Andrews agreed to an adjournment from next Saturday until the following Thursday.

"I expect to be busy Monday," said Mayor Tom, laughing.

"Tuesday is election and Wednesday will be needed in recovering from the effects of Tuesday," suggested Judge Tayler. "We had better adjourn over until Thursday."

Andrews said he wanted to get an itemized valuation of the Forest City property. He asked Mayor Tom where it could be obtained. Mayor Tom thought Fred Alber could furnish it. Andrews will use it in making comparisons with the Cleveland Railway valuations.

If the contention of Mayor Tom and City Solicitor Baker is concurred in by Judge Tayler, \$1,721,000 allowed as pavement value in the Goff-Johnson settlement will be wiped out of Cleveland Railway Co. capital stock in the new traction ordinance.

Both Mayor Tom and Baker insist that when the Concon accepted the old franchise it bound itself to pay for pavements as a part consideration for the grant.

Incidental to the hearing, Mayor Tom called attention to the clash between "Citizen" Bob Wright and a Shore Line conductor, in which Wright was thrown off the car after he had boarded it and tendered a nickel in payment of his city fare.

Mayor Tom believed there should be a provision in the new ordinance that would compel interurban conductors to accept a fare if offered by some person who had happened to board an incoming car within the city limits. He did not want cars to stop, however, for city passengers.

NEWTON D. BAKER.

Newton D. Baker is again a candidate for City Solicitor. We don't know who is running against him—and we don't care. There can't be a ghost of a show for any man running against Baker. During the long fight against the aggressions of the public service corporations Baker has been the mental giant who has directed the campaign for the people. He has had some assistance—no man can do everything alone—but in the main the work of taking care of the people's interests has fallen directly upon the shoulders—or we should say, rather—the brain of Baker. It was Baker who planned and executed coups that startled and dumfounded the legal masters who were pitted against him, it was Baker who wrote franchises and picked them to pieces, even going to the Supreme Court of the United States for the purpose of showing that a powerful public service corporation did not OWN THE STREETS. It is not too much to say of Baker that he has done more than any one man in the city of Cleveland to help win the great fight for lower street car fares.

And the work he has done in the street car fight has not interfered with his other duties. Apparently Baker is indefatigable. He works like a well ordered automaton—and is as sure. He plans his battles upon clever lines with astounding wisdom and foresight. Nothing is left to chance; nothing to luck. It is idle to speak of the honesty of his motives—even his bitterest enemy approaches this subject with caution and reverence.

You need clean, honest and efficient public officers. ARE YOU GOING TO VOTE AGAINST BAKER?

MAYOR STRIKES AT SARSTEDT'S DEAL

Asserts Belief Baehr's Backers Agreed to Hand Over Taxation Control.

Burton's Return Inspires Republicans, Stirs Up Democrats.

SENATOR ON STUMP TODAY

Homecoming of Burton Gives Rise to Concentrated Attack on His Tariff Record by Johnson Aids—Baker Declares He Prefers Roosevelt to Taft—Baehr Falls to Touch on Union Depot Question—Baehr Speaks in German to Voters of That Tongue.

NEWEST IN POLITICS.

Mayor Johnson charges Baehr with taxation deal.

Burton will take stump tonight.

Baehr attacks Burton's record on tariff bill and appeals to Roosevelt.

Republicans will put two tents in commission Wednesday, and the Dem-

ocrats tonight.

Baehr talks in German, but neglects to mention union station.

Crowds defy raw, rainy weather to attend meetings.

McCaslin will bring Chandler faction into camp if Christian and Haas are kept in office.

Tariff insurgent Republicans wish Burton would avoid the stump, but don't dare tell him so.

"There is no doubt in the world but Mr. Baehr and his backers made a deal on the real estate appraisers. I believe the terms of that unholy alliance were to give Mr. Baehr and his backers the city hall jobs and Sarstedt and his tax dodging friends control of taxation."

So Mayor Johnson told the biggest and most enthusiastic meeting of the Democratic campaign last night. Despite the raw rainy night the Republican twenty-second ward turned out a crowd that filled the big tent, pitched at Payne-av. and E. 45th-st. Men and women who could not get seats stood patiently for two hours in mud and pools of water.

The homecoming of Senator Burton was yesterday's chief political development. Newton D. Baker welcomed him with an appeal from Agrippa to Caesar. Said Baker in the tent:

"And how they send for Senator Burton, on the theory that when the ghost walks everyone is frightened. He ought to tell us why he tried to break into office two years ago on the baseless slander of the Blackmore case, or why he voted with Aldrich 114 times to raise the tariff.

"Democrat that I am, I sigh for the days of Roosevelt. They may take their Taft—give me Roosevelt wrong as he often was. If Aldrich and Cannon had brought him tariff revision upward when the pledge was downward revision, he would have put them in the Ananias club at once."

HIT BAEHR'S DEPOT PLAN

Democratic Speakers Have Fun With Republican Candidate's Scheme He Won't Tell.

Both Mayor Johnson and Newton D. Baker had fun with Candidate Baehr's "secret plan" for securing a union depot in last night's Democratic tent meeting. Otherwise taxation and Senator Burton furnished the chief topics of talk. The crowd cheered all the points made, but the mayor couldn't dig up a question, although he pleaded for one.

"I have asked Mr. Baehr two ques-

"With Paul of Tarsus," Baker began, "citizens of Cleveland can say, 'I am a citizen of no mean city.' With corruption and graft the rule in municipal government, so that foreign observers have prophesied this condition would wreck our national government, Cleveland has been a clean city for eight years.

"The Johnson administration has neither feared nor favored corporations. Municipal campaigns in every other American city tonight are based on demands for light, pavement, sewers and sidewalks. Mr. Baehr doesn't demand such things. The Johnson administration has supplied them. As to street railroads Mr. Baehr merely asks to be given office that he may be in it when Judge Tayler does what we have asked him to do. From the day of perpetual franchise claims, and the haughty offer of a twenty-five years, six tickets for a quarter franchise, through eight years of ceaseless warfare in every court, we have won to the proposition of a twenty-year grant, which reserves the right of municipal ownership, the right to nominate a purchaser and limits the company to a 6 per cent. return on stock from which the water has been squeezed. Ten million dollars has been squeezed from that stock, which means saving the car riders an annual tax of \$600,000. The parallel of this record does not exist in American history."

"The total ultimate cost of the Warrensville farm colony complete will be \$1,000,000," said Dr. Cooley. "Chicago has adopted the idea but Chicago is spending \$2,000,000 for the farm land alone.

"There are some who think we are doing too much at Warrensville for the destitute old people who live out there. There are some who say these old people are too comfortable, and that we are extravagant in our care for them. These are people who think destitute people are somewhat different folk from the rest of us.

"Cleveland is prosperous, but material prosperity is not everything. This city is not its buildings and docks but the 500,000 people who live here. We may sometimes purchase industry at too great a cost. In Homestead, near Pittsburg, there are great mills and plants. But, in Homestead, one child in three dies before the age of two years. Factories are too costly when they are built with the blood of little children.

"The city of Cleveland, at Warrensville, has considered humanity. Our opponents attack this as extravagance."

DELAY'S CERTAIN IF BAKER HELPS, COMPANY AVERS

Cleveland Railway, Thursday, replying to a communication authorized by council Wednesday night in which the city accepted Judge Tayler as a member of the committee to draft an invalidity clause provided City Solicitor Baker be made a fourth member, declares it believes settlement will be expedited if Baker is left off the committee. The company concedes, however, that Baker shall have the opportunity to examine the work of the committee and advise council concerning it.

The company stands firm for Jan. 1, 1919, as the earliest date at which the city can name a purchaser for the property. Council recommended Jan. 1, 1917.

The company reiterates its stand that no arbitrator may be a city employe or an employe or stockholder of the company.

The reply of the company probably will go before a special meeting of council committee of the whole Friday. City Solicitor Baker will call the meeting in the absence of Mayor Tom.

CONCON THINKS IT OWNS STREETS WHERE IT PAVES

Lawyer Argues That Pavement Company Lays is Part of Its Capital.

In a measure at least, the Cleveland Railway Co. again has laid claim to ownership of the streets, or that portion of them covered by pavement between its rails, and two feet on either side.

In his argument to Judge Tayler Friday, Judge W. B. Sanders insisted that the money the company had invested in pavements was as much the capital invested as the amount expended in the purchase of cars, rails or any of the physical property of the corporation.

He admitted that the company could not take the pavement with it when it tore up its tracks, but this did not imply, he said, that it was not entitled to earn dividends on the sum it had paid out to pave.

Both Solicitor Baker and Mayor Tom attacked his argument. The real question at issue, said Baker, was as to whether the pavements belonged to the city or the company.

He insisted the pavement cost to the company was a consideration paid the city for the right to operate in its streets.

If paving was company property Mayor Tom wanted to know why it had never been listed for taxation.

"Anything that necessarily and philosophically passed into capital account must be distinctly a capital investment," said Judge Tayler. "There must be absolute escape, however, from any of the things that have caused scandal in connection with public service corporations all over the country."

Directors of the Neutral Traction Co. met Friday and adopted a resolution, pledging acceptance of the new ordinance as passed by council.

Newton D. Baker.

While not hesitating to give commendation to Treasurer Nau, Auditor Coughlin and Vice Mayor Lapp, the Plain Dealer believes that of all the members of the Johnson administration City Solicitor Baker deserves the most abundant appreciation at the hands of the people of Cleveland. Mr. Baker, during his terms as legal adviser to the city, has proved himself to be the ideal man for the place, both temperamentally and by training. Few cities are so fortunate as to possess so efficient, tireless and unselfish a public servant.

No matter who his opponent might have been, the re-election of Newton D. Baker would have been desirable. His superiority over Mr. Gerhard M. Dahl is so great as to make a comparison needless.

Newton D. Baker defeated G. M. Dahl for city solicitor. Some time after midnight Maurice Maschke conceded Baker's election by 300. This will bring no particular joy to the present city solicitor, to judge from his expression last night. When told how far ahead of the mayor he was running, Mr. Baker declared that he did not

care to be elected if the other Democratic candidates suffered defeat. While Mr. Baker did not say he would not serve, if elected as part of a Republican administration, many drew that inference.

Democratic and real estate board candidates for real estate simply ran away from their opponents. The quadrennial appraisers will be Howe, May, McKenna, Briggs, Democrats, and Bates, Republican.

TOM IS MOST CHEERFUL OF DEMS AND BAKER'S SADDEST

Solicitor More Anxious for Idol Than for Himself—Mayor Goes Home in Morning, Carrying Box of Flowers.

The most cheerful man at Democratic headquarters while the adverse returns were coming in was Mayor Tom, whose defeat seemed certain after the first half dozen precincts had been heard from.

The most despondent was Newton D. Baker, the only man of the administration who seemed to have any chance of re-election.

Baker, who hasn't a large stature, sat on a window sill in Mayor Tom's office and puffed at a big pipe. As precinct after precinct showed him steadily drawing ahead of Mayor Tom, the slender solicitor seemed to try to shrink into a corner of the window. Every now and then Mayor Tom would bring Baker out of his retirement by addressing him before the crowd, and the solicitor seemed to wince at the attention.

"You're running 18 to the precinct ahead of me," said Mayor Tom on one occasion.

TOM KEEPS ON SMILING.

"But that isn't enough to pull me through," replied Baker with such eager hopefulness that everybody laughed. All in the room knew that Baker's idol and idea of all that a man should be in municipal life is Tom L. Johnson.

Somebody asked Baker if he would be able to get along with the Baehr administration in case he should be elected.

"I don't want even to consider that possibility," replied Baker.

The mayor took defeat gamely. He smiled continually, although there was a weary grimness about his mouth. He has fallen into the habit of holding his lips apart when interested or listening. The drooping corners of his mouth give him an appearance of almost child-like fatigue.

A draftsman in the engineer's office had drawn a cartoon showing Baehr overwhelmed in a blizzard of Johnson votes. Before the returns began to come in Mayor Tom ordered the cartoon taken from the office.

HE'S SUPERSTITIOUS.

"I'm superstitious," he said. "There's a long box in my private office I haven't opened. I'm afraid it's flowers. This celebrating victory beforehand doesn't do a person any good."

Mayor Tom's frequent comments showed he was mentally tasting defeat from the start of the returns. "It looks bad," he said after the first five precincts came in. But he did not frankly acknowledge himself beaten until late in the evening.

"Can't tell how we stand yet," he would say in reply to all questions; "these returns are not official," and he would look up at the questioner with a smile.

Director Cooley came in about the middle of the evening. He knew defeat was in the air, and his face was a shade grayer than usual. Yet he greeted everyone with his gentle, courtly smile.

Somebody offered A. B. du Pont a chair.

"Don't want it," he said. "Some of you fellows that can sit, take it. I'd rather walk around—but I tell you these are all straight tickets we're hearing from. The splits are all democrats voting for Schreiner and Pete Carroll."

TAKES HIS FLOWERS.

"I tell you," cried an excited partisan, "we're quitting office with a clean record, anyhow. That's more than can be said for any administration in any other American city."

"You're exactly right," replied Newton D. Baker, nodding and puffing at his pipe.

In other campaigns the mayor has been accustomed to leave for his home at midnight or shortly afterward. But this time he remained at city hall all night. With the mayor stayed A. B. du Pont, "Billy" Stage, Carl Nau, Burr Gongwer, Councilman Bernstein, Tom Doreen, Harry Radbury and Tom Moore. Baker left at 2 a. m.

All night Mayor Tom kept in touch with the returns in the race of Baker and the Democratic candidates for the board of appraisers. He did not leave till 296 out of 297 precincts were in.

When he did leave, still smiling, he carried in his arms the long box, opened now, that had been in his private office—a box of flowers.

NO, TOM WON'T BE BAKER'S ASSISTANT

Mayor Laughs at Story He's Going to be a Solicitor.

It was talked Thursday that Mayor Tom, who has been reading law for the last year under City Solicitor Baker would remain as one of Baker's assistants after Jan. 1.

When this was called to the attention of Mayor Tom he laughed at the story.

"There is absolutely nothing in it," he said.

NOT THINKING OF RESIGNING OFFICE

City Solicitor Baker Says He Has Given Question No Consideration.

Official Hears Rumor and Tries to Learn Who Started It.

"Who is raising the question? I have never raised it. I'm not revolving such a question in my mind."

In this manner City Solicitor Baker yesterday answered the question that was discussed in political circles throughout the entire city yesterday.

"Will Newton D. Baker continue to hold his office after the first of the year?" So ran the question. The rumor that City Solicitor Baker would not accept the new term to which he was re-elected, in the face of the general Democratic defeat Tuesday, arose through a remark he made in the mayor's office when returns were being received.

When the outcome was still uncertain, though the returns pointed strongly to his victory, Baker expressed keen regret at the fact that he alone of all the officials at the head of the ticket would be returned to office. The remark that he then made was interpreted in some quarters as an announcement of his intention to resign after his present term expires.

As city solicitor even with the Republican administration in power, Baker would appoint all of his assistants and office employees. He has eight assistants, four of whom are engaged in police court work.

Newton D. Baker was re-elected solicitor over G. M. Dahl by 1425, but the rest of the Democratic city ticket was buried.

The total vote cast for mayor was 80,409, of which Baehr received 41,442, Mayor Tom 37,709, and John G. Willert, Socialist, 1258.

City Solicitor Baker was up bright and early at his home, although he did not leave the city hall until 2 a. m. Wednesday.

"I regret that I did not go down to defeat with Mayor Tom and the remainder of my colleagues on the Democratic ticket," Baker said. "I cannot say at the present time whether I shall continue in office."

City Solicitor Baker's victory in the face of the defeat of the rest of the Johnson ticket was a distinct personal triumph. Mr. Baker fully merits this expression of confidence on the part of the voters.

CITY SOLICITOR.	
Newton D. Baker (D.)	38,540
Gerhard M. Dahl (R.)	37,115
Baker's plurality	1,425

City Solicitor Baker, however, has not felt the call of the wild, and has not deemed it necessary to retire to the complete seclusion of Mt. Clemens.

At the present time City Solicitor Baker is receiving a larger salary than the mayor. He is being paid \$6,000 a year by the city and is receiving \$1,500 a year from the county. The members of the board of public service and the director of public safety each receive \$5,000 a year and the city clerk receives a salary of \$4,000 a year.

TOM AND NEWT VIEW OFFICES IN AM. TRUST; WHY?

Mayor Tom and City Solicitor Baker were looking over vacant offices in the American Trust building late Monday. W. H. Joplin, the agent, escorted them.

Just what they wanted the office for, or which one wanted it, did not develop. Their appearance in the building led some tenants to assume that Baker was going to resign the solicitorship Jan. 1, as he talked of doing, and open law offices with Mayor Tom when the latter becomes Citizen Tom. But Baker denied the other day that he intended doing any such thing.

Other tenants opined that Mayor Tom was simply seeking an office from which he can conduct his business affairs after Jan. 1, and that he took Baker along for the benefit of his judgment in making a selection.

COUNCIL PASSES PIER ORDINANCE

Authorizes Lease to Highest Bidder for Term of Five Years Only.

City Solicitor Says Action Will Invite Litigation.

The City Council Last Night.

PASSED ordinance authorizing board of public service to lease E. 9th-st. pier to highest bidder for term of five years, commencing Jan. 1, 1910.

ADOPTED RESOLUTION authorizing city solicitor to pay experts engaged by city to testify at railroad hearings in Judge Tayler's court.

RECEIVED ORDINANCE amending section of Belt line ordinance relating to grade crossing eliminations from Quincy-av. to Kinsman-rd., S. E., inclusive.

RECEIVED ORDINANCE permitting city tree sprayers and trimmers to spray and trim trees on private property.

APPROVED NEW CONTRACTS with Rockport and Collinwood for supply of water to these villages.

Under suspension of the rules the McClain ordinance authorizing the board of public service to lease the westerly lake front pier at the foot of E. 9th-st. to the highest bidder for a five-year term was passed by unanimous vote of the council last night. President Springborn of the board of public service announced after the meeting that the first advertisement for bids on the new lease would appear tomorrow morning. This advertisement must be inserted once a week for a period of six weeks.

This will be the third time within the year that the city has advertised for bids but on the first two occasions the lease described in the ordinance ran for a thirty-five-year period and the payment of an advance rental of \$55,000 to the city by the bidding company or companies was one of the stipulations. The five-year lease does not bind the bidder or the city to the making of any improvements on the lake front pier, and it was explained by City Solicitor Baker that it will invite litigation before any expenditures are made on permanent improvements.

A resolution permitting City Solicitor Baker to use money in the fund provided for the payment of special counsel for the engaging of expert witnesses to testify in the city's behalf at the railroad hearings before Judge Tayler was adopted. There is still about \$1,000 in this fund.

An ordinance amending the sections of the Belt line ordinance relating to the abolition of the grade crossing from Quincy-av. to Kinsman-rd., S. E., inclusive was received and referred to committees.

CORN CURES AND CORSETS FROLIC, CAR GOES DIZZY

There's one car on the Euclid-av line that is shunned by those who are susceptible to seasickness. It carries the new-fangled, patent traveling sign board, with advertisements on a belt.

This belt is run on a set of rolls in the space occupied by advertising cards in the other cars. When the car moves ahead, the belt moves toward the rear. When the car backs up, the belt reverses its course.

Everything from corn cures to corsets is exploited. It's a bewildering array of pictures and colors.

City Solicitor Baker boarded the car a few mornings ago. He was in fine fettle. He had had his morning's cold plunge and a good breakfast. His eye fell on the sign. At the end of two blocks he was dizzy. At three he didn't know whether he was coming or going.

Others have been affected in the same way. Some people who ride Euclid cars as a regular thing have the number of the car carrying the apparatus, and when they see it coming, they hustle back to the curb line rather than take a chance on riding in it.

WINS ASPARTY LOST



Newton D. Baker, who has defeated G. M. Dahl for city solicitor.

Judge Tayler's Change of Heart.

Friends of Judge Robert W. Tayler point out a noteworthy change in the traction arbiter since he first got taken up with Cleveland railway affairs. It used to be that he smoked cigars almost exclusively. Now he smokes only a pipe. The explanation, 'tis said, lies in his association with Tom Johnson and Newton Baker who are inveterate pipe smokers, during the traction seances.

TO TAKE R. R. LAND

Mayor Tom, Solicitor Baker and Server Springborn decided late Thursday to press condemnation proceedings against the Pennsylvania railroad for land needed in widening the Cuyahoga river.

CITY WILL TAKE RAILROAD LAND

Condemnation Proceedings to Acquire Pennsylvania River Frontage.

Purpose is to Excavate Strip and Widen Cuyahoga's Channel.

Mayor Johnson, City Solicitor Baker and President Springborn of the board of public service took a trip to the flats yesterday to inspect the strip of property near the mouth of the river that is needed for river widening purposes. After looking over the ground the city officials decided to have the condemnation proceedings that were begun years ago pressed once more so that a decision could be obtained as to the value of the Pennsylvania railroad frontage.

A portion of the property that is needed for widening the river, as far as the old river bed, is occupied by the old freight station of the Lake Shore. This land is owned by the city, but when it was acquired it was with the understanding that the Lake Shore be allowed to keep its building in its present location until the property was taken over for river widening purposes.

Some months ago the administration made an effort to have the taking over of the river property, owned by the Pennsylvania and needed for his improvement, made part of an agreement regarding the abolition of the Grand-av. grade crossing and other matters in which the company is interested. Yesterday President Springborn said that he had been informed by a Pennsylvania official that the company would not consent to the plan of giving the river property to the city on the terms named by the city in the Grand-av. negotiations.

"The appropriation proceedings will be taken up again," said Springborn. "We will not wait any longer."

A meeting of the special council committee on river and harbor improvements will take place this afternoon in the office of the city clerk. Invitations have been sent to Col. Millis, United States engineer, and to owners of property with river frontage between Harvard and Reeves-avs., S. E.

CRITIC OF KOHLER NOT REAPPOINTED

Feniger Isn't Named With Prosecutor Associates for Another Year.

During Two Years' Service Had Found Fault With Chief.

Police Prosecutor Ben Feniger's criticisms of the police department are thought to be the cause of his forecasted retirement from office under City Solicitor Baker the first of the year.

Baker yesterday notified William Geier, Daniel Cull and George Baer of their reappointment for another term of two years. The appointments were sent together to the police prosecutor's office yesterday afternoon, but Feniger's was not among them.

Both Baker and Feniger declined last night to discuss the failure to reappoint. Feniger only reiterated a statement made some time ago that after the first of the year he would probably retire from office and go into a law partnership.

At police headquarters last night it was said that Baker's failure to reappoint was due to Feniger's criticisms of Chief Kohler. During the two years that Feniger has held office he has several times openly voiced the criticisms he had to make of the police department. This, men at police headquarters say, is responsible for his retirement.

Cull and Baer have served three years while Geier came in with the Johnson regime.

BERNSTEIN MAY BE FENIGER'S SUCCESSOR

Councilman Maurice Bernstein, defeated for re-election, is talked of as the successor of Police Prosecutor Feniger, who was refused reappointment by City Solicitor Baker Tuesday.

Feniger was not reappointed, and his removal from office, it is said, was brought about by his criticisms of Chief Kohler.

There's a newsboy who sells papers out at Euclid-av and E. 105th-st, who gives promise, when he grows up, of eclipsing the record made by City Solicitor Baker as a user of fluent, convincing, spell-binding diction. Here are some of the cries by which he vends his wares:

"Read concerning the dreadful calamity which darkened scores of once happy homes!

"All about the atrocious murder caused by the demon jealousy—the demon jealousy. One cent.

"Latest revelations of complications almost criminal in their nature in the dealings of the sugar trust.

"Read about the foot ball game, brought to a successful culmination without injury to a single participant."

REFORMS DEAD IN COUNCIL'S MORGUE

Many Measures to Go by the Board in a Few Weeks.

Utopian Dreams and Ordinary Schemes to Share Alike.

Reforms galore buried in city council committee boxes are doomed to pass out of existence when the tolling of many bells announces the death of the old year and the birth of the new.

These reforms are set forth in ordinances and resolutions introduced during the year. In some instances the committees to which the measures were referred have taken no action. In others an adverse report of a committee or of the city solicitor has started the legislation well on the way to a place known in councilmanic parlance as "the table."

An ordinance by Councilman Walz making it unlawful for a street railroad company to permit the interior of a pay-enter car to be occupied by more than as many persons as can be seated still rests in the committee box of the committee on health and cleanliness. The same councilman has a resolution lying in the same box which authorizes the police to destroy all unmuzzled dogs running at large. In addition Dr. Walz has an ordinance to prohibit the practice of hypnotism and mesmerism except by members of the medical profession, that is still pending. The city solicitor has submitted an adverse report on this ordinance.

An ordinance prohibiting "unnecessary fire" has been at rest in the committee box of the council committee on fire for many months. This ordinance was introduced by Councilman Pearce last August and fixes a fine or term of imprisonment for anyone who causes any substance to blaze or flame wantonly or carelessly or for purposes of amusement. It is specified in the ordinance that the regulation is not intended to interfere with any established religious custom or smoking or the cooking of food. An adverse report on this ordinance was submitted by City Solicitor Baker who held that legally the measure was vague and indefinite.

The council committee on judiciary has had before it for many weeks an ordinance by Councilman Matheis regulating the sale of eyeglasses and spectacles and many weeks ago Councilman Selzer introduced an ordinance prohibiting managers of theaters from allowing patrons to be seated while a performance is in progress.

All legislation now in the committee boxes will die at the close of the year if not brought before the council before that time. Some of the committee boxes are crammed full of ordinances and resolutions of a minor character that have not been passed upon.

NAME MAN WHO OPENED BIDS, IS ORR'S CHALLENGE

City Solicitor Baker and Director of Schools Orr met Wednesday to draw up an answer to an injunction suit against the school board and Director Orr, filed by A. S. Wood Monday night. Wood charges that a contract for \$3900.32 for seats, given to the American Seating Co., was let without advertising for bids, that the bids were opened before the school board meeting, and that the contract was awarded without formal sanction by the board.

Orr said Wednesday that Wood would be asked to name the man he believes opened the Cleveland firm's bid.

"He insinuates that someone opened the bids, but does not say who. The bids were received in my office, but I did not open them until the committee of the board met before the meeting Monday night," Orr said.

"No bid is considered unless it is dropped in the box on my office door. This box is locked and I have the key."

"There may have been collusion by the bidders, for all I know," he said. "Those things have happened before."

Baker had not seen the petition when called Wednesday morning. He would not discuss it.

PICK BERNSTEIN FOR JOB.

City Hall Observers Think Councilman Will Get Feniger's Police Prosecutorialship.

Councilman Maurice Bernstein will succeed Ben Feniger as assistant police prosecutor, according to a well defined rumor in circulation in city hall circles yesterday. It was not known until Tuesday that Feniger, who has been one of City Solicitor Baker's assistants for the past two years, had not received his reappointment with the rest of the assistant city solicitors.

While it was generally reported Tuesday that Feniger's decided stand against Chief Kohler had much to do with this action on the part of the city solicitor, neither Baker nor Feniger would say anything about it.

Councilman Bernstein is an attorney with offices in the Society for Savings building. He was defeated for election to the office of councilman at large at the recent election. He is just completing a two-year term as councilman from ward 15.

One Possibility.

A pedestrian noticed a crowd of workmen digging in the street in front of the American Trust building.

"What they doin' here?" he asked of a bystander who happened to be a man who can't see Tom Johnson with binoculars.

"Oh," replied the latter, "I s'pose they're gettin' ready to put in a pipe line from Tom Johnson's new office upstairs to Newtie Baker's office over in the city hall."

WHEN SUIT ENDS, BAKER WILL DUN WORSTED MILLS

The water department has put in City Solicitor Baker's hands for collection a bill for \$62,000 against the Cleveland Worsted Mills Co. for use of water from high pressure fire mains, which Mayor Tom charges was stolen.

Baker said Thursday the bill would not be presented until the injunction suit brought by the company to prevent the city from shutting off the high pressure service is settled.

Baker said Thursday that he had visited the worsted mills. "I saw that the fire main had been tapped by a two-inch pipe," he said.

STAFFORD'S DENIAL.

In a published statement, President O. M. Stafford of the worsted mills company, denies that his company ever stole water. Stafford does not deny that the high pressure mains in the factory were tapped to supply water to the boilers when low pressure service failed. He also says water was taken from the high pressure service to extinguish a fire in a cinder pile.

Stafford declares the emergency valve was opened while city employees were making water tests at the plant.

"Stafford intimates that I and A. G. Siedle opened the valve," Inspector J. G. Peltz said Thursday. "We found the valve opened."

"BILLS LARGE ENOUGH."

"We asked Engineer Davis to close it. He said he couldn't do that, as it was connected with the boiler. Finally he closed it and tests showed that water was being taken from the high pressure mains, for private use, at the rate of \$6000 worth a year."

"We have been paying water bills plenty large enough," G. H. Hodgson, general manager, told The Press, Dec. 7, when Mayor Tom first charged the company with stealing water.

"About two weeks ago," Hodgson continued, "we had a fire in the gully back of our plant. Perhaps the mayor is referring to water used at that time."

Demurs to Subway Injunction.

City Solicitor Baker, for the board of elections, yesterday filed a demurrer to the amended petition of President Charles F. Brush of the Chamber of Commerce, which asks an injunction restraining the tabulation of blank ballots cast on the subway proposition at the November election. The question is raised whether, at the election, a majority of those voting on the subway ordinance voted against it.

City Solicitor.

NEWTON D. BAKER, Democrat; present city solicitor. Mr. Baker is so well known that comment regarding his candidacy is scarcely needed. He has shown great ability and earnestness in the administration of his office for about seven years.

HERE'S THE FINEST XMAS SENTIMENT

Solicitor Baker thinks this to be the finest Christmas sentiment:

"Here's hoping that the spirit of Christmas may abide with you through the year; that you will remember that there are still divine children for whom there is no room at the inn; and, that it is to such children wise men bear their gold, frankincense and myrrh."

It was written and sent to him by Gov. Thos. R. Marshall, Indiana. Baker and Marshall are close friends.

Mayor-elect Baehr, Henry Gall, his secretary, and the two newly appointed directors, visited Mayor Johnson and other city officials yesterday at the city hall. In a conversation with the mayor and City Solicitor Baker, Mr. Baehr asked whether the employes of the health department were under civil service. City Solicitor Baker expressed the opinion that they are not under civil service and, in his reply he included the sanitary police force, as well as the office employes.

"CAN'T PUT WALZ IDEAS INTO CAR GRANT"—BAKER

Dr. F. W. Walz, former councilman, has written to council asking that the Tayler plan street car ordinance be amended before it is voted upon in a referendum.

The ordinance provides that the company alone may propose extensions of lines, and Walz wants the company to make such extensions and betterments of lines that the city may direct, providing it can raise the funds to do so. Walz says the company originally agreed to the amendment he proposes.

"I suggested this amendment to City Solicitor Baker the night the ordinance was passed," said Walz, "but he declined to make it. If we do not obtain this advantage before the referendum, we never will. I am inclined to think the city administration left loopholes so that in the future, when we find ourselves powerless to do certain things, Johnson and his adherents will be able to cry, 'I told you so.'"

The original draft gave the city the right to direct extensions, but John G. White, attorney for the railway, said it was illegal, as it took from the company its corporate powers and might invalidate the entire ordinance.

"It was all done openly, without any sharp practice on the part of the railway," said City Solicitor Baker. "Dr. Walz is in error when he says the company was at any time willing to let the city direct extensions. He called my attention to the question, but I did not incorporate his amendment in the ordinance because we had all agreed to the contrary."

WILL STUDY FIGURES

Ex-Mayor Will Take Up Mathematics as Part of Methodical Rest Cure.

His arm thrown about the shoulders of City Solicitor Baker who walked at his side, Tom L. Johnson, former mayor of Cleveland left the city hall building at 1 o'clock yesterday afternoon. The large crowd gathered in front of the building made way for him, but he seemed entirely lost in the conversation in which he was then engaged.

The two were busied with a mathematical discussion. The specific question before them was the exact meaning of the term "reciprocal." The ex-mayor appeared to have a different view of this question than the city solicitor and an argument ensued that was in progress from the time the two left the office of the city solicitor until the street was reached.

The study of mathematics will be part of the former mayor's rest cure. At 5 o'clock yesterday afternoon he left for the east and will not return for five weeks. "I am going to do as the doctor says," was his last words before getting into his automobile. "He says he is going to put me to bed and I'll do as he says. I don't know just where I am going to stay down east. When I return to the city I will be in my new offices in the American Trust building."

After the installation ceremonies Mr. Johnson and his close followers walked upstairs to the office of City Solicitor Baker. W. B. Gongwer, his secretary for the past nine years and Martin Thumm were with him.

Friday Mr. Johnson, City Clerk Witt and City Solicitor Baker had a group photograph taken. The picture was taken at the request of City Clerk Witt.

AGREE ON TERMS FOR PIER LEASE

City and Boat Lines Await Approval of Plans Before Signing Contract.

Baehr Would Bar Company's Power Plant From Lake Front.

"Nothing stands in the way of our signing the lease, provided the plans for your improvements are approved by the supervising architects of the group plan and you agree to do away with the necessity for a boiler house and smokestack by purchasing your light and heat."

This was the final statement made to representatives of the D. & C. and C. & B. boat companies yesterday afternoon by Mayor Baehr, after a meeting in his office, called for the purpose of discussing the proposed lease by the companies of the western pier at the foot of E. 9th-st.

Present indications are that the long discussed lease will be approved

by the new board of control within a week or ten days, as Mayor Baehr has asked Secretary Roberts, of the group plan commission, to notify the members to arrange for a meeting in the city as soon as possible.

Mayor Baehr believes that there should be no unsightly power house with a smokestack on the lake front near the city's group of public buildings and for this reason he advised the representatives of the two boat companies to make arrangements to purchase current for lighting and heating their passenger station and warehouses.

The D. & C. boat company was represented by D. C. McIntyre at yesterday's meeting and the C. & B. by T. F. Newman. Attorney Harvey D. Goulder also was present as a representative of the passenger boat lines. The city was represented by Mayor Baehr, Director Lea and City Solicitor Baker. The plans of the two passenger boat lines were displayed at the meeting and, in answer to the questions of the mayor, it was explained that the new docks would be concrete, the passenger station of pressed brick construction and the warehouses of steel and iron.

City Solicitor Baker expressed the opinion that the supervising architects would approve the plans for the buildings, if they ran to the simple and classic lines rather than the ornate. Director Lea and Mayor Baehr were of the opinion that the plan for the buildings should follow as closely as possible the type of architecture that is being followed in the rest of the buildings of the group plan.

Director Lea appeared to be in favor of a clause in the lease which would prevent the two companies from making any further use of the river so far as their passenger boats are concerned after the proposed lake front pier improvements have been made. It was his suggestion that the city should have assurance that there would be no further blocking of freight traffic in the river, when once the lake front passenger pier had been established. City Solicitor Baker expressed the belief that such a provision in the lease would be legally impossible.

Attorney Goulder said that the boat companies in going out on the lake front would separate themselves from the river and that there would be no necessity for a clause preventing them from sending their passenger boats into the river for the reason that the large boats cannot be handled advantageously in the river.

The lease will allow the boat companies to take possession of the pier for a period of thirty-five years, on paying \$55,000 to the city as advance rental as soon as the city has established its right to lease the pier for passenger boat purposes. In the meantime the companies will take possession under a short term lease which provides an annual payment of \$1,000. When the long term lease becomes effective, the companies must expend \$150,000 in pier improvements, in addition to making the \$55,000 rental advance to the city.

Newton's System.

Often in the night time, Newton D. Baker may be heard at his office in the city hall talking to himself—not exactly to himself either, for he is addressing one of those phonographic machines that take down dictation and repeat it to a stenographer.

Baker got the machine, he says, not that he prefers it to talking directly to a stenographer, but because when he's working about his office evenings he keeps thinking of things that he wants to say, letters he wants to write, and so on. And it's easier to tell them to the machine than to jot down memoranda.

Needless to add, the machine repeats these nightly thoughts to the stenographer next morning in the same flowing style that marks all Newton D. Baker's utterances.

TOM L. JOHNSON WITH TWO OF HIS CLOSEST AIDS



Peter Witt.

Mr. Johnson.

Newton D. Baker.

WHAT BOTH SIDES SAY.

Andrew Squire of Squire, Sanders & Dempsey, representing the Cleveland Railway Co.—“The company is pledged to accept the ordinance as prepared by Judge Tayler. It expects in good faith to carry out its promise.”

Mayor Johnson to the council—“We have promised to pass this ordinance. From information I have I believe the council will pass it. I have promised to sign it and will if it is adopted before I leave. If not, the vice mayor will. I want it to appear that I am willing to sign it.”

Newton D. Baker, city solicitor

—“I have no comment to make.”

Judge R. W. Tayler by messenger—“Judge Tayler wishes to say that he is exhausted and will give out no statement tonight.”

The new board was advised to have City Solicitor Baker meet with it to devise a way whereby the teachers, whose pay is in dispute, can be properly paid and to work out a plan for medical inspection in the schools as well as for forming an advisory board to recommend a system of instruction for the technical high school. The new board will also have the appointing of a supervising principal of high schools.

Want to Know Their Duties.

The new city board of control held its first meeting yesterday in the office of Mayor Baehr. While the meeting was not public, it was stated later that it had been called to learn from City Solicitor Baker the duties of each member. The board consists of Mayor Baehr, Director Hogen, of the public safety department, and Director Lea, of the public service department.

No Injunction Asked For.

City Solicitor Baker received no notice of an injunction yesterday in connection with the proposed lease of the westerly lake front pier to the passenger boat companies by the city. An injunction suit had been expected.

FREES RAILROADS OF LEVY FOR TAX

City Solicitor Tells Appraisers They Cannot Fix Value on Riparian Rights.

Is Matter Entirely for State, According to Legal Opinion.

Riparian rights along the lake front, which are claimed by the railroads, are not subject to appraisal by the quadrennial board of real estate appraisers, according to an opinion given the board yesterday by City Solicitor Newton D. Baker.

Several weeks ago the board asked Mr. Baker if it had the right to assess land claimed by the railroads under the riparian right clause of property ownership. This permits all land owners the right to fill in the lake to the harbor line and use the property for their own purposes. In some instances the harbor line is 800 to 1,000 feet from the shore, which would mean the addition of many acres of land to some lake front properties.

City Solicitor Baker contends in his opinion that the riparian rights involved are not subject to assessment by the board, but must be considered under the state railroad laws by

Will Make Suggestions.

The Cleveland real estate board expects to submit maps today or tomorrow showing relative values as fixed by its members of the district bounded by Chester-av., N. E. Central-av., S. E., E. 9th-st. and E. 48th-st. A committee of the board has been working on the district for several weeks. The values will be subject to change by the appraisers. This is regarded as one of the most important districts in the city as it is suffering keen convulsions these days from "growing pains."

which the transportation lines pay their taxes direct to the state, through the county auditors.

An important feature of the opinion seems to be that the board will have no right to appraise or assess the building on W. 3d-st., in which the headquarters of the Lake Shore railroad is maintained.

According to the city solicitor, this is an integral part of the railroad system and should be taxed by the state as a part of the railroad's property. The same applies to depot property. The only land which is assessable by the board is property which is owned by the railroads, but which lies idle or is leased or rented for other purposes than those of the railroad.

"I am satisfied," said Mr. Baker in his opinion, "that riparian rights are not separable from the lands to which they are appurtenant and that there are no riparian rights of the railroad companies along the lake which are a proper subject for as-

essment unless these rights appertain to land belonging to the railroad companies not included within the definition of the statutes as realty necessary to the daily running operation of the road.

"The statutes require the board to ascertain and value all the personal property of the railroads, which personal property is defined for this purpose to include road beds, water and wood stations and such other realty as is necessary to the daily operations of the road.

"Just what realty this includes has never been a subject of judicial determination, but I am of the opinion that it includes land upon which are located depots, station houses, repair shops and general offices. That is to say, I think no distinction can be shown between the work done by the bookkeepers of a railroad company and that done by its trainmen, which would make one class of work a part of the general operations of the road and the other not.

"The word 'operations' in the statute does not mean the mechanical propulsion of trains, but it does mean the carrying on of the business of the public carrier. If a railroad company owns land which is either lying idle or leased out or is used for some purpose collateral to but not a part of its business as a common carrier, such land would undoubtedly be the subject of appraisal by the board of assessors as distinguished from the personal property of the company."

This decision, of course, does not involve the riparian rights of pri-

abolish every grade crossing in the city of Cleveland might be the basis of settlement.

"Mr. Johnson when mayor placed a value of \$3,000,000 on the land necessary for a station site," said Mr. Baehr to the commissioners. "I do not know what it is worth but it will be for you to find out. You may recommend the abolishing of railroad crossings throughout the city as payment for the land. Furthermore you may have to take the lake front case into consideration as well as the lake front pier cases.

Railroads Yet to Reply.

"The railroads were asked to fix a time for a meeting and, although they have expressed their willingness to meet with this commission, they have not definitely replied. In this thing I am not directing you nor do I want to direct you; you are free to consider everything that pertains to the Union station and you are to be independent in your decision."

Several questions as to the right of the city to use a public park as a building site were raised by various members of the commission. To obtain legal advice City Solicitor Baker was called to the meeting. He expressed it as his opinion that there were no serious legal questions between the city and the railroads to impede the progress of the commission.

"In regard to the thirty-five acres of land that the railroads asked for a building site," Baker said, "if they want that much land the city will still retain forty acres north of the tracks.

"The park land that is wanted for a station site was given to the city in trust for park use. To use it for a depot site will require the buying of the land outright from the heirs of the donors. With one or two exceptions the heirs are willing to sell their claims to the city for a very low price.

"The lake front case that was decided in the circuit court today may enter into the considerations, but if the railroads and the city get together and have the case advanced the appeal to the supreme court may be heard within two months."

Mayor Baehr announced he would do all he could to have the case decided in the supreme court as soon as possible if the railroads carried the case up.

Charles E. Adams, vice president of the Cleveland Hardware Co., was elected chairman of the commission and A. S. Taylor of V. C. Taylor & Son, was made secretary. The next meeting time was not fixed, but will depend somewhat on the reply of the railroads. Before the next meeting each member of the commission will be supplied with a blue print map of all the land involved.

The circuit court decision yesterday declares the Bath-st. property between the Union depot and the Cuyahoga river to be city property and, by implication, makes the made land to the north of the Lake Shore tracks, fifty or sixty acres in extent, the city's own.

Judge Vickery's decision of last spring, although criticised as indefinite, was none the less sustained by the upper court. The railroads are given trackage and other rights in old Bath-st. and the city cannot collect rents for their use of it. The roads can stay there as long as they like but the real title to the property is in the city of Cleveland and the made land to the north therefore belongs to the city.

Should the supreme court, to which the case will be immediately appealed by the C. & P. railway sustain the decision of the circuit court the movement for a new union station will receive a great impetus.

GIVES CITY LAND, AIDS DEPOT HOPE

Circuit Court in Sweeping Decision Forbids Railroads Use of Bath-st.

Declares Lake Front Property Worth \$20,000,000 Cleveland's Own.

Shortly after the announcement of the circuit court decision in the lake front case yesterday ruling in a sweeping manner that the Bath-st. property between the Union depot and the Cuyahoga river is city property, Mayor Baehr at his first meeting with the members of the newly appointed union depot commission advised that the lake front controversy be given a study by the commission as one of the phases of the question that might possibly have to be considered.

The property involved in the lake front dispute which after twelve years of litigation now stands completely in the city's favor, has been estimated at \$20,000,000.

Mayor Baehr in addition to urging the commission to give this question study in connection with the preparation of its report on the union depot question suggested that instead of a cash consideration for the twenty-five acres of Lakeview park property sought for depot purposes a proposition whereby the railroads would agree to

"The sooner the case is appealed and the whole question settled the better it will be for the city," said Mayor Baehr. "We need a union depot and this administration is pledged to build one. The circuit court's decision assures our success."

"The decision of the circuit court is a sweeping victory for the city," said City Solicitor Baker. "It is far more decisive than was the common pleas decision of last spring."

"The court finds," the opinion concluded, "that the plaintiff has a legal estate in and is entitled to the immediate possession of the premises under dispute."

The circuit court holds that ejectment proceedings against the railroad companies would be the proper means toward the obtaining of the land north of Bath-st. and advises their institution. The presence of railroad tracks on a street, when it prevents the public use of the street or any part of it is declared to be no less than a "public nuisance."

CITY OWNS LAKE FRONT LAND, SAYS CIRCUIT COURT

Decision of Judge Vickery Sustained — Case to Go to Supreme Court.

PROPERTY VALUABLE

Worth is Between \$20,000,000 and \$30,000,000—Solicitor Baker is Pleased.

The circuit court Monday decided the lake front cases in favor of the city. Between 40 and 50 acres between W. Ninth-st and the river, now used by the Lake Shore, Big Four and Pennsylvania lines, are declared to be city property, and immediate possession is given by the court order.

The value of the land is estimated at from \$20,000,000 to \$30,000,000.

Judge Vickery's decision in common pleas court was sustained by circuit court.

The property in question was given to the railroads in 1849 by contract with the city, in return for which \$15,000 was paid by the railroads and about \$50,000 against the city in claims was settled. A thoroughfare known as Bath-st was included in the property turned over to the railroads.

"IMMEDIATE POSSESSION."

Judge Henry, who delivered the opinion, said: "There was an absence of power of city authorities to make the grant. The right to use the land for street purposes could not be taken away. The contract of 1849 therefore was limited. The city is entitled to immediate possession of the land in question."

Suit was started against the railroad company for possession of the land over 12 years ago. Common pleas court in deciding the case held practically as did the circuit court. The case is to be immediately carried to the supreme court.

The circuit court decision gives the railroads trackage rights on the land.

The city cannot collect rent from the roads for the land used for tracks. Neither can the city get rid of the tracks. The roads may stay as long as they like.

DECISION IMPORTANT.

City Solicitor Baker, commenting on the decision, said that it put the city into possession of the most valuable lake front property on the great lakes.

"The decision enables Cleveland to preserve and use for the public good this great natural terminal," he said. "It is the starting place for the development of Cleveland's harbor along big lines."

Mayor Baehr, when informed that the railroads would appeal the case to the supreme court, said that he would urge the companies immediately to file the appeal.

"I shall endeavor to have the supreme court give precedence to the case," said Baehr.

City Solicitor Baker said:

"The lake front property was dedicated as a street and landing, the city having the same right to its possession as it has to the possession of the public square or Superior-av.

"The court holds that even if the city had tried to sell the land to the railroads it could not have done so."

ADDS GAS CHARGES TO MERGER PROBE

Councilman, Acting on Complaints, Purposes Investigation of Rates.

Baehr Takes Decided Stand in Favor of Fight on Company.

Councilman Harry C. Gahn will recommend to the council gas investigating committee to be appointed by the council next Monday night under a resolution to be presented by Councilman Shimmon, that, in addition to investigating the merger of the gas companies, it probe charges that the East Ohio is making exorbitant charges for present service. Gahn's plan is the result of wholesale complaints that have been made to him.

That the city's investigation of the gas situation is certain was made clear yesterday when Mayor Baehr added weight to the official clamor for action. Mr. Baehr will meet with City Solicitor Baker today to get Mr. Baker's views of the city's power in the matter of preventing the merged gas interests from raising rates.

CAN'T DEMAND BACK RENT

City, Decides Solicitor, Has No Such Right Under Lake Front Decision.

Councilman Haserodt yesterday asked City Solicitor Baker whether the city council could now demand of the railroads occupying lands on the lake front involved in lake front litigation that they pay the city back rental for all the years of occupancy.

The city solicitor expressed an opinion that this could not be done. Haserodt had planned to introduce a resolution demanding this rent in view of the fact that the circuit court has just given a decision in favor of the city.



PHOTO OF NEWTON D. BAKER SINGING HIS FAVORITE BALLAD, "LONELY, I'M SO LONELY NOW."

City Solicitor Baker also figures in the calculation as a possible candidate for attorney general and last, but not least, Charles P. Salen's friends have been nursing a quiet little boomlet for him for secretary of state. Salen's candidacy, some Democrats believe, would be an excellent opportunity to treat the gaping wound in the party caused by the factional feeling now existing.

The Lake Front Case.

There is, as yet, no end of the "Lake Front Case." It may yet be appealed to the supreme court of Ohio. Thereafter it may, on some technicality, possibly be brought back once more into the federal courts. A decision of the highest state tribunal favorable to the city of Cleveland would move the railroad lawyers to exercise all their ingenuity in an effort to keep the case still in some kind of a court.

The federal courts have always decided favorably to the railroad companies in this litigation. Judge Lurton, recently appointed to the supreme bench, remanded the case to the state courts because of a ruling of the federal supreme court in a similar case. This was not until Judge Hammond of Tennessee, on the federal circuit bench, had ruled against the city and had utterly refused, during several years, to allow the city to appeal or to take any notice whatever of the city's representations. It was not until after Judge Hammond's death that the litigation was allowed to proceed, and it was solely owing to the decision of the federal supreme court that Judge Lurton allowed the case to go back to the state courts for trial.

In the state courts the history of the case has been far different. Judge Vickery decided in favor of the city, and now the circuit court upholds Judge Vickery in every contention.

The litigation is of great importance to the city. The efforts of Judge James Lawrence, who, as law director under Mayor Blee, started the litigation and who later, as special counsel, has devoted to it much thought and energy, deserve public recognition. Judge George L. Phillips, Miner G. Norton and Newton D. Baker have also given their best work to this apparently interminable suit. For a long time it appeared to be a hopeless case, but the prospects of the city gaining final possession of its water front are now very bright. When completed, the lake front case will rank as the most important legal battle in the history of Cleveland.

GRANTS MAY BE RENEWED

City Officials Will Confer With Tayler as to Submitting Ordinance to Council.

Mayor Baehr, City Solicitor Baker and Receiver Bicknell at a meeting with Judge Tayler today will discuss the question of submitting an ordinance to the city council at its meeting tomorrow to extend the life of the grants of the Cleveland railway system, which expire Jan. 26 to Feb. 17, the date of the referendum election on the Tayler grant.

This subject was discussed at a meeting in the office of Mayor Baehr yesterday, attended by Receiver Bicknell, the mayor and the city solicitor. It was pointed out by Receiver Bicknell that any changes that would be required in the operation of the system might only be in effect until Feb. 17, and that for that reason it would be advisable to have legislation passed that would enable the receiver to continue the operation of lines until the date of the referendum election.

Some time ago Councilman Koch introduced an ordinance requiring the company to charge 3-cent fares on all of these lines after Jan. 26, extending the life of the expiring grants to June 10, 1910. This ordinance was not accepted by the company. The Payne-av., Superior, E. 105th-st., St. Clair-av. lines and parts of a number of other lines are affected by the legislation.

GIVES BIG ESTATE TO CITY'S CHARITY

Will of Late Hiram Hurlburt on Death of Widow Leaves \$200,000 to Cleveland.

Fund May be Used for Hospital Addition or at Warrensville.

Cleveland City hospital now may have the new additions so long talked of by former Director Harris R. Cooley or the work at the Warrensville sanitarium may be carried through to completion.

It was announced yesterday by City Solicitor Baker that \$200,000 soon will be available to Mayor Baehr for these purposes. The money is to come from the estate of the late Hiram B. Hurlburt, whose widow died Friday at the age of ninety-one.

When Mr. Hurlburt died about twenty years ago he left his estate, amounting to several hundred thousands of dollars, in the hands of his widow. She was to use the income of the estate to live on. If the income was not sufficient to permit her to maintain her home and support her as she desired to live, she was to use such portion of the principal as was necessary.

Upon her death \$200,000 was to go to the City hospital and the remainder of the estate was to be paid to Henry Ranney, J. D. Cleveland and W. E. Miller of Elyria as trustees, they to direct the spending of the money for a public art gallery.

Justice for All Alike.

City Solicitor Baker announces an intention to inaugurate a plan to insure legal advice for indigents who find themselves prisoners in police court. The plan is backed by the Legal Aid society and is designed to protect the unfortunate from the machinations of unscrupulous lawyers who profit by their defenseless condition.

The idea is a good one. It is too often found in court that the law's rigor depends upon one's ability to hire a lawyer; justice is made dependent on one's purse. The penniless prisoner has much less chance of getting fair treatment than has the man with money to hire legal assistance. The situation is everywhere recognized, and a statement of the fact is no reflection upon the courts.

It is in line with the effort being made in many quarters to equalize justice that Mr. Baker proposes to institute what has been called a "public defender system" in the Cleveland police court. The people generally will approve the plan.

DEFENDS JOHNSON IN MUSEUM DEAL

City Solicitor Declares Former Mayor is Grossly Misrepresented.

Says No One Knowing Man Under Fire Could Believe Accusation.

In a statement given out yesterday in answer to that of Hermon A. Kelley, chairman of the board of trustees of the art museum funds, City Solicitor Baker declared that as one of the "associates" or "advisers" or "subordinates" who has still a public commission he feels that he has a duty to let the facts in the art museum matter be known at least "while the lion is asleep, to prevent the fox from deceiving the assembly."

The city solicitor also asserted in his statement that the statement from Mr. Kelley had come at a time when former Mayor Johnson was confined to his bed with illness and that advantage was taken of this fact.

The city solicitor's statement was given out late yesterday afternoon shortly before Mayor Baehr, Director Lea, Mr. Kelley and Architect Hubbell had returned from a trip to Wade park where the site of the proposed art museum was inspected. The mayor again promised yesterday that the city would interpose no delays.

"The necessary deeds have already been approved by Mr. Springborn and Mr. Baker," he said. "All that is needed is council approval. Work on the \$1,000,000 art museum will start in spring. In addition to the exchange of a tract of park land that will enable the trustees to place the building in a better position, for a part of the land now held by the trustees for art building purposes, a tract of park land is desired for additional purposes but this latter parcel is not to be disturbed until the money is actually in hand for the new wing."

The statement of City Solicitor Baker follows:

Mr. Hermon A. Kelley, as secretary and treasurer of the trustees of the Cleveland Art museum, has handed to the newspapers of the city a statement with regard to the delays which have occurred in the execution of their trust. The apparent purpose of the statement is to divert to Mayor Johnson and "his advisers" the indignation which has existed in the community generally against the trustees for their inactivity. The time selected for the making of this statement is not creditable to Mr. Kelley's courage, since it is known that Mr. Johnson has for some weeks been confined to his bed with illness.

When he was here and able to state the public side of the controversy between the trustees and the members of his administration, Mr. Kelley's discretion was greater than his valor, and indeed the excuse given for delaying this statement is most ungenerous to Mr. Kelley's associates, who are put in the light of citizens restraining him from telling the public an important truth during a political campaign because of the timid feeling that it was unwise to offend Mr. Johnson.

I was one of Mr. Johnson's associates and advisors. I was continuously consulted by him during the negotiations with the art trustees, and both for the reason that I am no doubt included in the veiled denunciation intended for all who had any part in offending our adversary, and also to prevent any further advantage being taken of Mr. Johnson's temporary illness, I feel entirely free to speak of this controversy.

The plans of the trustees originally provided for the erection of a museum building on the oval shaped piece of ground comprising about three and a half acres lying between the forks of the East boulevard, just north of and overlooking the lake at the entrance of Wade park. As originally proposed, the building was to be between 400 and 500 feet in length, its main axis running north and south. Many plans were considered, and several formally adopted in succession by the trustees, among them a plan which provided for the prolongation of Adelbert-rd. as a main approach to the museum building. This plan required the city to expend \$90,000 in the acquisition of additional land and imposed upon the trustees the burden of expending \$223,000 in preparing the land to be occupied by the museum and rearranging the drives and approaches to the building.

It was suggested to the trustees by the city park engineer that the building should be located with its main facade toward University circle, thus affording an unobstructed view of the building across Wade lake. This suggestion was adopted after receiving the approval of Mr. Wheelwright, consulting architect of the museum trustees, and an effort was then made to plan additional ground east of the oval. The expense of this purchase would have been to the city \$180,000. The expense to the museum of improving the location and reconstructing drives and approaches would have been \$101,000, and the expense upon the city

proved prohibitory.

At this point Mr. Johnson suggested to the park engineer that he draw plans which would obviate the necessity of purchasing lands to the east by widening the oval on its westerly side out of park lands, and the first plans, involving an exchange of lands between the city and the trustees, were drawn by the park engineer. At the same time the architect for the museum prepared plans looking to the same end, with the result that the suggestion was made that the city should acquire from the trustees so much of the southerly end of the oval reservation as was not needed for the building, and in exchange for that should give, with the approval of Mr. J. H. Wade, to the trustees, an equivalent amount of park land on the westerly side of the oval, in order to reconstruct the driveways and provide appropriate approaches to the museum, and in order to prevent the museum from completely blocking the entrance to Wade park.

Both of these plans involved the erection of a culvert over a part of Doan brook, and the use of material excavated from the foundation of the museum building to raise the level of the park land adjacent to the museum building. Since all of these improvements were undertaken for the benefit of the museum, and very large savings were to result to the trustees from providing a short haul for excavated material, both the trustees and the city recognized the propriety of the expense being borne by the trustees.

Wade park is very narrow at the Euclid-av. entrance. The stakes by the architects of the trustees showed that the westerly approach to the museum building would rest upon a fill twenty-two feet high, the effect of which would have been to erect practically a railroad embankment in Wade park, placing the museum athwart the entrance to the park like a cork in a bottle, and converting the entrance to the park practically into a dooryard for the museum. A part of this difficulty would remain even when the proposed culverting of the brook had been accomplished.

There never was any discussion or disagreement between the trustees and the city as to the entire propriety of the trustees bearing the expense of the rearrangement of the park lands adjacent to the museum, and the amount proposed by plans drawn for the trustees was always in excess of the amount required to be expended under plans drawn by the city. Finally Mr. Wheelwright was called in and the dispute substantially referred to him. He went over all the plans that had been prepared, advised the trustees that they should pay the amount needed to reconstruct and relevel the park lands and approaches, and himself drew up an agreement to be signed between the city and the trustees providing for this expenditure.

A new turn was given to the negotiations by the request from the trustees for larger quantities of park lands, the request being made necessary by the desire to move the site of the building further north so as to get the building back of the intersection of Bellflower-av. with the East boulevard, and also to provide a space upon which future extensions of the museum building could be built. Mr. Leslie, Mr. Stinchcomb, Mr. Boddy, Mr. Johnson and I examined the land desired by the trustees. It requires the immediate destruction of a large part, and that the most valuable part of the fine forest on the level ground south of the zoological reservation, and the ultimate destruction of all these trees, and gives to the museum the entire level ground which for many years has been the playground and recreation place in Wade park.

We felt it a grave and unfortunate necessity that required the sacrifice of the only fine trees in Wade park, and the devotion of practically all the level ground in Wade park to another use. Personally I felt that it would be much better if the museum could be located elsewhere than to have Wade park thus destroyed. But Mr. Johnson took the other view, and expressed his willingness to recommend to the council the transfer in question, reserving only the right to the city to continue the park use of so much of the land as should not be presently needed for museum purposes until further buildings were required. So that at every point in these negotiations, when a difficulty arose, Mr. Johnson's attitude was that of a desire to help the trustees, and to overcome the difficulty.

Very early in the negotiations the building committee of the art museum trustees waited upon Mr. Johnson. At the first interview he told them that if any park land were needed, he thought there ought to be an agreement on the part of the trustees to maintain free days so that the museum would be kept open to the public on Saturdays, Sunday

afternoons and legal holidays, for eleven months in the year, leaving the museum closed for one month for cleaning and repairs. His request in this regard was immediately acceded to by the building committee who stated that in their judgment there could be no objection to that.

When the request of the trustees for more park land was made, Mr. Johnson felt more strongly than ever that since the public was to be deprived of so much of the pleasure ground in Wade park, it was only proper that the trustees should agree to keep the museum open to public access. The objection of the trustees to this was that they could not bind themselves to administer their trust differently from the provisions of the respective wills under which they held.

I then suggested, as a way out of the difficulty, that the trustees agree to Mr. Johnson's request, making the agreement subject to the provision that it should not be construed as a waiver or abrogation of any of their rights, powers or duties under their respective trusts, and that to the extent that such an agreement was in conflict with their duties as trustees, it should not be binding. This suggestion was not, so far as I know, even considered by the trustees. They immediately took the position that they would make no agreement on the subject of free days, but would decline to proceed with the negotiations unless the park lands were given to them without condition.

The negotiations were discontinued after a complete agreement had been reached upon the location of the building, the mode and cost of reconstructing and releveling the park lands and the amount to be expended by the trustees for those objects. There were suggestions made from time to time by the park engineer that the culvert should be extended to Euclid-av. and Wade lake increased in size, the object being to make it a more suitable foreground for the massive, monumental building to be erected by the trustees. These suggestions were in the interest of the beauty of the building, and at no time were an obstacle in the negotiations, nor was it at any time suggested that the cost of the enlargement of the lake should be borne by the trustees.

Our adversary says that the administration met the trustees with sharp trading, and attempted to obtain money for the improvement of park lands outside the site, and that the city authorities discovered greater and greater opportunities for abstracting money from the museum trustees. This is so far from being true that every plan made by the city, or suggested by its officers, had the effect of saving money to the trustees, sometimes by requiring the expenditure of smaller sums in rearranging park land to avoid the necessity of expending a larger sum in extensions, excavations, fills and rearrangements of their own site, and often by suggesting more economical methods of achieving results without sacrificing artistic contours and perspectives. The amount finally agreed upon between the trustees and the city imposes less expense upon the trustees than any plan at any time suggested by them or for them.

Our adversary has chosen a time for his statement when Mr. Johnson is sick and absent, but I know Mr. Johnson well enough to say with confidence that I do not believe that he ever made any such statement to Mr. Kelley as that which he characterizes as exhibiting Mr. Johnson's real motive. It is not conceivable to anybody who knows Mr. Johnson that he ever said so dull a thing as that he wanted to be able to say to the people of Cleveland that he had secured the opening of the gallery free to them on certain days. He may have said that he wanted to secure the opening of the gallery free on certain days, for he undoubtedly did desire to do that thing, but that it was for any political purpose, as our adversary charges, I deny, nor will the statement be believed by anybody, even by Mr. Kelley himself.

That the last interview between Mr. Kelley and Mr. Johnson closed as Mr. Kelley says, may easily be. Representatives of the trustees frequently tried to threaten Mr. Johnson into acceding to their propositions, but that method of negotiation never succeeded with him when public property was in question.

The negotiations with Mr. Johnson began in 1908. Mr. Huntington died in 1893. During those fifteen years many of the people for whom he intended his bounty have passed away. Before the museum is built, there will scarcely be left any of his contemporaries. I do not undertake to judge the trustees nor to say whether or not the public criticism and condemnation of them for their delays is justified. Mr. Huntington left his bounty in their trust and they have acted as seemed to them wise.

I do not desire in this statement to put any obstacle in the way of the immediate agreement between the trustees and the city of Cleveland. I trust that Mayor Baehr will be able to work out with the trustees a satisfactory solution of this question, one that will leave as much of Wade park as possible for the public to enjoy, which will lead to the erection of a museum some time, which the public may enter under some terms or other, to enjoy its collections; but as one of the "associates" or "advisers" or "subordinates" who still has a public commission, I feel that I have a duty to let the facts be known, so that the public can decide whether Mr. Johnson's request in their behalf meets with their approval, and at least, while the lion is asleep, to prevent the fox from deceiving the assembly.

MAYOR STUDIES GAS MERGER'S FRANCHISES

Solicitor Baker has sent to Mayor Baehr the ordinances covering gas company franchises in Cleveland, requested by Mayor Baehr last week at a conference with Solicitor Baker on the gas merger question.

"I am seeking to determine what can be done to safeguard the interests of the people," Mayor Baehr said.

NOT MEANT FOR CITY HOSPITAL.

Hurlbut Bequest Goes to Lakeside Hospital, Says Solicitor.

City Solicitor Baker has received word that the \$200,000 left for the Cleveland City hospital in the will of the late H. B. Hurlbut, was intended for the institution now known as the Lakeside hospital, and not for the City hospital as was generally supposed.

"I have been told that the money was intended for Lakeside, but I intend to satisfy myself that that is the fact," he said. "There is no desire on my part, however, to contest it."

City Solicitor Baker in a letter told the board that no contract in excess of \$500 could be awarded by any department of public service except by its approval.

REPEATS CHARGES.

Hogan repeated the charge made to Parole Officer Martin and other workhouse officials, that Kennedy struck him several times and tried to push him down a flight of stairs while he was in the detectives' room. He said Kennedy used vile language and threatened him.

"You are one of the ——— thieves that ever lived," Hogan said Kennedy told him. Hogan in the original charge said that Kennedy had called him an old crook.

City Solicitor Baker called attention to the discrepancy in the two statements. Hogan said he was being questioned by detectives when Kennedy asked him who he was looking at.

"I'll knock you ——— head off," Kennedy told me," Hogan said. "He grabbed me by the collar and pulled me towards the door leading into the bull pen. He punched me in the ribs and took hold of me and hit me on the jaw and in back of the ear before he got me out of the room."

BAKER CROSS-QUESTIONS.

Hogan, on being questioned by Baker, said that he had been arrested seven or eight times, and had served a year in the penitentiary. He said he was arrested by Kennedy for stealing silverware from the Union club, and was convicted.

**Cleveland's
"Public
Defender."**

THE City Solicitor and Public Prosecutor of Cleveland believes that society should be just as much interested in the defense of the innocent as in the conviction of the guilty.

Accordingly, at his instance, a system of procedure has been introduced into the practise of the police courts of his city whereby poor men charged with crimes and misdemeanors may have an assistant of the Public Prosecutor detailed to defend them in court.

It is expected that this system will develop into the appointment or election of a new kind of city officer—a "Public Defender"—charged exclusively with the business of seeing that accused persons who are unable to hire skilful attorneys on their own account may be defended as ably as they are prosecuted.

It is, of course, a recognized principle that indigent defenders have the right to have counsel assigned them by the Court. But the custom everywhere has been to assign inexperienced or inferior lawyers to this kind of work—lawyers that need the fees or the practise.

An important step will be taken toward the establishment of real equality of rich and poor before the law when the Cleveland idea shall be generally adopted and developed.

The present City Solicitor of Cleveland is Mr. Newton D. Baker, a man of the civic spirit of Ex-Mayor Tom L. Johnson, and the sole survivor of the defeat of the Johnson ticket last Fall.

City Solicitor Newton D. Baker Tuesday refused to commit himself further on the provisions of the Tayler grant. Asked if he would vote for the Tayler grant himself, Baker said:

"I don't think I care to say, inasmuch as we have the secret ballot in this state."

City Solicitor Baker Friday defended former Mayor Johnson for demanding free admittance to the art museum on Sundays, Saturdays and holidays. He said Hermon A. Kelley's criticism of Johnson when the former mayor is sick is not creditable.

Mayor Baehr and Server Lea inspected the museum site in Wade park Friday in company with Chairman Kelley of the trustees.

**DEM COUNCILMEN TO
FIGHT FOR BAKER**

Democratic councilmen will fight to require the presence of City Solicitor Baker at council meetings. They say the council needs the benefit of his legal advice. Republicans oppose Baker's attendance. A committee is now considering a resolution asking all city officials and department heads to be present at council meetings.

Consider Collinwood Situation.

At a conference late Tuesday Dahl and City Solicitor Baker went into the details of the Collinwood situation. They agree that Collinwood is not legally entitled to the 3-cent fare as provided in the Tayler franchise.

City Solicitor Baker will file a written opinion with Mayor Baehr. "I have not given the subject any close study as yet," said Baker Wednesday, "but I believe that the franchise applies to the city as it was when the franchise passed the council, even though Collinwood became a part of Cleveland prior to the approval of the franchise at the referendum."

City Solicitor Baker, in a written opinion, declared yesterday that it is Mayor Baehr's duty to compel the railway company to comply with the terms of the Tayler ordinance and charge a 5-cent fare to Adams-av. and an additional 5 cents to points beyond Adams-av., or 10 cents to Euclid Beach. Baker's opinion was given, following the issuance of a statement by Dahl, in which he declares in favor of the no-change-for-a-nickel rule now in force. Dahl will appear before the council personally at its meeting tomorrow night to elaborate his views on this subject, if the council desires to hear him. Indications point to a fight in the council, Councilman Fleming declaring yesterday that he would insist that the council act on a resolution demanding that the rule be abrogated. Republicans may decide to fight the question out in caucus tomorrow afternoon.

The city solicitor's opinion on the Collinwood situation was handed Mayor Baehr late yesterday afternoon. The opinion was given Mr. Baehr through reference by the mayor to the solicitor, of a letter from Dahl in which it was suggested that the solicitor answer five questions.

Dahl spent much time with Mayor Baehr and City Solicitor Baker yesterday discussing the Collinwood situation and the no-change-for-a-nickel rule now in force. Mayor Baehr is in favor of forcing the company to give change, but Dahl says his opinion on this question has not been asked.

RAISE PROSECUTORS' PAY

**Baker and County Commissioners
Ask Boost for Police and Common Pleas Court Men.**

A communication from City Solicitor Baker was received yesterday by the county commissioners, requesting that body to increase the pay of the four police prosecutors. Geier at present receives \$1,500 from the city and \$300 from the county. Baer gets \$1,500 from the city and \$150 from the county, Cull \$1,500 from the city and \$150 from the county, while Bernstein gets \$1,200 from the city and \$300 from the county.

The proposition submitted to the commissioners was to pay all the assistant police prosecutors \$500. No action was taken at the meeting yesterday.

The county commissioners yesterday sent to Judge Strimple, in room 1, their request that the salary of Assistant Prosecutor Sanders be raised from \$2,500 to \$3,500. Judge Strimple probably will call a meeting of the judges to take action on this proposition.

Would Enjoin Park Concessions.

Attorney Edward P. Strong has notified City Solicitor Baker that he intends to ask him to apply for an injunction restraining the city from carrying out contracts made with persons who have bid on park refreshment stand privileges, on the grounds that it is illegal for the city to sell concessions. The bids were received several weeks ago.

MAY USE VILLAGE MONEY

**Council Considers Taking Cash
From Collinwood Funds to
Build Temporary Roadway.**

An opinion given yesterday by City Solicitor Baker to the council committee on appropriations in regard to using funds taken over with Collinwood makes possible an immediate start on the temporary grade crossing bridge at the W. 25th-st. crossing of the Nickel Plate. It was held by the city solicitor that the council did not have to turn over money taken from the various Collinwood funds to similar funds in the Cleveland treasury.

Acting on this advice the council will probably use \$8,000 from the Collinwood waterworks fund in the erection of the W. 25th-st. temporary roadway that has been sought by the Chamber of Industry. That organization has complained of the inconvenience which would be experienced for a year or more if no provisions are made to carry traffic temporarily.

No immediate action will be taken with regard to the expenditure of the \$8,000, but the plan of using it for the bridge seems to be favored.

CITY HOLDS UP SALARIES.

**Will Not Pay Humane Society Officers for Work in January,
Pending Investigation.**

Unless City Solicitor Baker assents, Mayor Baehr and City Auditor Wright will refuse to approve payment of the January salaries of General Agent Williams of the Humane society and his assistants, because the resolution authorizing the expenditure of \$3,000 for the salaries of the agents of the society for the first six months of the year was not adopted until Feb. 7.

"If the resolution is retroactive, the money will be paid," said the assistant city auditor last evening. "Otherwise, the men can be paid only for the period after the date of the adoption of the resolution."

Formerly \$1,200 of the salary of the general agent was cared for on the roll of the city clerk.

**CITIZEN TOM TO
DICTATE TICKET;
SALEN PACIFIED**

A committee composed of Citizen Tom, City Solicitor Baker and Ward Leaders Thos. Coughlin, Lawrence Brennan, D. J. Zinner, J. P. Madigan, Tim McDonough and Chas. W. Lapp, will dictate whose names go on the Democratic primary ticket this spring.

This was settled at a meeting in Citizen Tom's office Monday night, when his henchmen heard full details of his plans for the May fight.

Democracy says that this means a peace agreement between Citizen Tom and County Clerk Salen, leader of the Cuyahoga-co Democratic minority. Salen, by an offer to support Newton D. Baker for the nomination as attorney general, also tendered the olive branch. Although Baker declined, it was in such a way that Salen's meaning was not overlooked. Salen, however, denies that he is a candidate for secretary of state.

Another meeting of Democratic leaders was to be held Tuesday afternoon, when it may be decided that the new central committee be elected by precincts at the May primary. This plan would give the body 265 members.

Newton Baker: The Lonely Democrat

BY 'GENE MAC LEAN

—“One man of the crew alive
What put to sea with seventy-five.”

SO sang Robert Louis Stevenson, and the lone survivor he had in mind was undoubtedly Newton D. Baker. Out of all the gallant Democratic company that set sail nine years ago aboard the good ship Cleveland, only Newton is left—the supercargo, with strange officers and crew about him.

“Drink and the devil had done the rest—Yo-ho-ho and a bottle of rum.”

That's what Stevenson sang, also, and it is here set down in view of the beautiful sentiment expressed, and not because of its applicability to this article.

It is a tough place for our city solicitor. With Republicans to the right of him, Republicans to the left of him, Republicans behind him, and all hating him cordially, his post is considerably more ticklish than that of Horatius at the bridge. Horatius was up against a warm proposition, with the Tuscan army yammering in the foreground, but he wasn't in danger of having any Tuscan come up from behind and stick him in the back with a harpoon.

It is a job for a man qualified to

walk softly, while carrying a big stick, and if there be any diminutive lawyer in this town ready and able to do that same, and get away with it, that lawyer is Newton D. Baker.

There was a day when his friends delighted to refer to him as the “boy

checks have drawn tight over the framework underneath.

He is no longer the “boy attorney,” but a scrapping Democrat; the lone survivor, his countenance engraved with the horrors he has undergone.

“The many men so beautiful!

And they all dead did lie.

And a thousand thousand and slimy things Lived on; and so did I.”

He has just the countenance, now, to give these lines proper force. Were he to adopt the fashion of wearing a gray beard, he would be for the world and all the modern counterpart of the Ancient Mariner.

“Four times fifty living men

(And I heard not sigh nor groan)

With heavy thump, a lifeless lump, They dropped down one by one.”

Just consider the situation: Here is Baker, all alone, the men he knew, the men who have been on the payroll for years and years, dropping off, losing their jobs and having to go and get ordinary places in stores and shops, while he alone sails on!

It is Kismet!

Not many years ago he came from some place—it has been rumored that



“ALONE, ALONE, ALL, ALL ALONE,
ALONE ON A WIDE, WIDE SEA!
AND NEVER A SAINT TOOK PITY ON
MY SOUL IN AGONY.”

attorney.” His brief stature, his nice, clean face and his brisk way lent force to this description. But of latter years the boyishness has gone. A bony jaw has projected itself at the lower edge of his face, and his mouth has become thin and straight, and his

the place was West Virginia. Anyhow, he came here, and in about a year became city solicitor. It was a bully job—it pays \$7,500 a year. Year in and year out things went well.

His enemies, whom he fought at the bar, dropped sorely wounded. And in the end he became director in the Municipal Traction Company—a company with a fifty-year lease on every street railway line in Cleveland! A company with the right to charge five cent fare, or sell six tickets for a quarter!

And then, bang! Boom! And likewise, bump! The company fell! His friends in the court house and the legislature fell! The Schmidt grant fell! An then, on that sad day in last November, all the rest went down!

“Alone, alone, all, all alone
Alone on a wide, wide sea!
And never a saint took pity on
My soul in agony!”

TALK DEPOT SITE TODAY.

Mayor and City Solicitor Will Meet With Pennsylvania Officials to Discuss Improvements.

City Solicitor Baker was invited yesterday by Mayor Baehr to attend the meeting with Pennsylvania railroad representatives this morning at 10:30 o'clock.

The company, it is reported, will announce that unless suitable arrangements can be made with the Cleveland authorities some other point on the lake will be selected for new ore docks.

The railroad is contemplating the expenditure of \$18,000,000 at some point on Lake Erie and Cleveland will be asked to drop the lake front litigation which has been passed upon favorably by the circuit court, in return for an agreement to locate the improvements here.

City Solicitor Baker protested against the abandonment of the suit when the subject was broached by a representative of the Pennsylvania when the former administration was in power.

RAPS WOMEN WITNESSES.

City Solicitor, in Address Before Law Club, Says They Disappoint in Court.

“Ask almost any woman on the witness stand a question and she will respond by giving you a history of her life, no matter whether it has any bearing upon the particular case,” said City Solicitor Newton D. Baker, in an address on law before the Cleveland Law club at the Y. M. C. A. assembly hall last night. “Blackstone” was his subject.

Admitting Blackstone to have been an authority on law and terming him the most systematic legal writer, Mr. Baker showed how time had changed the law—had altered it to meet present day needs.

He said if Blackstone were to return to earth he would rise up in anger at triflers with the law as he interpreted it, and would be astonished at the many changes in the code.

No wonder that Baker is aging fast. Perhaps these things are partly responsible for his mounting irascibility. In private life a delightful companion, in public life he is short and curt—all save the times when he gets upon the rostrum.

Then listen to the birdies sing! Have you ever sat and listened to the bright, pretty pictures that Newton can draw with his voice? Have you heard him tell of the wonders of the garbage reduction plant, until its odors become those of the rose, and you were filled with the strange, deep desire to devote your life to garbage?

Have you heard him detail the lake-front suits, and his efforts to oust the railroad companies, until you were imbued with a yearning to stop everything else, and go down and tear up the tracks and aid this wonderful little man?

With such simplicity does he speak! With such directness! With such charm! Many of the lawyers do not like him because they say he is full of hot air.

And occasionally Newton turns his tongue over to expose the rough side, which is like a file, and he starts in and rasps the hide off his opponents, which hurts. As, for instance, his speech about Homer McKeehan one time, when he described Homer as a "superserviceable little brother of the rich."

That statement didn't reach his audience, but it reached McKeehan, and this was what Newton intended it to do.

Equipped with this implement—his reversible tongue, dripping with honey on one side and vitriol on the other—Baker is slated for a great task. He is to be the champion of the Cleveland Democracy. There is little question that he will be nominated for mayor next year.

W. J. Springborn might have been, but circumstances intervened to make Springborn unserviceable as a candidate. C. P. Salen might have been, but the support of Baehr by Salen's followers in the last election caused a tremendous row in the party, and Salen will not be nominated.

Only Baker is left. It is up to him to hold together the Democracy, and to make the fight without even a symptom of an organization, except such volunteer work as may be done by Burr Gongwer and others who are free to toil at politics. Baker has had little experience with practical politics. He has done the stump fighting, and has left organization work to hang.

He must rely on his tongue to win back the ship:
"With one man of the crew alive
What put to sea with seventy-five."

The Pier Injunction Suit.

The expected happens in the White suit to prevent the fruition of the city's deal with the navigation companies for the use of the foot of E. 9th-st. Both the Johnson and Baehr administrations well understood that to go forward with the project would mean a legal contest to determine whether the city could legally make such a lease.

The point at issue is purely one of law. City Solicitor Baker holds that the railroads "have no moral right to oppose the city's leasing of the pier and merely a slender legal right." John G. White evidently entertains another opinion.

While the public will not undertake to settle a question upon which competent lawyers disagree, it does firmly believe the general good demands that the big steamship companies be taken out of the crowded river and located at some point along the lake front. The foot of E. 9th-st. has seemed a suitable point.

But if for any reason this proves to be impossible then steps should be taken to accommodate the steamers elsewhere. They cannot long remain in the Cuyahoga.

COUNCIL FLOODED BY TRACTION BILLS

Despite Requests of Baehr
and Dahl, Many Ordinances
Are Introduced.

Laferty Starts Fight for Low
Fare to Collin-
wood.

Despite the protest of Street Railroad Commissioner Dahl, Councilman Laferty last night introduced in council meeting his ordinance extending 3-cent fare to Collinwood. Following this action, a half dozen resolutions dealing with proposed changes in routing were introduced.

Mayor Baehr and Commissioner Dahl have both been anxious that the council pursue a conservative course in acting on traction affairs. Both are anxious that the test of 3-cent fare be as true as possible, and, realizing that the structure is fragile, have constantly counseled caution. Heretofore Commissioner Dahl has been able to handle the situation fairly well in the Republican caucus, but indications now point to a rush of proposed legislation.

The council last night also refused to adopt a resolution approving the proposed increase in stock of the Cleveland Railway Co., not because of opposition, but because of City Solicitor Baker's legal explanation of the situation. Councilman Haserodt demanded that the street railway committee report on his resolution establishing through routes next week. Nearly all of the resolutions introduced were referred to the committee.

Laferty's ordinance extending low fare to Collinwood was presented in the course of regular business. Laferty will insist that a referendum elec-

tion be held on it, if the council passes it. The ordinance merely provides for the extension of 3-cent fare to the recently annexed territory. The ordinance went to the street railway committee.

Solicitor Baker's view on the Hitchens' resolution authorizing an increase in stock of the railway company was given largely through chance. Baker was present at the meeting, desiring to hear the exposition of the art museum plans. When the resolution was put before the council Hitchens read a letter from the railway company to Commissioner Dahl, explaining the uses to which the company proposed putting the money secured from the stock sale and Councilman Haserodt then asked for the solicitor's views.

Haserodt's suggestion surprised the council, since it has a rule barring executive officers from the legislative hall, but no opposition was manifested.

"Really, I am not here," began Baker.

"You are here in body," said Haserodt.

"I do not care to transgress," said Baker, "but if the council desires to know my views they are very decided. The council has nothing whatever to do with the sale of stock. Under the Taylor ordinance the council must approve plans and specifications for improvements, extensions and betterments. This done, the company can secure money in any way it chooses. It may sell stock or issue bonds, the only condition being that it must not sell stock below par.

"The actual cost then becomes a value is the thing the council has to deal with and not the borrowing of money."

The council promptly referred the resolution back to the committee. The company, in its letter to Commissioner Dahl, read by Mr. Hitchens, said it proposed using the money secured from the sale of stock to care for \$200,000 in notes held by Cleveland banks and issued prior to the receivership, the \$500,000 borrowed for the interest fund, and that the balance would be used in buying pay-enter cars. If any money was then left the amount would be used for permanent improvements, either extensions or betterments.

CITY BRIEFS

Solicitor Baker is preparing brief to submit to supreme court in Eirick case, which will decide whether city or county should build high-level bridge.

PAPERS PREPARED IN TRACTION PEACE

Organization Plan, Lease and
Security Grant Almost
Ready.

Differences in Dollars Will
be Announced
Today.

Mayor Johnson announced last night after an all afternoon conference with F. H. Goff, City Solicitor Baker and attorneys and officials representing both street railway companies, that three important papers are now being drawn up. One of these is the plan of organization of the holding company, the second is the lease under which the Cleveland Electric is to turn over its property to the holding company, and the third is the security grant which is to be given in exchange for the lease.

FINDS FINAL PROOF IN MUSTY RECORD

Commissioner Establishes
Fact That Viaduct is Upon
a County Road.

Supreme Court Will Decide
Definitely Question of High
Level Bridge.

Before the meeting of the county commissioners yesterday City Solicitor Baker gave it as his opinion that the decision of the Eirick suit, now pending in the supreme court, will definitely determine the right of the county to build the high level bridge. While admitting that in other states the board of commissioners does not have the right to build bridges under these conditions, Mr. Baker said that the county commissioners in this state have more authority than in many states.

The much disputed question as to whether the present viaduct is upon a county road was conclusively settled yesterday when Commissioner Eirick bore in triumph to the meeting a moldy, dusty, yellow and moth eaten record of 1827. There he pointed out the record of the laying out of the old "Cleveland-Milan-rd." which was opened in October, 1827, and was constructed between Cleveland and Milan, in Huron county. That old road proved to be the street now known as Detroit-av.

Based on the opinion rendered by City Solicitor Baker, that the county has the right to improve and maintain county roads within cities, Commissioner Vail raised the question as to

the right to abolish grade crossings on county roads. There was a diversity of opinion on this subject.

"I believe," said Mr. Vail, "that this board could go right out today and say to the city, 'You must eliminate that grade crossing at Euclid-av. and E. 55th-st., as it is a menace to the lives of inhabitants of this county.' The city would be compelled to obey. We shall investigate further."

EIRICK GUESSES HE'LL WAIT A BIT NOW

City Solicitor Baker told county commissioners Saturday that if the county wins its suit to prevent payment of bridge tax funds to the city, the city will give up further effort to construct a high level bridge.

Commissioner Eirick was preparing a resolution directing the county engineer to prepare plans for a high level bridge. Action on the resolution will now be postponed until the suit over the bridge taxes is decided.

SALEN CRY "QUIT" TO TOM'S CREW? HE INSISTS NOT

County Clerk Salen denied Thursday that he had made overtures of peace to the Citizen Tom organization. A warm attack was made upon him Wednesday night by Solicitor Baker at the organization meeting of Johnson regulars.

Salen was said to have suggested harmony on a basis of substituting Wm. B. Agnew, first deputy county clerk, as Democratic nominee for county clerk in the place of Geo. R. McKay, the Johnson candidate.

Baker told the regulars he hadn't succeeded to the leadership, and read the letter reported to contain Citizen Tom's abdication. Tom just said he'd be back in time to conduct the fall campaign, and that he was not as ill as represented.

Baker said he suspected Salen's lieutenants had been circulating the "abdication" reports.

"Every Democrat will at once realize that such a performance as that of last night merely reflects the desperate efforts of these men to retain control of party affairs, and maintain themselves in control," Salen said. "They would crush everybody who does not entirely agree with them. To dispute or endeavor to debate any bit of policy with them is an invitation to a volley of invective."

"They have it figured out that by making a horrible example of this sort they can scare out any competition. No, I do not aspire to leadership."

A message of godspeed from the 500 workers present was sent by wireless to Citizen Tom aboard the Mauretania.

The regular slate was completed thus: Robt. J. Bulkley, for congress; Dr. W. A. Medlin, coroner; Samuel Doerfler, P. J. Masterson and Clarence Green, the latter of Newburg, for county commissioners.

COLUMBUS: Newton D. Baker, city solicitor of Cleveland, will make address of evening at banquet of Ohio members of Phi Gamma Delta fraternity, of which he is president, to be held next Saturday at Hotel Hartman.

TO DISCUSS FREE MUSEUM DAYS.

Council Committees May Determine Privileges of Visitors.

Legislation authorizing the transfer of the land in Wade park that is to be used as the site of the art museum will be discussed at a meeting of the council committee on parks and judiciary with City Solicitor Baker and Herman A. Kelley tomorrow afternoon. The question of free days should come up for discussion, the city solicitor says.

DEED MUST STIPULATE FREE DAYS

—CITY PARK COMMITTEE.

Mayor Baehr's plan to have the city council approve deeds transferring land in Wade park to the art museum trustees at Monday night's council meeting may be nipped in the bud by the park committee, the members of which unanimously oppose approving the deeds unless they stipulate free days which the trustees have said they will allow.

The committee meets Monday at 2 p. m. to pass upon the deeds which have been prepared by City Solicitor Baker. Every member will insist that the city have more assurance of free days than the mere promise of the trustees.

FIGHT FOR CITY WELFARE.

City Officials Visit Ohio Legislature Committees Concerning Measures Pending.

Three bills pending in the legislature caused three Cleveland officials to appear before assembly committees yesterday. At the request of Mayor Baehr, Public Service Director Lea went to Columbus to urge a favorable report on the Mathews bond exemption bill that already has passed the senate. Late in the afternoon from the mayor received a dispatch from Lea stating that the bill was reported on favorably.

"I am glad," said the mayor. "It means that the grade crossing elimination work can proceed with the changes in track grades required by the new union depot plans, and that much needed paving and sewer work can be carried out."

City Solicitor Baker who was in Columbus yesterday is strongly against the Black bill which gives the governor or common pleas judges the right to remove a mayor for failure to enforce the laws of the state. City Auditor Wright was in Columbus to speak against the bill allowing cities 1 per cent. of the tax duplicate as taxation revenue for running expenses. Wright says this will not give the city sufficient income.

PENNSY AGREES TO SPEED DEPOT SITE NEGOTIATIONS

At the close of a conference Tuesday, First Vice President Wood of the Pennsylvania lines told Mayor Baehr and the depot commission that his road would agree to separate the lake front suits from any consideration relative to the building of a new union depot, and proceed with negotiations for acquiring land for the new station.

This was in direct opposition to a former statement that the railroad wouldn't proceed with the negotiations unless the city agreed to settle all lake front litigation at once. His statement was greeted with applause. City officials and the depot commission see in it a settlement of the union station problem.

At 1:30 p. m. Wood, Atty. Andrew Squire, representing the Pennsylvania, and city officials and members of the depot commission went to inspect the depot site and the lake front.

Squire at first asked the city to trade 45 acres of lake front land now in litigation for consent from the railroads to lease property at the foot of E. Ninth-st to the steamship lines for pier purposes.

City Solicitor Baker declared this out of the question.

Baker argued against any trade which would mean the dropping of the city's suits, or any one in two lower courts. He declared the railroads had no moral right and a slender legal right to oppose the city leasing the E. Ninth-st pier property.

The first place visited by the inspection party Tuesday afternoon was the proposed site of the new depot at the foot of E. Third-st. From there they went along the Lake Shore tracks to the foot of the old river bed.

COUNCIL CAN'T O.K. CAR STOCK SALE; DELAYS CHANGES

It's up to the Concon to prepare plans and specifications for any improvements, extensions or betterments. City Solicitor Baker said Tuesday council could only approve such plans.

"Council cannot approve the sale of stock," said Baker.

Baker's interpretation will delay all material improvements of lines and service. The resolution authorizing the sale of stock was referred by council Monday night back to the committee.

CITY WANTS MONEY OF COUNTY.

Solicitor Asks \$16,000 for Care of Prisoners at Workhouse.

City Solicitor Baker and Charles Marvin, secretary to Director of Public Safety Hogen, appeared before the county commissioners yesterday to present a bill for \$16,000 for the care of county prisoners at the city workhouse during 1907, 1908 and 1909. The money is said to be due for the board of prisoners committed to the workhouse by the common pleas judges and by out-of-town justices.

A recent decision of the supreme court will cause the county to pay the money, city officials declare, and it must be turned over to the general fund.



Conferees lined up on height overlooking tracks.

At 2 o'clock yesterday afternoon the site seeing depot conferees left the city hall, going down E. 3d-st. to the lake shore. The party consisted of the mayor, Solicitor Baker, Director Lea, ex-Judge Lawrence, Andrew Squire, Pennsylvania attorney; Thomas B. Hamilton, division superintendent, and the depot commission, headed by Charles E. Adams.

When they reached the foot of E. 3d-st. the extent of the proposed union depot, which is to cross E. 3d-st., was discussed. As there was nothing to show for the depot but the plans, the papers were opened and gone over. The party proceeded through Lakeview park until it reached the stone balustrade overlooking the west end of the present depot.

City Solicitor Baker mounted the balustrade and pointed out to the tourists the objects of interests on either side. On the right lay the somber station, directly in front the extension to the lake of W. 9th-st. (old Water-st.), and on the left the land so long in dispute between the city and the roads.

A few yards on, Solicitor Baker

and ex-Judge Lawrence dropped out of the ranks, and turned back. "We've been over there," said Baker, pointing to the west.

RAPS WOMEN WITNESSES.

City Solicitor, in Address Before Law Club, Says They Disappoint in Court.

"Ask almost any woman on the witness stand a question and she will respond by giving you a history of her life, no matter whether it has any bearing upon the particular case," said City Solicitor Newton D. Baker, in an address on law before the Cleveland Law club at the Y. M. C. A. assembly hall last night. "Blackstone" was his subject.

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COMPLETING BRIDGE BRIEFS.

City Solicitor Will Have Injunction Case Papers Ready Soon.

City Solicitor Baker reported to Mayor Baehr yesterday that the briefs to be submitted to the supreme court in the Erick bridge injunction case will be completed in a day or two. The mayor is anxious to have the matter disposed of so that the city's right to build the bridge may be established.

If the supreme court decides that the county had no right to withhold the

SAYS HE HAS WAY TO BUILD A NEW BRIDGE

Mayor Baehr said Tuesday that he had discovered a way by which supreme court could pass finally on rights of the city and county to build a new high level bridge. He will not tell what it is. He conferred with City Solicitor Baker, who will hurry the Erick suit to a final disposition at Columbus.

COUNCIL HAS NO SAYSO

City Solicitor Baker told councilmen Monday night they had no right to permit lunch wagons to stand in the Public square. He ruled that if the square was park property it was under the sole direction of Server Lea, and if it was a street the council had no right to give any rights which might obstruct traffic. Baker's adverse report will probably kill Councilman McClain's ordinance permitting the wagons in the square between 7 p. m. and 4 a. m.

ASKS AMENDMENT FOR ART BUILDING

City Solicitor Wants Change
in Ordinance for Wade
Park Land Transfer.

Question Will be Discussed at
Meeting Friday
Afternoon.

At a meeting of council committees yesterday with representatives of the board of trustees of the art museum, City Solicitor Baker declared that he did not believe the pending ordinance calling for an exchange of land in Wade park should be passed before stipulations are inserted as to the time when the new building is to be started and concerning the general character of the structure and the cost of the building.

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Officials of Three Biggest Railroads Suggest Monumental Classic Structure Facing the Mall and Extending From W. 3d-st. to E. 9th-st.—Announce That Railroads Might Consent to Pay Something for Desired Lake Front Site—Building Would Contain Only Passenger Accommodations, Not Offices.

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Judge Tayler, Dahl and Baker agreed that with improvement cost charged largely to maintenance account, the doom of 3-cent fare was inevitable.

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His decision may not be final, however, for litigation may be resorted to by Collinwood or by individual taxpayers.

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"I advise that there is, first, no method by which the city of Cleveland can properly seek to enforce the rights assumed by Messrs. Smith, Taft & Arter to exist; and, second, that in my judgment the rights for which they contend do not exist."

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Ask \$100,000 for Care of Indigent Patients in 1911 Expense Estimate.

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ASKS AMENDMENT FOR ART BUILDING

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Says \$80,000 Below True Value.

"What is the value of the land in Lakeview park and below it? I do not know, but I do feel that \$80,000, the figure fixed by the appraisers falls far short. In the tax school case in which I brought suit to enjoin the city from conducting a tax school, City Solicitor Baker said that the fifty acres now occupied by the Pennsylvania railroad but claimed by the city was worth from \$20,000,000 to \$25,000,000. I do not know upon what basis Mr. Baker made his estimate, but I do feel that the land is very valuable. It is worth much more than the land on top of the bluff, which is valued at from \$75,000 to \$80,000 an acre. Below there are trackage and pier facilities which cannot be secured above and which add greatly to the land's value.

**BAKER CRITICISED
FOR FARE RULING**

**Raises Storm by Expression
Regarding Necessary Rate
to Collinwood.**

**Insurgent Republicans Join
Democrats, but Effort Fails.**

City Solicitor Baker's opinion that Smith, Taft & Arter's contention that Collinwood can be given 3-cent fare by reason of the East Cleveland Hayden-av. franchise is not well founded and that there is no method by which the city can proceed under the contention, met with a storm of criticism last night. Mr. Baker based his opinion largely on the declaration that the Hayden-av. line was not built under the ordinance of 1892, but was built under the ordinance of 1896.

Judge H. B. Chapman of common pleas court, who was then clerk of East Cleveland, says Mr. Baker is very much mistaken on this, while F.

Asks Dahl to War on Spitters.

In a letter to the council last evening M. H. Geiger declared Street Railroad Commissioner Dahl would do the car riding public great service if he would enforce the anti-spitting ordinance, instead of ordering newsboys off of cars and putting a stop to smoking on platforms.

L. Taft of Smith, Taft & Arter, says the solicitor's opinion is "evidently given on an erroneous idea as to the Hayden-av. franchise." Cleveland railway records show that the Hayden-av. line was built in 1893. These records are now being examined and the exact date of the building of the line is to be sent to Mr. Baker.

Pending submission of the evidence to the city solicitor, the Humphrey Co., owner of Euclid Beach, through its attorneys, will take no further action and an effort is being made to head off threatened suits by East Cleveland and Collin-

wood citizens. The storm of adverse criticism aroused by Mr. Baker's opinion overshadowed traction developments at the council last night.

The council meeting was marked by the first evidence of insurgency among the Republican members against Commissioner Dahl's domination of the majority. The insurrection came on a motion by Councilman Haserodt (Democrat) to relieve the street railway committee of the resolution to reroute cars, making through lines of several lines now divided. Councilmen Gahn, Hirshman, Jackman, Laferty, Spooner and Sprosty broke away from the regular Republicans and voted with the solid Democratic minority. The movement failed.

The council received the ordinance to amend the Tayler franchise, dealing with increased capitalization, and referred it to the street railway committee.

The ordinance providing for the extension of the Lorain-av. line from the Lorain car barns to the city limits was passed.

Councilman Laferty introduced resolutions requiring service, when wholly within Collinwood, for 5 cents, and when within and without old Collinwood, whether beyond Adams-av., or not, for 8 cents, thereby providing 8-cent fare to Euclid beach.

They were referred.

Councilman Arnold secured the adoption of a resolution requesting a preliminary report on plans for building a shelter house at Superior-av., N. W., and W. 9th-st.

City Solicitor Baker's opinion on the old Collinwood-Euclid beach contention of Smith, Taft & Arter was made public yesterday morning. The solicitor decided against the claim of the law firm on the ground that the East Cleveland ordinances referred to are for the benefit of East Cleveland, and not for either the benefit of Collinwood or Cleveland. He says they cannot be enforced by the city.

Secondly, he says the schedule required on Hayden-av. is not such as would afford substantial relief to the people of Collinwood or the patrons of Euclid Beach, even if the fares to those places upon that line were reduced. Most important to him, as he expressed it in his opinion, is the fact, so he says, that the Hayden-av. line was not built under the ordinance of 1892, but under the ordinance of 1896. He says when the general East Cleveland ordinance of 1896 was passed, there was no Hayden-av. line, nor any rights to transfer to and from Collinwood and the lake front.

"The gentleman is mistaken about that," emphatically declared Judge Chapman when asked when the Hayden-av. line was built. "The line was built long before 1896. It was built immediately after the 1892 franchise. I know because I was the clerk of the village at the time."

**BAKER TO DRAW NEW
MUSEUM ORDINANCE**

City Solicitor Baker will draw a new ordinance transferring Wade park land for art museum purposes. It will stipulate when the museum is to be begun and when it must be completed.

The new measure will be submitted to Trustee Hermon A. Kelley before another meeting of the council committees considering the transfer. Councilmen still insist upon a free day specification, but further discussion will be had before this is inserted in an ordinance.

A Complicated Question.

The legal questions raised by Collinwood's efforts to get the benefit of the present rate of fare obtaining in the rest of the city seem likely to get into the courts for settlement. The difficulties of the situation are many and its complications confusing. Lawyers cannot agree; laymen may well give the problem up.

The city solicitor decides that the claim of the Humphreys that passengers should be carried at the general prevailing rate of fare as far as their resort at Euclid Beach cannot stand. The Humphreys are not inclined to allow this decision to remain unchallenged.

It is difficult to say where justice lies or how to obtain justice once it is defined. The controversy at this time is unfortunate in many ways. While it is not conceivable that the issue could have materially affected the result of the referendum vote upon the Tayler ordinance, still it would have been better could the question of Collinwood fare have been cleared up beyond the possibility of doubt. It would have saved much of the present disappointment.

Now that the issue has remained for consideration at this late day there should be general willingness to have it determined in strict accordance with justice and to abide by the result. Technicalities aside, what would in the long run constitute the greatest good to the greatest number?

The Beidler boom, together with direct word from Tom L. Johnson, in letters to City Solicitor Baker and W. B. Gongwer, that his health is steadily improving, and the decision of Republican and Democratic county committees yesterday to file calls today or tomorrow for the election of convention delegates by precincts, formed the political developments yesterday.

Mr. Johnson wrote Baker that he was growing stronger daily. His letter to Gongwer, posted in Democratic headquarters yesterday is as follows:

"I received your letter of March 23 yesterday. It was the first news I had from America. I also got a bunch of clippings.

"I'll tell you first how I am getting on, as I know that is in your mind. I have steadily improved since leaving Cleveland. I don't think I can be mistaken and my improvement is permanent, though not very rapid. I had a splendid trip on the Mauretania—only five nights at sea; rough, windy weather, and yet no one on board sick; a little cold, but a great ship, having open fireplaces and every convenience. I expect to be home, as I said, soon after the 1st of May, although if I really thought I wasn't

needed at that time, I might postpone it another thirty days.

FOUNTS FOR BUSY PLACES

Cupless Drinking Stations Will be Placed About City by Water Department.

A sanitary, cupless drinking fountain will be placed by the city public service department at each of the busy corners of the city.

Announcement was made yesterday by Public Service Director Lea that City Solicitor Baker had ruled that the waterworks department could pay for an improvement of this character and at least 100 fountains are to be purchased by the city at once.

Fountains with the spout arrangement will be selected.

SALEN, TERMED A TRAITOR, SAYS BAKER ATE WITH BAEHR

Charley Salen, denounced by City Solicitor Baker at Thursday's Democratic organization meeting as a traitor to Citizen Tom and a secret supporter of Mayor Baehr during the November campaign, came back Friday by accusing Baker of having joined forces with Baehr.

"When Mr. Baker says Mr. Baehr informed him that I had volunteered to support Mr. Baehr for mayor," said Salen, "it is due to Democrats that Mr. Baker explain to them when and how his confidential relations with Mr. Baehr commenced."

Minnie May Be Blamed.

Baker's statement Thursday was to the effect that Baehr had told him that Salen had offered and given him his support, working secretly against Citizen Tom. Tim McDonough, high in the councils of the Johnson regulars, also stated before the organization workers Thursday that Baehr had made the same statements to others, and that at the next meeting, April 21, he would produce a man to whom Baehr had given his confidence.

"On the day of the Minnie incident," said Salen, "Baker and Baehr lunched together. Baker told Baehr that I was at the bottom of the Minnie agitation. Immediately following this conversation, Baehr issued his statement branding me as an ingrate.

"The whole purpose of this war is to poison the minds of city hall employes against me."

Lea Talks for Salen.

Salen, washing his hands of the Baehr administration, denied Fri-

day that he had had any influence in city hall appointments. He denied especially the charge that Server Lea had been appointed in return for support given by him to Baehr during the election.

Lea said Thursday that Salen had known nothing about his appointment until the general public was aware of it.

"I firmly believe," said Lea, "that Salen did everything in his power for the election of Mr. Johnson."

"The fact is," said Baker Saturday, "I was in Columbus the day of the Minnie incident. Being in Columbus I could not very well have eaten lunch with Mayor Baehr, who was unquestionably in Cleveland.

"I have never so much as shared a bunch of grapes with Mayor Baehr."

A meeting of the Salenites was held Friday night. Salen heard from his lieutenants personally their reports of anti-Johnson sentiment found in the various wards. While Salen was thus engaged, Al Sills, believed a short time ago to have gone over to Salen, was conducting a tenth ward rally in the Johnson headquarters.

At the big Johnson meeting to be held April 20 City Solicitor Baker will announce the ticket favored by the Johnsonites for nomination at the primaries May 17.

There are many poplars in the East End ward of which Laferty is councilman and the ordinance was prepared in the law department at his request because he said he feared workmen from the city forestry department soon would make their appearance in his section and convert the rows of poplars into rows of stumps.

"I don't care if they take the whole tree," said Laferty, "but the stumps should not be left."

A report for the first three months of the year issued yesterday by the forestry department shows that in that period 2,560 trees were chopped down. The average cost of removing a tree in January was 96.9 cents. The average cost in February was \$1.14 1-2 and the cost per tree in March 55 1-8 cents. There were 1,371 trees removed in March.

"The man who laid out Washington was almost mobbed," said Director Lea yesterday. "The removal of the trees from our city parks, a step that has aroused so much criticism was for the good of the park system. The work is all completed. In the years to come when the new trees that have been planted are big and flourishing, they will be appreciated. I have decided not to answer the criticisms that are being made. We will proceed with our work. I am sorry for Mr. Frink. He is conscientious and sensitive and the criticisms have hurt him. Attacks like these are discouraging to a man who is doing his work in a thorough, painstaking manner."

WILL RULE TODAY ON 3-CENT FARE

City Solicitor Baker Expected to Decide Against Collinwood Claim.

Question May be Taken Into Court to Compel Low Rate.

City Solicitor Baker is expected to render his opinion today on the claim of Smith, Taft & Arter, attorneys for the Humphrey Co., that the East Cleveland contract with the Cleveland Railway Co. requires 3-cent fare to Collinwood when cars are operated via Euclid-av. The opinion, it is understood, will be adverse to the contention of the attorneys.

If so, the question will probably be taken into the courts at once. Some East Cleveland or Collinwood citizen is expected to begin suit to compel the operation of cars over the Euclid-av. line to Collinwood for 3 cents.

Traction officials virtually admitted yesterday that the unofficial figures showing a surplus from March operation at 3-cent fare are correct.

"Until we can get a complete report nothing absolute can be determined," said Vice President Stanley. "The figures indicate an unusually good showing. I would not be at all surprised if there is a profit, but you must remember that we have had semi-summer weather throughout March. That increased travel.

"Service is no better than it was three years ago. If the people are satisfied, well and good. We have operated the system as we found it, doing the best we can, and without regard to the outcome, we propose to do so. It must be remembered, how-

DID BAKER LUNCH WITH BAEHR? 'NO!' SAYS SOLICITOR

Did City Solicitor Baker on the day of the Minnie mass meeting lunch with Mayor Baehr?

Cuyahoga-co Democrats are all worked up trying to find the true answer to this question.

Baker denied positively Saturday the statement Friday by Salen that Baker and Baehr lunched together on the day the children protested against the discharge of Minnie's old keeper.

According to Salen, Baker told Baehr during the lunch that the Minnie agitation had been hatched in the county clerk's office. Baehr then, so Salen supposed, rushed forth and handed out the interview in which he bawled out Salen as an ingrate.

WILL NOT PASS ON TREE DESTRUCTION

City Solicitor Refuses Opinion on Council's Right to Rule Foresters.

Removal of Stumps May be Compelled if Poplars Are Cut.

City Solicitor Baker declined to express an opinion yesterday in regard to the authority of the council to dictate to Public Service Director Lea, that in removing street trees he could not leave the stumps. Councilman Laferty has had an ordinance prepared which requires the director of public service to remove the entire tree if such removal is necessary and prohibits him from leaving the stump.

"I am not going to answer that question until the ordinance gets to me," said City Solicitor Baker yesterday when the question was put to him.

ever, that many millions of dollars must be expended for improvements and extensions. This will add to capital account and means that more interest must be paid."

Street Railroad Commissioner Dahl refused to discuss the unofficial figures. He hopes that a surplus will be shown.

Dahl, with City Solicitor Baker, met Federal Judge Tayler yesterday to consider the amendment of the Tayler ordinance covering increase of capital account. Judge Tayler agreed to a change in the ordinance, suggested by Dahl, whereby the difference between the value fixed by the Goff-Johnson valuation and the actual cost of laying new tracks will be allowed as capital account.

Baker will draw the amendment and expects to have it ready for presentation to the city council Monday night.

Stanley said that rebuilding of Superior-av. tracks will begin as soon as the work on Payne-av. is completed. Dahl is not yet ready to promulgate an order against smoking on rear platforms of pay-enters. He is receiving many letters commending the proposed order.

SALEN SCORNED IN STALWART COUNCIL

Called Political Body Snatcher by Baker Who Denies Wish to Lead.

City Solicitor Delivers Encouraging Message From Johnson.

HARMON FOR PRESIDENT

Cleveland Democrats Start First Official Boom of Ohio Governor for Presidency—Declares War on County Clerk, Despite Peace Overtures—Lists of Primary Candidates Drawn and Petitions Distributed—Robert J. Bulkley Recommended as Congressional Candidate.

In the most enthusiastic meeting held in many years, the Democratic organization last night pledged unswerving allegiance to Tom L. Johnson and proclaimed war on Charles P. Salen. The 500 workers who attended were urged to make no compromise with Salen or his contingent.

Through Newton D. Baker, the ex-mayor sent a message, declaring himself not as ill as represented and promising that he would be back to fight in the fall campaign.

Baker disavowed openly any desire to wear the leader's mantle and asserted that Charles P. Salen was the only man who coveted it. He called the county clerk a "political body snatcher."

The workers passed a resolution lauding Gov. Harmon, indorsing his candidacy for the governorship, and

recommended him for higher honors, launching the first formal boom for Gov. Judson A. Harmon for the presidency.

The following list of candidates was drawn up, and nomination petitions were given out: George S. Addams for insolvency judge; J. V. McGorray, sheriff John A. Zangerle, auditor; R. H. Bunning, surveyor; Thomas B. Flower, recorder; W. J. Murphy, treasurer; Dr. W. A. Medlin, coroner; Robert M. Morgan, prosecutor; George R. McKay, clerk of courts; Samuel Doerfler, P. J. Masterson and Clarence Green of Newburg for county commissioners. Robert J. Bulkley, son of a former park commissioner, was the congressional recommendation.

Salen's Peace Offer Refused.

It developed at this meeting that Charles P. Salen yesterday sent for two Johnson leaders, and spoke to them in an office in the American Trust building. Salen, at this conference, was stated to have made no definite proposition, but to have offered to make peace with the Johnson contingent, and to have asked urgently for "harmony."

At last night's meeting Salen's offer was hotly rejected. Newton D.

Only Abuse, Says Salen.

County Clerk Salen refused last night to make any statement on the announcement that he had made peace overtures to the stalwarts.

"I will neither deny nor admit it," he said.

"Were you at the meeting tonight?" he then asked.

"You understand that all of the meeting was devoted to personal abuse of me."

"Have you anything to say of it?" he was asked.

"Not a word."

Baker struck the keynote in one of the most fiery speeches he ever has been known here to make.

Baker proclaimed his loyalty to the former mayor in an impassioned oration that brought a burst of cheers. His voice, vibrant with feeling, the Johnson lieutenant declared that Salen with all his power would not bring treachery into the Johnson ranks. Baker asserted that Johnson is still the party leader, that the only man who sought to usurp his place was the county clerk.

Johnson Message One of Hope.

"I have two duties to perform tonight," said Mr. Baker, "one is to tell you of the condition of Mr. Johnson, the other is to deliver a message from him."

"Mr. Johnson has been represented to you as very ill. He is not so ill, he has been growing better every day since he left. I have talked with his physicians, and although they will not violate their professional confidence to tell me what is the exact nature of his ailment, they firmly maintain that there is no reason why Tom Johnson should not recover, that there is no reason why he will not recover."

"Tom Johnson's message to you is: 'Tell the fellows that we have succeeded in the past be-

cause we stood united for those ideals and principles that mean true Democracy and good citizenship, and because we never have degenerated from broad Democracy into factional fights. Keep the enemy in front of you so that you can see his tricks. Tell the boys I will be back in the fight.'

"In one morning paper today there appeared a statement that Tom Johnson had relinquished leadership and has turned over his mantle to me. This story appears in a paper not usually given our confidences. The article was absurd and wholly untrue."

"I have no means of knowing whence these stories come, but I suspect they emanate from an office in the courthouse. The lieutenants of Charley Salen have been circulating these reports. They evidently believe that there is nobody in Mr. Johnson's political house and that it can be safely burglarized."

"Salen and I were never warm friends, as most of you know. We have never been warm, personal, intimate friends. We have got along with each other because we had nothing to do with each other."

"I am not after Tom Johnson's mantle—I am not casting lots for his

Wireless Sent Johnson on Sea.

Timothy McDonough, chairman of the meeting of the Cuyahoga Democracy, immediately after adjournment last night, complying with resolutions adopted, sent Tom L. Johnson the following message:

"Tom L. Johnson. On board Mauritania, S. S., via wireless:

"Mass meeting of Democrats wishes you Godspeed in your quest for health."

clothes—I am not a political body snatcher like the man in the courthouse. The only man looking for that mantle is Charley Salen.

"On the night of Tom Johnson's defeat, I sat in the office at the city hall with him as the returns were coming in. I recalled what a citizen had said to me not long before, that Tom Johnson would never be beaten by a statesman, but by a spoilsman."

"Don't worry," I told the ex-mayor. "Two years from now the people will have a standard of comparison—then you will be back."

"I'm not worrying about myself," was his answer, "but about my boys who are going to lose their jobs."

Baker said that before Tom Johnson became mayor nine years ago Cleveland's political atmosphere was dull and leaden. There had been every sort of political corruption. Tom Johnson worked a sudden and lasting change, so that when he ended four terms of service nothing could be truthfully said against him.

"We went through a campaign in which even those adversaries who could speak, could not speak one word against us," added Baker.

Referring again to the article naming him as Johnson's successor, Baker said: "I am not casting lots for the leader's mantle. It is a scandal—it would be an unholy thing to talk about a successor were Mr. Johnson sicker than he is. It is a kind of sacrilege for those who say this."

"Nine or ten years ago I came to Cleveland a green country boy. Since then I have been with Tom Johnson, known him more intimately than probably any other man. I knew him at his best—saw him when there was no necessity for hiding any thought. In all those years every suggestion that he made was straight as a string, had at the core of it the public welfare. Before he took part I believed politics was a thing of corruption—now I have come to know it is every citizen's duty."

"My captain sails the sea tonight. He is not sick beyond recovery. Every salt sea breeze is bringing him health. If Salen had the power of a siren or a devil, if he could take from me every supporter in my camp, I would still be loyal to my captain. And when he comes back, he will find me standing where he left me—I will give him back all that he left in my keeping, undiminished and unforsaken."

Salen, it was said last night, considered as part of his harmony offer, the substitution of William B. Agnew, now first deputy county clerk, in place of George R. McKay, as county clerk, on the Democratic nomination slate. McKay, in his talk to the workers last night, proclaimed his unending faithfulness to the former mayor and said, "If there is to be compromise, count me out of it."

Harris R. Cooley and Peter Witt were the other speakers preceding Baker. Rev. Mr. Cooley scored what he termed "hypocrisy" in Salen, in Mayor Baehr and the present administration. Hypocrisy he called worse than theft. He declared the mayor and the present administration are hypocritically pretending to curtail expenses while they raise the salaries of high officials. And the man who pretends to be a friend, but is an enemy, he put into the same category.

Mayor Said to Have Stated County Clerk Aided in His Victory.

Baker Also Affirms Report; Salen's Deputy Denies the Report.

Timothy McDonough, prominent in the Cuyahoga Democracy, charged at a meeting of the ward leaders of the organization last night that Mayor Baehr had told well known Democrats that County Clerk Salen had supported Baehr for mayor last fall. Newton D. Baker, city solicitor, affirmed McDonough's statement.

"The statement is perfectly true," said Baker. "Mayor Baehr told me the same thing. That is the kind of politics Mr. Salen plays."

Mayor Suggests "Deal."

"Good morning, Mr. Baker, will you have luncheon with me?"

Mayor Baehr addressed this greeting and invitation to City Solicitor Baker yesterday noon, at his first meeting with the city solicitor since returning from Asheville, N. C.

Mr. Baker laughed heartily, and both he and the mayor commented on the fact they were in a position to state they never had had luncheon together when County Clerk Salen came out with the assertion that some days ago they were together at luncheon on the day of the arrival of the Minnie delegation at the city hall.

The city solicitor has for some time been taking luncheon in his office, and the invitation of the mayor yesterday was not accepted by him.

"We might have a couple of lunches together, and then there'll be a deal," the mayor remarked.

City Atty. Baker Appears in Judge Babcock's Court for City and Agrees That There Will Be No More Tree Cutting Until a Final Hearing of the Case.

Wholesale chopping of trees in Cleveland's public parks was stopped at least temporarily Monday afternoon.

An injunction suit filed by Frank A. Allen, an employe of The Cleveland Press, through Atty. Thos. H. Hogsett, to restrain Mayor Baehr, Server Lea and Forester Frink from the further destruction of trees, was heard before Judge Babcock.

Newton D. Baker, as city solicitor, appeared for the city.

"I promise that there will be no further cutting of trees until this case is disposed of," he told the court.

Atty. Hogsett replied that an agreement by the city to this effect was satisfactory to him, as it would stop the destruction of trees until the matter could be disposed of by Judge Babcock in a final hearing.

City Solicitor Baker's promise that tree cutting would stop was therefore accepted in lieu of a temporary order by the court.

When Andrew B. Lea, city server, was notified that the injunction suit had been filed, he hurried to the court house where proceedings were under way when he arrived.

Solicitor Baker told him of the promise he had made, and Lea in turn promised that Baehr, Frink and himself would obey it.

The date for a hearing of the injunction suit will be fixed later.

Four Willows, Green With Bud, Butchered at the Approach to Brookside by One of Baehr's Gangs Tuesday Morning---Butchers Caught in Act by The Press and Summoned Before Judge Babcock.

Notwithstanding the agreement made by the city officials in Judge Babcock's court Monday afternoon, that no more trees would be murdered in the city parks, pending the final hearing of the injunction suit brought by The Press against Mayor Baehr, Director Lea, Forester Frink and others, the city tree assassins got busy at Brookside park early Tuesday morning.

When an automobile containing a Press reporter and a Press photographer arrived at Brookside park about 10 a. m., a gang of workmen in the department of Wm. Smith, a tree warden and assistant of Forester Frink, were chopping down one of the willow trees which line the W. 25th-st entrance to the park.

When The Press men arrived, the tree butchers stopped.

Inquiry developed that the tree they were then butchering was the fourth which had been cut Tuesday morning.

The photographer took a snapshot of the situation, and The Press office was immediately notified what was going on.

BAKER EXPLAINS TO ATTORNEY HOGSETT.

Atty. Hogsett, who represents The Press, and who drew the petition for injunction, which was the basis of Monday's agreement, immediately communicated with City Solicitor Baker.

Baker explained to Hogsett that the alleged butchery of trees at Brookside Tuesday morning, was not a willful violation by the city of the agreement which he had made in Judge Babcock's court Monday afternoon.

Baker said that owing to the death Monday evening of a brother of Forester Frink, there had been some delay in notifying all the park employes of the agreement, and that the Brookside employes had probably not been notified, but that they would be at once.

In view of the violation of the agreement by the city, whether willful or otherwise, Atty. Hogsett told Solicitor Baker that he would at once go before Judge Babcock and urge that the temporary restraining order asked for Monday, which was not acted upon by the court, because of Baker's agreement, be granted at once.

**BUTCHERY PHOTOGRAPHS
PRODUCED IN COURT.**

At 11 o'clock Atty. Hogsett, Solicitor Baker and The Press men who had witnessed the butchery at Brookside earlier in the morning, appeared before Judge Babcock.

The Press men showed the court photographs of the Baehr gang in the act of cutting down the tree.

The court was very much interested in these photographs.

Atty. Hogsett explained to Judge Babcock the situation, and asked that in view of the city's violation of Solicitor Baker's agreement, that a temporary order restraining any city employe from cutting any trees, until the final hearing of the case later in the week, be granted at once.

Solicitor Baker, on behalf of the city, explained that the action at Brookside Tuesday was not a willful violation of his agreement, and gave the court his personal guarantee that there would be no further tree butchery.

Baker said that the tree cutting at Brookside Tuesday morning was the result of a misunderstanding, and that it would not be necessary for the court to issue a restraining order to accomplish the result wanted, which was that there would be no further tree cutting until the final hearing of the case.

**JUDGE BABCOCK AGAIN
WARNS CITY OFFICIALS.**

Judge Babcock told Solicitor Baker that he would rely on him to enforce his agreement, and that should there be any further butchery of park trees, until the final hearing of the case, he would, upon request by Atty. Hogsett for The Press, grant a temporary restraining order, without notice to the city.

Solicitor Baker agreed to this.

Every effort will be made by Atty. Hogsett for The Press to get a final determination of the case at the earliest possible time. The final hearing will probably be Thursday or Friday.

**MEN HOOTED L. J. KUTZ,
WHO PROTESTED AT CUTTING.**

When The Press men arrived at Brookside park Tuesday morning one of them entered into conversation with Wm. Smith, who was directing the tree butchers.

"I came out to call the men off the job and I just got here," said Smith. "Frink's brother died and there will be no more work on trees until Frink returns to direct it. I don't know what is the matter with these willows, and I don't know who ordered them cut. I suppose it was ordered by the forester under Mayor Johnson."

L. J. Kutz, superintendent of the Fanner Mfg. Co., whose plant is alongside the willows, said that a foreman had been with the laborers all morning giving instructions. The willows were in front of the Fanner plant. They were large trees, and their buds were beginning to open.

"I think it's an outrage," said Kutz. "When I noticed them at work on a tree early in the morning I ordered them to stop, but they just hooted me and kept on."

"They refused to tell me under whose orders they were destroying the trees, or how many they were going to fell.

"As soon as a tree was down they would cut it up into short lengths and haul it away. These trees have been here for years, and it will take years to grow others in their places."

**LEA'S INTERVIEW WHILE
BUTCHERS ARE BUSY.**

While a gang of men were chopping down trees at Brookside park approach Tuesday morning, this interview was taking place between Server Lea and a Press reporter at the city hall:

"Are any trees being cut in the park today?" the reporter asked.

"Not one," answered Lea.

"Are you sure on this point?"

"I am absolutely positive," said Lea. "Not a tree has been cut in any of the parks in three weeks, and not another one will be cut until the injunction suit is settled."

"I have also issued orders to the forestry department to discontinue chopping on streets."

**CONCON, RUNNING
DINKIES, BREAKS
CITY ORDINANCE**

The Concon within the past few days has resumed the operation of the old dinky open cars, with chain brakes, in violation of ordinance, and with obsolete fenders. The dinkies, which the Concon resurrects regularly every year, have been running on the E. 55th-st, W. 14th-st, Bridge-av and Cedar-av lines.

Tractioner Dahl Tuesday said he would ask City Solicitor Baker for an immediate ruling on the ordinance. Baker told Dahl his recollection of his last ruling, in the summer of 1909, was that the law did not apply to the type of "dinkies" then in service.

The ordinance specifically prohibits the use of cars not supplied with air brakes. Vice President Stanley denied such cars were in use Tuesday. Later Supt. Radcliffe told Dahl "dinkies" were being run.

**CITY WON'T PAY FOR
OFFICIALS' JUNKETS**

City Auditor Wright has refused to pay the expenses of Chief Kohler and Supt. Smith of the water department on trips to Birmingham and New Orleans. Kohler and Smith desired to attend conventions there.

City Solicitor Baker said the city might legally pay the expenses. Wright based his "nay" on a ruling by Atty. Gen. Denman.

City Solicitor Baker says he never so much as shared a bunch of grapes with Mayor Baehr. All right, Mr. Baker, but did you ever divide a bale of hops with him?

**DENIES TREES OF
BROOKSIDE FELL**

Lea Says Willows Cut Since
Court Action Are Along
Street, Not in Park.

Hearing on Temporary In-
junction Will Take
Place Today.

Public Service Director Lea informed Mayor Baehr yesterday that, without obtaining his consent, City Solicitor Baker had agreed in court for the city that no more park or street trees would be cut down pending a hearing of the temporary restraining order.

"I was not present in court when the agreement was made, and it was our understanding it was just the park trees upon which the cutting was to be stopped," Lea said. "Mr. Baker made this agreement for the city."

The city solicitor appeared in court yesterday when the charge was made that the city, notwithstanding its agreement of Monday, that park trees were not to be cut down pending the hearing of the injunction, was cutting down more trees near the Brookside park entrance. Lea denied that this was a park when the matter was called to his attention.

"These willows are along a street," he said. He declared also the work of cutting these trees had been started Monday and that the city forester had been unable to reach all of his men and inform them of the agreement.

A hearing on the temporary injunction will take place this morning. Director Lea and Solicitor Baker talked the matter over at a meeting late yesterday afternoon and the former expressed the belief that the city solicitor had not intentionally taken any steps that were not desired by the public service department.

"Mr. Baker has explained the matter to me," said Lea, "and I accept his statement."

One of the experts called in by Lea to pass upon the tree cutting work of the city forestry department of Cleveland is W. J. Green of the experimental station at Wooster, O.

"After our investigation is completed, Mayor Baehr will be glad to make public a full report," said Lea.

SOLICITOR DELAYS REPLY

Is Unprepared as Yet to Tell
Whether Traction Company
Must Pay Old Bills.

City Solicitor Baker has been asked for advice by City Auditor Wright as to the proper method of collecting \$43,586 which his department claims the Cleveland Railway Co. owes the city for street car licenses, street repair work, water connections and water rent. In his letter to the city solicitor City Auditor Wright refers to section 17 of the Taylor grant and asks whether this portion of the ordinance would apply.

At the last meeting of the city council Councilman Horner offered a resolution calling upon the city auditor and city solicitor to take steps to collect the money due the city from the street railroad company. The city auditor assigned a man to the task of looking up the old street rail. Baker said yesterday that he had not said yesterday that he had not yet prepared an answer to the city auditor's letter.

TREE BUTCHERS IN COURT THIRD TIME; ITCH TO CUT

The wood choppers from the city hall were in court again Wednesday—the third time in as many days.

Their visit Wednesday to Judge Babcock was the result of a disagreement among city department heads as to just what their forest policy is to be until Friday morning, when the injunction suit, brought by Frank A. Allen, a taxpayer, at the instance of The Cleveland Press, to stop the slaughter of park trees, is heard by Judge Babcock.

Solicitor Baker had agreed Monday with Atty. T. H. Hogsett before Judge Babcock that tree cutting would be stopped until the case might be heard.

The Second Trip.

Tuesday The Press caught a gang of city workmen cutting four willows on the boulevard approach from W. 25th-st to Brookside park.

The city was again summoned to Judge Babcock's court, and City Solicitor Baker again promised that no more trees would be cut, pending a hearing of the case. He explained that the city servers' department had failed to get notice to one gang.

Tuesday's agreement covered trees both in parks and streets, and the second agreement was made after a conference in court by Baker with Assistant Forester Geo. Babcox, who said there was no urgent need of cutting either in the parks or streets for two days.

"If this agreement is violated I will issue an injunction without further notice to the city," said Judge Babcock Tuesday.

The Third Trip.

It was so nice and sunny Wednesday that the city hall axmen wanted to chop. Server Lea told City Solicitor Baker that he would refuse to be bound by the agreement as to trees in streets.

That landed the tree battalion in court a third time—this trip at the request of City Solicitor Baker.

Baker let Lea do most of the talking.

"Public health will be menaced," said Lea, and he asked that his ax-gangs which were standing around idle be allowed to resume their exercise.

He said he had several complaints of poplars on streets whose roots have choked sewers.

Judge Babcock ruled that the city might go into a street to cut any poplar or similar tree which it is agreed is a nuisance.

"Keep out of the parks," he said, "until this case is heard."

Lea promised.

Tractioner Dahl sent Solicitor Baker a letter Saturday asking for a formal ruling on the hand-brake ordinance. Baker was "busy on other matters."

YOU MUST PAY 10C TO BEACH UNLESS YOU PAY ONLY 8C

The Tayler ordinance and City Solicitor Baker say the public must pay 10 cents fare to Euclid Beach. So the public must—unless it chooses to pay but 8 cents, which is a prerogative neither the Tayler grant, Baker nor the Concon denies.

The "loophole" came to light Wednesday when Baker gave Tractioner Dahl his decision on the Lafayette resolution, pending in council, requiring the Concon to grant an 8-cent fare. Baker said a strict interpretation of section 11 of the ordinance required the payment of two 5-cent fares. But, he added, "for convenience and economy in operation the Concon would be justified in collecting but 8 cents—3 cents to the city limits and 5 cents on to the beach.

President Stanley of the Concon said the company would stand by the "strict interpretation."

But here is the "loophole" as disclosed by Baker:

The passenger may pay the regular 3-cent fare to the north end of Adams-av. the boundary line, get off the car, then board the same car again and offer the conductor the 5-cent fare prevailing in Collinwood. The conductor cannot refuse the two-fare system.

Baker said Wednesday Dahl had not formally submitted to him the dinky car question.

STATUTE OR NOT, BAEHR WILL FIND OUT ABOUT BOXING

Mayor Baehr is going to have an investigation to find out how much power he has to permit boxing bouts in the city, despite the fact that section 6890 of the revised statutes specifically outlines his authority.

The law gives him the right to grant permits to regularly-organized athletic clubs and public gymnasiums, but not to any other organiza-

tions, such as political clubs. "I want to wait until City Solicitor Baker gets back," said Baehr. "Will you grant permits in the meantime?" was asked. "I do not care to touch on that matter," said Baehr. "But the law outlines your limitations." "I have seen that statute before. I want to investigate."

TREE INJUNCTION CASE TUESDAY ON LEA'S DEMURRER

The injunction hearing before Judge Babcock on the city's tree cutting policy was postponed Monday.

It was Server Lea who secured a delay until Tuesday by sending a letter to City Solicitor Baker.

The city had filed an answer to the suit. Lea Monday wanted this answer withdrawn and a demurrer to the petition filed in its place.

This will be done, and argument on the demurrer will be heard by Judge Babcock Tuesday morning.

This is the second disagreement on the city's tree defense between Lea and Baehr. The first was when Lea objected to Baker's agreement not to cut trees until the injunction suit was heard.

Judge Babcock then ordered Lea not to cut trees in parks until the case is heard, but permitted him to cut out trees in streets where they have been decided to be nuisances.

"We ought to have a municipal sawmill in this town," said Councilman French Monday, "then instead of the city selling the trees cut down by its forestry department it could send them to the mill, have them sawed into planks and use the planks on the viaduct where new flooring is badly needed."

PREPARES FOR GAS GRANT

Council Committee Meets Today to Outline Negotiations With East Ohio Company.

To outline a plan for proceeding with negotiations with the East Ohio Gas Co. for a renewal of its gas franchises the special council committee on gas negotiations will meet this afternoon in the office of the city clerk. Mayor Baehr discussed the gas situation yesterday with City Solicitor Baker and the latter said the city could do nothing at this time, but await action by the legislature through some public service bill that would strengthen the position of municipalities in dealing with corporations.

"We are watching this situation closely," said the mayor, "and Mr. Baker tells me he is studying the bills introduced at Columbus."

"We have two more sessions of the legislature before the natural gas contract expires," said Chairman Shimon of the special committee yesterday. "The present natural gas prices will continue for two years. At tomorrow's meeting we will outline a course of procedure."

DEMOCRATS HOPE FOR PEACE AGAIN

Stalwart and Salenite Candidates Side by Side in Harmon Club Meet.

Stalwart and Salenite candidates for county office sat side by side on the platform throughout the meeting and only once was a harsh note in evidence.

"How about Salen?" came a demand from the audience while City Solicitor Baker was talking.

"If Mr. Salen wants to fight Mr. Johnson he ought to fight when Mr. Johnson is here," said Baker. "Mr. Salen believes in practical politics. I am more of an idealist."

Baker was the only one to touch on Cuyahoga affairs. To some extent he compared the work of the Baehr administration, as developed to date, with that of Tom L. Johnson, and in calling attention to the claim being made that the Warrensville farm is too big, he said:

"It is too big only because they are not big enough to handle it."

As Baker concluded, the meeting unanimously adopted a set of resolutions extending greetings to Mr. Johnson and assuring him of the club's support as its leader, in his absence and expressing the hope that he will be fully restored to health "and to share with us the results of another victory."

City Solicitor, in Tree Case, Argues Administration Rules.

"The people have no remedy at law in this case," said City Solicitor Baker yesterday, in arguing his demurrer to the suit brought by Frank A. Allen to restrain the city from cutting down trees in Woodland Hills and Brookside park.

"If they do not like the way the parks are run, let them go to Public Service Director Lea. Then they can go to Mayor Baehr, and then to the city council. If they do not then get satisfaction, they can remedy the evil by not voting for these people. But the courts cannot interfere."

Judge Babcock will pass on the demurrer today. In case it is sustained the injunction will be dissolved, as no testimony can then be introduced.

Judge Babcock Overrules Move Against the Suit Started by Taxpayer.

Judge Babcock yesterday overruled the demurrer to the suit started by Frank A. Allen, as a taxpayer, to restrain the city officials from cutting down trees in Woodland Hills and in Brookside parks. The petition was demurred to on the ground sufficient facts were not stated to constitute a cause of action. The case will probably go to trial during the first of next week.

"I have no conviction that what has been done in the way of pruning trees in the parks resulted from a palpable disregard of official duty," said Judge Babcock in rendering his decision. "But, if I had nothing but the petition to inform me, and if I believed its allegations, I should have the conviction there had been palpable disregard of official duty."

It was the contention of the city officials, represented by City Solicitor Newton D. Baker, that the courts could not question the discretion of municipal bodies save where gross abuse of discretion or fraud are alleged. Baker contended that, at most, only poor judgment was charged by Allen, and hence the court could not go into the facts in the case.

CITY FIGHTS TO KEEP OUT TREE EVIDENCE

Dismissing Answer in Injunction Suit It Resorts to Demurrer Argument.

THIS COURSE, IF SUCCESSFUL,
WOULD SHUT OUT TESTIMONY

Solicitor Baker Declares the People Have
No Relief Against Park Officials
Except at the Polls.

BULLETIN

Secretary of Agriculture Sandles announced at Columbus Tuesday noon that Server Lea had appealed to him to send them an arboriculturist to look over trees City Forester Frink and his men have butchered and give them his expert opinion on the question of whether the trees could have been saved or not.

The city administration spent most of Tuesday morning fighting before Judge Babcock to prevent the introduction of sworn testimony which The Press has secured regarding the slaughter of trees in various parks of Cleveland.

The hearing was in the suit of Frank A. Allen, taxpayer, to restrain Mayor Baehr, Server Lea and Landscape Architect Frink from the further cutting of park trees that can be saved.

The city had filed an answer in the case. Under this it would have been possible to hear testimony Tuesday.

Under a request from Server Lea, however, the city withdrew this answer and filed a demurrer. If the city is successful in sustaining this course, it will prevent the introduction of any testimony regarding the recent cutting and

the proposed cutting of trees in various parks.

Seven Books vs. Four.

Newton D. Baker came into court armed with seven law books which he fired in pieces at Judge Babcock. Atty. T. H. Hogsett, who is presenting the suit to save the trees, used only four legal volumes.

Solicitor Baker's argument was that the suit brought at the suggestion of The Press does not call for an injunction decree from a court because it does not charge fraud against Mayor Baehr, Server Lea or Landscape Architect Frink.

Baker cited law to show that the director of public service is charged with the "management of the parks." He held that tree chopping is a matter of discretion on the part of the park officials, which a mere taxpayer can't interfere with in a court action.

Up to Baehr, Baker Says.

Baker went on to define the functions of the city government in its various branches. Relief, he argued, rests with the mayor and the council, and not in court. "Mayor Baehr can remove these woodchoppers if he wants the cutting stopped," he said.

The only way in which a court action could be maintained, he held, by a taxpayer, was to charge that the destruction of city trees amounted to "wanton recklessness, and not merely a sentimental difference of opinion" as to what trees should be cut and what should not.

Atty. Hogsett argued that by

withdrawing its answer and filing a demurrer the city in effect had admitted the truth of the facts set up in the petition to stop the destruction of the trees.

He cited the statute to show that one of the duties of the director of public service is to "protect and preserve" all the park property under his care.

Fencing was Forbidden.

"If the director should say that 40 acres of some park was not needed just now for park purposes, and fenced it in and rented it for a sheep pasture, couldn't the city solicitor stop him by an injunction suit?" Hogsett asked.

Baker thought not under the Ohio law, unless the action invalidated the title to the park property.

Here the court joined in the discussion and Hogsett cited a ruling where the city of Cincinnati had successfully brought suit to prevent the University of Cincinnati from fencing in its athletic field, situated on park property.

Judge Babcock said: "If the plaintiff alleges that public officials are destroying park property, certainly common sense says a court could stop such a course; but when it is a question of cutting a tree here and another tree there, that is a matter of discretion on the part of the public official."

"We can't bring specific trees before the court," said Hogsett. "They've been cut and hauled away."

After Solicitor Baker had fired the "conceptual definition of corporate powers" at the court, Judge Babcock told Hogsett: "If you charge only an error of judgment in cutting trees, the issuing of an injunction would make the court the superintendent of city parks; and you would have a judge really running the city government."

"But we charge an error which is resulting in the destruction of city property," replied Hogsett.

The Remedy Political.

"The remedy for a situation such as Mr. Hogsett describes," said Baker, "has already been provided in Ohio, and that remedy is not in court. It is a political remedy. If the people complain to Frink, and then to Lea, and then to Baehr and council, without avail, the law provides their forum at the next election, where they can vote against these men."

"I can conceive," said Judge Babcock, "any one of half a dozen situations where a court might properly interfere in the cutting of trees in a public park. Suppose we have six mighty trees, clustered in one group, in Wade park. Suppose some ill-advised forester decides these trees are in the way of a playground which he conceives ought to be laid out at that particular spot."

Court Could Stop It.

"Suppose he proceeds to make havoc of those trees and brings down those great trunks which a century will not reproduce. I can conceive that he might be stopped in that work by court just as surely as I could prevent him coming into my own yard and chopping down my own trees."

"But the courts can't run the parks. The question is this: Is the city forester within the scope of discretion or out of it?"

"Discretion is not a hairline. It is wide, like a race track, where he

can run a zigzag course. Until he is beyond the boundary of discretion I do not believe a court can interfere."

Toward noon Judge Babcock bundled up the list of citations which the lawyers had given, and said he would pass on the question as soon as possible.

HURLS DEFIANCE IN STALWARTS' FACES

Salen Candidate, Forsaken by Friends, Still Seeks Nomination for Clerk.

Organization Declares War to the Finish on Agnew.

CONFIDENT OF VICTORY

Democrats See Omen of National Success in Eastern Congressional Elections—Baker Denies Trade With Party Factions and Asserts All Are Welcomed in Councils—Announces Determination to Aid McKay for County Clerk Against Agnew, Who Says He Will Fight On.

It was made plain last night that County Clerk Salen and his forces are accepted as part of the Democratic organization solely on the basis of complete surrender in one of the largest and most enthusiastic meetings ever held by the party in Cuyahoga county. Control of the organization is to be maintained in the hands of Tom L. Johnson's friends for Mr. Johnson until such time as he is able to return to resume leadership. The entire Johnson slate of candidates for county offices this fall is to be fought for by that organization.

Timothy McDonough, as chairman of the meeting, first announced the surrender of the Salen forces and City Solicitor Newton D. Baker, in an eloquent speech, one wherein eulogy for Mr. Johnson brought tears to the eyes of many, named the terms under which the Salen forces will be admitted to membership in the party.

Three times Baker repeated that there has been and can be no deal, no compromise, no trade, no trafficking with the opposition forces for office and that there will be none. He welcomed the Salen forces to the organization, but declared that if anybody wanted a fight—it mattered not whether it was Tom Jones or Charley Salen—the organization was ready to fight it out.

Strikes at Agnew's Candidacy.

Baker then repeated the names of the candidates for office who are the stalwarts' choice and declared that if William Agnew continues to be a candidate for office he would go into every ward in the city and announce that the organization is for George R. McKay for county clerk.

When Baker concluded, Agnew, who, with many other friends of Salen, was present, asked the privilege of the floor. It was granted him and he declared that, come what would, he purposed to remain a candidate for county clerk until after the primary. In adjourning the meeting, Chairman McDonough openly declared that if discipline is to be maintained within the party and the organization maintained as a fighting unit it will be necessary to punish all opponents and he urged that no quarter be shown opponents at the primaries.

"This is a very extraordinary meeting in two or three particulars," began Baker. "It is a large meeting for the time of year and stage of the campaign, and I share with those gathered here the belief that it augurs a victory in the coming campaign. More significant from another point of view is that in the last three or four weeks we have been waging a contest—a thing unheard of in the Democratic party in the last nine years. There has been some talk of a primary contest and yet in this meeting tonight are gathered representatives of those who were at war."

"I said two or three weeks ago that I knew but one duty in this contest and that was to preserve intact the organization which has been grouped about Tom L. Johnson. I abate not one whit of that statement. I recognize nothing that does not accept the leadership of Mr. Johnson. Those in the organization who did not happen to be with us have now said that they did not want a contest. I did not make the party. No set of men did and no one has any right to say who shall be members of a party. So I say that the men who came here tonight and who would not two weeks ago are welcome."

"There has been no compromise, no bargain, no trade, no trafficking for public office. That thing died nine years ago. There can be none. We have not compromised any principle. Certain men were invited to become the candidates of this organization. They have accepted and they are the candidates of this organization. I have the list in my hand and that there may be no mistake, no misapprehension, I want to recall to you men their names. We are going to nominate George R. McKay for county clerk."

John A. Zangerle came next, being described as the man who has "proved he has courage of steel." Thomas B. Flower was described as the man "who came to us when he found our ideals were his ideals."

"We nominate some men because they have been constantly faithful and able; others because they have talent. 'Billy' Murphy is a man every Democrat loves when he sees him. He is our candidate for county treasurer."

Joseph V. McGorray was named by Baker as the organization's choice for sheriff, because he has a hereditary right to the office. And so on down the list the city solicitor went. Coming to R. H. Bunning, candidate for county surveyor, he said:

"He is the man who more than anybody else bore the burden of the construction of that great transcontinental trunk line—the Forest City Railway."

Judge Addams was referred to as the man who "is the kid's judge now."

"This organization asks you to remember these names now and on primary day. So much for the ticket."

Just a word or two more. The national administration is a flat and conspicuous failure. The state issues are distinct. Gov. Harmon's administration has been the most successful Ohio has had in many years. Our local affairs will be under discussion, too, and I want you to understand that my tongue is not going to be tied.

"Senator Burton a few years ago was in better shape, too, than he is now. A few years ago he was looked upon as an idol. That was before he voted 114 times with Senator Aldrich. In spite of that we won in local contests, year after year, for nine years.

CHOOSES SITE FOR SCHOOL

Board of Education Takes Steps Toward Purchase of Lot for West Side Building.

At the regular meeting of the board of education yesterday afternoon action was taken toward purchasing a site for a new technical high school on the West Side of the city. The board authorized the director of schools to draw a deed in abstract to the property at W. 93d-st. and Willard-av. with a view to ultimately acquiring the land, which is a twelve-acre lot and will cost \$50,000. The board voted to erect a new twelve-room elementary grade school building at Central-av., S. E., and E. 65th-st.

An opinion from City Solicitor Baker pertaining to the new department of medical supervision was in effect that the executive powers of medical supervision lay wholly with the director of schools. A resolution was introduced stipulating salaries in the medical supervising department. It was suggested that the chief supervisor get \$3,000 a year; that ten assistants receive \$1,500 each; that a clerk receive \$1,000, and that the wages of ten nurses be fixed by length of service. The resolution stated that first year nurses should receive \$60 a month; second year \$70; third year \$75, and fourth year and thereafter \$80. The whole question was referred to the committee on salaries and appropriations.

Another opinion from Mr. Baker declared that teachers would lose their salaries from the time when their certificates lapsed.

WOULD USE MONEY FOR 3 HOSPITALS

Hogen's Secretary Suggests Opening Emergency Stations With Legacy.

Solicitor Baker Says Will Place No Limitations on \$200,000.

Under the will of the late Hinman Barrett Hurlbut, leaving \$200,000 to the city of Cleveland for City hospital purposes, three city emergency hospitals may be erected, one a central institution, the second on the East Side and the third on the West Side, if a suggestion made yesterday by Charles Marvin, secretary to Director Hogen, is adopted by the administration.

Secretary Marvin suggested that \$100,000 be expended for a central emergency hospital on the site of the old Erie cemetery on E. 9th-st. Former Director Cooley favored such a project and it was his opinion that the site of the old cemetery would prove an admirable location for a

DINKY DIPS LIKE DAHL AND BAKER

To the Editor of The Press.

The Press said Wednesday Tractioner Dahl and Solicitor Baker are playing Alphonse and Gaston on the dinky car matter.

Guess they are. Maybe Dahl was at one end of dinky car No. 212 and Baker at the other end, when the car made the run from League park after the base ball game Wednesday to E. 105th-st on the Payne-ay line.

That car sure did bow. It had the bends or the bumps or something or other.

We had 95 registered fares and the conductor couldn't get to the last three seats. Probably 30 rode free.

The running board was so loaded that about every half block the rear end struck the pavement and scraped along several feet. Then the car would tilt, weight of frightened passengers shifting forward so that the front end of the running board performed a like caper.

'Twas just as though Dahl and Baker were there doing a your-end-bump-first salutation.

The darned thing bumped so often that the running board broke. Then seated passengers held onto these standing to prevent mishaps.

And—
When we transferred didn't we get dinky car No. 267 on the E. 105th-st line?

I. RODE A. DINKY.



Menning, president of the association, claimed to have already a membership of 250. He said he expected to get every working-man in the city into the movement.

Menning has ready for introduction into the council Monday night a resolution which he hopes will prevent the enforcement of the back platform order of the railway company.

Baker Upholds Menning.

He contends that under the provisions of the Taylor franchise the council has the authority to approve or disapprove the orders of the Concon, even if Dahl suggests them.

City Solicitor Baker said: "The Taylor grant is very clear on this point. The Concon can make no rule like this without council's sanction. If council passes Menning's resolution, Dahl's rule must be rescinded."

BRIDGE SUIT IS ADVANCED

Decision in Eirick Case Expected Soon and Special Election May be Held Shortly.

City Solicitor Baker notified Mayor Baehr yesterday he had received word from the supreme court that the Eirick bridge suit has been advanced. A decision is expected within two weeks. If it is in favor of the city a special election on the issue of bonds for a high level bridge will be called by council for the earliest possible date. A decision in favor of County Commissioner Eirick will result in action by the county.

If the county places the question on the ballot a specific site must be mentioned, but the cost need not be included. If the city council places the question before the people a specific amount must be named, but the site need not be mentioned.

The agitation for elimination of the two big bends in the lower portion of the Cuyahoga river begun in the council by Councilman Gahn recently may have a hearing on the bridge recommendation. If the main channel of the river is turned further from the bluff at the westerly end of Huron-rd. than it is at present it might not be necessary to carry the high level bridge over Ontario-st. in the event the easterly terminal is placed at Huron-rd.

down town emergency hospital. Marvin also suggested yesterday that the municipal ambulance idea might be carried out in connection with the same general scheme, as the ambulance might be classed as a part of the equipment of the hospitals.

City Solicitor Baker said yesterday that the will placed no limitations on the manner of expending the \$200,000, save that it was to go to City hospital purposes. The disposal, he said, would be purely a question of administration policy. It might go toward the erection of a tuberculosis sanitarium at Warrensville or toward city buildings for general hospital purposes. Neither Mayor Baehr nor Director Hogen expressed an opinion on the policy that was to be pursued in expending the money yesterday.

Former Building Inspector Vorce has prepared plans for a group of City hospital buildings to be erected on the site of the present buildings on Scranton-rd., S. W.

To Walk Until No-Smoking Rule's Killed.

Councilman Menning is organizing the Car Riders Protective association, whose members are to be pledged to walk to and from work in protest against the no-smoking-no-standing-on-the-back-platform street car order of Tractioner Dahl, effective Sunday.

Preliminary organization steps were taken Friday night.

Councilman Laferty Starts Breach in Statement Against Davis.

Turmoil in Meeting Ends by a Motion to Adjourn.

A wide breach between the administration forces and City Treasurer Harry L. Davis was revealed at last night's meeting of the city council, when Davis, in defense of his management of his department, arose and charged that a false report had been read by Councilman Laferty, tending to show the expense of his department was \$1,000 greater for the first three months of 1910, than for the same period in 1909.

The storm which has been brewing for a number of weeks, broke with unexpected violence, when Councilman Arnold moved the council committee on finance be relieved of further consideration of the ordinance authorizing the city treasurer to appoint two collectors of city rentals. If this ordinance passes, it will mean the abolition of the position of clerk of the city hall commission, now held by C. H. Cawood, an administration appointee, as City Solicitor Baker has ruled that all collections should be made from the city treasurer's office. Davis has stated he will not appoint Cawood if the council authorizes him to make the two new additions to his office force, and he has also announced he will make his own selection of men.

SUPPORTS CIVIL SERVICE RULE.

City Solicitor Thinks Secrecy in Standings Proper.

City Solicitor Baker believes that the civil service commission's attitude of secrecy regarding standings of applicants who take its examinations is justified by strict civil service procedure. While the law plainly states that the result of examinations are to be accessible at all times to the public the city solicitor said yesterday the "result" merely meant whether a man had passed or not. In Baker's opinion even the appointing officer ought not to know the order of the names on the lists until three names are presented to him for selection.

Members of the city council are not favorably impressed by the new policy and criticisms were heard in both Democratic and Republican councilmanic circles yesterday.

DISPUTE ON CITY LIMITS.

Fireman Questions Decision of Civil Service Commission.

Complaint was made yesterday at the city hall by a member of the fire department that the civil service commission had not accepted his definition of the easterly limits.

"I used the outer fire limits, and it seems the board expected us to give the inner fire limits," he said. "There was no way of knowing."

The officer waited at the office of City Solicitor Baker yesterday to tell his story, but as the solicitor was not in the fireman left without seeing him.

"I am not the person to see about such a matter," said the city solicitor later. "He should go to the power that appoints the commission."

Police Called In Often.

Conductors at the Holmden-av., S. W., barns reported last night that on six or seven different occasions police had to be called to quell disturbances. The police refused to make arrests, being guided by City Solicitor Baker's opinion that they are to take no one into custody for failure to comply with the rule against standing on back platforms.

CONTINUES LOW FARE SUIT

Judge Postpones Hearing to Prevent Ten-Cent Rate to Euclid Beach.

The hearing of the suit to restrain the Cleveland Railway Co. from charging a 10-cent fare to Euclid beach was begun before Judge Vickery yesterday afternoon and was continued until Monday morning. City Solicitor Baker's request that the city be dismissed as a party to the action on the ground that the matter in dispute did not involve it was refused.

D. S. Humphrey, president of the Humphrey Co., testified the attendance at the park was greatly diminished since the enforcement of the 10-cent fare.

The railway company contended that under the Taylor grant the company cannot receive the return from its investment to which it is entitled unless the full 10-cent fare is charged.

As the result of the discovery Tuesday of an additional case of smallpox, the city has ordered a general vaccination.

Mayor Baehr, Server Lea, City Solicitor Baker and Heather Ford held a conference Tuesday. Baker announced that the health department is entitled to as much money as it requires for an immediate campaign.

FUNERAL FOR EDITOR HELD.

City Officials and Others Pay Tribute to Dead German.

Funeral services over the body of Simon Hickler, editor of the Wächter und Anzeiger, who died from injuries received by being struck by an automobile in which he had been riding Sunday, were held yesterday afternoon in the Socialer Turnverein hall, 3919 Lorain-av.

Following a selection by a quartet, Dr. Martin Friedrich delivered a short address. Herman Fellingner, S. P. Orth, William Hense, Newton D. Baker, M. Lagnehan also spoke. The body then was carried to the Cleveland crematory where Theodore Jenson conducted short services.

CITY MAY BUY FIREWORKS.

Solicitor Tells Clerk Public Moneys May be So Used.

City Solicitor Baker informed City Clerk McCray yesterday that city funds might be used for fireworks displays in the parks.

The city clerk is taking an active part in the arrangements for the coming sane Fourth celebration. One of the features of the celebration may be an arrangement whereby the workhorse parade may be combined with the mardi gras feature.

EX-MAYOR JOHNSON HEARS THAT HIS CITY "WANTS HIM BACK"

Former Cleveland Executive Is Guest of Honor at Banquet in New York and Gets a Big Medallion.

BATTLE IN ENGLAND

NEW YORK—Tom L. Johnson, former mayor of Cleveland, was the guest of honor at a dinner given by the New York Single Tax Club Monday night at the Hotel Astor. Mr. Johnson had just returned from Europe. His turn to speak came after the other speakers, including admirers from Cleveland, had told what they thought of him.

"It is pleasant to hear all these things said about one," Mr. Johnson said when he got a chance, "because they are flattering things, but it doesn't seem quite fitting. I do not believe that we have reached the end of the struggle in Cleveland. But if it should be that the last fight has been fought I have no regrets."

He continued with an account of some of the single taxers he met while he was in England recently, and added this about the political situation in that country:

"I believe that the fight now being waged in Parliament is the greatest fight against privilege that the world has ever seen."

Newton D. Baker, city attorney of Cleveland and one of Mr. Johnson's old associates in office, referred to the present conditions in Cleveland following the defeat of Johnson last fall, and, turning to the guest of the evening, said:

"The message I bring to you from Cleveland—from the common people of Cleveland—is this, that, standing on the mountain of your achievement as you are, the people of Cleveland are calling to you to come back to new and better achievements."

"The majority of the people in Cleveland, who know that under your administration Cleveland was the best governed and the most intelligent city of the United States, are eagerly awaiting your return."

The single taxers gave Mr. Johnson a medallion bearing his own portrait and that of Henry George. The medallion was modeled by Richard F. George, son of Henry George, and is in two pieces which are set in a mahogany plaque so that both sides may be seen. The medallion is of bronze and is about two feet and a half in diameter and the two pieces together weigh 224 pounds.

The other speakers were the Rev. Herbert S. Bigelow of Cleveland, Henry George, Jr., Louis F. Post, John DeWitt Warner and Edmund Vance Cooke. Mr. Cooke's contribution was a poem which he wrote on the occasion of Mr. Johnson's defeat last fall, in which he glorified Mr. Johnson and characterized his defeat as a noble defeat.

CHEERING NEWS FOR JOHNSON

HE HEARS THAT CLEVELAND WANTS HIM BACK.

He Tells Single Taxers That He Expects Another Fight Himself—He Gets a 224 Pound Medallion and Gives His Views on Struggle in England.

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"The message I bring to you from Cleveland—is this, that standing on the mountain of your achievement as you are the people of Cleveland are calling to you to come back to new and better achievements."

"Though there may be people in Cleveland now who turn up their eyes in horror at the sound of your name, the majority of the people in Cleveland, who know that under your administration Cleveland was the best governed and the most intelligent city of the United States, are eagerly awaiting your return."

The single taxers gave Mr. Johnson a medallion bearing his own portrait and that of Henry George. The medallion was modelled by Richard F. George, son of Henry George, and is in two pieces which are set in a mahogany plaque so that both sides may be seen. The medallion is of bronze and is about two feet and a half in diameter and the two pieces together weigh 224 pounds. One of the problems confronting Mr. Johnson is how to get the gift back to Cleveland.

While John De Witt Warner was speaking Mr. Johnson, who had been leaning back in his chair, leaned back still further against what he supposed was the wall but which really was only a portiere. His chair fell over backward, carrying Mr. Johnson to the floor of the dais. There was a moment's scare until he got up laughing and brushed himself. Then everybody else laughed.

The other speakers were the Rev. Herbert S. Bigelow of Cleveland, Henry George, Jr., Louis F. Post and Edmund Vance Cooke. Mr. Cooke's contribution was a poem which he wrote on the occasion of Mr. Johnson's defeat last fall, in which he glorified Mr. Johnson and characterized his defeat as a noble defeat.

CITY CAN'T COMPEL BELL TO BURY WIRES

City Solicitor Baker ruled Monday that the city had no authority to force the Belle Telephone Co. to place all its wires underground, as it operates under a state charter. Councilman Shimmon will try to secure legislation enabling cities to control telephone companies.

City's Executive Acts on Charges After Long Conference With Tractioner.

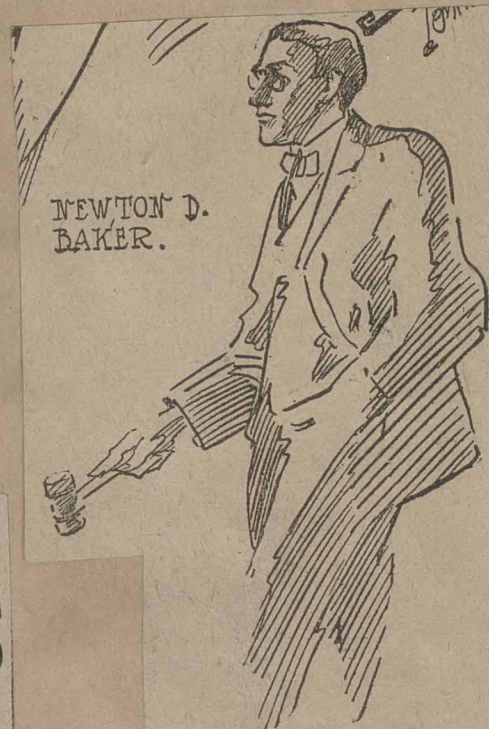
BULLETIN

Baehr appointed Capt. John Schmunk acting chief during Kohler's trial. Schmunk is an officer at the fourth precinct station. Baehr called him in while Kohler was still in the mayor's office and made the appointment in Kohler's presence.

Mayor Baehr, at 2:50 p. m. Wednesday, finally made up his mind to suspend Chief Kohler, pending trial of charges against his personal and official conduct, filed late Tuesday by Atty. A. C. Knight Schoeneman and Patrick J. Brown, contractor.

Baehr announced his decision after a long conference with Tractioner Dahl. Dahl had been closeted with Baehr twice before during the day. After Baehr got City Solicitor Baker's opinion of the law in the case on his return from lunch, he called in Dahl again.

Dahl, who ran with Baehr on the Republican ticket as a candidate for city solicitor, advised that the mayor's best course would be to suspend Kohler.



NEWTON D. BAKER.

DEMOCRATS PICK SLATE IN CAUCUS

Select Johnson Temporary, Baker Permanent Head of Convention.

No Dissenting Vote Mars Rehearsal of County Program.

Every detail of the work before the new county central committee and the county Democratic convention this morning was rehearsed at a meeting of Democratic committeemen, convention delegates, candidates and organization leaders in Weber's hall last night. The party caucus agreed on a complete slate of candidates and all else without a dissenting vote.

Tom L. Johnson will call the meeting of the new committee to order at 9 o'clock this morning. This central committee will elect executive, county, city and congressional committees. Tom L. Johnson and all members of the present executive committee, with the exception of one or two, will be re-elected. The committee business will be disposed of within an hour.

Promptly at 10 o'clock the convention will be called to order by Mr. Johnson, who will act as temporary chairman. Newton D. Baker will be elected permanent chairman and W. J. Murphy, secretary. Committees on credentials, rules and order of business and resolutions will then be named. Each will report almost immediately.

No longer can the chance visitor with matter of little importance to discuss gain entrance to the private preserves of City Solicitor Baker in the city hall with the ease of former days. He must first pass muster with Homer, the office boy, and Homer knows now just when Baker is ready to see a visitor.

It works this way: A red light on Homer's desk burns brightly when Baker is busy in his private office. When he isn't busy the red light doesn't burn. When the door of the private office closes behind a visitor the red light on Homer's desk is on. It burns until the door opens and Baker is ready for another visitor.

BAKER SURE CHIEF WASN'T INTOXICATED.

City Solicitor Baker was emphatic in his declarations that the thought of Kohler being drunk on election night when he saw him in Mayor Tom's office had never occurred to him at the time. He said he appeared excited, but did not stagger or talk as though intoxicated. Baker declared that since he had known Kohler he had never smelled liquor on his breath.

Not Baker, But Dahl.

That Mayor Baehr and the administration will rely upon Dahl for advice rather than City Solicitor Baker in the Kohler affair became evident Wednesday in Dahl's frequent conferences with the mayor. The decision to suspend Kohler came after a prolonged conference with Dahl in Baehr's private office. He had made two visits to Baehr's office prior to this.

Baehr denied he had relied upon Dahl in reaching a decision. He declared his movements had been guided by the opinions of Baker, handed to him shortly after noon.

City Solicitor Baker ruled that Baehr could exert an optional right in suspending Kohler. He quoted a section of the state statutes which says the mayor has the exclusive right to suspend on certain charges. Baehr consulted Baker personally on two occasions.

SCHOOL OFFICIAL IS HIT.

Woman Officer of Municipal League Files Charges After Receiving Objectionable Letters.

Through City Solicitor Baker, charges were filed yesterday by the Municipal league against a school official whose name is not divulged. Mrs. Arnold Green, chairman of the board of directors of the league, charges that the official sent anonymous letters to her of an objectionable character.

They were signed "An Old School Teacher," according to Mrs. Green. She said she received an anonymous letter soon after she had stated that the league would take action to prevent the appointment of Assistant Superintendent Bachman.

Mrs. Green says the letter she received supported Bachman and attacked her. The charges will be brought to the attention of the board of education Wednesday.

MARATHON RACE IS CALLED DANGEROUS

City Solicitor and Ex-Councilman Hit Long Distance Contest on Today.

Doctor Will Examine All Boy Entrants in Big Event.

City Solicitor Baker and Dr. F. W. Walz, former member of the city council, came out yesterday in positive terms against Marathon races. Under the direction of the city park department an eight-mile Marathon race will be held today for amateur runners of the city as the feature of the annual outdoor athletic meet that is to take place at the Brookside stadium. Park officials reported yesterday there were only twenty-five entrants.

"I am glad that there were few entrants," said City Solicitor Baker. "I am glad the youth of the city take so sensible a view of these races. A long distance race is better in a boy than out of him."

CITIZEN TOM EULOGIZED AS FOREMOST ADVOCATE OF GEORGE'S THEORIES

Staff Special.

New York, May 31.—"Returning to Cleveland, I find I am still loved, despite my defeat. Here in New York I find tonight that I am loved, and all this touches me deeply."

Thus Tom L. Johnson concluded his speech at the testimonial dinner given to him at the Hotel Astor Monday night. His words followed those of previous speakers, who had paid tribute to the memory of Henry George, and had lauded Tom L. as his faithful and worthy disciple.

Nearly 250 single taxers, of whom perhaps a fourth were women, sat at the table. Among the guests were Lincoln Steffens, Mayor J. K. McGuire of Syracuse, Prof. E. W. Bemis, and Dan Keifer of Cincinnati, who handles the Jos. Fels fund. Cleveland contributed A. B. duPont, C. W. Stage, Fred C. Howe, E. W. Doty, Horace Carr, W. A. Greenlund, Fred Alber and J. H. Shaffrank.

The toastmaster, Frederick C. Leubuscher, told of a meeting in Cooper Union, 23 years ago, when Henry George spoke of "Tom" Jefferson, and prophesied that another "Tom," named Johnson, whom he introduced as a speaker, would also be president some day.

Leubuscher called Johnson "the sturdiest foe of special privilege that we have today."

Is Presented Medallion.

Rev. Herbert S. Bigelow of Cincinnati, whose topic was "Johnson, the Man," in a biblical paraphrase, said Henry George had bidden Johnson "Risk all thou hast, and give all thou art, to teach the poor how to obtain for themselves justice." Bigelow presented to Tom L. the bronze medallion made by Richard George.

Henry George, jr., spoke on "Johnson, the Friend and Disciple of Henry George." He told of Tom's coming to George's home in Brooklyn 25 years ago, when Johnson was thirty-one, and saying to George: "After having read 'Progress and Poverty,' I would rather have Henry George as a guest in my home than any other heritage I could leave to my children."

Louis F. Post, who talked on "Johnson in the George Campaigns," termed Tom L. a visionary, and then explained that the visionaries were the only men in history who had ever been of any use.

"Johnson in Defeat."

Newton D. Baker told about "Johnson in Cleveland."

"He has squeezed out of the street railway stock every dollar of water," said Baker.

"Privilege has been laid low, and the people substantially own the street railroad."

Baker said that Tom L., as mayor, had "shown the people of Cleveland better conditions than they had ever seen before, or have ever seen since," and declared the people were calling him to come home for the new battle.

Edmund Vance Cooke, poet and lecturer, incorporated a large amount of humor into his talk on "Johnson in Defeat." Cooke closed with an eulogistic poem.

See Dawn of New Day.

Tom L. was vociferously cheered as he rose to make his brief re-

sponse. "What I have listened to," he said, "would be more appropriate, it seems to me, at some later time. They would more properly honor some one who had finished Henry George's work, or carried it much nearer completion than I have.

"I do not believe we are at the end of our struggle. I do not believe we have been beaten in our last fight. If it should be so, I would have no regrets, except that I would wish I had been more strong and more powerful, and had deserved all the good things that have been said of me tonight."

Johnson then told at length of his recent trip to England. He declared that, even had it shortened his life, he would have been repaid by the acquaintance he formed while there with John Paul, a leader in the fight for a new tax system.

"All the world," he said, "is watching the fight against privilege in England, where its foes have made the greatest headway. Privilege is being driven to its last stand, and we can see the dawn of the day when the people who produce the wealth of the world are to have a chance to enjoy it."

BAEHR WILL MISS PARADE

Vice Mayor to View Memorial Day Procession for Which Proclamation is Issued.

In the absence of Mayor Baehr, the Memorial day parade tomorrow will be viewed by Vice Mayor Walker from the stand in front of the city hall. City Solicitor Baker will not be on the city stand, as he left for New York city to attend the Tom Johnson banquet. He will not return to the city until Wednesday.

EVERYBODY'S MAGAZINE

JUNE 1910



NEWTON D. BAKER, CITY SOLICITOR OF CLEVELAND,
WHO DEVISED THE "SUNRISE COURT" AS A MEANS
OF SETTLING MINOR POLICE COURT DIFFI-
CULTIES AND PREVENTING ARRESTS.

I saw the "Sunrise Court" at work. This is City Solicitor Baker's work. As police court prosecutor, he saw that thousands of men, arrested each year for intoxication or some other trivial offense, were disgraced or lost their jobs. He devised a plan by which the lieutenant in charge of the police station should release the men early in the morning, on a signed waiver, so that they could go home or report for work without the disgrace of appearing in the police court. In 1908, over 2,500 persons were released in this way.

But the "Sunrise Court" does more than this. Thousands of persons come to the prosecutor each year for a warrant. There are neighborhood disturbances, cases of assault and battery, some back-fence family row. There are wives who want their husbands arrested and all that sort of thing. Warrants were formerly issued whenever a *prima facie* case was made. When the case came up in court it was usually found that there was no real cause for the arrest.

PENNSY AND CITY SPLIT OVER LAND

Injunction Suit May Follow Quarrel About Site on W. 54th-st.

Railroad May be Blocked in Attempt to Fill to Dock Line.

Supt. Hamilton of the Pennsylvania road notified Public Service Director Lea yesterday he did not agree with City Solicitor Baker that the city controlled riparian rights along with the strip of land near the foot of W. 5th-st. After a meeting with City Solicitor Baker yesterday Director Lea announced formal notice would be given the Pennsylvania that the city claimed the right to extend the strip of land to the dock line and that if the company undertook to complete the fill north of the property without a permit injunction proceedings would begin.

Councilman Newell, who first brought the matter to the attention of Director Lea and Mayor Baehr, was at the meeting in the office of the city solicitor yesterday when the matter of procedure was discussed.

"I have sent Mr. Hamilton a copy of Mr. Baker's opinion," said Lea after the meeting. "He holds the riparian rights belong to the city. Mr. Hamilton informed me by telephone this morning that he did not agree with Mr. Baker in the matter."

The city obtained street rights to this land many years ago from the Lake Shore in return for a grant to that road permitting the company to construct a bridge above it without a draw span. Recently the Lake Shore offered to assume the entire cost of constructing a modern grade crossing bridge at the Lake-av. (N. W.) crossing in return for the city's rights to the property. The city's share of the cost would be \$50,000 if the ordinary procedure were followed. Lea believes the property filled out to the dock line would be worth much more.

"I believe the Pennsylvania road should agree to eliminate some grade crossings in return for the right to made the fill north of the city's property," said Newell yesterday.

SCHOOL HEAD GOES FREE OF SUSPICION

Bachman Not the One Who Wrote Sharp Letter to Mrs. Green.

Unnamed Youth Mentioned as Author of the Epistle.

Upon request of a committee of the Municipal School league, all suspicion against Assistant Superintendent Frank P. Bachman of the Cleveland board of having written an insulting letter to Mrs. Arnold Green, was dropped at yesterday's meeting of the board of education. Mrs. Green, who is a member of the school league, placed the matter in the hands of the committee. The latter body put the affair up to the school board and City Solicitor Newton D. Baker.

At a meeting of the school board yesterday a communication was received from the city solicitor stating the school league had come to the conclusion the author of the letter was a "youthful, overzealous and misguided admirer of F. P. Bachman." The meeting was public, and all correspondence connected with the case and the views of the board members was aired thoroughly.

The decision of the school league

PENNSY DUMP IS STOPPED

Public Service Director Lea Prevents Road's Encroaching Upon City Property.

Public Service Director Lea, accompanied by Acting Chief Schmunk, Sergeant Sterling and a patrolman, took a trip to the city strip of property at the foot of W. 54th-st., yesterday morning, to arrange for the establishment of a police guard at that point, with instructions to prevent the Pennsylvania railroad's encroaching on the city property with its fill.

To his surprise, he found the railroad supervisor in charge of the work was a boyhood friend, George Fisher, whom he had not seen in twenty years. Fisher was allowed to dump the remaining earth in one car that had been stationed north of the city property, but the police were instructed to allow no more to be dumped at this point.

The city in taking this step against the railroad, is following the advice of City Solicitor Baker, who claims the municipality owns the riparian rights to a width of 100 feet at this point.

The property, when filled out to the dock line, would cover an area of three acres.

END BEREA COLLEGE YEAR

Exercises Held on Baldwin Cam- pus Are Tribute to Memory of Institution's Founder.

SPECIAL TO THE PLAIN DEALER.

BEREA, O., June 9.—The fifty-fourth annual commencement of Baldwin university was held in the Methodist church this morning. The program was interspersed with selections by the Philharmonic quartet of Cleveland. President R. L. Waggoner presided. The commencement orator was Newton D. Baker of Cleveland.

President Waggoner expressed his pleasure at the step which has been taken toward forming a union of German-Wallace college and Baldwin university.

All of the present faculty including President R. L. Waggoner have been re-elected for the ensuing year. The annual white rose exercises in memory of Philura Gould Baldwin were held on the campus this afternoon and closed the commencement exercises.

Newton Baker pleading with a great assembly to keep faith with a party's pledges and prevent the disgrace of a "bought and sold legislature;"

The American City

JUNE, 1910

A Public Defender

When one of our exchanges described at some length the creation of the office of Public Defender in the City of Cleveland we wrote to the supposed incumbent for fuller details, but the Post Office knew him not. A letter to the City Clerk was turned over to the City Solicitor, who tells in this issue why Cleveland hasn't and doesn't need a Public Defender. It is about the best piece of news that has come to us in many a long day—that of a prosecuting attorney who conceives his duty to the community to include the prisoner at the bar, and who would consider it a stain upon his professional honor to secure an unfair conviction. Nor does he stand alone, for his assistants share his ideal so fully that it is largely due to their hearty cooperation that a Public Defender is not necessary in Cleveland.



NEWTON D. BAKER
CLEVELAND

UPHOLDS COUNCIL'S ACTION.

City Solicitor Approves Vote on Special Election Date.

City Solicitor Baker held yesterday that the council adopted the proper course at the special meeting Friday night in reconsidering the vote on the old bond issue resolutions voting them down and then adopting resolutions containing the corrections desired.

While the meeting was in progress a number of councilmen expressed the belief that new resolutions could not be adopted at the special meeting on account of the character of the call. City Clerk McCray asked the city solicitor for a formal ruling on the question yesterday.

HARMON'S SINCERITY SHOWN.

That the governor is sincere in his determination not to interfere in the selection of nominees was shown in his talks with a number of those who are seeking place on the ticket.

To each his expression of a purpose to do nothing was emphatic and plain.

But this policy of neutrality does not extend to the matter of an indorsement for United States senator.

Regarding this the governor has the most pronounced views. He will oppose with all of his vigor any attempt to pass a resolution in favor of any man for that position, holding to the view that the proper place for an expression of approval on the part of the Democrats would have been at the primary in May, and not at this belated time.

The effect of this will be to make it impossible to get a resolution of indorsement through since the governor is, when he wishes to exert his authority, in absolute control of the convention.

STUBBORN CONFLICT EXPECTED.

It probably means, however, a somewhat stubborn conflict on the convention floor, led by the Cuyahoga county delegation, which is expected to be insistent that such a course be taken.

The leadership of the fight for indorsement will fall to Newton D. Baker of Cleveland, city solicitor in the administration of former Mayor Tom L. Johnson. Mr. Johnson himself is not expected to be in attendance.

As a preliminary obstruction to the adoption of an indorsement resolution the committee on resolutions will be so constructed as not to suggest it in its report.

BAKER WILL ACT AS HUMAN TORCH

City Solicitor Chosen to 'Illuminate' Way for Democrats.

Newton D. Baker will play the part of the human torch in the Democratic state convention at Dayton this week. It was decided at the meeting of the Democratic county executive committee yesterday that Mr. Baker should lead the fight on the floor of the convention for a Senatorial indorsement, and represent the interests of Cuyahoga county in the committee on resolutions.

Former Mayor Johnson is expected to return from New York tomorrow morning, but he will not essay any of the heavy roles in the convention or the committees. His strength will not permit him to take any liberties with himself in these lines, so he will pass his mantle of authority and responsibility for the convention occasion to the city solicitor.

In the resolutions committee Mr. Baker will offer some things along the line of progressiveness indicated in the resolutions adopted by the recent Democratic county convention. Mr. Baker will also lead the fight for the re-nomination of State Treasurer Creamer and the opposition to any and all candidates who will not declare flat-footed for a Senatorial endorsement.

Solicitor Baker wheeled round

from his desk, put his finger tips together and looked legal. After a minute's deliberation he said: "Roosevelt should refrain from saying anything for 48 hours, just to prove he can. Then he should pitch in and help, perhaps lead, the great army fighting special privilege and seeking to reclaim natural resources for the common good."

"The new party of the future—for there must be one—will be based, I think, largely on this. It will go half way between the Republican party and socialism."

"Socialism now stands for state ownership of natural resources and instruments of production. The new party's platform will be made up of Republican principles plus the common ownership of natural resources."



Newton D. Baker.

BAKER REFUSES NOMINATION AS ATTY. GENERAL

City Solicitor Baker has been asked to run for the Democratic nomination for attorney general, but has declined.

"The offer came from Columbus," said Burr Gongwer, Friday, "but Baker wouldn't consider it for a minute. The overture was made as a sop, a little salve thrown at the Cuyahoga delegation."

MAY PERMIT WORK ON FILL.

Solicitor Says Pennsylvania May Continue Under Agreement.

The police may soon be notified to allow the work of filling out land north of the city's strip of property near the foot of W. 54th-st. to proceed. The Pennsylvania was stopped in this work by the city some days ago when City Solicitor Baker gave an opinion to the effect that the city owned the riparian rights at this point.

Yesterday the city solicitor said that the work would proceed when an agreement was signed by himself as the city's representative and by William C. Boyle as attorney for the Pennsylvania, stating that the work done at that point would not conflict with any rights that the city possessed at that point.

Police Court Prosecutions and a Public Defender

By Newton D. Baker

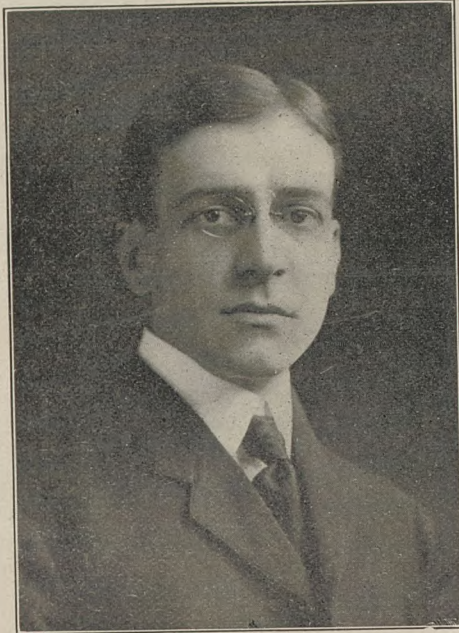
City Solicitor of Cleveland, Ohio

Prior to 1902 the prosecutor of the police court in Cleveland was elected, and when elected, appointed three assistants. The powers of the prosecutor in the police court are about as wide as those of an ordinary county prosecuting attorney, except that the police court has final jurisdiction only in misdemeanor cases, and upon examination into a felony case must bind the accused over for the action of the grand jury. In 1902 the adoption of a general municipal code for the state of Ohio abolished the police prosecutor as an elective official, and confided to the city solicitor the duties of the police prosecutor.

The police court of the city had for many years been subjected to sharp criticism. It was the general opinion that it failed to accomplish any really good result, and that the administration of justice there was embarrassed by a number of evils which were not necessarily inherent. The professional bondsman, who for a consideration furnished bail, and the police court lawyer who offered his professional services for whatever compensation he could secure, were evidences of the inefficiency of the system. It seemed to happen, often, that defenseless people ran the risk of conviction for lack of means to employ some one to present their side of the case. The police judges have not the power ordinarily given to judges presiding in criminal courts to appoint, at the public expense, advocates for persons unable to employ counsel in their own behalf.

At a conference of my assistants appointed to carry on the active work of the

prosecutor's office, it was determined that the duty of the prosecutor really ought to be to see that all the facts are made out on both sides of each controversy. In other words, that the prosecutors should not be advocates for the state's side alone, but also advocates for the defendants, having as their sole aim a just result in each case. This conclusion had my full approval, and for about eight years my associates in the police court have steadfastly adhered to



NEWTON D. BAKER

the theory that they are not advocates for conviction; that no merit is shown nor credit obtained by the mere fact of conviction, and that it is a part of the duty of the prosecutor to see that witnesses for the defense are properly summoned, carefully examined, and every fair opportunity given to the defendant to show both exculpatory and extenuating circumstances.

Some months ago it was suggested by the Legal Aid Society of Cleveland, that a public defender should be appointed to represent indigent defendants in the police court.

The recommendation was made to me, and as I have very great respect for and appreciation of the work done by the Legal Aid Society, I gave it most careful consideration. My first impulse was to designate one of my assistants as public defender, and allow him to take the defendant's side in controverted matters in opposition to my other assistants who were on the prosecutor's side. Reflection seemed clearly to show, however, that the effect of this would be inevitably to create antagonism among my associates, and to cause the prosecutors

to abandon the theory upon which they have worked for eight years, until they ultimately would come to regard themselves as partisans for conviction rather than partisans for just results. I therefore declined to institute, as a separate office, a public defender. Recognizing, however, the likelihood of cases arising in which young, inexperienced and ignorant persons would be accused of very grave offenses, and be in need of advice which they would be loth to take from persons known to be official prosecutors, a plan was devised of inviting the police judges to notify the city solicitor of any case in which the judges, if they had the power, would have appointed special counsel to advise or defend the accused. Upon such notice, the city solicitor will either in person or by one of his assistants

not connected with the police court, investigate the case, give such advice, counsel and assistance as may be needed, and thus overcome the difficulty which arises from the want of power in police judges to appoint counsel without disturbing the wholesome spirit which has for eight years succeeded in making of the prosecutors investigators of fact rather than advocates for a particular theory.

The result of the movement set on foot by my associates for a change in the point of view in the prosecutor's office has been most wholesome. There has been no criticism of them for failing to do their duty as prosecutors, nor has there been complaint of any vindictiveness or partisan zeal misleading them into efforts to secure convictions not required by the facts.

THE FIRST PLUNGE



BAKER WILL FIRE JOHNSON BULLETS

City Solicitor Takes Charge of Political Guns at State Convention.

Will Fight for Senate Nomination, but Expects to Lose.

Newton D. Baker fired the opening gun of Cuyahoga county's fight in the state Democratic convention, which opens at Dayton this afternoon, just before he started for Dayton at 9 o'clock last night. Baker is the leader of the delegation in the absence of Mr. Johnson, who will not attend the convention.

"Cuyahoga county has no interest in candidates except to see good men nominated and any wish of the governor will meet with our unqualified approval," said Baker last night. "I do not mean by that, however, that Cuyahoga county has any interest in the organization led in the governor's name, but without his participation, by Finley, Ross, O'Dwyer and Bernard.

"The chief interest of the Cuyahoga delegation is in the platform, which we hope will be a statement of real, progressive, Democratic doctrine, and in the nomination of a candidate for the United States senate. The party is pledged to that by the last state convention, and the gumshoe policy of suppressing the name of Mr. Hanley until after the legislature is elected is admirably cautious, but wholly undemocratic and cowardly.

"Judge Lawrence does not want to be a candidate for state supreme judge at the expense of a fight. If the delegates to the convention generally want him to be a candidate he will permit the use of his name and Cuyahoga county will be glad to support him."

The fact that Tom Johnson will not attend the Dayton convention, long suspected here, was first admit-

Newton Baker Offers Resolution to Amend Call So as to Provide for Declaration On Selection of United States Senator

ted yesterday. Baker said he urged him not to come. The former mayor's close friends say Mr. Johnson's disgust at the failure of Cleveland men representing him at the last meeting of the state convention to insist on senatorial indorsement in the call for the convention is the chief cause. The first fight today by this county will come in the committee when an attempt will be made to have the call amended.

The fight is almost certain to result in failure and the Cleveland leaders anticipate nothing else, but they propose to carry it through to the finish. Hope for support from Hamilton county has dwindled, chiefly because of the fact that Hamilton is the home of Gov. Harmon, and further because M. E. Ingalls is believed to have senatorial ambitions. Ingalls is now a prominent factor in the control of the party affairs there. Newton D. Baker's intimation that Hanley is the state organization's senatorial candidate is doubted by many of his aids here, who believe Ingalls will loom large before the legislature, if it should be Democratic.

The full delegation from this county will leave for Dayton at 7:30 o'clock this morning over the Big Four. Details of organization for the twentieth and twenty-first districts will be completed on the train.

The first guns, sounding as a preliminary to the senatorial battle which will be waged in the Democratic State Convention Tuesday night, were fired during the session of the Democratic State Central Committee at the Phillips House at 10 Tuesday morning.

Newton D. Baker, as proxy for Tom L. Johnson, taking the Bryan-Johnson end of the senatorial endorsement controversy, demanding that the convention endorse a Democratic candidate for United States Senator Dick, whose term expires March, 1911, introduced a resolution amending the call of the convention, incorporating the provision that the convention endorse a candidate.

The motion to adopt the resolution was seconded by William Gordon, as proxy for C. W. Lapp, the other member from Cleveland.

BAKER'S ARGUMENTS.

Discussing the resolution Mr. Baker said: "In preparing the call for the Democratic convention those having charge failed to include in the call the proposition for senatorial endorsement. Since that omission has been made, perhaps by oversight, I have prepared this resolution to amend the call, which provides for the endorsement of a candidate for United States senator to succeed Senator Charles Dick. The state convention, two years ago, upon motion of Mr. Johnson (Tom L.) and second of Mr. Lapp, adopted a resolution providing that the endorsement for a United States senator should be made at the next, this, convention, and the call should have provided for such endorsement. Any other action would be a serious mistake, as that was an explicit demand of the delegates, expressing the sentiments of the Democrats of this state, and which principle has been confirmed by the Democrats in many other states, and would have long ago been made to provide that United States senators be elected by direct vote of the people, had it not been a violation of the constitution. Failure now to respect that demand will mean a repudiation of the action of the last convention and the desire of Democracy at large.

"We do not want any more hokuspokus business about the senatorial affair. The people now demand to know just who and what such a candidate is or will be, and it is our duty, and to our interests to put a man whose attractiveness will mean for the betterment of the organization."

Governor Harmon Tuesday came out personally in favor of the indorsement of a United States Senator by the Dayton convention, but declared himself against such action because of the lack of opportunity allowed candidates to present their claims to the delegates.

To Newton D. Baker, of Cleveland, who arrived in Dayton Tuesday bearing Tom L. Johnson's proxy, Harmon gave evidence of his sympathy with the Cuyahoga movement for indorsement of a senator. He pleaded, however, that such action was now impossible. The Cuyahoga Democrats blame Ed. Hanley, chairman of the State Central Committee, for the failure of the indorsement plan by his action in keeping it out of the convention call.

Baker called on Harmon Tuesday after the central committee had defeated a motion to amend the call to include the indorsement. He plead with Harmon to keep hands off the convention and to do something "big" for the Democratic party in Ohio. Baker was met with a plea for support from the Cuyahoga delegation, and with promises of good will on the part of Harmon.

Baker and the Cuyahoga delegation, backed by several other delegations in part at least, will continue the fight for indorsement of a senator on the convention floor. The committees on rules and resolutions will be asked to incorporate the indorsement in their proceedings. If this fails the matter

CUYAHOGA BOOKED FOR HARD LICKING

Unless Newton Baker Can Sway Delegates, Clevelanders Will be Beaten.

State Treasurer Creamer Has Lead in Fight for Renomination.

STAFF SPECIAL.

DAYTON, O., June 20.—The fight over the indorsement of a senatorial candidate is all over but the shouting. The vote against the proposition will be overwhelming. Indications tonight are that Cuyahoga county will stand almost alone.

It is an old axiom that nothing is certain in politics. The one element of uncertainty on the question of indorsement lies in the kind of a speech made by Newton D. Baker. If Newton Baker is able to swing the convention by the inspiration of a speech there may yet be some fireworks on the senatorship.

Here's Mayor Baehr's latest joke: "If I should die suddenly and Vice Mayor Walker should die at the same time, who'd get the job?" Everybody guesses that it would be City Solicitor Baker. "No, you're wrong," says Baehr, with a laugh. "The undertaker would get the job."

LONGER HOURS FOR EMPLOYES OF CITY

Nine Hours Required by Old Ordinance May Prevent Wage Increase.

Baker Helps Administration Out of Bad Fix by Opinion.

Under a ruling from City Solicitor Baker, based on an old city ordinance requiring city employes to work nine hours a day, Public Service Director Lea yesterday issued orders to heads of departments to require employes commencing today to work an additional hour.

On learning of the order Councilman Townes announced late yesterday that he would introduce an ordinance at the coming council meeting amending the nine-hour day ordinance by substituting the figure eight for the figure nine so as to allow city employes the same working hours that they have been enjoying for years.

BAKER FIGHTS TO END

BAKER WAGES WAR ON HARMON POLICY

Tom Johnson's Aid Routed in Skirmish to Assure Senatorial Choice.

Cleveland, Defying Leaders, Will Carry Fight to Convention.

STAFF SPECIAL.

DAYTON, O., June 21.—In the absence of Tom L. Johnson, Newton D. Baker early today began the protest against the Harmon program to ditch the indorsement of a candidate for United States senator.

Baker, accompanied by William Gordon, arrived at sunrise, hours in advance of the rest of the Cuyahoga delegation, to the Democratic state convention. He had plunged into the convention whirl within fifteen minutes after he had deposited his grip in the hotel. Things were whispered into his ear that primed him for a fight rather than a protest. He was told that the masters of the convention were pleased that Tom Johnson was to be among the missing; that they were sorry the former mayor was sick, but treated it as providential. And how Mr. Baker, they felt sure, would employ the tactics of the drawing room; he would slap the convention on the wrist for refusing to indorse and let go at that. He would not, it was further assumed, say anything that might furnish ammunition to "the common enemy."

This reckoning of Newton D. Baker as a man without fists, a man who would win by the force of scholarly and dignified argument or not at all, was dead wrong. The awakening came quickly. Baker seized his first opportunity to demonstrate that he had red blood—blood of the fighting kind. He appeared before an early session of the state central committee, called for a no more harmless purpose than to distribute badges and make convention announcements, and there opened the indorsement fight. With formalities over, Baker presented a resolution calling on the state committee to amend its convention call so as to include the nomination of a United States senator, according to the instructions of the last state convention. He told the committee that the popular vote selection of a United States senator was a cardinal doctrine of the Democratic party which, unfortunately, could not be carried out to the letter because of constitutional inhibitions. He referred to the fact that the last two Democratic state conventions in the years when United States senators were to be elected had nominated candidates, and emphatically took issue with the contention of Gov. Harmon that a candidate should not be indorsed this year because of political expediency. He said the state committee had committed a gross breach of faith in refusing to include the nomination of a senator in its convention call.

"Gov. Marshall was not a national figure until after he had pressed the fight and won for the indorsement of a United States senator in the Indiana convention," said Baker. "Now he is a political giant. The Democrats of Ohio are in no temper to submit to political hocus pocus of any kind."

The resolution was seconded by William Gordon of Cleveland and Bernard Bell of Massillon, representing the eighteenth district and the home county of Atlee Pomerene. Then Mike Dovanny, machine politician of Hamilton county, came to the rescue. He made no attempt to answer Baker. He said the hour was too late to take up the question (9 o'clock in the morning) and the committeemen had many things before it. Then came the vote and, as expected, the verdict was 14 to 6 against any change in the call. The first fifteen districts, with the twelfth unrepresented but against any opening of the indorsement question, voted solidly against any tinkering with the call. The votes of the sixteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty-first districts were cast for the Baker amendment. The committeemen, however, were the ones selected at the convention two years ago. The vote carried no assurance that any considerable number of the delegates, outside of Cuyahoga county, would join the minority on the convention floor in standing for indorsement.

Baker and Gordon at once sought out Gov. Harmon. There was a fleeting hope that the governor might relent in his opposition to an indorsement, but he remained firm. Baker then informed the governor that the fight would be carried first before the resolutions committee and then to the floor of the convention. The delegates at least will be given a chance to go on record, and to the governor Mr. Baker expressed the conviction that "a militant minority would utter its protest against the proposition to take a backward step by refusing to indorse."

amendment provides that this convention obey the explicit mandate of the last state convention and here and now nominate a candidate for the United States senate. On that motion I desire to be heard."

There was a wild cheer from the Cuyahoga delegates, interspersed with cries of "Go after them Newt."

The first scattered opposition to giving Baker a hearing was quickly suppressed. As he again recognized Baker to give him the floor for debate, Chairman Pomerene called for former Gov. James E. Campbell and turned the gavel over to him.

As Baker recognized the chair in opening his speech, W. L. Finley, David L. Rockwell of Ravenna and others who were on the floor with the intent of seeing that there should be no break in the Harmon program, quietly began reassuring the leaders of the different delegations that there was nothing to fear and instructing them to sit tight and not get excited.

The eyes of the convention were riveted on Baker. He was never more deadly in earnest in his life. The experience of facing all kinds of audiences during long years of political activity in associations with Tom L. Johnson stood him in good stead. Down in his own heart he realized he faced a losing fight—that the cards were stacked against what he wanted in the platform. But he went on.

"The United States senate has become an object of fear and an increasing obstacle in the path of good government," Baker began.

Again defiant cheers from the Cuyahoga benches arose and died away. For the most part the rest of the delegates maintained an attitude of respectful silence.

"There has been a growing responsibility upon the Democratic party to reach this evil and cure it," continued Baker. "The fathers of the republic intended the senate to become a safeguard. The horrible example is now before the country of seats in the United States senate being put upon the auction block and sold as so much merchandise."

"The Democrats of Ohio have been in the habit of nominating candidates for the United States senate. The flimsy claim that doing so weakens the ticket I deny. The fact is that the legislative candidates in the years when a candidate for senator was indorsed received more votes than the presidential candidate."

"Two years ago the state convention instructed the state committee to provide for the nomination of a candidate for senator by this convention. Through some sort of legerdemain or mental obviations the state committee failed to act upon the pretext that an uncertain state primary law had nullified the requirement. Thus they seek to paralyze this convention in the performance of its duty."

"The steam roller was brought out and put into operation. They rolled it over us in the state central committee and before the committee on rules as well as before the committee on resolutions. And last night through the use of chloroform and modern anasthetical surgery they performed another operation. We were asked not to take the matter up today before this convention. We were besieged not to act in any manner that would hurt Judge Harmon."

"I take this question up not to hurt Judge Harmon but to help him. We have nominated a great big brainy man for governor. But we have put him on a ship tied to a dock. He cannot progress. Are we to lag behind even the Republicans of many states, where great and able men have been brought from obscurity to the fore-

BAKER FIGHTS, BUT ODDS DEFEAT HIM

Cleveland Man Battles in Vain to Have Senatorial Indorsement.

Says Platform is Not Big Enough for Harmon to Run On.

When McMahon moved that the platform as reported by a majority of the committee be adopted, Newton D. Baker of Cleveland arose from his place at the head of the Cuyahoga delegation and asked for recognition. As he did so Baker mounted the platform. The chair pounded for order as he recognized Baker.

"On behalf of the members of the committee from the twentieth and twenty-first districts, I desire to submit a minority report calling for an amendment to the plank dealing with the senatorship," said Baker. "The

front of the nation? We want to re-elect Judson Harmon governor."

"It don't look so," came a voice from the rear delegate seats.

"You do not see straight, your vision has been obscured, that is all," retorted Baker as he went on with his convention appeal. "Your platform has been stripped of all its strength and virility. As a matter of fact Gov. Harmon is not against indorsement. Has he said so to you?"

"The question is expediency or integrity and principle. What have we to do with expediency? Chairman Hanley yesterday before this convention in his eloquent way said the Democratic party would win so long as it deserved to. The sentiment pleased you but it terrified me.

"Two years ago we promised the state to make a senatorial nomination. We have a great big man in the party, a man who measures up to high standards. He is on the platform with me now. I could and would name him if he would permit.

"We want to free Gov. Harmon from those who have advised him badly. We want to shake off the blight. It is up to this convention."



NEWTON BAKER OF CLEVELAND IS ONE OF THE BUSIEST MEN IN THE CONVENTION

BOOM BAKER FOR SENATE.

Friends of Cleveland City Solicitor Believe He Should be Democratic Candidate.

Newton D. Baker for United States senator.

Cleveland Democrats were discussing this possibility yesterday. Returning from the state convention, the results obtained there and future possibilities formed the general topic. Out of this grew the suggestion that Cuyahoga county boom Baker for senator.

Originally the organization here was for Alee Pomerene for the place. With Pomerene out of the running, the lieutenants of Tom Johnson are talking seriously of Cleveland's city solicitor, Baker, through his handling of the senatorial indorsement fight in the convention and the manner in which he led the delegation in the convention, has become recognized as one of the state leaders.

CANNOT PREVENT SMOKE.

City Solicitor Asserts Railroads Cannot be Compelled to Use Electricity in Engines.

City Solicitor Baker reported yesterday in a letter to council that the city has not the authority to enforce the pending Dittrick ordinance prohibiting the operation of a railroad locomotive within or passing through the limits of Cleveland unless electricity or smokeless fuel is used.

On learning of the city solicitor's ruling Smoke Inspector Walsh announced that he would carry the fight to the board of health.

The city solicitor in his letter to the council says in part:

"I have examined every case I could find in which municipal efforts have been made to suppress the smoke nuisance and I can find no case in which the courts have sustained an ordinance requiring the use of

EXTREMES MEET AT CONVENTION



"Are you Newton D. Baker?"

"Yes, sir."

"Well, how de do?"

Claiming to represent the sentiment of but one-tenth of the delegates Newton D. Baker, compelling a showdown, demonstrated that the principle for which he fought represented the conviction of at least more than one-fifth of the delegates. Had not the convention been so certainly controlled, the indorsement of a senator would have claimed the support of a majority rather than a respectable minority of the delegates.

The Democratic campaign structure was reared during this convention with the precision and certainty that paralleled the days of Republican domination by Mark Hanna. What Harmon wanted he got. What was planned as a complete program on Monday was executed today without a slip. The business was so smoothly done that the convention adjourned at 5:45 p. m.

The nomination of Alee Pomerene was calculated to a hairbreadth. Gov. Harmon and his convention advisers and manipulators convinced themselves that the Canton man would not reject the second place on the ticket if it was thrust upon him. They knew he would protest, as he did to the very last. But he accepted the nomination just as calculated. The calculation was mathematical. It was figured in delegates.

Gov. Harmon agreed to and followed the exact program designed to remove all possibility of a convention stampede on the nomination of a senator. The stage play, for such it was, was inspired by W. L. Finley and E. W. Hanley. The entrance of Gov. Harmon to the convention hall was timed to the second after Newton Baker finished his appeal for a senatorial indorsement.

To bring this about convention rules lightly were set aside. The resolutions committee could not make its report to the convention, when called upon, although the draft of the resolutions word for word had been in readiness for hours. It was palpably a part of the stage game to first nominate Gov. Harmon and then to hold him in readiness to enter the hall at the psychological moment, at the very instant when the convention would waver on nominating a senator, if at all.

The thing was executed without the fumbling of a cue or the slightest suggestion of a slip. Newton Baker had completed his impassioned appeal. His lips were parted to move an immediate vote on the minority report on the resolution.

THE WALKING'S STICKY



BAKER READS HIS BROWNING IN MIDST OF CONVENTION'S TURMOIL

Staff Special.

Dayton, O., June 22.—A man who reads Browning in the midst of political turmoils, that's Newton D. Baker, Cleveland's city solicitor, and leader of the fight for the indorsement of a senatorial candidate at the Dayton convention.

Baker came to Dayton carrying under one arm a well-thumbed volume of Browning. Around the hotels, in committee meetings and even in the convention hall the little book has been always with him. In off moments, when the strain of fighting grew less and a minute of rest intervened, Baker turned to his Browning.

Baker has even made some converts to Browning's poetry in the Cuyahoga delegation. Geo. R. McKay, candidate for county clerk, is one of these. He was discovered today at the convention, reading assiduously, while the band played in the gallery.

The Shame of Democracy.

Out of the rack and ruin of what was once Ohio Democratic harmony, there looms one whom even those opposed to the party must accord praise and admiration.

He is Newton D. Baker, of Cleveland. He is an honest man.

Accused of chicanery on the floor of yesterday's riotous convention; booed by the element of Dayton and Cincinnati; howled down; his earnest words of sincerity drowned by a signal to a band by Mike Devaney, and made the butt of an unscrupulous clique, Mr. Baker today is greater in his defeat than his foes are in victory, for he fought an honest fight.

This young-old man, standing on the stage of Memorial Hall, by his words and the cause for which he fought must perforce kindle a little latent pride in good Democrats, for he shamed a Governor's silence and overshadowed the state chairman, the congressman from the Third district and the riotous cohorts from Hamilton county. Though these respective worthies do not know it now, he saved the face of his party in this state for the years to come.

* * *

On the question of senatorial endorsement for which he fought and lost little need be said at this time. That the party broke faith with the people must be set down to its shame; but to that party's credit be it said that all hope is not fled from it, no matter how much it may be now obscured. Men like Newton D. Baker do not live for pelf rather than principle; they do not know when to give up, and they never will give up.

So, if the Democratic ticket loses this fall, Baker and the few sterling Democrats like him will reap their reward of leadership.

They will have demonstrated what all close observers know today, that only by a purification such as Baker stands for, will the party ever dare make a sincere appeal to the Ohio public.

Principles like those which Mr. Baker stands for never die.

They may be dragged down into the muck by those elements that live and delve in the muck for their political life, but they are eternal.

Think a moment, if you please, at what was happening on the floor of the convention yesterday. With oily unction, J. Sprigg McMahon, who, by the way, happens to live in this city, was nailing to the cross the only principle, the only Faith, the only Truth which the Democracy of Ohio had stood for. Lawyer-like, he marshaled his points and made a fabric which he flaunted in the faces of the Democrats on that convention floor, and called upon them to accept it as their standard.

It was of no matter that he was breaking for his party that party's pledge to the people; it was of no moment that he was embarrassing the governor who later was to be shamed by a riot under his nose as he sat on the stage; it was of no consequence—to him—that Democracy was to be forced into submission to bossism.

He felt strong, no doubt, in the strength of his followers; principles were nothing; party was all.

It took a man like Mr. Baker to brave the wrath of the bosses as Mr. Baker did. But then, what does an honest man care for invidy as long as it comes from the source that opposition to Mr. Baker's principles came from?

Said Atlee Pomerene, on the same stage the night before: "If President Taft does not approve of Governor Harmon's administration, why doesn't he say so?"

And it might be said with more pertinence, if Governor Harmon yesterday was opposed to the Truth that Mr. Baker fought for, why didn't he say so?"

We could pass over the fact that disorder—shameful disorder—was accorded the principles which Mr. Baker enunciated, and which William Jennings Bryan had enunciated before him, were it not for one thing.

Out of conventions such as yesterday's public servants are made. There were many young men on the floor of the convention yesterday, delegates for the first time in their lives. They heard what Mr. Baker said, they knew and they understood; they saw citizens whom they supposed from their station were eminent men, opposing Mr. Baker. They saw Mr. Baker defeated, and some of these young men helped defeat him because their bosses told them to.

They will leave Dayton with a bad lesson in politics—ignorant of what is back of the mask that hides political Fagans from their pupils' gaze.

These young men must not be schooled to believe that such a perversion of politics is public service. They should be taught what life's bitter experience later must teach them, that Sincerity and Truth are better their portion in defeat than Insincerity and Untruth risen to victory.

They must be taught to be patient, as Mr. Baker is patient. In his chivalrous yielding to his opponent Mr. Baker himself remarked that for many years he had been opposing the same tactics and frequently the same sponsors for these inverted principles; yet, he said, he had not grown discouraged; he had not lost hope; he does not believe that what is defeated today can always remain defeated.

The history of all political parties bears out these truths.

The experience of Life vindicates the same principles that the experience of politics vindicates. Many a once-sorrowing heart now glad, many a once-bowed head now raised, attests that it is often better to taste of the gall of defeat than to wear a crown.

Mr. Baker could not smile in the faces of those who wished him ill—could not maintain the splendid courage for his principles that he did unless he was upheld by something stronger than sordid aims and purposes.

What supported him then and what will support him throughout his fight for the right is Faith.

We hope sincerely that the younger men who saw him howled down and later made the victim of such a splendid defeat will realize the lesson that his courage revealed. We hope that by Mr. Baker's course more Democrats, more younger Democrats, will be nerved to do likewise. Mr. Baker has been heard from before, and he will be heard from again—long after his present foes will have been swept down Life's stream into oblivion.

We pity, too, the splendid legal minds that see Mr. Baker's case at an inverted angle. It may be that these men are sincere in their way; we at least hope some of them are sincere, for some, we know, are not sincere—never were.

It is too bad to see citizens in political life who promise by their equipment such splendid service to their party and to their state, leading trustful followers into the slough, while the true faith-keepers

perish on the straight road.

There is no use moralizing on politics, some will tell you. Calloused souls have they who can view the advance of a great state under such sponsorship without a tremor.

* * *

The barefoot boy in the corn-furrow chafes at his lot. The pampered youth of fortune is envious of the barefoot boy. Neither knows the happiness of the other, because both are only human and cannot work out their own destinies. Later on, perhaps, the humbler gains in Faith more than the other gains in pelf. And his battle of life is won.

So now with those who stand at this moment of Democracy's shame in defeat—with those who, perhaps, may feel bitterly that it "didn't pay" to fight a good fight and to keep the faith—they should read the handwriting on the wall.

Another Daniel, in another age, will come to Judgment as surely as right is right and wrong is not right.

Perhaps there may be a temptation now to depart from the losing contest, though it is the right contest.

The Journal never was in the mood to betray its political foes any more than it would betray its political friends. And in sincerity The Journal hopes for the good of Ohio Democracy that the faith-keepers will not desert the losing fight now. For The Journal knows that all that is good in Ohio's Democracy is good for the people of Ohio, irrespective of party.

No set of men, no party, no leader among men and parties, however arrogant they may be in the moment of their strength, can conquer by the sign of distrust of the people.

Why, then, sympathize with Mr. Baker, who was brave enough, and honest enough, and fearless enough to stand by the ship till she was sunken by her own pirate crew?

* * *

Every word said above about Newton D. Baker was written with Newton D. Baker in mind, and Newton D. Baker alone. Compare what fits him, for a moment, with what one must accord William Jennings Bryan.

In their high aims and purposes their minds meet. Both are men who would not stoop to trickery, gag rule and such other tactics of bossism to seek party control. Indeed, the extraordinary hold that William Jennings Bryan has on the Democracy of this United States was won in DEFIANCE of bossism. The people learned that Mr. Bryan was no demagogue, and the people have stuck to him when all other estates of politics have tried to throw him down.

Mr. Bryan was a greater man in his defeat than was Judge Alton B. Parker in victory. His name will live when the names of Parker, Taggart, Harmon—all are forgotten. Indeed, some of his old-time foes already have been forgotten by the people they tried to exploit at the expense of Democracy.

Does it take a prophet, then, to conceive a time—and that not far distant—when the names of the present Ohio oligarchy will be in oblivion? In all respect to them, no!

The Journal will not digress from praising those Democratic elements which are praiseworthy to forecast the defeat of Judson Harmon for governor. As time goes on in this campaign The Journal will TELL THE TRUTH about Governor Harmon's official course; of the men who are backing him for office; of those abandoned servants of corporate control who are now seeking "vindication"—which they will get—in a return to the Statehouse from this county. But their vindication will be the vindication of oblivion, so richly deserved.

The Journal does not believe today, and never has believed since the day the seventy-eighth general assembly adjourned, that Judson Harmon will be returned to the governor's chair.

This fine Old Dog Tray of Ohio's corporation servants is damned by his political company.

But the Democracy, shamed in its logical hour of triumph by the bosses, need not feel that after this fall the party's capacity for public service will be nil.

"Stand up and have your measure taken!" said William Jennings Bryan to Judson Harmon.

Yesterday, in this city, the governor heard the equivalent of the same challenge, uttered by a leader from his own state; he heard the plea of Mr. Baker and knew what Mr. Baker stood for. Having been a judge, he must have seen the justice in the plea.

But did the governor "stand up and have his measure taken?"

No! He SAT DOWN and STAYED THERE!

Democracy of Ohio WILL have a chance to assert the REAL principles of Jefferson when they find a man who is NOT AFRAID to stand up and have his measure taken. Mr. Baker is such a man.

His reception yesterday shows conclusively that the Democratic bosses of this state today do not want any man who fears not the truth of open day.

* * *

The wounded old party totters toward the burying ground. It is weary, and sick, and sore at the buffeting, the kicks and the cuffs it has enjoyed from the bosses in the past? Who will apply the salve to its hurts? Who will be the political Doctor Munyon who will cry, with hand raised in a "never-again" attitude, so that all can hear: "There is hope!"

No physician with a prescription or a specific for this irritation of the palm is wanted. If he raises his head above the common herd of boss-driven political cattle he is cast into outer darkness. As a reward for his defense of right he is made a political pariah; as an Ishmaelite of modern days, he is crucified by bossism, a bleeding sacrifice to those various elements in the party that made of the word harmony a mockery.

Well may they rail at him! Look at the hosts in crooked-lined phalanx, passing by the governor's reviewing stand in disordered battle array: People's Defender Crawford, David Creamer, Garvey C. Harbor, Finley the Oil-Tank Man, Dayton's Bad Boy Congressman, the leader of the state committee; the suave apologist for gag rule, Sprigg McMahon; the cohorts of Strongarmiana from Columbus, the hammer-wielders from Cincinnati, the Gas-House Gang—see them all pass by in review!

* * *

To the credit of one man be it said—he dared to stand against them all. To the credit of Cuyahoga county's Democracy be it said, they truly were unterrified. Those other counties which had sent men to this convention—men who were not afraid to break the gag that bound them speechless, have kindled a small blaze of hope that yet may quicken into flame. But not yet—not this year. Perhaps later on.

The same bosses that forced justice to bend the knee invited attention of the nation at large to view their Presidential candidate. Better far the request were not made. The nation is not interested in its Democratic Presidential aspirants, not yet. The nation, however, WAS watching Ohio Democracy yesterday to see if it would keep the faith.

It failed. The nation will draw its own estimates of its Presidential timber on the plans and specifications of the sincerity of Ohio Democracy.

And Ohio Democracy stands shamed—shamed by itself.

THE AKRON TIMES

FRIDAY, JUNE 24, 1910.

We do not believe McMahon. Baker and men of his way of thinking—not pretending to be pleased over their defeat at Dayton—will, nevertheless, be found in the Democratic ranks, upholding Governor Harmon's flag on either hand and doing hearty and valiant service against a common enemy whose defeat is of the more consequence than any division of party counsels—their fight being one of principle, after which matters of policy will be settled, and settled right at last. The true game spirit is to "pay and look pleasant."

We consider that Newton D. Baker came out of the convention with as much credit as any one man—except possibly the Governor himself. He made a great fight and as he made it on a right principle, in losing it he really gained it. As to him and his cause it was by no means a luckless battle. Mr. Baker at Dayton established his reputation—which indeed he had before—as a wise, courageous and winning leader of men. We think he tried to help the Democratic party in Ohio, and particularly Governor Harmon, by what he did and said in the convention; we know that he will help both of them in the campaign. The only regret is that the convention took from his hand his strongest weapon. But he will fight.

"Tied To the Docks!"

In the language of the negro preacher, they have already begun singing.

"Roll on ole ship,
Thar's a mighty good time a-coming."
—Daily News.

It was an apt metaphor, that used by the Hon. Newton D. Baker in referring to the gang tactics of the Democratic state convention. "You have made him (Gov. Harmon) captain of a ship," said Mr. Baker, "and you have tied her to the docks."

NEW LEADER OF DEMOCRACY IS SEEN IN BAKER

Clevelander Said to Have Made Many Friends Among the Demmies at Dayton

So Manipulated Things That Forest
City Got Place on Ticket Nomi-
nated—Not Like Tom L.

Special to The Register.
COLUMBUS, June 25.—Only one man in Ohio went out of the Democratic state convention in Dayton stronger than he went into it. That man was Newton D. Baker, of Cleveland.

Governor Harmon acquitted himself well. But no candidates for Governor, or any other office, who has the nomination clamped down beforehand, comes out of a convention as strong as he went in. There is always something in the proceeding of the con-

vention that turns up afterwards to plague. It is not the fault of the individual, necessarily, but is the fault of conditions. If it were possible for just one side to have a convention what an immense advantage the other side would have? There were happenings in the Democratic convention that would defeat the whole ticket if they stood alone. But the Republicans have a convention before them, too. They will meet in Columbus, a month hence, and go through the same procedure, though in a different way, that was gone through in Dayton. The difference is they have their hazard before them. The Democrats have undertaken theirs. And while the action of the Democratic convention and the ticket there nominated will be discussed generally in the state from now on, the campaign will not open till after the Republicans have held their convention. The issues have not been made up. Only one side is presented. It will be time enough for the voters to make up their minds a little later.

But the voters—and more especially the delegates to the late convention at Dayton—already have made up their minds on the proposition that has been made in the foregoing. Newton D. Baker went out of the convention stronger than he had ever been before.

Tom Always on Hand.

In Democratic conventions in recent years the people have witnessed the performances of Tom L. Johnson. Big and brainy, he also was picturesque. He also was bitter and frequently showed a want of tact in tight places that not only lost him the battle he was fighting, but the friendship of his opponents as well. Newton D. Baker, the new leader of the Cuyahoga county Democracy, the man on whose shoulders the mantle of Johnson has fallen, is made of different fiber. He is as much of a fighter as Johnson, but his method is more effective. He does not call names. He approaches his subject logically and without bluster. He deals with facts, not fancies. When his hand is called he has something in it commensurate to his estimate of it. He is not a bluffer. His fight for the endorsement of a Senatorial candidate was one of the most remarkable ever made in a convention. Delegates bound hand and foot by aspirants for the Senatorial toga listened with deep attention to his masterful argument. A few of the hired clackers tried to jeer him down, but they soon slunk away. They listened through. They had to. They were confronted by a man who had something to say.

It doesn't matter for the purpose of this reference whether he was right or wrong. He fought a good fight and he retained the respect of his opponents who knew him and hundreds of loyal friends of those who had not known him theretofore.

Baker a "Comer."

Newton D. Baker will be heard from in future Democratic conventions. The Democratic party is rapidly putting up a new alignment. The party has been turned over to Judson Harmon for the present by the old leaders, but the new leaders are coming to the front. Even the old organization is getting new blood and succeeded in annexing some important figures. Among them is John Weld Peck, of Cincinnati. Opposed by the forces closest to Governor Harmon, Peck and his followers won a big victory in the Hamilton county districts. Peck will bear watching. He has the front—the engaging personality—the salve—the plausibility. He is back-

ed by Noctor—who furnishes the thinking. It is a strong team. Maybe William L. Finley will be sorry some day they took up Peck. He is ambitious. It may not be a distant day when he may want to run things himself. When he does it looks as if he could count on the assistance of Newton D. Baker, of Cleveland.

The difference between the method of Baker and that of Johnson was

Made Hit at Dayton



NEWTON D. BAKER

New Leader

(Continued from Page One.)

oted when Baker, defeated on the Senatorial endorsement proposition took his defeat smilingly and took a prominent part in the work of the convention. He also threw the Cuyahoga county votes where they would do the most good for his friends and the friends of the things for which he stood. Instead of discouraging a candidacy from Cleveland, he played the party game and the ticket has a Cuyahoga county man on it in the person of Frank McKean. It helps to balance it. It aided to give Baker additional standing before the people. It showed he was not a sulker.

Dayton Wanted Miller.

And when word was passed that Cuyahoga county was going to vote for a man from a rural county for state school commissioner, Baker was asked not to do it. A Montgomery county man, it was thought, would help the ticket, also as a balancer. Now Dayton had done herself proud in entertaining the convention. All the delegates were feeling friendly. Dayton wanted Frank W. Miller, a professor in the Steele high school, for school commissioner.

"Certainly," Baker said, "if you want him we will help you to get him, provided he is a good man and capable." That is all there was to it. Satisfied as to his capability, Baker showed he can not only be a pretty hard opponent to handle on a proposition involving principle, but that he can also be a good fellow. Miller was nominated by acclamation. A little later on this gracious performance bore fruit. McKean was nominated from Cuyahoga county for clerk of the Supreme Court, also by acclamation. So Baker knows how to play politics too.

And he also knows how to say no.

In this case he has a distinct advantage over Atlee Pomerene, of Canton. When the roll was called on Attorney General some delegates began to vote for Baker. He didn't sit there and let the thing go on so far that it couldn't be stopped. He jumped to the platform, told the delegates he did not want their votes and would not accept the nomination if they gave it to him, and that ended it. They believed Baker, though a little earlier they had declined to believe Pomerene, who was nominated for Lieutenant Governor against his will.

Newton D. Baker was the man who referred to Governor Harmon as "the captain of a ship that is tied to the dock." That remark will be heard of a good deal in the campaign. Already the Republicans are making of it something of a slogan.

SATURDAY, JULY 9, 1910.

SWEEP ASIDE ALL MUSEUM TROUBLES

Committees of Council and Trustees' Representatives Reach Agreement.

Temple of Art Will Probably be Started This Year.

Every difficulty that has stood in the way of the art museum project was apparently swept aside at a meeting of city council committees yesterday with City Solicitor Baker and representatives of the trustees of the art museum funds.

From all appearances ground will be broken for the new structure in Wade park before the year is over. Architect Hubbell expressed the belief that if this start was obtained the building could be completed in two years.

City Solicitor Baker, who has for a long time opposed the plan of giving the trustees a deed to any more Wade park property than it would turn over to the city in exchange without free day and other restrictions, came out yesterday in strong support of the substitute ordinance which is at present under consideration.

Baker said that there was no legal objection to the proposed trade which would give the city a larger tract of land than it is deeding to the trustees for the new building, and that even if a building was not erected the city would still be the gainer.

Description Not Ready.

The new description of boundaries required for the substitute ordinance was not ready yesterday, but the or-

dinance will be submitted to City Solicitor Baker before the council meeting Monday, and his approval and the approval of the three council committees to which the matter was referred some time ago will be obtained in advance, so that the ordinance can be passed under suspension of the rules before the council vacation commences.

Trustee Hermon A. Kelley said that he would make an effort to have a meeting of the three boards by Sept. 1, so that the modified plans could be approved and the contracts let as soon as possible. A number of the trustees are out of the city at the present time.

While no formal vote was taken at yesterday's meeting the discussion indicated that every one of the nine committee members was in favor of the substitute ordinance. Chairman Sprosty, who was formerly opposed to proceeding without free day and other stipulations in the deed, is satisfied with the present arrangements.

The trustees have agreed that property which they acquire will not be used for anything but park purposes until they are ready to proceed with the erection of the building.

HOLDS CITY MIGHT SELL BURIAL PLOT

Solicitor Baker Believes Title to Erie Cemetery Belongs to Cleveland.

Thinks Tract Might be Allotted and Sold to Highest Bidder.

COUNCIL HAS POWERS

May Cause Removal of Bodies From Eighty-Year-Old Burying Ground, Says City Solicitor, and Sell Valuable Down Town Tract to Highest Bidder—Baker Declares Fee Simple to Land Rests With City and That Graveyard Lot Owners Are Merely Licensed.

If the city takes advantage of an opinion forwarded to Public Safety Director Hogen yesterday by City Solicitor Baker, steps looking toward the removal of the bodies in old Erie street cemetery will be taken and millions of dollars raised by cutting the abandoned cemetery into lots and selling them for business purposes.

CEMETERY DEEDS DISPUTE BAKER

County recorder's records dispute City Solicitor Baker's ruling that the city has a right to remove bodies from E. Ninth-st cemetery and sell the land.

Aug. 12, 1825, Wm. Eldridge, living in Tolland, Conn., deeded to Leonard Case his interest in the land now used as the E. Ninth-st cemetery. In the deed is the express condition that the land is "for use only as a burying ground forever."

On Sept. 19, 1825, Chas. Douglas, Westfield, Mass., deeded his interest in the land to Case "to hold forever in trust for use in the village of Cleveland as a burying ground."

Baker denied Tuesday either deed figured in the city's present right to dispose of the cemetery land as it saw fit.

No immediate action is to be taken by the department of public safety, as Director Hogen announced yesterday that a public meeting would be held Wednesday morning at 9:30 o'clock at which all interested would be given an opportunity to express themselves on the question. Active members of the Early Settlers' association have from time to time come out against proposed plans to abandon the old cemetery and it is probable that pioneer residents of Cleveland will be present at the meeting at the city hall.

Tombstones in the old cemetery bear the names of members of hundreds of Cleveland's pioneer families who died early in the last century. At the E. 9th-st. entrance are the old headstones marking the graves of the Carters. In the opinion of members of the Early Settlers' association Lorenzo Carter and not Moses Cleveland is entitled to the title of founder of the city, as he was the first settler to stay in Cleveland. Moses Cleveland came from the east as surveyor for the Connecticut Land Co. and after he had laid out the streets now in the down town section he returned to his home in the east. Lorenzo Carter came here shortly afterward and made the Western Reserve his home.

Opinion is Explicit.

The opinion of City Solicitor Baker is in part as follows:

On the 16th of June you wrote me with regard to the Erie-st. cemetery saying that the question of the vacation of a considerable portion of the Erie-st. cemetery had been brought to your attention by the Hon. A. W. Lamson and his associates. The suggestion is that a strip fronting on E. 9th-st. for a distance of 335 feet and a depth of 136 feet should be abandoned for cemetery purposes, there being in the tract as above described 1,182 bodies and the principal questions involved are first, as to the city's right to use this property for any other purpose

than a cemetery; second, the right of the city to require the removal of bodies now interred there; and, third the procedure for carrying this change into effect. You ask me to tell you not only what powers the city has in the matter, but to cover it as thoroughly as possible and for this reason I call your attention in the first place to the fact that Erie-st. cemetery was acquired in September, 1825, by Leonard Case, trustee, and on the 29th day of March, 1826, Leonard and Elizabeth Case conveyed the land by quitclaim to the village of Cleveland. Almost immediately the land was laid out and platted as a cemetery and continuously from that time until recently the Erie-st. cemetery was a public cemetery, owned and maintained by the city, and very many burials were authorized there, the number aggregating, I am told, perhaps 20,000.

Upon the question as to the nature of the city's title, I am wholly free from doubt. Originally the property was owned by the Connecticut Land Co. and it subsequently came into the possession of Caleb Atwater, and forty-seven others who deeded it to Morgan, Caldwell and Brade as trustees by quitclaim deeds from Eldridge and other joint proprietors. Leonard Case became the owner of the draft interests of William Eldridge, Thomas Lloyd and Charles Douglas. Mr. Case then filed a petition suit, stating that he was tenant in common with divers other persons, including that covered by the Erie-st. cemetery and asserting a fee simple title to the lots in question. Commissioners were appointed in partition and the land now Erie-st. cemetery was set apart in fee simple to Leonard Case and afterwards Leonard and Elizabeth Case sold the land to the village of Cleveland in fulfillment of the trust heretofore reposed in said Leonard Case by the trustees of the village. All that this can mean is that Mr. Case had been requested or authorized to acquire land suitable for a public cemetery for the village. He took the title in his name as trustee, very properly, and after the necessary legal formalities had been concluded and he had a clear title to the property he conveyed it to the village. The city therefore owns a fee simple interest in the land and is under no obligation either by covenant or condition to devote it to any particular public use. So that, the city owning this land for a cemetery, there can be no doubt that the city could devote it to any proper public use or if it was not needed for public uses could authorize its sale and give good title to it.

Fresh interments might perhaps constitute a nuisance particularly in a very thickly settled and congested city, but the remains of those long interred could not come within the scope of this power. The courts have been very slow to recognize the right of anyone to interfere with an established cemetery. There are decisions of entirely respectable courts of last resort which deny the power. There are others which affirm its existence. In Ohio we have no decided case which I have been able to find settling the question for us. I incline to believe, however, very strongly that the true rule is that where the land is maintained as a public cemetery and the lots are sold therein as is done in the public cemeteries in Cleveland, such sales are really mere permits or licenses authorizing burials in designated areas within the cemetery and the person thus licensed acquires such an interest in the designated part of the soil as will enable him to resist trespass thereon even by the city itself, but that limit of duration of the license is the time for which the cemetery is maintained for cemetery purposes.

My opinion therefore is that the city owns Erie-st. cemetery in fee simple; that it has a legal right not only to prevent further interments therein but to direct the discontinuance of the cemetery as a cemetery. Further that the city has the right by suitable legislation in the council to direct the removal of remains from this land and their interment in some other suitable place, notice being in each case first given to those entitled thereto if any such can be found and if no such person can be found, then the removal to be made by the city in a decent, respectable and orderly way.

KOHLER PUTS FIGHT VIEWS UNDER BAN

Police Head, Following Baker's Ruling, Bars Display of Jeffries-Johnson Pictures.

Exhibition of Jeffries-Johnson prize fight moving pictures will not be permitted in Cleveland. Chief Kohler Monday put the ban on the fight films, after receiving a letter from City Solicitor Baker, who ruled a display of the pictures would be illegal.

Baker's letter to Kohler was a copy of an opinion that had been sent to Maehrbaehr July 7.

On orders of Kohler, every moving picture house was to be visited before noon Monday. Another visit was to be made to the picture shows Monday night.

"I want no misunderstanding about the order," Kohler said. "Patrolmen who notify moving picture places will report to whom the order was delivered, the time, and so forth.

"I am glad City Solicitor Baker ruled the way he did. The barring of the fight pictures in Cleveland is another long step towards keeping the city free from trouble."

Here is the way Baker, according to his letter, arrived at his decision:

A section of the revised statutes says prize fighters shall be imprisoned for not more than ten years nor less than one. If the Jeffries-Johnson encounter had taken place in Ohio, both the principals would have been felons, and would have been sent to the pen.

"Prize fighting is therefore a crime, and a high degree of crime," Baker wrote.

Baker then pointed out that it is unlawful for moving picture shows to exhibit pictures of crime. First violations of this law may be punishable by a fine of from \$50 to \$500 and second offenses by imprisonment of 30 days to six months.

"I am therefore of the opinion that the exhibition of moving pictures of the prize fight at Reno would be an exhibition of crime," said Baker, "prohibited by the laws of the state."

HOSPITAL COMPACT CALLED REVOCABLE

City Solicitor Holds Plans of Sanitarium Need Not be Drawn by Dyer.

Rules Safety Director Controls Tuberculosis Institution.

City Solicitor Baker believes the contract made by the former administration with Architect J. Milton Dyer for the construction of the tuberculosis sanitarium is revocable. The city solicitor also informed Public Safety Director Hogen yesterday that the matter of selecting an architect for the \$250,000 building at Warrensville and arranging the terms were in his hands. The contract must be approved by the council. In a written opinion also forwarded to the director of public safety yesterday the city solicitor held that the building and management of the institution were in the hands of the director of public safety. The board of health has no control over the institution in the city solicitor's opinion.

The city council will have a special meeting next Monday afternoon or evening in order to receive necessary bond legislation and expenditure ordinances. It was reported yesterday that a number of ordinances that have hitherto not been suggested will also be given first reading at the meeting. Mayor Baehr will have a meeting with City Solicitor Baker today. The special meeting and the matters to be taken up at the special council meeting were discussed at a meeting between the mayor and city solicitor late yesterday afternoon.

City Solicitor Baker, in his opinion on the question of the management of the tuberculosis sanitarium also answered a letter from Supt. Ford of the health department relating to the management of the quarantine hospital at Warrensville. In the opinion of the city solicitor the board of health only has control of this institution while there is an epidemic and its control over hospitals in general where cases are removed at such times is also absolute.

It was reported yesterday that questions put to the city solicitor served the purpose of raising the question of the right of the safety department to operate the Scranton rd City hospital and that, if City Solicitor Baker had held that the board of health should build and manage the tuberculosis sanitarium the larger question would have been raised. The city solicitor's opinions reached the director of public safety late yesterday afternoon. One related to the building and management of the tuberculosis and quarantine hospitals and the other to the employment of an architect for the tuberculosis sanitarium.

The opinion to the effect that the Dyer contract contains a revocable clause was not given in writing. Director Hogen said yesterday that he had not reached any decision regarding the advisability of accepting the Dyer contract.

DEPOT ACTION TO BEGIN ON FRIDAY

Railroad and Other Interested Attorneys to Sit With Station Committee.

City Solicitor Hands Down Opinion That Site Can be Sold.

Mayor Baehr, after a consultation with Chairman Adams of the union depot commission on City Solicitor Baker's opinion, dealing with the right of the city to dispose of lake front land, yesterday, called a meeting of the commission for 3:30 o'clock Friday afternoon. The mayor invited attorneys for the railroads, Attorney John G. White, Solicitor Baker and Attorneys Hogsett and McKeehan, interested in the situation, to meet with the commission.

Future action in the depot negotiations will undoubtedly follow a course mapped out at this meeting. Mayor Baehr is hoping developments will be such that further bars to a speedy closing of negotiations will be removed.

Baker's opinion was given Chairman Adams last week. He met with the mayor at noon yesterday. There was a general discussion of the opinion and the best means of handling the situation, resulting in the call for Friday's meeting.

Briefly, the solicitor expresses the opinion that the city has ample power to proceed.

"Under the appropriation statutes as they at present exist," Baker says, "it is competent for a municipal corporation to acquire by condemnation for any of the enumerated purposes set forth in the statute a fee simple interest in the necessary land; and by recent amendment to the statute, it is also competent for a municipal corporation which has heretofore acquired a limited interest in real estate, again to institute appropriation proceedings, and to acquire all that remains, thus vesting in itself a fee simple title.

"By other provisions of the statutes a city owning real estate appropriate to be used for a railroad depot, is authorized to agree by ordinance for the sale of the land, upon conditions stipulated in the ordinance, to the railroads for that purpose, such ordinance being required to be submitted to a referendum vote of the people.

"By still other provisions of the statute, railroad companies and union depot companies are empowered to exercise the right of eminent domain to acquire land for depot purposes. Another recently enacted statute authorizes the city, which is in the process of grouping its public buildings, to acquire land for the purpose of reselling with restrictions, in order that the approach, appearance and usefulness of the grouped public buildings may be preserved.

"So that there are a number of powers, some in the city, some in the railroad companies, some well settled by decisions of the highest courts, some so recently enacted into law that their validity has not yet been passed

upon. As to those laws not yet passed upon by the courts, the presumption is, of course, in favor of their validity, and no reason occurs to me at this time for expressing any doubt on the subject, but you, and the members of the depot commission will appreciate that in a condition of the statutes so intricate and in part so novel no lawyer can say positively what view the courts will ultimately take.

"You will equally appreciate I am sure, that any forecast of the time likely to be consumed in possible future litigation would be wholly unreliable."

Baker, in beginning his opinion, says he knows not what the considerations are that, arising in the depot negotiations, caused the depot commission to ask the opinion. He says he has had no opportunity to become acquainted with the difficulties attending the preparation of a contract with the railroads, or the doubts engendered. The opinion then rehearses the manner in which the city became possessed of the land in question. In-

identally, too, the solicitor says that some of the outstanding reversionary rights represented by John G. White, as he understands it, are available for purchase by the city so soon as Mr. White and his associates could be satisfied that the general plan for transferring the land from the city to the railroad company was fair to the public interest.

The solicitor reiterates former expressions that if the city and railroads can agree upon terms likely to meet with the approval of the people in a referendum election, the attorneys representing the railroads and the city would no doubt be able to find some way to cover in any outstanding and conflicting claims.

Concluding the opinion says:

"In negotiations between the railroad companies and the city prior to the appointment of the present union depot commission, these questions had some consideration. The lawyers for the railroad companies and the city solicitor agreed that if terms could be agreed upon between the railroads and the city which were deemed fair and just by both parties, it would be possible to work out some plan by which the transaction could be legally effected. I still entertain that view, but whether it would be by an attempt first to secure an undisputed fee simple estate in the city, through the exercise of its corporate powers, or by a resort to some of the powers conferred upon railroad companies, would be a question to be carefully considered by both parties to the arrangement, and that course adopted which seemed to promise both the most definite results and the least likelihood of delay from litigation about doubtful statutes.

"I have attempted in this communication as fully as I can to state the facts as they exist, and to point out the legal considerations involved. I trust that it will be understood that I hold myself in readiness to meet at any time with the commission, and that if my opinion upon the probabilities of possible litigation seems to be important before the commission can proceed further with the administrative end of their negotiations, I will be very glad to take the subject up with the commission and advise them."

SMOKE PENALTIES HEAVY.

Railroads to be Included in New Ordinance City Solicitor Will Draw Up.

Following announcement of his opinion that the city has a right to compel railroads to use hard coal in the operation of their locomotives, City Solicitor Baker has expressed his willingness to draw up an ordinance with provisions in it compelling the roads to proceed at once to abate the nuisance.

Combined with the proposed legislation will be some strict provisions governing the smoke evil generally. The city smoke inspector has always complained that he has been handicapped in enforcing the law, owing to the lack of penalty for violations. Efforts are to be made to overcome this defect.

Penalties which will be adequate to the offense, will be included in the proposed ordinance.

THE AMERICAN MAGAZINE

The Ohio Situation

In Ohio, while the situation is similar in its broader aspects to that of New York, the Democrats are in a far better tactical position. In Ohio, as in New York, there is a discredited Democratic machine, having among its pillars some of the most unsavory politicians in the state. There are also many idealistic Democrats, but unlike the conservative New York group led by Osborne and Shepard, they are divided into a radical wing composed of men like Tom Johnson and Newton D. Baker of Cleveland and Brand Whitlock of Toledo, and a conservative wing led by Governor Judson Harmon.

HAS OPINION ON DEPOT

City Solicitor Completes Rough Draft of Ideas on Legality of Site Sale.

City Solicitor Newton D. Baker completed the rough draft of his union depot land opinion yesterday afternoon. The solicitor will put the finishing touches on the opinion this morning and at once transmit it to the mayor's office.

Mayor Baehr is not expected back until Monday, and the opinion will not reach the union depot commission until Monday afternoon. Baker previously has said that he did not believe the question of the right of the city to sell the lake front land to the railroads is a serious one. He refused to forecast what the latest opinion will say.

MORE DEPOT DELAY; GO TO COURTS NOW

Baker Rules City Can Have Fee Simple Title, but Adams is Chary.

'T WILL MEAN MONTHS

Chairman of Commission Refuses to Go Ahead Without Final Court Decision.

Despite the fact that City Solicitor Baker in a report handed Maehrbaehr Monday said he could find no great legal difficulties in the city's obtaining a fee simple title to all the lake front lands needed for union depot purposes, there now will likely be a delay of many months legally to settle the question in the courts. The union depot commission will meet next Friday to consider Baker's report.

Chairman Adams of the commission said Monday that no matter what Baker and other attorneys might say, a question of the city's rights in the proposed site would in any event have to be thrashed out in the courts before the railroads would consider buying the land.

Adams conferred with Maehrbaehr a few minutes Monday after handing him Baker's report. He said the opinions of the lawyers were but in a nature preliminary to court proceedings.

Can't Help It, He Says.

"We have as much right to name a price on the Superior building as we have now on this lake front land," Adams said. "I can't imagine the railroads buying any property about which there is the least question of the seller having a clear legal title. I cannot see any other way out of this than to go to the courts."

Baker's report, five pages in length, goes at length into the legal phases involved in the lake front land. He holds to his original position that the city can apparently acquire a fee simple title to the 35½ acres without much difficulty. He goes over the history of the reversionary rights involved, naming the different owners, and what may have to be done to secure their rights. He said these could be purchased by the city without any great outlay of money.

In this he differs with Atty. Hogsett and McKeehan, who recently told the commission the city might have great trouble in acquiring a fee simple title or purchasing the reversionary rights.

Copies of Baker's report are to be mailed to all members of the depot commission. Chairman Adams said Monday they would be given time until Friday to study the report before a meeting was called. Adams said it would be no use in calling a meeting immediately just to hand Maehrbaehr the report.

BAKER ASKED FOR SECOND DEPOT RULING

Opinion Furnished by Atty. McKeehan and Hogsett Complicates Situation.

It developed Thursday that the advice received by the union depot commission throwing doubt on the legal rights of the city to sell lake front land to the railroads for station purposes, and tangling the negotiations still more, came from Atty. H. H. McKeehan and T. H. Hogsett.

Chairman Adams made this statement Thursday. City Solicitor Baker, at the commission's first meeting, told the members he believed there would be no legal difficulty in making the land sale. Now comes the opinion of the other attorneys. If sound, all chances of building a union depot on the lake front site are gone.

Doubt Right to Get Land.

According to the report the lawyers have advised the commission there is some doubt as to the city's right to acquire a fee simple title to the land, if the purpose is to convey it to the railroads to build a depot and not to use it for park purposes. Intimation is also made that the city may have to purchase reversionary rights to a part of the property before it can be sold to the railroads.

Baker is again asked to make a ruling on the questions. If he says there is a reasonable doubt existing regarding the city's rights the commission may advise court proceedings to find out just where it stands. Atty. John G. White has threatened already to enjoin the city from selling the land unless a fair price is realized for it. Such a suit would establish all rights concerned.

Baker's Opinion Saturday.

Baker told Maehrbaehr Wednesday he would have his new opinion ready by Saturday. A meeting of the commission has been called for Monday to receive his report. On previous occasions Baker has stated his belief that while some reversionary rights may have to be purchased, there would be no trouble in securing them at a reasonable price.

CAN ISSUE BONDS WITHOUT ELECTION

City Will Have Power to Increase Debt by Over \$4,000,000 Next Year.

Victory at Polls Will Not Increase Taxpayers' Burdens.

Mayor Baehr's administration, by reason of the new tax duplicate, assessed by the real estate appraisers, to which is to be added the personal tax duplicate, will be enabled to issue from \$4,000,000 to \$9,000,000 worth of bonds next year without a vote of the people. City Solicitor Baker has told Mayor Baehr that the new duplicate will be available for the purpose of issuing bonds next May or June.

BAKER NOW INDORSES ANTI-SMOKE PLANS

Railroad switch engines operating within the city limits may be compelled to use anthracite coal or coke if an anti-smoke ordinance advocated by Smoke Inspector Walsh is passed. City Solicitor Baker late Tuesday ruled such a reform could be legally effected, although last month he reported adversely.

DISCUSS SUIT IN DEPOT SITE CASE

City Officials and Commission
Will Probably Request
Solicitor to Act.

Search for Quitclaim Deed in
Records is Made
in Vain.

City Solicitor Baker will probably be requested by the union depot commission, at its meeting in Mayor Baehr's office this afternoon, to begin court proceedings to determine the actual status of the city's power in selling lake front park land for new union depot purposes. Mayor Baehr said last night that he anticipated some such outcome from today's meeting.

The commission will meet with the mayor, Baker and Attorneys John G. White, Homer H. McKeehan and T. H. Hogsett at 3:30 o'clock. Mr. Baehr said last night that White had promised to be present.

"The entire situation will be threshed over," said Baehr, "and the best means of proceeding considered. The city solicitor may be requested to take the question involved to court at once."

When the commission meets, discussion of Mr. Baker's opinion of last week, in which he said he believed there were no serious difficulties in the way of the city securing a fee simple title to the land in question, will be the means of opening the meeting. Attorneys White, Hogsett and McKeehan are expected to present their views, after which there will be a general talk.

City Clerk McCray, Baker and Auditor Wright have been working the last two or three days in an effort to find evidences of a quitclaim deed to the city for the property in question. A few days ago a citizen, whose name Mayor Baehr won't tell, called on the mayor and said that S. T. Everett, then city treasurer, refused to turn over money for the land in question until a quitclaim deed was secured.

With this information in his possession the mayor ordered a search for the deed and other documents. Baker and McCray have been unable to find any deed for the property. Auditor Wright can find no record showing payments for the land and the annual city report for 1873, the year when the land was purchased, has disappeared.

Court records are also being searched, but without avail.

Attorney John G. White laughed at the story of a probate court record of appropriation proceedings under which the city may lay claim to a fee simple title to the land. White says the discovery is nothing more than the proceedings on which he based his suit restraining the city from leasing the E. 9th-st pier. White showed a copy of the court record and incidentally said that thieves three times have stolen from the court the records of plats of the land now figuring in the depot negotiations.

The record displayed by White says the city shall be given a fee simple title to the land to be used for park purposes. White then read a statute providing a city shall have nothing more than an easement in property thus acquired. He says this law cannot be overthrown.

the railroads want to put on the land and it has got to the point of where the question arises, can we deliver the land?

"Now, in your letter to the mayor there are just two things that we desire to consider today. First, under the law, is it possible for the city to acquire the reversionary rights and secure a fee simple title to the land?"

"I think we can," replied Baker. "Particularly if the railroads are agreeable. A plan can be worked out where it can legally be effected."

"What would you recommend?" inquired Adams.

"Has the commission discovered whether the railroads really want to buy the property?" inquired Baker.

"They have been glad to negotiate," answered Adams.

"It would be more or less idle to speculate as to litigation unless both parties seriously and earnestly desire to go forward," said Baker. "Now, it seems to me rather curious that the appointment of a commission should be made without the advice of the council or the solicitor and then, when the commission is nearly through, to ask legal advice. I am free to say that it is important that the city secure a fee simple title to the land. Quite apart from the work this commission is doing I want to say that I have been scandalized by the idea of buying land without securing a fee simple title. Now, my first question was whether the railroads really want to buy the land?"

"When negotiations were on before it was understood that the city had a perpetual easement in the land and that the subsidiary rights were of no substantial value. The thought in my mind at that time was whether it would be better to have the city buy or the railroads buy these subsidiary rights. If the railroads bought, the amount they paid for the rights was to be deducted from the price fixed by the city.

"I have no cocksure opinion as to whether that is the wise way to proceed or not. My notion is to have the lawyers representing the railroads say what they think of the city's rights. I am entirely of the opinion that if the council orders appropriation for park purposes that no court will permit an injunction on the theory that some day the land will be used for something else. I believe the city can acquire a fee simple title to the land."

"In regard to the question of whether the railroads really want to buy the land," began Chairman Adams in reply to Baker. "The group plan is not of the making of 1910. It has been planned for years. As a part of that plan it was understood the union depot was to be located at the foot of E. 3d-st. The railroads understood it. They have prepared plans for it and there doesn't seem to be any question in the minds of the commission that the railroads will build it there if they can get the land. There is no question that the lake front property is what they want, because, as I say, they have furnished us with plans and a lay out of the building.

"I want to ask Mr. Jerome with what kind of a title the railroads will be satisfied? Of course, I take it for granted that a satisfactory price will be reached."

"The railroads wouldn't be satisfied with anything less than a fee simple title," answered Jerome. He agreed that questions involved could be worked out, and suggested that the best way to proceed was to have the city appropriate the fee, and having done that, sell or lease to the railroads. He said a sale would be the best plan.

"Would you recommend us placing a price on the land until a fee title is obtained?" asked Adams of Baker.

Baker answered that he didn't think the question one proper for him to answer. He said he was a lawyer and Adams a much better businessman than he.

Baehr interposed to say that Adams meant the commission did not know what it would cost the city to get outstanding rights so a fee sim-

ple title could be given. Baker answered that it wouldn't be wise for the city to enter into a contract where it would be liable for damages.

The mayor then asked White to express his opinion.

"I think everybody knows how I feel on this proposition," remarked the attorney.

"You have given a good deal of thought to the question," suggested Adams. "Do you think a title can be acquired so that the city may deliver the land to the railroads?"

White answered the city had no right to secure a fee simple title. He said it could not be done by appropriation proceedings and that when land is appropriated for public purposes it must be used for public purposes whether a fee simple title is secured or not. He said the reversionary interests involved in the lake front land was a minor question. He said the state could not give the city power to divert property from the use for which it was acquired.

"My opinion is that the city cannot use that land for any other than park purposes," he said. "I disagree with my friend Baker that the courts would ever shut their eyes to the fact that the purpose of acquiring subsidiary rights was that the land could be turned over to the railroads.

"Everybody knows that I don't believe in a depot in this place. It would spoil the public buildings being erected and if built on the lake front, would shut off the unique beauty of this city; a view from an eminence over the water in a setting sun. I know as a matter of fact how much this park has been used by the people, but the people say they want the depot there—and I know the coming generation will say it is a mistake—I will bow to the wishes of the majority. If the land is transferred for less than a full value it will meet with resistance on my part to whatever point the law permits, either, through the exercise of my rights as a taxpayer or the reversionary rights I may have in the property."

"Do I understand you to say that if the price is right you will not object?" asked the mayor.

"My objections are not at all affected by the price," answered White, "but my insistence on the exercise of those rights is affected by the price."

"Can the city acquire the right to sell?" asked Adams.

"I have already stated my views," answered White.

"That it can not?"

White nodded assent, and said further, that if his view of the law is correct, an election, wherein the people approved a sale, would make no difference.

Attorney Boyle said he thought White had expressed his views. He said the city could not acquire a fee simple title for any other than public purposes; nor did he believe it could acquire the reversionary rights with the end in view of turning them over to the railroads. He thought the best way of proceeding would be for the city to turn over its rights in the land. The deed approved by the people, and then the railroads, it could, he said, by appropriation proceedings, obtain the reversionary rights. He said, incidentally, a large part of the property was obtained from the C. & P. railroad. Boyle said this would be a consideration in the deal.

"Of course the company ought to abandon its claim," insisted Solicitor Baker.

"I mentioned it as one question that comes into that of price," answered Boyle.

Boyle said, under such a plan, he didn't see how a taxpayer could object.

McKeehan said suit should be begun at once and expressed surprise that suit had not heretofore been instituted.

"We have heard from Mr. White that we are going to have a fight," he said. "The best way is to start

some kind of a test suit."

He argued against fixing a price until the courts had acted.

Baker warned the conference that the suit meant not a brief, but a substantial delay and he said if the suit was decided adversely the city would be in the position it now occupies. Baker intimated the fight would be a vigorous one with Mr. White in opposition, which brought forth reply from White, who said:

"You are assuming I am in the fight. I say I am not in it until the question arises of donating the land."

Lincoln, Nebraska, July 15, 1910

DEFEAT IN OHIO

Some of the corporation papers in Ohio are rejoicing over what they call Mr. Bryan's defeat. The turning down of the resolution in favor of nominating a senator was not a defeat for Mr. Bryan; it was simply an exposure of the corporation tendencies of some of the democrats in Ohio, and exposure of the inconsistencies of still others. Mr. Bryan can afford to be turned down by any state convention that cares to go on record as the Ohio convention did. He has been turned down many times before and there are probably many such turn downs in store for him yet, but he still believes that the democrats of Ohio could make a better fight facing the enemy than in running from the enemy, and Mr. Bryan believes that as long as the democratic party has men like John R. McLean aspiring to the senate it can not afford to leave the voters in doubt as to whom the senatorial candidate is to be in case of victory.

Governor Harmon may have satisfactory reasons for throwing his influence on the side of those who are opposed to nominating a senator, but if so he has not yet made them public. Possibly he thought that the nomination for senator might have lessened his chance of election, and his election may be so important at this time that Ohio can afford to throw away the chance of electing a democratic senator. That is a question for the democrats of Ohio. But Mr. Bryan finds some consolation in the fact that the fight brought out a brave man, as it did in the case of Mr. Baker, and it is worth a fight to discover a brave man. He finds some consolation also in the fact that there were about two hundred and fifty unterrified democrats who stood up and voted for the nomination of a senator in spite of the administration, the breweries and other corporations that do their work in the dark. May the tribe of the faithful increase!

RULES AGAINST OLD FORCE

City Solicitor Holds Collinwood Police and Firemen Must Come From Regular Lists.

In the opinion of City Solicitor Baker the city has no authority to make the members of the old Collinwood police and fire force members of the Cleveland departments unless they are appointed in regular order from the lists of eligibles as prepared by the Cleveland civil service commission. A petition signed by 600 residents of old Collinwood asked that the members of the old force be retained.

"The people of Collinwood will have satisfactory police and fire protection," said Director Hogen yesterday. "There will be a regular city fire company at the station and a new fire engine will soon be in use in the district. Chief Kohler will assign a number of men from the regular force to the Collinwood district."

In his opinion prepared for Director Hogen the city solicitor declares that any additions to the city police or fire department after the annexation of a village must be made without regard to the members of the old police and fire departments in the village and that no exception can be made in their case.

CITY'S TEST SUIT HALTS DEPOT PLANS OVER YEAR

Union depot negotiations were halted for at least 18 months late Friday, when Maehrbaehr, depot commission members and attorneys decided to go to court with a suit to test the city's rights in the 35 1/2 acres of lake front land included in the station site.

The decision to resort to a test suit came after Atty. John G. White said he would fight any effort to sell the land to the railroads at a price he considered low. Atty. Homer H. McKeehan and City Solicitor Baker recommended the suit as the best method of settling the disputed questions.

Will Take Over Year.

McKeehan said it would take at least a year and a half to thrash the matter out in court, under the most favorable conditions. That members of the commission are not sanguine of earlier results was seen in Secretary Taylor's remark to President Adams at the close of the meeting.

"I'll see you here next year," said Taylor.

Baker and F. J. Jerome, counsel for the Lake Shore, were the only lawyers to express belief the city could legally acquire a fee simple title to the land in question. Atty. W. C. Boyle,

representing the Pennsylvania railroad, agreed with White this could not be done. He suggested the railroads purchase the reversionary rights if the city couldn't deliver a title.

The test suit will embody two questions—first, whether the city can acquire fee simple title, and second, if it can deliver the land to the railroads after title is secured.

White said neither could legally be done. He declared the law plainly gave the city but an easement in the property appropriated for park purposes, and its abandonment for such uses would work a reversion to the original owners. He said even if fee simple title was acquired any taxpayer could stop the city delivering the land to the railroads.

Begins Suit at Once.

Maehrbaehr instructed Baker to begin suit at once. In its preparation much time must be spent in tracing the original owners and their claims to reversionary rights. Even with the test suit decided favorably to the city there yet remains the chance of White fighting the sale of the land to the railroads at any but a fair figure.

Maehrbaehr instructed the commissioners they need take no further action until the suit was decided.

PROSECUTORS QUIT, BACKED BY BAKER

Refuse to Try Cases Before Acting Police Judge Who Banished Bernstein.

Charge City Officials With Mixing Politics With Justice.

Hurling charges that some city officials under Mayor Baehr are "four-flushing," tampering with justice in the police courts for the sake of party politics, the police prosecutors, backed by City Solicitor Baker, struck yesterday against allowing Attorney Richard Lee to fill the place of acting police court judge.

When one prosecutor after being accused by the judge of playing to the newspapers and playing politics

had hurled back the charge into the judge's teeth, he was summarily dismissed from the court room. Immediately the other prosecutors aligned themselves on the side of their fellow prosecutor and refused to try the cases in Lee's court room while he was on the bench.

"You did perfectly right. I will stand back of you to the last ditch," are the words in support of the strike given by City Solicitor Baker, according to the prosecutors who talked with him. With this backing the prosecutors declare that if Judge Lee tries any more cases in police court he will have to do it without aid from their office.

NO DEPOT SUIT SOON.

City Solicitor Expects Long Research Into Documents.

City Solicitor Baker said yesterday that it would be some time before there would be any developments in the proposed test suit to determine the right of the city to sell lake front land for depot purposes. Mr. Baker intimated that it was a question of many days and possibly weeks to prepare papers for such a suit.

"I shall make my report to Mayor Baehr when there are any developments," added the solicitor.

BAKER IN ROLE OF PROSECUTOR

Solicitor Baker put off urgent business at city hall Monday to act as prosecutor before Acting Judge Lee. Lee had threatened to get his own prosecutor and put the bill up to the city if none of the regular prosecutors appeared.

Prosecutor Maurice Bernstein, who had the row that started the strike of the prosecutors, Monday still refused to go into Lee's room. Prosecutor Dan Cull, out on sympathetic strike with Bernstein, remained away. Prosecutor Wm. Geier, just returned from his vacation, stood with Bernstein.

Baker and Lee exchanged no words over the Bernstein-Lee fight.

PLACES BAN ON LOAN AGENTS.

City Treasurer Won't Recognize Employees' Pay Assignments.

City Treasurer Davis, acting under a ruling from City Solicitor Baker, will hereafter refuse to turn over the salary of any city employe to a loan agent. A notice to this effect has been posted in the office of the city treasurer.

Hereafter salaries will be paid direct to city employes whether assignments have been made or not. "The city solicitor has decided that I need not regard the loan agents," said Davis yesterday.

DEMOCRATS PLAN JOHNSON GREETING

Will Open Fall Campaign When Former Mayor Returns for Battle.

Harmon to be Invited to Share Honors as Speaker.

Democrats will open their local campaign with a rousing welcome home to former Mayor Tom L. Johnson. The date probably will be about Sept. 10, the exact day depending on Mr. Johnson's arrival in the city.

Gov. Harmon will be invited to share the honors with Mr. Johnson and to be one of the speakers. It is expected that an invitation also will be extended to Atlee Pomerene of Canton, Democratic candidate for lieutenant governor, who is known in state politics as an ally of the former Cleveland mayor. City Solicitor N. D. Baker and other local Democratic leaders are expected to be among the speakers.

CHIEF'S NEW RULES UPHELD

City Law Department Backs Up Kohler in Forbidding Police-men to Organize.

No flaws can be picked in the police rule forbidding the organization of societies in the department, according to the city law department. That department, City Solicitor Baker said yesterday, has passed upon the code. The police, forbidden to organize Friday by Chief Kohler, said they intended to get an attorney.

Secretary Marvin, of the department of safety, refused to comment on the situation in the absence of the director. He said the new rule book would be out in a few days.

In the fire department there is a Dauntless Club. This is composed of a majority of the younger firemen. So far as Chief Wallace knows it has not mixed in department politics and is not subversive of discipline.

"It has the effect of any social club," the fire chief said. "I suppose the men on the inside of it are closer together than they would be with men outside."

LOAN AGENTS' GRASP FAILS IN CITY HALL

Solicitor Baker Tuesday ruled Treasurer Davis could not legally be compelled to accept power of attorney granted loan agents by city employes. Davis said the ruling would go far to aid his fight to oust loan companies from the city hall.

Davis said Tuesday he has been notified that loan agents would bring suit to compel him to accept power of attorney if he persisted in refusing. He will act under Baker's ruling and refuse to accept assignments of city employes' salaries to loan companies or any power of attorney which may be granted them by employes.

"I think my fight against these people is won," Davis said. "We will continue to fight them, in the courts if necessary. They must be ousted from city hall."

Davis said some city employes had assigned their wages two or three years ahead. He declared loan companies took most of these men's salaries and left but a pittance for their families.

MAY SECURE HER FREEDOM

Friends of Police Court Defendant Call Procedure Illegal.

Hundreds of police court prisoners may secure their freedom on a technicality, if the courts decide that Ella Hauver is wrongfully held a prisoner at the workhouse. The case was be-

fore Common Pleas Judge Keeler yesterday, but was continued until this afternoon. The decision will apply to all prisoners from police court.

The Hauver woman pleaded guilty to a charge of intoxication before Police Judge McGannon on Aug. 5, and was sentenced to the works. Her friends desiring to secure her freedom, communicated with attorneys, who say that upon investigating, they found the practice in vogue in that court to be irregular.

The arresting officer does not ordinarily swear to any affidavit to the effect that the accused has violated an ordinance or law. Instead, printed forms are used, and filled out by Court Officer William Halloran. These papers, it is admitted, are never sworn to before Police Clerk Paul Schreiner, according to the strict interpretation of the law.

That the woman was arraigned on such a paper, is charged by her attorneys, and is admitted by City Solicitor Baker, who represented the interests of the city in the case. Baker contends, however, that the woman waived all exceptions to any defects in the affidavit by her plea of guilty. Attorney Thomas Brinsmade, who represents the Hauver woman, claims, however, that the woman could not plead to the paper, as it was not an affidavit, inasmuch as it had never been sworn to.

COURT HOLDS WITH KOHLER IN PICKETING

Chief Kohler has the legal right to keep patrolmen in front of the Boulevard Park hotel, St. Clair-av near East boulevard. Judge Vickery gave this decision Tuesday when he dismissed a petition brought by John Stich, the proprietor, to enjoin Kohler from continuing watch on his place.

"Testimony of the police proves the Stich place to be a disorderly resort," Judge Vickery said.

Atty. Wm. Hart, representing Stich, quoted from an opinion of Mayor Gaynor of New York, given when Gaynor was on the bench, to show that it was unconstitutional to keep police pickets in front of the hotel.

City Solicitor Baker said the Stich place was a menace to public morals.

Atty. Hart gave notice that he would appeal.

Patrolman Callahan had testified he had seen midnight orgies in the place, by climbing a ladder and looking through windows.

City Solicitor Baker Prepares Abstract of Union Depot Site.

City Solicitor Baker spent a portion of the day yesterday in going over the abstract showing the transfers leading up to the city's control of the property near the lake front now known as Lakeview park. The abstract was prepared at his order so that preparations can be made for the suit that is to determine the city's right to sell the land desired by the railroads as a union depot site.

Until this question is determined plans for the depot improvement will be held in abeyance.

URNS DOWN CITY'S REQUEST FOR DATA

President of East Ohio Gas Co. Says He Favors Court to Settle Question.

Negotiators in Deadlock When 75-Cent Rate is Refused.

President M. B. Daly plainly told Mayor Baehr and the council gas committee yesterday that the East Ohio Gas Co. preferred to have the courts pass on the question of a fair artificial gas price. Yesterday's conference between Daly and the city resulted in a deadlock with a court fight, based on Daly's attitude, near.

The negotiators are deadlocked on the question of price and an examination of the company's books by the city. Before there is an open rupture the city will draft a blanket ordinance, containing gas regulations the city desires but with the price blank. City Solicitor Baker and the council committee will meet today to begin the ordinance.

Yesterday's conference was marked by some very plain talk. President Daly firmly told the city officials he saw no necessity for a display of the company's books.

Asks for Marks' Data.

Several times during the discussion President Daly asked that he be allowed to inspect the data compiled for the city by its expert, Prof. W. D. Marks on which the latter's 75-cent recommendation was based, and speaking for the three members of the council committee, City Solicitor Baker replied plainly that this data would not be turned over to the company unless the company allowed the city to inspect its books and records.

Mayor Baehr broached the natural gas negotiations question by suggesting that the natural gas contract be taken up and agreed on at this time inasmuch as the contract expires in two years. To this President Daly replied that he would not favor such a plan.

"We've spent six or eight months settling this question and we have not got along very far," he said. "I'm afraid if we took up the large question, too, we never would settle it. Let us settle this question first. After that if you wish to take up the question of a natural gas contract I would be glad to take it up."

President Daly charged at yesterday's meeting that Expert Marks had made obstinacy on the part of the gas company a headliner in his report to the city and added that never had Prof. Marks asked him a question in all of the weeks of his investigation.

"How does 75 cents per 1,000 feet of artificial gas strike you, Mr. Daly?" asked Mayor Baehr. "I've already expressed my views on that question," replied the head of the gas company. "Mr. Marks cut the price to suit the valuation and the valua-

tion to suit the price. In fact he guessed the price when he first came. He's an excellent guesser."

"That's your guess, Mr. Daly," said Chairman Shimon.

President Daly charged further that Prof. Marks had used court records showing the artificial gas business at a period which was far more prosperous than now as a basis for his final conclusion as to the proper rate.

City Solicitor Baker gave a new trend to the talk by suggesting that Mr. Daly could have no interest in what Mr. Marks had said for the reason that the president of the East Ohio had complete light on the subject and by further stating that for this reason it would be well if Mr. Daly would produce the real data. "We don't care anything about Mr. Marks," said the city solicitor. "Let's forget him."

"Are you willing to let us see your books showing what it costs to make gas?" asked the mayor. "I don't think that is necessary," replied President Daly.

"We have a letter from you, Mr. Daly," said Councilman Shimon, "offering a price for gas and one from Mr. Marks making a recommendation on the same subject. Unless you can show us he is wrong we must accept his figures."

"What good would it do?" asked President Daly. "Would you accept our figures?"

"If they proved themselves conclusively."

"Who would be the judge?"

"The committee." To this the president of the East Ohio replied: "We prefer to take our chances in the court." Then he added with a smile, "not that I think the committee is biased."

The meeting ended with a positive refusal on the part of the council committee to produce the records compiled by Expert Marks, unless the permission to go over the books of the company was granted. President Daly offered to allow the city to have the report of Engineer Randolph in return, but this offer was declined.

ANOTHER WEEK OF DELAY FOR DEPOT

Progress of Appropriation Suits Held Up in Council at Mayor's Request.

Receives Advice From City Solicitor on How to Proceed.

Contrary to expectations, no union depot legislation reached the city council last night. Although the city solicitor, at the mayor's request, had prepared a resolution authorizing the law department to proceed with the appropriation of all the outstanding Lakeview residuary rights, at his request the measure was not introduced, as he expressed the wish to the mayor that the legislation be referred to his assistant in charge of appropriation work, for approval.

"I am sorry that there has to be another week's delay," said the mayor, "but if Mr. Baker feels that it is necessary that the matter be held over I suppose it ought to be delayed another week."

In answer to a letter from the mayor asking for an explanation of

the steps that must be taken in the proposed appropriation proceedings, City Solicitor Baker has replied with the following:

The first step necessary is the passage by the council of a resolution declaring the intent of the city to appropriate property, defining the purpose of the appropriation, setting forth a pertinent description of the land and the interest or estate desired to be appropriated. This resolution requires but one reading, and will not require the suspension of the rules of the council.

After the passage of such a resolution, the mayor is required to give written notice to the owner, person in possession thereof or having interest of record in every piece of property sought to be appropriated, and wherever owners cannot be found, notice by publication is required to be given once a week for three consecutive weeks, in a newspaper of general circulation in the corporation. At the conclusion of this period, the council must pass an ordinance directing the appropriation to proceed, which ordinance must have the approval of two-thirds of all the members elected to the council.

After the passage of this ordinance, and its maturity by publication, the solicitor makes application in the court of insolvency, and notice of the time and place of such application is required to be given in the ordinary manner of serving legal process. This, of course, applies to those who can be personally served, but for those who cannot be personally served, notice by publication is required to be given by publishing once a week for three weeks next preceding the time of the application, in some newspaper of general circulation in the county. After this, the court calls a jury and the case proceeds in the usual order, as provided by law.

From this you will observe that the proceedings involved are formal, and the amount of time required for them at the minimum, will cover many weeks. I am at present engaged in preparing the necessary preliminary resolution and form of notice to be served by you after the passage of the resolution. It is my hope that this can be ready for Monday night session of the council, but it is possible that it may not be.

SOLICITOR IS UNDECIDED

Baker Says He Cannot Tell Whether Appointments Made by Mayor Are Permanent.

City Solicitor Baker yesterday declared he could not tell whether appointments made by the mayor in advance of the establishment of civil service lists were permanent or not. The city solicitor said he had not examined the law in this regard. The civil service committee of the Chamber of Commerce claims the appointments are temporary and illegal. The mayor, basing his belief on the opinion of Attorney General Denman, declares the appointments are permanent.

"I have never examined the law on the question," Mr. Baker said. "An opinion on that point has not been asked."

Assistant City Solicitor Wilcox said he would not give an opinion yesterday. He referred inquirers to Mr. Baker. On March 10 of this year, Health Superintendent Ford received a letter from Mr. Baker that said the question still was undetermined. As the city solicitor would probably have to defend the suit which the Chamber of Commerce threatens to bring to oust 1,000 city employees, he is likely to be asked to render an opinion soon.

DAMPENS MAYOR'S HOPES.

City Solicitor Tells Him That Depot Questions Will Drag Many Months.

City Solicitor Baker told Mayor Baehr yesterday that a decision from the courts on the Union depot question in time for a referendum vote on the land valuation question at the regular election in November was impossible.

He agreed to submit a report to the mayor on the entire question in a few days, but pointed out that there were a number of other cases of importance to the city that were pending and which might be advanced. "Put everything else aside," said the mayor. "The depot case is the most important of all."

BAKER RAPS CITY'S TRADE WITH PENNSY

Get W. Sixth-st Land by Appropriation, Solicitor Advises Council.

In a letter to Mayor Baehr Tuesday, City Solicitor Baker took sharp issue with the administration in its plan to trade a portion of W. Sixth-st for Pennsylvania railroad land near the river mouth. He strongly disapproved the plan authorized by council Monday night.

Baehr held that to make the trade would be giving the railroad the best of the deal. He said railroads already owned too much public property in Cleveland. He advised Baehr that the land owned by the Pennsylvania and desired by the city for river widening purposes could be secured by appropriation.

During the Johnson administration the Pennsylvania made several unsuccessful attempts to secure the W. Sixth-st land.

Baehr said the property is of immense value to the city, and that to secure it again it would be necessary to spend thousands.

"The railroads almost would be prevented from doing business in Cleveland if they were ordered off the public property they now occupy," said Baker. "The river front land could be obtained by forcing other concessions than this trade."

Baehr had not signed the ordinance authorizing the trade at noon Tuesday. He had not then received Baker's letter.

BAEHR-BAKER RIVER TRADE BREACH WIDER

A widening of the breach between Mayor Baehr and City Solicitor Baker over the trade with the Pennsylvania railroad of E. Sixth-st city property for land along the Cuyahoga river, was seen Wednesday in intimations by Baehr that Baker must have been aware of the proposed trade long before the council passed its ordinance authorizing the deal.

Baehr replied late Tuesday to Baker's letter protesting against the trade. He said the proposed deal had been announced in newspapers several weeks ago. In another statement he said he had called Baker into consultation, and had been assured the city would have no trouble in getting the river front land from the Pennsylvania.

Baehr told Baker his letter of protest came too late, as he had already signed the ordinance making the trade possible. He said the river widening improvement had been delayed too long. He answered Baker's objections that the trade would prove a blight on the improvement of the lake front harbor, by saying it meant immediate improvement of the river.

Congressman Cassidy conferred with Baehr late Tuesday on the river widening project. He promised to consult with Col. Millis, United States engineer, at once. Supt. Hamilton of the Pennsylvania railroad told Baehr the company was ready to turn over the land immediately.

MAYOR OVERRIDES HIS LAW ADVISER

Approves Pennsy Land Trade Despite City Solicitor's Letter of Protest.

Tells Baker Too Much Time Has Already Been Wasted on Matter.

City Solicitor Baker and Mayor Baehr have split on the question of the advisability of the city's turning over to the Pennsylvania railroad a longitudinal section of W. 6th-st from a point just north of the union depot to the harbor line in return for the Pennsylvania property on the river, needed for river widening purposes.

Yesterday noon the city solicitor forwarded a letter to Mayor Baehr protesting in emphatic terms against the trade, charging that the railroads are blocking the outer harbor and asking the mayor to withhold his signature from the W. 6th-st vacation ordinance passed by the council Monday evening. In addition he addressed a letter to the city council asking the members to reconsider the vote by which the ordinance was passed.

The mayor had signed the ordinance about half an hour before the letter reached his hands and last evening he sent a reply to Mr. Baker in which he stated that he could not agree with the views expressed in the city solicitor's letter and that the river widening had already been too long delayed. In his letter he declared further that a number of weeks ago he had consulted the city solicitor re-

garding the trade and declared that he received no notice of the opposition from the city solicitor's office until after he had signed the ordinance.

After sending the letter the mayor announced further that the widening of the river would proceed at once as he had been notified by Supt. Hamilton of the Pennsylvania that the city could take possession of its river front property at once notwithstanding that the deed had not been delivered. Congressman Cassidy, who attended a meeting in the mayor's office which was called after the letter from City Solicitor Baker was received, said late yesterday that he would take up with the government engineer the question of proceeding with the widening of the river in advance of the delivery of the deed in order that no time would be lost. One case was mentioned by him in which the government had proceeded with a similar improvement before the deed was delivered.

City Solicitor Baker's objection to the trade rests on the same point as that raised by Councilman Haserodt at Monday night's meeting of the council. It is his belief the city should not give up a foot more of its lake front property. In his opinion the time is coming when an attempt will be made to regain possession of the entire lake front for public purposes.

City officials see in the exchange of letters between the law department and the mayor a break which had been in a measure foreshadowed in the mayor's recent complaints regarding progress made by the law department in the preparation of union depot legislation. In his letter to the mayor the city solicitor charges that the railroads by taking possession of lake property had driven commerce from the lake front, where it belonged, into a narrow, congested, shallow, unsanitary river. Baker's letter to Mayor Baehr is as follows:

On yesterday, while we were in consultation with the gas committee of the council, ordinance No. 18744 was presented to my assistant, Mr. Stevens, and by him given formal approval of the law department, his indorsement being that there were no legal objections to the passage of the ordinance. Mr. Stevens was entirely right in stating to the council that there was no legal objection to the passage of this ordinance. Had the matter come to my personal attention, however, I would have felt obliged to accompany the indorsement made by Mr. Stevens with an earnest protest against the passage of the ordinance, and I am now writing this to you in order that my view upon this subject may be considered by you when you come to consider giving your approval to the ordinance as passed.

The purpose of this ordinance is in effect to exchange a strip 41.06 feet in width and about 1,600 feet long, now constituting a part of W. 6th-st and running from the harbor line, or water's edge of Lake Erie southerly to a point 698 feet northerly of Lakeside-av, for certain pieces of land now owned by the Pennsylvania company, and needed by the city for river widening south of the Lake Shore & Michigan Southern bridge across the Cuyahoga river.

I have no knowledge, nor means of knowledge as to the relative value in money in the two pieces of land. I do know what is apparent to everybody, that the lands which it is proposed the city shall acquire in return for the vacation of this strip are without value to the Pennsylvania company; that the widening of the river by dredging out those pieces of land will inure very substantially more to the benefit of the Penn-

sylvania company than it will to the benefit of the city generally, and that the least liberality in its attitude toward the city would require the Pennsylvania company to give those pieces of land gladly in return for the great benefit to be derived by it from the widening of the river and the larger facilities that would be given to boats going into the old river bed, and transshipping their cargoes to the Pennsylvania company itself. But quite apart from the question of equivalent values in the lands proposed thus to be exchanged, my experience, covering now a good many years, has taught me that the grip of the railroad companies upon the lake front of this city is both an impediment to the city's progress and a blight upon the development and improvement of such a harbor as the city of Cleveland should have.

The time will undoubtedly come when, at enormous public expense, the people of this city will have to reclaim, by the superior power of eminent domain, the lake front property for a public use. The land vacated by this ordinance will some day have to be bought back at a price far in excess of any compensating exchange of land now proposed to be made for it.

I am taking this liberty at this time of sending a copy of this letter to the council of the city of Cleveland, to give them an opportunity, if my views upon this subject appeal to them, to reconsider the ordinance passed.

The reply of the mayor to the letter from City Solicitor Baker is as follows:

Your letter of this date, protesting against my approval of the ordinance passed by the city council last night, relating to the vacation of a portion of W. 6th-st in return for land to be used in the widening of the Cuyahoga river, reached me this afternoon subsequent to my official approval of this ordinance.

While your objection reached me after the ordinance was signed and therefore too late for consideration, I must say that I cannot agree with your views in the matter. The widening of the river has been delayed for a great many years, much to the detriment of the river and harbor development of Cleveland. For about twelve years the national government has been ready to proceed with this important improvement, having authorized the expenditure of money for that purpose, but was unable to proceed, owing to the failure of the city to obtain the necessary land.

Early this year the city was notified by Representative Cassidy and Col. Mills, the government engineer, that the government would abandon the river widening project unless definite assurance were given by the city that the land would be obtained for this purpose. At that time I called you into consultation for the purpose of learning the exact status of the matter, and you assured me that the city would have no trouble whatever in getting possession of the land owned by the Pennsylvania Co. and needed for this improvement.

I informed you that I was extremely anxious to press forward with this improvement, and urged your department to lend every possible assistance to that end. In the meantime, on the city's assurance that the land would be available, the federal government has appropriated the balance of the money needed for the improvement; namely \$42,000, the total cost to the government of the improvement being \$65,000, all of which is on hand and ready to be expended. Since that time I have heard nothing from you on the subject until your letter of today.

Several weeks ago the plan of exchange of land between the city and the Pennsylvania railroad was publicly announced, the council in a body viewed the properties involved, the legislation was prepared and approved by your department, and final action was taken at the regular meeting of the council last night.

The property vacated by the city consists of a strip of W. 6th-st, 1,600 feet long and 41.06 feet wide, entirely under water, which still leaves a street approximately 60 feet in width, affording access to the lake front. The land obtained by the city by reason of the vacation of this strip is equal in size and by its acquisition the improvement of the river, the lack of which has retarded the river and harbor traffic for many years, is assured.

The following letter from the city solicitor will be read at the coming council meeting:

Ordinance No. 18744, which was passed by you Aug. 22, 1910, received the formal approval of the law department, and is without legal objection. Since the ordinance did not come personally before me, I therefore had not the opportunity to say before its passage some things which seem to me of great importance with regard to it, and I have taken the liberty of addressing a letter to the mayor on the subject, and I herewith transmit for your information a copy of that letter, in order that the council may reconsider the vote by which this ordinance was passed, if it so desires.

I venture the belief that an examination of the public records of this city for the last twenty-five years will show persistent aggressions by the Pennsylvania and other railroad companies upon public property. They are now occupying streets and public grounds in such a way that the continued transactions of their business as common carriers would be impossible in this city were the public rights enjoyed by them withdrawn. Day after day the council is called upon to grant and does grant the use of public property for the enlargement of railroad facilities, and the attitude of the city toward the railroad companies has been liberal and considerate.

Such an inspection of the records, however, will show that when the city needed for any public purpose, no matter how high, the least favor from a railroad company, the least farthing of the highest price possible to demand has been demanded.

The city is at this time vexed with a litigation instituted by the Pennsylvania company to prevent the establishment of the Detroit & Buffalo passenger boats at the public docks at the foot of E. 9th-st—not that the Pennsylvania company has any interest in the matter, but merely that it prefers to use every club it can upon the public as a mark of its gratitude for the favors which it is continually receiving and enjoying from the public. In my opinion the city should require the Pennsylvania company to give to the city the lands needed for the widening of the river, and enforce its requirement by withholding or withdrawing some of the privileges for the occupation of other public property enjoyed by that company until this request is acceded to. But even if the dread of retaliation by the company, resulting in convenience, admittedly is such that this course does not seem wise then it would be far better to condemn and pay for the land needed at a price fixed by a jury.

BAEHR PUTS IT UP TO BAKER TO MAKE TEST SUIT

Demand that the city law department bring a mandamus suit to force the civil service commission to declare a vacancy in the position of city inspector of street lighting, and thereby test the appointments made by the present administration, was put up to Solicitor Baker Wednesday by Mayor Baehr.

The request was made of Baker Monday by Henry C. Maulberger, 4506 Denison-av. Another demand came Tuesday from his attorneys, Foster & Foster. Baker referred the demands to Baehr, telling Baehr he thought the points made by Maulberger were well taken and the appointments only temporary.

Baehr told Baker to do as he thought best.

Baehr has maintained his appointments were permanent in nature.

GAS ORDINANCE TO BE DRAFTED SOON

Council gas committee will meet Solicitor Baker Thursday or Friday to draft a 75-cent artificial gas ordinance to expire June 15, 1912, simultaneously with the natural gas franchise.

"The ordinance will be introduced Tuesday night unless President Daly of the East Ohio company makes a proposition to the committee which will make the ordinance inadvisable," said Chairman Shimmion.

BAEHR'S TO GO AHEAD IN TRADE WITH PENNSY

So far as Mayor Baehr is concerned the protests of City Solicitor Baker against donating the Pennsylvania railroad a strip of W. Sixth-st in exchange for a piece of river front land are a closed incident. He won't discuss or consider the question further.

The Pennsylvania will come into possession of more riparian rights on the lake front. It gets a strip off W. Sixth-st 41 feet wide and 1600 in length. In exchange the city gets about the same amount of land near the Lake Shore bridge to be used for widening the river.

Baker claims the land could be appropriated and the city retain possession of lake front rights.

He says some day the city will have to pay an exorbitant price to regain possession.

Another ordinance pending will give the Pennsylvania the right to lay a switch under the Lake Shore tracks along W. 54th-st. By it the railroad gains access to its new ore docks at Whisky island.

DELAYS COMFORT STATIONS

Ruling of the City Solicitor Throws Cost of Building Onto City.

City Solicitor Baker ruled yesterday that the city has the right to establish underground comfort stations and surface booths at street intersections but that it does not have the right to lease them to persons bidding on the concessions.

In a measure this interferes with Public Service Director Lea's plan. He had hoped to have the booths built by persons whose bids contained agreements for the shortest terms of occupancy. After these terms had expired the underground stations and booths were to become the property of the city.

As the city will have to stand the cost of construction under any other plan, Director Lea will not be able to advertise for bids until the beginning of next year, when a trial will probably be made by erecting one or two stations. The concessions will have to be paid for by a day to day plan in order to overcome the objections raised by the law department.

Director Lea is also considering the plan of letting souvenir postal card, guide book and magazine booth concessions at the Public square comfort and waiting stations.

BAEHR NOW FACES MANDAMUS ACTION

Mayor May be Forced by
Court Action to Act in Civil
Service Cases.

City Solicitor Writing Opinion
on Law Affecting Em-
ployees.

Developments at the city hall yesterday indicate that the question of whether or not a thousand or more city employes are to be ousted from their positions on the ground that they are temporary appointees, will reach the courts in a day or two.

City Solicitor Baker is now preparing an opinion for Mayor Baehr, showing whether there are grounds for the bringing of a mandamus suit to require the mayor to notify the civil service commission that a vacancy exists in the office of the inspector of street lighting.

The city solicitor has been asked by Henry C. Maulberger, former member of the city council and inspector of street lighting at the time the present administration took hold, to bring such a suit. The city solicitor in a letter to the mayor early yesterday asked for his opinion regarding such a step. The mayor's reply in substance is "proceed as you see fit."

"I do not know as yet whether there are grounds for any such suit as is proposed," said Mr. Baker late yesterday. "I am looking into the question and will prepare an opinion which will later be submitted to the mayor."

In his letter of reply to the city solicitor the mayor earlier in the day said that the city solicitor had stated to him that the appointments thus far made are of a temporary character and that the points raised by Henry C. Maulberger and his attorneys, Messrs Foster & Foster, are well taken. The mayor has repeatedly declared that in his own opinion the appointments made by him are permanent and the civil service lists will be used as fast as vacancies occur from now on.

The present city street lighting inspectors are John Loomis and Harry Bernstein. F. J. Harrison, sr., who held the position for many years and was let out by the present administration, is at the head of the eligible list which has just been prepared by the civil service commission.

Should be Appointive.

The present disagreement between Mayor Baehr and City Solicitor Baker in the lake front matter emphasizes a weakness in the present form of city government in this state. The city's legal adviser should be appointed by the mayor.

A mayor is entitled to have in the solicitor's office a man who is in complete harmony with his own aims and purposes. There should be no opportunity for a public exhibition of differences between the two officials. These should be settled behind closed doors.

Under the old federal form of government mayors appointed their legal advisers, as they appointed the heads of the other departments. Under the Payne law much of the old plan was re-established, but the solicitorship was left an elective office.

One of the arguments of the "short ballot" advocates is that by electing few officials the voters will be able to give more attention to the fitness of the few. By giving the mayor of a city authority to appoint the heads of departments responsibility is centralized and good government likely to be promoted. The "short ballot" principle is sound, and in the long run is certain to triumph. It is scarcely more than a modification of the old federal plan familiar in Cleveland.

The federal law was killed to curb the power of Tom L. Johnson. The city solicitorship was made elective to deprive Mr. Johnson of one appointive privilege, and now by a turn of fate a Johnson man sits in the solicitor's chair, as if to mock the efforts of those who made the office a political football in the days when his former chief was at the zenith of his power.

The merits of the present public dispute between the mayor and the solicitor entirely aside, the mere possibility that such a controversy is possible to arise shows a defect in the statute under which city governments are now operated. The next time, the legislature undertakes to alter the law this is a point that deserves attention.

BAEHR STOPS CONTROVERSY

Mayor Writes Baker Closing
of W. 6th-st is Settled in
Interests of City.

Mayor Baehr believes the proposed widening of the entrance to the river and the completion of the new Pennsylvania ore docks inside the west breakwater will bring to Cleveland all the ore business that has been diverted because of the lack of facilities at that point. Because of this detriment Conneaut, Fairport, Ashtabula and Lorain have been getting business which would otherwise have come to Cleveland.

The mayor expressed this belief yesterday after sending a letter to City Solicitor Baker stating that the vacation of a portion of W. 6th-st is a closed incident.

The mayor's letter, in reply to Mr. Baker's communication of protest received Wednesday, follows:

"I acknowledge receipt of your letter of the 31st ult., relating to the vacation of a strip of land on W. 6th-st. So far as I am concerned, the incident is closed. Time will prove that my action in this matter has been for the best interests of all the people of the city of Cleveland."

DECIDES POINT THIS WEEK

City Solicitor Will Rule on
Grounds for Appointing Civil
Service Candidates.

City Solicitor Baker's opinion on the entire question raised by the recent report of the Chamber of Commerce committee on civil service will reach Mayor Baehr within the next few days.

Mr. Baker has been asked by attorneys for Henry C. Maulberger, who held the position of the city lighting

inspector at the time the present city administration assumed charge, to bring mandamus proceedings to compel Mayor Baehr to declare a vacancy in the office of lighting inspector so that a selection can be made from the eligible list as prepared by the civil service commission.

The claim is made by Maulberger and the Chamber of Commerce committee on civil service as well that the appointments that have been made by Mayor Baehr are temporary and that they were merely to hold until the civil service commission prepared lists of eligibles. City Solicitor Baker in this report will state whether or not in his belief there are grounds for the filing of a mandamus suit.

WILL PROCEED TO GET LAND

Council to Order Action in
Court to Pave Way
for Depot.

Legislation authorizing the city law department to proceed with the appropriation proceedings which may obtain for the city all the outstanding Lakeview park residuary rights will be passed by the city council this evening under suspension of the rules.

Until the rights are obtained by the city, union depot negotiations will remain at a standstill. The outcome of the proceedings will also assist in a speedy termination of the litigation that has arisen out of the city's attempt to lease the westerly pier at the foot of E. 9th-st to the D. & C. and C. & B. boat companies.

The council at tonight's meeting will take final action authorizing the issue of \$2,250,000 bonds for grade crossing elimination and tuberculosis sanitarium purposes. The sale of these bonds will take place late next month.

An ordinance will be introduced authorizing the issue of \$400,000 water works bonds. The department is planning to expend \$250,000 in the purchase of two new engines for the Kirtland pumping station, \$80,000 for the extension of the city service to the city farm at Warrensville and \$80,000 for Newburg extensions.

A communication from City Solicitor Baker will reach the council this evening asking that the vote by which the vacation of a portion of W. 6th-st was authorized be reconsidered. The city solicitor does not believe that the city should trade this property for the property of the Pennsylvania needed for river widening purposes. In his opinion the trade is entirely in favor of the Pennsylvania.

PAVING REPEAL IS LEGAL

Solicitor Says It Takes Fewer
Votes to Abolish Law Than
to Pass It.

City Solicitor Baker held yesterday that it does not take as many votes to repeal a paving tax ordinance as it does to pass it, and that a majority vote is all that is necessary in the case of a repeal.

On the strength of this opinion the Kramer ordinance to repeal the paving tax legislation affecting that portion of E. 40th-st from Euclid-av to Payne-av was declared effective yesterday. At the last meeting of the council it was held to be defeated by President Walker because it did not receive a three-fourths vote.

The Fleming ordinance to repeal the legislation affecting the northerly section of E. 40th-st, which was acted on at the previous meeting of the council, received sixteen favorable votes. But for the city solicitor's recent opinion to the effect that the majority vote of all members elected to office is required in order to pass an ordinance, this measure would also have been declared effective yesterday.

BAKER TO STUMP; WHITLOCK TO AID

Cleveland and Toledo Men
Tender Democrats Their
Campaign Services.

Central Committee is Glad of
the Response From
Metropolis.

Plain Dealer Bureau,
44 E. Broad-st.,
COLUMBUS, O., Sept. 7.

Newton D. Baker of Cleveland and Mayor Brand Whitlock of Toledo, today offered their services to the Democratic state committee during the campaign. The proffer was accepted with enthusiasm.

Chairman Nichols characterized the word from Baker and Whitlock that they were ready to go on the stump as the most significant development of the meeting of the state committee, at which arrangements for the opening of the campaign at Canton, Sept. 24, were completed.

The state committee has been worried over reports that reached headquarters to the effect that the Democratic organization in Cuyahoga county was inclined to be lukewarm in its support of Gov. Harmon. The action of Baker, who led the fight in the state convention for the indorsement of a candidate for United States senator against the wishes of the governor is interpreted at headquarters as meaning that there will be defection in the metropolis. Baker is to be assigned to some of the largest Democratic rallies of the campaign.

The message from Mayor Whitlock was received no less joyously by the state committee.

There will be no outside speakers at the Canton opening. Chairman Nichols will preside at the opening and the speech making will be confined to Gov. Harmon, Atlee Pomerene, candidate for lieutenant governor, and Timothy Hogan, candidate for attorney general. All the candidates on the state ticket will be present.

Charles V. Goshorn of Galion was chosen chairman of the speakers' bureau and Orwell Riddle of this city chairman of the publicity committee. The committee was jubilant over the results of the primaries and state elections yesterday in Wisconsin, Michigan, Vermont and New Hampshire.

"From every corner of Ohio there is a similar protest against stand pat Republicanism," said Chairman Nichols. "The boldness with which the Republican state convention adopted its reactionary platform is going to drag every candidate on the Republican state ticket to defeat."

Completion of arrangements for the Republican opening at Kenton next week Saturday awaits the result of a conference between Chairman Massie of the speakers' bureau and Warren G. Harding at Marion tomorrow.

BEN F. ALLEN.

DALY REFUSES TO WRITE PROPOSALS

President of Gas Company
Will Not Put His Ideas for
Ordinance on Paper.

Claims Expert Marks Never
Operated Gas Plant
in His Life.

President Daly of the East Ohio Gas Co. declined in positive terms yesterday at the first meeting of the joint council committee to submit a written statement of his suggestions for changes in the proposed ordinances. This suggestion was made by Solicitor Baker, who stated that the minor details should be agreed upon first and that the question of price ought to be left to the last.

The East Ohio Gas Co.'s representative stated that the best plan would be to agree on the main point first and thresh out the minor matters afterward. City Solicitor Baker pointed to the street railway negotiations as an illustration of the system he proposed.

"I will be at the service of the committee," said President Daly, "and ready to answer questions. As to making suggestions in writing, you must excuse me."

It was finally agreed that the ordinance would be discussed section by section and meetings be held each morning until the entire ordinance had been gone over. A meeting will be held this morning in the office of the city clerk.

The discord over the right to withhold the report of Expert Marks was strongly manifested at yesterday's meeting when Councilman McClain raised the question of the right of Councilman Shimon, chairman of the special committee, to act as chairman of the joint committee.

At his suggestion the council rules were handed to City Solicitor Baker, who found that when an ordinance was referred to a joint committee the chairman of the first standing committee named must act as chairman of the joint committee. In this instance the first standing committee named was the committee on lighting of which Councilman Bernstein is chairman. It was then held that Councilman Bernstein should act as chairman.

KEEPS EMPLOYEES, INVITES LAWSUIT

Mayor Disregards Solicitor's
Opinion That Appointments
Are Illegal.

Public Service Director Fol-
lows Attorney Gener-
al's Advice.

COURT ACTION IS LIKELY

Proceedings to Enforce Civil Serv-
ice Regulations and to Oust 1,600
City Officeholders Are Promised
by Chamber of Commerce Mem-
bers and Attorney—Lea Intimates
Baker or Citizen Can Test Law if
They Desire—Eligible List for One
Place Now Ready.

In a communication to City Solicitor Newton D. Baker yesterday afternoon Public Service Director A. B. Lea, representing Mayor Baehr and the city administration, virtually challenged Solicitor Baker or any other citizen to oust 1,600 city employes from their jobs.

Baker, in an opinion submitted last week but not made public until yesterday noon, indicated to Lea and the mayor that the contention of the Chamber of Commerce that all appointments made early this year, other than from civil service lists were purely of a temporary nature and that new permanent appointments must be made, was correct. He asked for further instructions.

In a tersely worded letter Lea replied to the city solicitor that the mayor and he had taken the advice of the state attorney general and that they didn't propose to have 1,600 appointees removed from their jobs without a contest. He then proceeded to tell Baker that they declined to abide by the city solicitor's decision and that if any further action was to be taken it must come from a taxpayer, the Chamber of Commerce, the city solicitor or some other source.

Suit Necessary to Decide.

"I feel," said Lea in his letter to Baker, "that it is no want of deference to your opinion to decline to abide by your decision in this instance and therefore some action either by the city solicitor or by a taxpayer will be necessary in order to settle this question."

From officers of the Chamber of Commerce last night it was learned that court action was certain, for if City Solicitor Baker refuses to act upon the request of H. C. Maulberger, who asked him to proceed several weeks ago, and if Maulberger through his attorneys does not institute suit, the chamber will take the necessary action to test the case in the courts.

"If City Solicitor Baker does not accede to the request of my client, H. H. Maulberger, I will at once file a petition which I have already drawn, throwing the matter into the courts immediately," declared Attorney George H. Foster of Foster & Foster, last evening. He said he was only waiting for a negative answer from Baker before proceeding.

When city hall employes late yesterday afternoon learned of the turn affairs have taken they were perturbed. Many of the 1,600 whose appointments are in question left other positions early this year believing their jobs were safe for at least two years. Now it develops that according to the city solicitors ruling they must take civil service examinations and compete with those whom they succeeded, many of whom have had years of experience in the positions involved.

The agitation which has resulted in such surprising developments was precipitated two or three weeks ago by the submission of a report by a committee on civil service appointed by the Chamber of Commerce. After an exhaustive investigation this committee reported that it believed appointments made by Mayor Baehr and his directors when assuming office on Jan. 1 were purely of a temporary nature and that now the civil service commission had got down to business it was about time permanent appointments were made. It called upon the mayor for action.

The matter was referred to City Solicitor Baker for an opinion, which was made public yesterday. Then came Lea's letter of defiance late yesterday afternoon.

City Solicitor Baker in his letter to Lea says:

From midnight, Jan. 1, 1910, there were but two possible authorities for the appointment of an employe in the public service of the city of Cleveland covered by the merit system act. One was appointment by the officer in charge of the particular department and the other a temporary appointment by the mayor to prevent the stoppage of public business.

The first of these methods was circumscribed by set limitations, being unrestricted where the place to which appointment was to be made was in the unclassified service, but restricted to a definite mode where the place was in the classified service. Beginning upon the second day of January, 1910, a substantial number of vacancies existed in the public service, some by resignation, some by removal and in many instances the vacancies thus arising were in places covered

by the classified division of the public service.

As to these appointments, they could be made only by the director in accordance with the merit system provision, or if for any reason that was impracticable, by the mayor temporarily, and pending the removal of the exigency which made the other and regular mode of appointment temporarily unavailable. Such temporary appointments were made by the mayor, and I am informed that the fact is that at the time these appointments were made the civil service commission had not so far proceeded with its work of examining and preparing lists as to be able to certify names. This fact undoubtedly justified and rendered necessary a resort to the power of the mayor in the matter of temporary appointments.

Among the appointments so made was that of inspector of lighting, but I am informed that since the temporary appointment by the mayor was thus made the civil service commission has proceeded to examine applicants for that place and has notified you that it is now prepared to furnish a list from which permanent appointments may be made upon application.

Upon this state of facts it is my duty as your legal adviser to say to you that the law which authorized the appointment of an uncertified person to the position of the inspector of street lighting as an emergency matter made it a temporary appointment; that notice of the civil service commission to you that it is now ready to supply certified names for appointment has brought the temporary appointment to an end, and that it is now your duty to fill the place with a permanent appointee in the manner provided by law.

WRIT MAKES LEA CERTIFY INSPECTORSHIP IS VACANT

On application of Solicitor Baker, Judge Collister Wednesday morning allowed an alternative writ of mandamus against Server Lea, ordering him to certify to the civil service commission that a vacancy exists in the office of inspector of lighting.

The hearing on the writ will be Monday, when Lea will appear to defend. The suit, brought in the name of the state by Solicitor Baker, is a test case. Baker's petition recites that Baehr appointed an inspector of lighting without certification of the civil service commission, when three men have qualified. Lea was represented by Atty. J. H. Orgill.

The temporary writ orders Lea to notify the civil service commission of the vacancy, after which it is the duty of Mayor Baehr to appoint one of the three men who have qualified.

The fight to oust 1600 Baehr appointees in Safer Hogen's and Server Lea's departments was to be begun in common pleas court at 9:30 a. m. Wednesday. The petition was filed late Tuesday.

The suit is a mandamus proceeding against Server Lea to declare the position of street light inspector vacant, and force Lea to fill it from civil service lists. Baehr holds the civil service list does not apply until his appointees are fired for incompetence or quit. He says he does not have to fire them because civil service applicants are ready for the jobs.

Tractioner Dahl, a lawyer, who engineered Baehr in the Kohler controversy and advised him in the gas committee caucus fight Monday, has been adviser to Baehr in his civil service fight. He is expected to be consulting attorney to Baehr during the progress of the suit, but will not formally defend Lea.

City employes took to cover Wednesday by applying for civil service application blanks.

Safer Hogen is keeping out of the fight, although his department is affected. He was not present at the conference of Baehr, Dahl, Secretary Gall and Server Lea Monday, which resulted in a determination to fight the Baker suit.

"That's a matter for Mr. Lea's department," said Hogen. "I don't know anything about it."

LOST—ONE MOUTH OF CITY'S RIVER

Whereabouts of Old End to
Cuyahoga Must be Found
by Law Department.

Ordinance Giving Pennsy Right Held Up Awaiting Decision.

What has become of the old river mouth?

This question has been put squarely before the city law department at the suggestion of Chairman Newell and members of the council committee on harbors and wharves. Pending an investigation the ordinance granting the Pennsylvania Railroad Co. the right to extend its tracks beneath the Lake Shore bridge at the foot of W. 54th-st along city property has been held up.

City Solicitor Baker yesterday promised to investigate the city's riparian rights at this point. He attended a meeting by representatives of the Pennsylvania, the council committee and Mayor Baehr.

The city solicitor advised strongly against the passage of the twenty-year grant in its present form. It is his belief that it should be revokable inasmuch as the property beneath the Lake Shore bridge was turned over to the city many years ago by the Lake Shore for river channel and highway purposes.

Attorney Duncan, who appeared in behalf of the Pennsylvania questioned the advisability of the company's proceeding with its big improvement along the lake front in which millions are to be expended if its rights for connections between its inner tracks and the made land on the water front were to be in constant jeopardy and could be revoked at any time.

City Solicitor Baker suggested that although he had found no records showing the city's right to or beyond the water line, such documents might turn up at any time. Old settlers in the vicinity of W. 54th-st remember when the old river bed extended to the lake front near W. 54th-st and if the matter is made an issue their testimony may be used by the council.

Some weeks ago the law department held that the Pennsylvania was right in its contention that it held the riparian rights to the property at W. 54th-st. Yesterday the city solicitor said that he would look into the matter again.

DECLARED DEAD, ASKS PAY

Man Whose Relatives Were Notified of Death Demand Reimbursement for Expense.

Demanding \$50 because his family was notified that he was dead while a patient at City hospital, John C. Hughes, 1312 Spruce-av N. E., will carry his case to the attorney general of Ohio.

Mrs. Hughes was in Cincinnati when notified of her husband's death and hurried to this city to find him alive. Hughes upon being discharged from the hospital asked City Solicitor Baker to award him \$50 for the expense to which his family was put in preparing for the funeral.

Supt. McAfee of City hospital advised the solicitor not to award the money. Hughes said yesterday that he would take the case to a higher court.

CANNOT COMPEL DELIVERY

City Unable to Curb Express Companies in Cleveland, Asserts City Solicitor.

City Solicitor Baker, in a written opinion forwarded to Mayor Baehr, expressed the belief yesterday that the city has absolutely no power to compel the express companies to make deliveries to all parts of Cleveland.

The mayor had asked the question because of a complaint from Henry Chisholm, secretary and treasurer of the Champion Rivet Co., located in old Corlett, to the effect that the express companies, despite the fact that Corlett is now a part of greater Cleveland, have declined to make deliveries at the plant.

In his letter the city solicitor states that the express companies hold their charters from other states than Ohio; that so far as he knew none of the express companies operating in Cleveland are primarily Ohio corporations and that their regulation is under the interstate railroad commission.

RULES SEAT IS VACANT.

Solicitor Baker Finds Another Man Must be Appointed to Councilman's Place.

At the coming meeting of the city council the seat of Councilman Michael J. Feighan of ward 8 will be declared vacant and the council will proceed to elect his successor.

It is reported that Richard Fergus, Detroit-av, a brother of Patrolman Michael Fergus, will be elected in his place. Another candidate is Hugh O'Donnell, brother of J. O'Donnell, whose death shortly after his election to the council last fall caused Feighan to hold over as councilman. Former Councilman Michael Moore is also mentioned.

City Solicitor Baker decided because of nonattendance council can declare Feighan's seat vacant and elect a successor. If the council does not fill the vacancy within thirty days after the vacancy is declared the mayor can select Feighan's successor. Councilman Feighan is in a sanitarium in Cuyahoga Falls.

Yesterday City Solicitor Baker held that the eighth ward councilman is not entitled to any pay during his absence.

SUES TO DISMISS CITY EMPLOYEES

Solicitor Starts Action to Force Director Lea to Obey Civil Service Law.

Mayor Prepares Fight for Retention of 1,600 Appointees.

To oust the 1,600 city employes whose jobs are in controversy, City Solicitor Baker late yesterday brought mandamus proceedings in common pleas court against Director A. B. Lea. Baker makes a test case out of the position of street light inspector, and declares that he brings the suit because he must do so by law.

It is Lea's duty, he asserts, to declare the office of lighting inspector vacant, and to ask the civil service board to refill it. The civil service law was in effect on Jan. 2, 1910, says Baker, but the civil service board had no eligibles ready for the position made vacant when the inspector who worked under the old administration was discharged. On Aug. 23 the civil service board announced that it had eligibles for the place and Lea, it is alleged, should then have looked upon Mayor Baehr's appointee as a temporary holder, and should have declared the place vacant.

Mayor Baehr and Director Lea have made arrangements to resist the attempt to force 1,600 city employes out of office.

"The application of Mr. Baker's contention to the public service would disturb the entire state of Ohio," said the mayor yesterday. "That his ideas are not those of the men who framed the civil service law is obvious to anybody who stops to give the matter consideration.

"It would be absurd to suppose that we could have obtained men of proper capacity to leave other employment and take these places temporarily. We were backed by the opinion of the attorney general."

UPHOLDS BAEHR IN CIVIL SERVICE SUIT

Attorney General Finds That Former Rulings Show Mayor is Right.

Says Present Jobholders Can Stick at Will of Mayor.

The contention of Mayor Baehr that present city job holders may keep their positions permanently without reference to the civil service regulations is based on opinions rendered by Attorney General Denman to the city solicitors of Lima and Sandusky.

The attorney general at Columbus yesterday said he has rendered no opinion to Mayor Baehr in connection with the Cleveland controversy nor to Solicitor Baker and has not been asked for one. Denman, however, after an examination of a few facts, said that the Lima and Sandusky rulings appeared to cover the Cleveland case and to uphold the position of Mayor Baehr.

In his rulings he called attention to the fact that the civil service regulations were suspended between Aug. 1, 1919 and Jan. 2, 1910. This was settled by a supreme court decision in a case coming from Marietta.

Continuing, Denman set forth that the civil service machinery was not in operation in a single city when the law was supposed to go into effect. Accordingly he ruled that appointments could be made until such time as the civil service commission was organized, applicant for city positions examined and classified lists prepared.

It was not obligatory upon those appointed under such conditions, Denman ruled, to take any examinations, but the positions could only be taken with the understanding that the appointees were subject to dismissal at any time. The dismissal, however, is entirely up to the mayor according to Denman and the employes can hold their jobs if the mayor so wills.

As to whether Mayor Baehr is violating the spirit of the civil service law Attorney General Denman says is another question.

The lawsuit between City Solicitor Baker and Director Lea to determine whether 1,600 city jobs are temporary is a polite affair.

Baker sued Lea Tuesday, announcing in his petition that he did it because he had to. Baker told Lea that if he wanted an outside lawyer, he might have one and Lea and Baker then agreed on Mathews & Orgill.

PUTS BLAME HIGHER UP

Solicitor Advises That Directors Might be Arrested in Ice Cream Case.

After studying the records in the case against H. R. Carroll, clerk for the Telling Bros. Co., who was discharged by Police Judge Levine after his arrest on the charge of selling ice cream from an unsealed can, City Solicitor Baker yesterday advised Public Service Director Lea that complaint might be made against the board of directors instead of any one individual member of the concern if further action is taken.

"I will turn the matter over to City Sealer Kibler," said Director Lea yesterday after receiving the recommendation from the city solicitor.

The city solicitor further held that after the case was taken up the records would exonerate any members of the board of directors not responsible for the alleged violations of the city ordinance.

LAW DELAYS GERRYMANDER

Gerrymandering of the city by the Republican council won't start until the federal census for Ohio is officially certified to the secretary of state. Then council will have 90 days for the work.

Section 2 of the revised statutes provides council shall re-district after each federal census, after the secretary of state has certified to the mayor the official census as received from the census bureau.

Solicitor Baker held unofficially Friday that the secretary of state could not certify until the complete census for Ohio is in.

Congress at its next session will decide whether Cleveland and vicinity is to have three congressional districts instead of two. If three are decided upon, the legislature at the coming session will re-district the territory.

KNOWS RIVERBED AS SWIMMIN' HOLE

Old Settler of West Side Asserts City Solicitor is Wrong in Opinion.

Remembers Sport in Place Pennsylvania Now is Seeking.

Discovered at last—the old Cuyahoga river bed. James Rourke, a resident of Cleveland for sixty-five years, declares that he can trace the old west branch of the river. He says that City Solicitor Baker is way off on his facts when he made the announcement that there was no such thing as the old river bed.

"Why, I guess I know there was a river running through my place here at the foot of W. 54th-st," offered Rourke, who handles junk along the water front. "Those city officials can't fool me. Didn't I swim in the old Cuyahoga and make rafts with the boys to sail down to the lake? Well, I guess yes. The city of Cleveland has riparian rights here and the council don't want to let the railroads gobble the land around here for nothing."

Rourke was born in Limerick. His parents came to this country when he was 2 years old. They settled on the West Side of Cleveland, near the very spot where Rourke now has his junk shop. That was in 1844.

The legal opinion of City Solicitor Baker is disputed on every side by Rourke. Baker declares that there was no such thing as an old river bed at the foot of W. 54th-st, but that it was a bayou or inlet.

"The city solicitor is all wrong there," said Rourke yesterday afternoon. "There was a river running through what is now the foot of W. 54th-st to the lake. To be sure, it was only a small stream, but it was a river, just the same. It could not have been more than six feet wide and quite shallow."

"Do you see that pile of dirt yonder, banked up against the Lake Shore tracks. Well, there's a culvert buried under that big pile. And it was a culvert through which the old Cuyahoga river flowed way back in the '50s. I know, cause I've seen it many a time."

James Rourke charges that for the past several decades the railroads of northern Ohio have grabbed slice after slice of land along the water front; land over which they legally have no claim.

"The city council should not allow the Pennsylvania to get away with the bluff this trip," continued Rourke, with emphasis. "For years they've bamboozled the city officials. The lake frontage today is fully 100 feet further out than it was fifty years ago because the railroads have been constantly increasing their encroachments and filling in with dirt and stone."

RESIGNS CITY OFFICE

Business Man Quits Health Board Because Job Prevents His Company Taking City Contracts.

F. G. Bates has resigned from the board of health because City Solicitor Baker ruled that as secretary of the W. B. McAllister Co. he would be unable to accept any contracts for public work. The matter came up when the concern was given the contract for a small city repair job.

It was then that he decided to ask the city solicitor for an opinion on his right to accept public contracts and the city solicitor decided that because of his connection with the concern it could not undertake the city work.

Mayor Baehr said last evening that while he had a successor to Mr. Bates in view, no final action had been taken.

TRY AGAIN FOR EXAMINER

Members of School Board Will Today Make Another Attempt to Fill Vacancy.

Believing that the old adage, "The third time is the charm," holds good in school circles, the Cleveland board of education will today attempt to legally elect a school examiner. Twice have the school officials tried to choose a successor to J. W. McLane in the school examining board, and twice have they failed.

City Solicitor Baker yesterday announced that Anton Gehring, recently chosen as school examiner, was illegally elected by the school board, in that he lived in Lakewood. The Ohio school law distinctly says that a school examiner must reside within the city limits. This was not discovered by the board, however, until the day following the election.

Assistant City Solicitor Wilcox said yesterday that the illegality of Gehring's election would not affect the validity of the teachers' tests last Saturday, inasmuch as the certificates had not been issued. The examinations will not have to be taken over again.

POSTPONE MANDAMUS SUIT.

Absence of Witnesses Delays City's Test Case.

City Solicitor Baker's mandamus suit to throw out 1,600 city employes will be heard by Judge Keeler tomorrow morning. The job of street lighting inspector, held by J. H. Loomis, is the one to be tested.

Lea said yesterday that he, not the mayor, had appointed Loomis and that the position was not temporary. Baker declared the appointment was temporary and that the exigencies which made it necessary to fill the position, temporarily, had passed as the civil service board has eligibles waiting. Because of the absence of witnesses the hearing was put over.

City Solicitor Baker asked for the floor after the mayor had taken his seat.

"I don't know just why the mayor feels inclined to say that the people's rights were not protected four years ago," he said. "Everybody knows that the Columbia Gas Co. was organized to sell out to the East Ohio. The gas business is a natural monopoly business. That the Columbia ever made a proposition to sell at a lower rate than the other company, I never heard."

The city solicitor stated further that he agreed with the mayor that if the artificial gas question alone were dealt with it would be to the interest of the company to force the use of this gas. Gas Expert W. D. Marks then asked for permission to address the committee.

TO FORCE COUNTY TO PAVE IN CITY

Councilman, Acting on Court Decision, Asks Opinion of Solicitor.

Back of Request Are Two Suits Entailing Large Sums.

City Solicitor Baker was asked yesterday by Councilman Menning to prepare an opinion on the right of a citizen to demand of the county commissioners, in view of the decision of the supreme court on the high level bridge question, that all county roads through the city in need of repaving be repaved at the county's expense. Back of the request for an opinion are two suggested taxpayers' suits, which may result in the throwing of an expense amounting to millions upon the county.

Euclid-av, St. Clair-av and W. 25th-st are county roads and the stirring up of this question may result in a suit by some taxpayer for the refunding of taxes paid to the city, on the ground that the paving expense should have been borne by the county.

"The supreme court has shown that the county still maintains some authority over the improvement of county roads, even though the roads lie within the city," said Menning yesterday. "It is true that the decision applies to the building of bridges on county roads lying within cities, but if the principle is true in one case it is true in another."

"The county commissioners repave county roads that are in bad shape. If they have the authority to build our high level bridges, as Mr. Eirick's suit has shown, why not compel them to pave the county roads running through the city that are in such urgent need of repair?"

"Mr. Baker's impression is that the county has the authority to proceed with the paving of county roads in the city, but he doubts the ability of any citizen to force them to pave a road inside the city when they do not see fit to do so."

"If the city solicitor finds such a demand can be made, there will be two taxpayers' suits, one a mandamus suit to compel the commissioners to pave certain county roads in Cleveland, and the other a suit to force the county to reimburse people who have paid special paving taxes in cases where the expense might have been borne by the county."

Gives Smallpox Ruling.

City Solicitor Baker yesterday ruled that the smallpox hospital at Warrensville is under the management of the board of health whenever it contains one or more patients. If the building is not in use the department of public safety has charge.

DUSTS OLD TOMES TO FIND RIVERBED

City Solicitor Delves in Records to Learn How River Reached Lake.

Says Indian Lore and Settlers' Tales Are Not Backed by Facts.

City Solicitor Baker has consulted records in the possession of the Western Reserve Historical society running back a century in his search for data to throw light on the old river bed mystery. Out of the mass of written and hearsay evidence that has come to him in his study he emerges with the unshaken belief that the old river bed was originally a bayou and that it never was a waterway to the lake, at least in historic times.

"There is an Indian tradition that far back before the time of the Indians the bayou did go as far as the lake," he said yesterday. "However, there are no Indian records on bark to substantiate this nor is there anything else to show that in historic times the water did flow to the lake.

"I hear on all sides that the old river bed did connect with the lake. I get it from old settlers who say that they actually saw it or knew of the time that this did exist and yet when you pin them down they do not give anything that would help us in the present situation.

"What they want is a city solicitor who went swimming down there in 1840. I appreciate that people are trying to help me in this matter and yet what can these statements avail when the earliest maps in the possession of the Historical society show that what is now called the old river bed was a bayou with no connection at either end with the present channel or with the lake at its northerly end."

The entire question has been raised on account of the city's rights north of the strip of property at the foot of W. 54th-st. An ordinance is pending in council granting the Pennsylvania Railroad Co. the use of the property for switch track purposes for a period of twenty years.

KEELER HEARS DEMURRER IN BAKER'S SUIT

The result of the mandamus suit of City Solicitor Baker against Server Lea, involving 1600 city employes, hinges on a demurrer to the answer filed by Lea to Baker's suit. The demurrer was argued before Judge Keeler Friday.

Lea claims in his answer he had authority to appoint J. H. Loomis inspector of lighting. Baker's case hinges on this appointment. The demurrer holds Lea's claim is no defense.

Should Judge Keeler sustain the demurrer, Lea will have no defense, and the contention of the Chamber of Commerce, that Mayor Baehr's appointments are illegal, will be sustained. If the demurrer is dismissed Baker will be forced to withdraw his suit. Judge Keeler reserved his decision.

HARMON ASKS ANOTHER TERM ON HIS RECORD

Governor Opens Democratic State Campaign by Declaring Republicans Resisted Proposed Reforms and Investigations.

GIVES HINT HE'S NOT
OUT FOR PRESIDENCY

Raps Old Banking Depository Methods — Makes No Mention of Public Utilities Bill—Hits at Dick.

By a Staff Correspondent.

CANTON, O., September 24.—Judson Harmon in firing the opening gun of the Democratic campaign today made good Newton D. Baker's declaration in the convention which nominated him for Governor that he is "the captain of a ship tied to a dock."

The Governor's speech was simply a defense of his administration and a plea for its continuance in power. It contained no mention of a public utilities bill. It studiously avoided a discussion of the reactionary platform upon which he stands for re-election.

A dog fight, an impromptu speech from Chairman Newton D. Baker, and columns of statistics were features of the initial debate between Congressional Candidates Paul Howland, Republican, and Wm. Gordon, Democrat, Monday night.

The debate, held in a tent at Detroit and Lake-avs, formally opened the fall campaign in the twentieth district. Figurative fur flew during the heat of the arguments, but

the audience's decision was a draw, both speakers seeming popular.

Gordon attacked Howland's record in congress. Howland took the defensive, and in addition assailed Democracy.

The dog fight came soon after Gordon had warmed up a bit, and was himself barking out accusations in gruff tones. Two mongrels had strayed into the tent. They were apparently deeply interested in the speech until a spectator stepped on the tail of one. One dog blamed his companion, apparently, for a second later the fight was on. Many listeners at first attributed the growls to Gordon, but when a policeman stopped the fight and the angry tones turned to notes of alarm, they knew they were wrong.

BAKER IS HECKLED.

Newton bowed, and spoke at the end of the meeting. He asserted that in answer to attacks on his actions at the recent state convention he wished to say that he took his wounds from the front, while, apparently, Howland received his in his hip pocket.

CITY EMPLOYEES IN PANIC OVER EXAMINATIONS

Sixteen hundred city employes whose jobs depend upon the court decision in the suit brought by City Solicitor Baker have been thrown into a panic by reports of the stiffness of examinations taken last week by men who would be ash inspectors.

Employes are backing Baehr in his contention that his appointments were not temporary, as Baker charges. They organized a short time ago the Civil Service Employees Protective association, which, it is believed, will aid in the fight.

Midnight oil is being burned by those who are studying up in preparation to beat men who held jobs under the Mayor Tom regime, who will also take the examinations.

They have been balked so far in efforts to "get a line" on the questions to be asked. Secretary Hughes of the civil service commission refuses to make public any questions asked squads which have already taken the test.

"We're prepared for most any reasonable question that is asked us," said Abe Crutch, waterworks employe, one of the incorporators of the protective association. "But when such hard questions are asked of men who want to be ash collectors and sanitary policemen, it makes a fellow wonder what kind they're going to fire at fellows who are supposed to be up in mathematics."

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URGES MUNICIPAL HEATING CONTROL

**Baker Suggests Old Grants
be Revoked for One With
City Ownership.**

**Gahn Agrees to Include Five-
Year Clause in His
Ordinance.**

Revocation of all of the heating grants held by the Cleveland Electric Illuminating Co. and the passage of one grant containing municipal ownership provisions similar to those placed in the street railway ordinances was the settlement of the heating franchise controversy suggested by City Solicitor Baker yesterday. His proposal was made at a public meeting at the city hall.

Vice President Scovil of the illuminating company, who was present, with Attorney E. P. Strong, stated in reply that he would want time to consider such a proposition.

The meeting was called by Chairman McClain of the council committee on streets. It was for consideration of the steam pipe franchise ordinance introduced by McClain some weeks ago and the substitute ordinance of Councilman Gahn, containing a sweeping municipal ownership provision. The session ended with an adverse report on the substitute and a favorable report on the original ordinance.

