them could "rise to high rank if he has the muscle, brains and pluck," he did not seem to realize that he was accusing every one of those working men of deficiency in muscle, brains or pluck. Yet that is what his foolish words implied. The fact that these miners have not risen proves their deficiency, if Mr. Herrick's assurances are true. Mr. Herrick is evidently one of the public men who, because they themselves have risen from poverty to wealth (never mind the "boosts" on the way), think that anyone can rise if he only has their "muscle, brains and pluck." It is a highly self-satisfactory state of mind.

THE CHICAGO TRACTION QUESTION.

The people of Chicago are now entering upon another distinct stage in the process of solving their traction problem (pp. 195, 225-29-31-41-42-48, 300-60-94, 401-08-18-25-41-52-58). They are about to determine (unless the city council prevents it by a premature extension of franchises), whether or not they will immediately proceed to the establishment of a system of municipal ownership and operation of the Chicago street car system.

The preliminary steps have been taken.

An act of the legislature enabling the city to own and operate traction lines (p. 196) was passed last Spring. It is known as "the Mueller act." But this act can have no effect in Chicago until adopted by the people of the city upon a referendum vote. At present it is not a law in Chicago.

It is, however, to be submitted to a referendum vote at the Chicago city election in April next. Provision for its submission was made by the city council (p. 458) a week ago.

Upon the adoption of this act by the people of Chicago at that election, the city will have the power—

1. To own street railways within the corporate limits of the city.

2. To operate the street railways so owned; provided three-fifths of the voters at a referendum election voting on that question vote in favor of it.

3. To lease the street railways so owned, for not longer than 20 years: no lease to be valid for more than five years (if a referendum is demanded by ten per cent. of the voters), unless the lease is approved by a majority voting thereon at a referendum election.

4. To borrow money on the credit of the city for the construction or purchase and the operation of its street railways; provided that the constitutional debt-limit of the city be not thereby exceeded, and provided, also, that at a referendum election two-thirds of the voters voting thereon vote therefor.

5. In lieu of thus borrowing money on the credit of the city, to issue "street railway certificates" payable out of the revenues of the street railways so owned; provided that at a referendum election a majority of the voters voting thereon vote therefor.

6. "To acquire, take and hold any and all necessary property, real, personal or mixed, for the purposes specified in this act, either by purchase or condemnation in the manner provided by law for the taking and condemning of private property for public use."

The provision last above noted, which authorizes the "condemnation" of all existing street car property upon proceedings instituted by the city, raises the most important consideration now at stake in the matter. It is because that provision is contained in "the Mueller act" that the traction companies and their friends are straining every nerve to secure a compromise between the city and the companies before the adoption of "the Mueller act" at the April election. To nullify this provision would be one of the effects, if, indeed, it is not one of the chief objects, of the "tentative ordinance" which the traction committee of the city council has just published as a compromise offer to the traction companies.

The anxiety of the traction interests to accomplish that object of nullification will be better understood, perhaps, if the circumstances are explained.

"Condemnation" proceedings are not unfamiliar in their general features. They are the method whereby the public takes private property for public use, paying the owner its value.

In form, these proceedings are simple enough. The right to take the property being a right of sovereign power, only one question remains when that right is asserted by the sovereign authority, which in this country is the State. The question that then remains is the simple one of the value of the property, and this is decided by a jury empanelled for the purpose.

Since the advent of mechanical power the sovereign right to condemn private property to public use has been extensively exerted in behalf of highway corporations, principally railroads, on the theory that they are agencies of the State serving a public use. Consequently a considerable body of "condemnation" law has grown up, partly legislative and partly judicial, which tends to favor the corporations that require private property for the public uses they serve. For instance, if a jury assess the value of such property at more than the corporation is willing to give, the corporation, upon paying the trifling cost of the proceeding, may not only abandon that proceeding, but may begin a new one; and then another, and another, and so on repeatedly until a verdict satisfactory to itself is secured. Moreover, the verdict, when so accepted, is final as to the person whose property is "condemned." The jury, and not an appellate court, is regarded as the sole judge of the value of the property. Thus in the Supreme Court of the United States the "condemnation" of a right of way across a railroad track in Chicago was sustained, although the jury had fixed the damages at only $1; and in another case, the Supreme Court of Illinois sustained the "condemnation" of a street car franchise in Chicago, although the jury had fixed the damages at only one cent.

With this body of "condemnation" law confronting them, is it any wonder the traction interests of Chicago are extremely anxious to complete a compromise agreement with the city council before "the Mueller act" becomes law in that city?

When that act is adopted by the people of Chicago next April, the city will acquire the sovereign right to seize for the public uses incident to municipal ownership and operation of street railways, any of the property of the street car corporations. To do this, it need only apply for a jury to appraise the value of the property; and, if it accepts the jury's verdict, to pay that amount as damages for the seizure.

But it need not accept any verdict that seems excessive. All it

need do if a verdict is excessive is to abandon that particular proceeding, upon paying some small costs, and begin a new proceeding; and so on repeatedly until some jury renders a verdict that is not excessive. Furthermore, the valuation fixed by the jury whose verdict the city does elect to abide by will be conclusive.

Consider now the practical application to the street car question of this "condemnation" power under "the Mueller act."

If the city decides to own, acquire and operate its own street car system, or any particular line or part of a line, it can proceed to condemn the street car property of the traction companies — either the whole system or one or more lines or parts of lines, as may seem most expedient. This property consists of no more than these three classes of things:

1. The tangible property, such as tracks, trolleys, cables, power-houses and machinery, cars, etc;
2. The legitimate franchises that are still unexpired; and,
3. The ineffective and valueless 99-year franchise.

In order to condemn all this property to the use of the city, nothing would be necessary, other than "condemnation" formalities, but to empanel a jury to appraise its value. If that jury were improperly influenced and returned an enormously excessive value, the particular proceeding could be abandoned and a new one instituted; and this could be repeated until a jury had fixed the value at a reasonable amount, whereupon the city could accept that verdict as final and proceed with its policy of municipal ownership and operation, or suspend that policy until the highest courts had passed upon the "condemnation" proceedings, as might be thought best.

Let us stop, then, to ask: What kind of verdict ought to be accepted?

In the first place, a fair, even a liberal, valuation, might properly be placed upon the tangible property—that of the first class enumerated above. In the next place, for the legitimate franchises (the second class enumerated above) there might properly be allowed a liberal bonus for the unexpired terms. In the third place, the unexpired part of the ineffective 99-years franchise (the third class enumerated above) might properly be appraised at one cent or one dollar. Either valuation would be sustained, unless judicial precedents inuring to the benefit of private corporations were overruled when appealed to in behalf of the public.

A verdict so found might be analyzed about as follows, assuming for simplicity of illustration that the proceedings were for the "condemnation" not of one line merely, but of the whole system:

1. For tangible property (the amount estimated in taxation proceedings by the traction companies' lawyer)	$11,000,000
2. For unexpired terms of effective franchises (say)	1,000,000
3. For the unexpired term of the ineffective 99-years' franchise (say)	1
Total damages for "condemnation"	$12,000,001

In this manner a basis for the settlement of the whole traction question, including the 99-year franchise problem in all its ramifications, could be made—fairly, liberally, legally, and immediately.

The representatives of the traction interests know this, and are accordingly anxious to secure an extension of franchises from the city council before "the Mueller act" becomes law in Chicago. They want to use their valueless 99-year franchise as a club to force a compromise extension. They do not want to have that franchise valued and disposed of in "condemnation" proceedings.

In some quarters it is argued that an extension of franchise before "the Mueller act" is voted on will not prevent "condemnation" proceedings, if the extension ordinance reserves to the city the right to adopt municipal ownership.

This view rests upon a retroactive clause in "the Mueller act." According to that clause, when such a reservation is made in a franchise ordinance, it is to be "as valid and effective for all purposes," in case the city afterward adopts "the Mueller act," as if the act had been already adopted.

It is to be observed, however, at the outset, that if this were done, the value of the new franchise would be an additional factor in "condemnation" proceedings, and that an entirely new 20-years' franchise would be of enormous value in that computation.

But consider what else is involved.

If an extension of franchises with that reservation were made, even in good faith, it would needlessly inject into the Chicago traction problem two entirely new questions, upon which troublesome litigation might be based. It would make an opportunity to raise the question (1) of the validity of the retroactive clause itself, and (2) of the sufficiency of the reservation in the extension ordinance. It may be added that no such reservation as would give immediate vitality to the retroactive clause of "the Mueller act" seems to have been inserted in the "tentative ordinance" of the councilmanic committee.

It is urged in the same connection that if the proposed extension ordinance were submitted to a referendum vote at the election next Spring, there might be no objection to its passage by the city council meanwhile. But in that way, also, new questions for litigation would be needlessly thrust into the problem. The point might be raised that there was no legal authority for a binding referendum and that the extension ordinance had consequently acquired legal validity upon its adoption by the council, no matter how the people might thereafter have voted. Entirely apart from the legal aspects of the matter, two street car referendums at the same election—one for the adoption of an enabling act conferring power to establish municipal ownership, and the other for a franchise extension practically nullifying that power for several years—would give the Chicago newspapers, most of which are opposed to municipal ownership as long as it can be staved off, an excellent opportunity to confuse public sentiment and thereby to deceive the people themselves into giving the law to the city and the plum to the traction companies.

Still another objection to extending the Chicago street car

franchises before the people pass upon the question of adopting "the Mueller act," is the objection that such an extension would complicate if it did not wholly nullify the acquired right of the city to wipe out the ineffective 99-years' franchise with a verdict in "condemnation" for nominal damages as to that claim. How easy it would be to insert in such an extension ordinance some clause that could be held to amount to an agreement conceding value to that valueless franchise. If this were done, the jury in "condemnation" proceedings would be bound by the agreement. They would have to value the valueless franchise not at its true value but at its agreed value. Even if the agreement did not seem to be very plain, it could be made a basis for litigation.

Or, the 99-years' claim could be nominally abandoned in the compromise agreement for an extension, but be really perpetuated by changing its form; as, for example, by making an agreement that the city shall take over the property of the companies at some excessive valuation when it establishes municipal ownership.

In so far as the "tentative ordinance" of the councilmanic committee relates to this point, it appears to have been cautiously drawn with the definite purpose of substituting arbitration for "condemnation" in all future action by the city with reference to traction-company property. It would nullify the "condemnation" clause of "the Mueller act."

In any possible view of the matter the proposition to "compromise" with the traction companies by giving them an extension of franchises before the vote on "the Mueller act", is fraught with all manner of danger to the municipal ownership movement; and when the secrecy in which the negotiations are conducted between the councilmanic committee and the traction companies is considered, it is not without a suspicious flavor. The only safety for the city is to keep the whole question out of the domain of contracts, and to bring it within its proper domain of police regulation. The region of contracts is full of "vested rights" pitfalls; the region of police regulation, inclusive of the powers of "condemnation" for public use, is clear and safe.

The chairman of the committee having these negotiations in charge for the city council protests that the committee ought to be trusted though it does hold secret confabs with the traction representatives. His protest was made in explanation of a joint session of the committee and the traction representatives, from which the councilmanic committee excluded authorized representatives of the organized movement for municipal ownership. "Like Caesar's wife," said this alderman, pleading for himself and his associates on the committee, "they should be above suspicion."

He was quite right. They should be. But unfortunately they are not. Wherefore it may be as well to drop the allusion to the Caesarian family episode.

By no means do we imply that these aldermen are suspected of pecuniary corruption. That is not the point. What they are suspected of, entirely apart from any question of corruption, is disguised hostility to municipalizing the street car system. They are suspected to be in favor of municipal ownership but opposed to putting it into practice.

And that suspicion seems to be pretty well supported by the circumstances. These very aldermen were responsible for the clauses in "the Mueller act" which make municipal ownership and operation difficult to get and corporation ownership and operation easy to perpetuate. It was they who fixed up the provision in "the Mueller act" which makes two negative votes count as much as three affirmative votes at a referendum election on questions of municipal operation of municipally-owned lines, and only as vote for vote on questions of leasing the lines. It was they who fixed up the provision that absolutely requires a referendum on the question of operation, but none on the question of leasing unless the lease is for more than five years, and then only in case it is petitiond for by some 40,000 voters. These facts alone are suspicious. But in addition we find the same aldermen hunting with microscopes of a million magnifying power, for difficulties in the way of putting the provisions of "the Mueller act" into operation, now that they have been driven by public opinion to take that act out of the pigeon hole into which they had buried it, and submit it to popular vote. The chairman of the committee, for instance—he who thinks, properly enough, that he ought to be above suspicion, like Caesar's wife—enumerates three reasons for believing that municipal ownership is impossible at present. We quote his reasons from the Chicago Examiner of the 26th:

> First—The fact that 60 per cent. of the lines by the terms of the ordinances controlling them, and over which there is no legal dispute, do not expire for some time to come. The longest franchise has about 14 years to run.
>
> Second—The 99-year act, which controls several of the main arteries to the city, must be got out of the way, either by the determination of the courts or relinquishment by agreement, or on conditions that the traction lines so affected receive a new grant.
>
> Third—The impossibility at this time of raising the money by the city of Chicago necessary to construct, equip and operate a system of street railways. It would require at least $80,000,000 to carry out municipal traction plans, and such a sum is out of the question.

He might have added that municipal ownership is impossible immediately because it takes time to shift the ownership of so big an institution as the Chicago street car system. Of course municipal ownership is impossible immediately. But the beginning of the necessary proceedings is not impossible immediately. And as to necessary delay, it will be much shorter if steps toward municipal ownership are taken immediately than if they are postponed for five, ten or twenty years by a compromise contract with the traction companies.

None of the objections noted above alludes to the "condemnation" clause of "the Mueller act." Yet that clause sweeps away the first and second objection altogether. Can anyone be criticised for suspecting the good faith of aldermen who raise such objections without at least explaining away the "condemnation" clause, which nullifies them unless it can be explained away?

The only objection of the three that requires any further consideration is the third, namely, that

Chicago could not raise the necessary money to establish municipal ownership. Let us consider it. For that purpose we will suppose a situation.

Suppose the city council refuses to compromise with the traction companies.

Suppose the people adopt "the Mueller bill" at the city election next April.

Suppose the council thereupon enters upon the consideration of a municipal ownership and operation ordinance, such as "the Mueller act" allows.

Suppose one of the traction companies' aldermen objects that "it would require $80,000,000 to carry out the plans of the proposed ordinance, and that such a sum is out of the question."

Suppose the alderman having the proposed ordinance in charge, replies that he doesn't believe that it would require as much as that, nor that the necessary sum cannot be raised; but that he is willing to proceed cautiously, and therefore he moves to amend the proposed ordinance, so as to make it applicable to only one of the existing lines.

Suppose the traction companies' alderman then objects that the city cannot buy that line for any reasonable sum because its valuable franchise has some years yet to run, while its valueless 99-year franchise is a powerful club which it holds over the city in all negotiations.

Suppose the alderman in charge of the ordinance then calls the attention of the objecting alderman to the power of "condemnation" conferred by "the Mueller act" and availed of by the proposed ordinance.

Suppose then that this silences the objecting alderman and that the ordinance passes the council.

Suppose that the short line in question is thereupon "condemned," the jury valuing its tangible property and the unexpired term of its valuable franchise liberally, and its 99-year franchise at its true value of one cent.

Suppose now that the owners of the "condemned" line go into the courts. They can attack nothing but the sufficiency of the valuation. The right to condemn is absolute, subject only to compensation to be assessed by a jury.

Meanwhile the city may proceed to operate the line, or it may delay operating until the highest court has passed upon such legal questions as are involved.

Is it asked how the city will get the money to pay the compensation which the jury awards? By selling the "street railway" certificates authorized by "the Mueller act." Would there be a market for those certificates? Not much of a market would be needed for one line. But that aside, does any sane person imagine that those certificates would go a-begging after the highest court had sustained the city in a "condemnation" case? They would instantly be recognized as a good investment; and that they would in fact be a good investment is proved by the nine years' experience of Glasgow.

From the moment that this taking over of one line had been effected, the whole street car question would be settled. The owners of the other lines would "fall over each other" to sell out to the city, and would gladly take their pay in "street railway certificates." It is absurd to suppose that certificates to the value of $100,000,000 could not easily be placed at par, secured as they would be under "the Mueller act," and buttressed by a test case decision. But nothing like $100,000,000 would be needed.

Let this plan of proceeding be adopted, and within five years Chicago would be setting her sister cities of the United States the same splendid example in efficient and profitable street car service that Glasgow has set to the cities of Great Britain and which 50 of them have followed. Five years at the most. And that is the time the aldermanic committee propose giving the traction companies for putting their lines into condition for good modern service.

Meanwhile might not the companies abandon their service?

If they did, the "condemnation" proceedings would be so much the easier. But they would not. No franchise is necessary to hold them to their job. The experience of Boston and of Washington prove that mere licenses, revocable at any day or any hour, secure far better street car service from private companies than Chicago has been able to secure with 20-year and even 99-year franchises. Give the traction companies a franchise and they will forthwith stock-job it, as they always have. Fight them for the recovery of the public streets, giving them licenses meantime, and they will have nothing to stock-job. There will be no way for them to get money but by earning it.

When the possibilities for the city under "the Mueller act" are considered, the "tentative ordinance" of the councilmanic committee appears to be such a brazen trifling with public sentiment and the people's interests as to challenge all patience.

It would doubtless be a good ordinance for the purpose of perpetuating corporation ownership and management of the street car system. But as a step toward municipal ownership it is utterly without merit.

It would probably nullify the "condemnation" clause of "the Mueller act." At any rate it would open up delicate legal questions on that point over which long and vexatious litigation would be possible. And as to the 99-year franchise, which is nominally abrogated, the city would have to proceed for 20 years with the caution and agility of a tight rope walker to prevent a complication of circumstances which would enable the traction companies, at the end of this franchise, to coerce the granting of another one by the same kind of threats of litigation that they now make with reference to the 99-year franchise. Even as to theoretical municipal ownership, it is but barely squeezed into this "tentative ordinance." The city could not adopt municipal ownership until 1923. It could not take the first step in that direction—the serving upon the companies of notice of intention—until 1922. And unless it served that notice within the 12 months between 1921 and 1922, the notice would be void and the city would be bound by contract to give another franchise (by compromise) extending until 1943. What a magnificent opportunity for corrupting the council of 1921-22!

For any other purpose than to perpetuate private ownership of traction rights in the streets of

Chicago, that "tentative ordinance" is as misleading in design as it is skillful in construction.

EDITORIAL CORRESPONDENCE.

Cincinnati, Oct. 27.—During this campaign Mayor Johnson has visited 58 counties and addressed 130 meetings, more than twice as many as Mr. McKinley addressed in his famous campaign. Johnson's meeting here last evening, considering the conditions under which it was held, was perhaps the most successful of the entire campaign. Although the weather was unseasonably frigid, the meeting was a warm one from start to finish. Four thousand people crowded into the tent, which had been located in an obscure quarter of the city. There was no red fire, no music or other contrivances for attracting the attention of the people. The audience embraced all shades of citizenship—professional men, business men, mechanics and laboring men of all degrees. It was a well behaved, orderly, intelligent, responsive audience; an audience altogether indicative of an aroused condition of political feeling in this community, and, therefore, prophetic of a large vote in opposition to the autocratic rule of George B. Cox, in Hamilton county.

Mayor Johnson never spoke with more force. His voice was as clear as a bell. It could be heard distinctly, every word clearly enunciated, several rods beyond the folds of the tent. He spoke for an hour and three quarters, the last half hour being devoted to questions, which were fired at him from every part of the meeting. It was evident to an intelligent observer that the questions were prepared by men who had a thorough grasp of the political situation in this State and who knew how to state the point concisely and quickly. But every one was answered like a flash and then elaborated so eloquently as to surprise even the admirers of the speaker.

—

Mayor Johnson gives no evidence of anxiety as to the result. He declares with confidence and emphasis that he has Mark Hanna defeated. In appearance and manner he is as serene and unconcerned, as full of life and energy, as if he had not done anything more than take exercise sufficient to keep his blood circulating freely; and he looks as happy and jolly and smiling as a boy of 17 who never had a care in the world. Arduous campaigning in all kinds of weather, speaking, frequently from four to five times a day and sometimes as high as seven, appears to have agreed with him, for his eye is bright and his energies seem to be unabated.

—

After Johnson finished his speech he invited all the visiting democratic Democrats who have been conducting the street meetings for the past ten days to accompany him to a downtown restaurant, and around one table 20 in all were seated, with Mayor Johnson at the head. Anecdotes and reminiscences, in which "The Prophet of San Francisco" was the central figure, were indulged in until two o'clock in the morning. The meeting then broke up only at the insistence of some considerate friends of Mayor Johnson, who knew that he had to leave the city at 5:50 in the morning.

Could the cohorts of privilege have listened, and have come in touch with the spirit that animated each one of that little group, they would have realized that they are now merely engaged in a skirmish, even if their boasts come true that on the morning of November 4 Tom L. Johnson will find himself defeated by one hundred thousand majority.

—

At the tent meeting last night the presiding officer, Judge Harmon, who was attorney general in President Cleveland's cabinet, first introduced Prof. Lybarger, of Philadelphia, who recited the well known poem "Ninety and Nine," following it with an eloquent speech in harmony with the sentiment of the poem, which was enthusiastically received by the vast audience. In introducing Mayor Johnson, Judge Harmon made a strong plea for harmony in the ranks of the Democratic party.

—

Street meetings are held at half a dozen points in the business center of Cincinnati, beginning promptly at 12 o'clock. All are kept up for two hours, and now two of them, at Fountain Square and Fifth and Race streets, are kept going until dark. They are again started at 7:30 and continue until nearly midnight. Congressman Robert Baker, of Brooklyn, N. Y., who has been speaking several times every day for nearly two weeks, says of these meetings:

The success of the street meetings here is beyond question. Where lethargy and indifference prevailed ten days ago, the audiences are now easily secured, and are held by the speakers for hours. From six to ten meetings a day have been held, at two points, being continued every day for from four to five hours. This strain upon our out of town friends has been great, but they feel well repaid by numerous evidences that have come to hand of the effect of their speeches. Quite a number have openly proclaimed their conversion, and it is within the truth to put the actual change of votes to Johnson and the Democratic ticket at not less than three thousand. Several of our friends, judging from the marked change in the temper of our audiences, believe it will be much greater, and that Hamilton County will not give more than 20,000 Republican plurality, despite 10,000 fraudulent votes.

D. S. LUTHER.

Cardinal Newman says that a conservative is a man who is at the top of the tree, and knows it, and means never to come down.

NEWS

Week ending Thursday, Oct. 29.

The heavy fighting of the Ohio campaign appears to be centering in Cuyahoga county, the home county of Mayor Johnson. At any rate, the Republican newspapers are predicting a Republican majority of 100,000 in the State at large, and reporting that nothing remains for them to do but to recover Cleveland and Cuyahoga from Johnsonism, an event which they also predict confidently. This, they hold, will drive Johnson out of Ohio politics. Johnson expresses his confidence, on the other hand, that the Republicans will not only lose Cuyahoga county by an increased majority against them, but that their majorities in the State at large will be greatly reduced. While virtually conceding Herrick's election as governor, he predicts the defeat of Hanna for the Senate.

—

From his large meeting at Mt. Vernon, on the 19th (p. 457), Mr. Johnson went on the 20th to Millersburg, in the strong Democratic county of Holmes, where he spoke at a tent meeting attended by 3,500. This is the home of one of the eight Democratic members of the legislature ("black sheep") who voted for the street-franchise "curative" act against which their party was pledged (p. 113), and whose treachery to the people Johnson has exposed and denounced at all his meetings. The Holmes county member, Mr. Collier, was not present to defend himself, although he had been invited and assured a fair hearing and courteous treatment. But later in the same day, at Shreve, in the Democratic county of Wayne, the home of another of the "black sheep"—Uriah F. Wells—the situation was different. Mr. Wells appeared.

—

The incident at Shreve was so unique in American political campaigning that we reproduce the report of it by the Cleveland Plain Dealer's staff correspondent, Carl T. Robertson:

Mayor Johnson met Wells immediately after the flaying of Collier, having left Holmes county and entered Wayne at Shreve, on the way to Wooster for a