

BELL TELLS OF YANKEWICH CASE

As Witness for Plaintiff Judge Stone & Webster Will Sue to Recite Conversation He Held With Olson.

Judge Bell of the justice court was the first witness called this morning in the case of Attorney Harry Yankeiwich against Judge Olson of the justice court, George Quinlan, clerk of the court, Lou Wagner, former constable, and four Roumanians were present. The memory of Judge Bell was very poor on several features of the affair involving the arrest and preliminary hearing last December of Attorney Yankeiwich.

The judge was a witness for the plaintiff and said Attorney Yankeiwich came before him for examination on the charge of embezzlement. The judge said he discharged Yankeiwich on the ground that there was not sufficient evidence shown that a crime had been committed. He could not remember much of the evidence given. Judge Bell testified that Judge Olson said to him soon after Yankeiwich had been discharged, "I should think you would be afraid to dismiss him for fear some of those Roumanians would harm you," testified Judge Bell in repeating a conversation he had with Judge Olson. "I was told before the hearing that he would be discharged," the witness further said. Judge Olson stated in the conversation, "I asked him who had told him and he said he would not give the names, and I said that if he would not tell who said it, I thought he was lying," said Judge Bell.

District Attorney Cameron said he talked with the Roumanian laborers, who said Attorney Yankeiwich had defrauded them and he thought there was sufficient evidence to warrant a complaint against the attorney. Lou Wagner, former constable, who arrested Attorney Yankeiwich, said Yankeiwich was given a chance to get bail and was not hustled off to jail until he became involved in a fist fight with a newspaper reporter, and threatened further trouble.

During the course of the hearing many attorneys dropped in to hear the case. The fight that has been on between Judges Olson and Bell of the justice court is expected to develop this afternoon. Judge McGinn is hearing the case.

GIRL MISSING FIVE MONTHS FOUND HERE

Elise Witters, whose parents have been searching throughout the nation for her during the last five months, has been located in the Louise Home by W. G. MacLaren, superintendent of Portland Commons. The girl's parents came from Gibbon, Nebraska, to Grants Pass. She disappeared. Information was filed with all the police authorities of the country. Her father has spent nearly the entire five months conducting the search in person. Mr. MacLaren discovered her under the name of Miller at the home. She had become the mother of a child and had wished her whereabouts to remain obscure.

DUNNE TO RUN FOR MAYOR, IT IS SAID

It is reported this afternoon that Colonel David M. Dunne, collector of internal revenue, has consented to become an independent candidate for mayor in opposition to A. G. Rushlight. Colonel Dunne could not be reached at his office or home, and his son says he has heard nothing of it, but the report comes from sources which indicate that it has good foundation in fact. An effort to induce Colonel Dunne to enter the field was put under way several days ago.

PENDLETON BUSINESS MEN WELCOME NEW BOOSTER

(Special Dispatch to The Journal.) Pendleton, Or., May 13.—J. E. Keefe, secretary-elect of the Pendleton Commercial club, will take up the duties of his office today and the board of managers in planning an inaugural banquet for him. Mr. Keefe for the past few years has been principal of the Weston schools, but he is no stranger to development work.

Tetrazzini Suit Dismissed.

New York, May 13.—The appellate division of the supreme court today affirmed the order dismissing the suit of Ildore Lerner, the theatrical manager, against Luisa Tetrazzini, for \$29,000 for breach of contract. Lerner claimed that she engaged Tetrazzini to sing in Havana in 1904, at \$500 per appearance and that the singer refused to comply with the terms of the agreement. The suit was dismissed on the ground that the contract was null and void, being drawn for the benefit of Lerner alone.

Falls 40 Feet; Lives.

San Francisco, May 13.—Josephine Tupper, 14 months old, escaped with slight lacerations today after a fall of 45 feet from the fourth story window of her home and landing on a cement pavement.

TOMORROW TO BE MOTHERS' DAY; WEAR FLOWER IN HONOR

Honor will be given the mothers of the nation in nearly all the churches of Portland tomorrow. Commencing only a few years ago with the request that a flower be worn for mother, the observance of the day has attained national significance. Many of the ministers will speak on the glory and sacredness of motherhood from their pulpits tomorrow. Mothers' day was founded by Miss Anna Jarvis of 2631 North Twelfth street, Philadelphia. The first celebration was in 1908 as the result of publicity given the movement by Philadelphia papers. From this beginning Mothers' day has become known in Australia, Africa, Japan, Korea, Barbados, British West Indies, Cuba, Philippines and various European countries. Throughout the United States and the provinces of Canada the international honor day will be celebrated with tender enthusiasm. Mothers' day is in no way connected with any women's

SAY PLUMBERS DENY CONTRACT

It now seems practically certain that the controversy between the Stone & Webster Engineering company, general contractors, on the Wilcox building and the M. L. Kline company, over the fixtures and plumbing supplies required for that job will lead to a court investigation of the methods said to have been employed by the Master Plumbers' Association in preventing the plumbing supply houses from furnishing material for the Wilcox building.

Stone & Webster claim to have a contract of date April 13 with the Kline company for the plumbing supplies. "Within the past few days, however," says L. F. Brayton, local manager for Stone & Webster, "we received a letter from Mr. Kline denying the existence of such a contract and refusing to ship the goods. This action was taken by the Kline company in face of the fact that we have a copy of the order given by them to a Chicago manufacturer for the goods."

The Stone & Webster company is having trouble with other plumbing supply houses in getting material for the Wilcox building, which is due, Mr. Brayton thinks, to pressure brought on the supply houses by the master plumbers. "We shall go in the open market," continued Mr. Brayton, "and buy the material that the Kline company refuses to furnish according to its contract with us, and whatever loss we sustain we shall collect by a civil action. We are under contract to finish the Wilcox building in eight months and if we are prevented from doing this by the action of the master plumbers in preventing our getting the necessary material we shall collect damages if responsibility can be fixed. We don't propose that anybody shall prevent our fulfilling our contracts and go unpunished."

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COURT RESTRAINS OBSTRUCTIONISTS

Judge Gantenbein Allows Order Against Kiernan and Walter Burrell.

Presiding Judge Gantenbein of the circuit court this morning allowed the restraining order against several of the Broadway bridge obstructionists in which they are ordered not to start any further suits against the city. He disallowed that part of the order asked by the city relative to keeping the obstructionists from sending letters, telegrams or information to prospective bond buyers.

The latter part of the order was not allowed on account of it being against freedom of speech, and the judge said that if any false statements or information was sent out regarding the bonds or bridge the city has a legal recourse. By allowing the order against other suits, the judge said that the two suits now in the supreme court, namely, of Frank Kiernan and Walter Burrell against the city are not included. Attorney R. R. Dunlavy will be allowed to continue these causes, but no others can be started.

MRS. CARTER'S SALARY GRABBED BY HUSBAND

New York, May 13.—Creditors of Mrs. Carter, the actress, today elected Sidney J. Loebe trustee. Mrs. Carter was examined by two attorneys, representing creditors, to ascertain if she has any assets. She testified that she has had no jewelry for the last five years, owns no scenery and no costumes, owns no plays, no royalty rights on any plays and no financial interest in them. She has no money and has had none for a long time. Her expenses are paid by her husband, Dudley Paine, who receives the money from the manager for her services.

Asked if she got a salary, she said she could not answer yes or no. When questioned about the play "Kaessa," she replied that it was a failure and she lost \$22,000 of her own money in producing it. Many people owe her money, but she could not recall the names or amounts. She said she had said \$490 to Charles Nirdlinger to dramatize a play for her, but he did not deliver the play.

PROFESSOR VAN DYKE RETURNS TO PRINCETON

(United Press Leased Wire.) Princeton, N. J., May 13.—At the request of the trustees, Dr. Henry Van Dyke, who resigned last November as the Murray professor of English literature at Princeton university, has withdrawn his resignation and will return to the chair.

Lieutenant Predicts Victory.

(United Press Leased Wire.) San Francisco, May 13.—"There is no question that the Mexican rebels will win," said Lieutenant T. A. Trauger, Third Infantry, U. S. A., who is here today on his way from the Mexican border to Vancouver Barracks, Wash. Lieutenant Trauger says many Americans have formed a wrong conception of the Mexican rebels.

Loss at Juarez.

(United Press Leased Wire.) El Paso, May 13.—While it probably never will be known with accuracy, just how many perished in the three days' battle at Juarez, a count of the burials and an inspection of the hospitals completed today gave a fair idea of the casualties. The insurgents' loss is estimated at 10 killed and 50 wounded.

UNPOPULAR MONARCH



King Peter of Serbia, whose meeting with Emperor Francis Joseph of Austria in Budapest on May 13 is the topic of much discussion in Austria. The Austrian people persist in declaring that King Peter was associated with the fiendish conspirators who murdered King Alexander and Queen Draga and, as a result, their objection to the coming meeting has been made manifest in many ways. Demonstrations against the king are threatened if the meeting takes place. Peter has long wanted to be received by the courts of Europe, but, when affairs in his own country were such that he could spare the time, the foreign rulers would always advance some reason or other why they could not see him. He is the only European monarch who has never seen the king or queen of any other country.

BANK CLEARINGS FOR WEEK SHOW BIG GAIN OVER ONE YEAR AGO

With a gain of 11.7 per cent over the figures of one year ago, Portland's bank clearings for the week ending at noon today is nearly double the increase of last week and shows a steady tendency to increase the lead over last year in spite of the fact that decreases obtain in nearly every other coast city.

The following is a comparison of the clearings and balances for this week and the week ending May 13, 1910:

Clearings, 1911	\$11,326,034.94
1910	10,467,211.58
Balance, 1911	1,340,437.30
1910	916,037.40

I. M. C. A. RUNNER LEADS IN RACE

Salem-to-Portland Run Expected to End Early This Afternoon.

The Y. M. C. A. runner was a mile and a quarter ahead of the Chemawa Indian school runner in the sixth lap of the annual Salem-to-Portland relay race which started at 10 o'clock and will probably end at the association shortly after 3 o'clock this afternoon. The association's long distance experts took the lead from the start and the sixth runner left Newburg about seven minutes ahead of the Indian runner.

Harry Barnard started the race for the association and gave the next runner a lead of two minutes over his dusky rival, Tommy Booth, the second man. He increased the lead to about three minutes.

This is the first time in the history of the race that the association has had a lead of any material difference over the Indians. The runners in the first five relays were:

Y. M. C. A.—Harry Barnard, Tommy Booth, Payson Payton, Frank Vanderlip, Harry Schwabauer. Chemawa.—Klatus Jim, William Mose, Louis Dan, Edward Threemountain, Pat Alpheus, R. O. Vurtz, sixth runner, left with a 1½ lead.

REPUBLICANS MAY PICK A CHAIRMAN TONIGHT

The Republican city committee will meet tonight at the assembly hall of the Commercial club to elect a permanent chairman and secretary and transact other business connected with the city campaign. At a meeting earlier in the week Ray W. Apperson and Jay H. Upton were made temporary chairman and secretary respectively and elected officers by stealth, only part of the membership being notified. The Lockwood plans were blocked, temporary officers chosen and a meeting of the full committee called for tonight, the place of meeting being left to Apperson and Upton.

WYNNE JOHNSON, ILL; IS REPORTED BETTER

W. Wynne Johnson, formerly advertising manager of The Journal and at one time connected with other local newspapers, has been seriously ill at his residence on East Fifteenth street near Belmont, but is reported today to be convalescent. Mr. Johnson told the newspaper field last year and has since devoted himself to selling real estate. It was reported from his residence today, that although dangerously sick a few days ago, his physician now thinks he will be out in a week or two.

DIABETIC FLOUR ROASTED BROWN

Pure Food Case in Federal Court Casts Gloom Over Spectators and Lawyers.

Spectators in the United States court room today who entered in the bloom of youth and strength retired at noon certain their time on earth was limited. The cause was the nature of the testimony given in the trial of the Acme Mills Co. for alleged violations of the pure food law in the manufacture and advertising of so-called "Diabetic Flour."

It is the allegation of the government that anybody afflicted with diabetes, who eats enough bread made of this diabetic flour will soon die. The manufacturers claim it ought to cure him. One doctor said it would kill a diabetic child in a few weeks, while a grown man, otherwise strong, might last a year or so.

Everyday white bread, that many people suppose to be edible, is pretty apt to kill too, if taken by the right people in the right doses, according to the testimony of the government's witnesses.

The Acme Mills diabetic flour is said to contain something over 71 per cent of carbohydrates, and about equal parts of proteids and moisture. It is the carbohydrates that get the diabetic, however, according to the doctors. They said when they were called to attend a patient suffering from this disease they cut off all foods containing carbohydrates, gradually allowing their resumption until a safe amount could be determined.

Theodore Brown, Jr., a miller at the Portland Flouring Mills told of the various grades of flour revealed in the manufacture of the kernel of wheat. Doctors J. L. McLaren and G. B. Story and J. M. at the trial of the Acme Mills Co. concerning the effects of carbohydrates and various kinds of breads upon the diabetic. At noon Judge Bean adjourned the trial of the case until Monday afternoon at 2 o'clock.

CRUELLY BEATEN VICTIM MAY DIE

John George Knocked Insensible by Blow From Ax in Fight at Kenton.

Angered because his two friends had moved the bed in the house friends were building for him in Kenton, John George engaged them in a battle royal last night. He was knocked down by a frightful blow on the head with an ax wielded by Cristo Pete and was then brutally beaten by a large timber by John Kirilanos, it is said.

The victim's screams last night and this morning reported to the proprietors of the Kenton Drug company, who sent two clerks to investigate. They found the man still unconscious in the brush. Detectives Tichenor and Howell who were sent to investigate the case are searching in Kenton for the assailants. The injured man is at St. Vincent's hospital where it is reported that he will recover in spite of the frightful wounds.

CANTATAS PLAYED TO LARGE AUDIENCES

(Special Dispatch to The Journal.) Oregon City, Or., May 13.—The two cantatas, "Red Riding Hood" and "Gypsy Queen" were presented to Oregon City people Thursday and Friday nights to crowded houses. They were given under the management of the Daughters of the King of the St. Paul Episcopal church.

The parts in the cantatas were taken by Oregon City people, all of whom got much credit for their work. The cantatas were played to large audiences. The first night, "Red Riding Hood" was presented to a large audience. The second night, "Gypsy Queen" was presented to a large audience.

BOY DIVES IN SLEEP 3 STORIES TO STREET

Philadelphia, May 13.—Falling three stories to a stone pavement, William Kay, 12 years old, of 2310 Locust street, escaped yesterday with such trifling injuries that he will be out of bed in a day or two. A thrilling experience was due to a habit of walking in his sleep.

The boy's room adjoins his mother's, on the third story front. Mrs. Kay was awakened shortly before 1 o'clock by hearing her door open. She saw William run across the room toward the open window, and realizing that he was asleep, sprang from bed and tried to stop him, at the same time calling to him to stop. As the mother reached for him, she was horrified to see him go headlong out of the window.

OF 33 NEW LAWYERS ADMITTED, 1 IS WOMAN

Olympia, Wash., May 13.—One woman, Lulu J. Shakespeare of Everett, was admitted to practice law. Thirty-two men, 14 from Seattle, six from Tacoma, four from Spokane, and others from smaller towns, also got certificates, following the bar examination.

Autos in Thousands.

Albany, N. Y., May 13.—According to a list published here today, 780,000 automobiles were registered in the capitals of the various states May 12. New York leads, with California and Pennsylvania tied for second place, each with 40,000.

Calls Special Session.

Little Rock, Ark., May 13.—After the state legislature had adjourned sine die this afternoon, Governor Donaghey called a special session of that body for May 22 to revise the revenue system.

Fined for Defrauding.

Oregon City, Or., May 13.—Charged with defrauding the "City Restaurant" of \$25, Justice of the Peace Sam

DIVORCE MADE EASY FOR RICH MEN



Mrs. Nora Mellon, wife of A. W. Mellon, Pittsburgh's wealthiest man, who is suing her for divorce, and her children, Mellon, when seen recently, would not deny that he intends to take advantage of the law just enacted in Pennsylvania to make it easy for rich men to get rid of their wives. Report has it that Mellon was instrumental in having the law passed by the state legislature and he has made no direct denial of the rumor. One thing is known—the law was introduced at the request of one of Mellon's lawyers. The new law makes it optional with a judge whether or not there shall be a jury trial in divorce cases. Mellon, president of the largest bank and trust company in Pittsburgh, is a factor in Pennsylvania politics and is known to be well acquainted with many of the members of the Republican legislature that passed the new divorce law. Mrs. Mellon was Miss Nora McCullough of Hartford, England. Below is a picture of A. W. Mellon.

COLUMBIA SCENES ATTRACT MUCH FAVOR

(Special Dispatch to The Journal.) Vancouver, Wash., May 13.—An illustrated lecture showing the Columbia river from its source to the sea, was given at the First Methodist church last night by Rev. J. M. Canse. The scenes were most beautifully depicted and for grandeur in color effect could not have been improved upon. The scenes, at least many of them from the Dalles to the sea, were familiar to many in the audience and were viewed with much satisfaction. One scene, a back yard at the foot of Washington street, taken many years ago, drew a storm of laughter, especially since the next day was to be "clean up" day. The old Fort Vancouver enlisted much applause as well as General Grant's old quarters in the Garrison.

The series of scenes was secured by Rev. Mr. Canse at much trouble and expense and will likely be shown by him or a representative throughout the eastern states. Not one important scene on the grand old river is missing and every available rake and wheelbarrow in the city will be a rare advertising medium for the northwest.

The lecture was a series of three to be given for the Sunday school pledge for the new church. The first night, "The Source of the Columbia," was given to a large audience. The second night, "The Journey to the Sea," was given to a large audience.

CLEANUP DAY IS ON; EVERY RAKE IS IN USE

(Special Dispatch to The Journal.) Vancouver, Wash., May 13.—This is "cleanup" day in Vancouver and the proclamation issued by Mayor Higgins is being observed in all parts of the city. The pupils of the city schools have been enlisted in the work and every available rake and wheelbarrow in the city is in use today. Streets, lawns, back yards, school grounds and all public places are being combed of rubbish that has accumulated during the winter months.

Evidently the "cleanup" crusade was not brought to the attention of certain classes in the city and the number of drunks and disorderlies finding their way onto the streets through police court channels was not diminished, but in fact increased during the past few days and this morning a crew of six went out under guard of a police officer to join in making Vancouver a cleaner and more sanitary city. Rector & Daly, contractors, sent out a team with driver to assist in the work.

TO DISPLAY PRODUCTS OF CLACKAMAS COUNTY

(Special Dispatch to The Journal.) Oregon City, Or., May 13.—Monday will see the start of work on the new building to be used in connection with the Oregon City Commercial club. It will be used to display Clackamas county products only, and will be located on Main street, opposite the court house. The Commercial club headquarters will remain in their present rooms in the Masonic building.

Family Accompanies Body.

(United Press Leased Wire.) San Francisco, May 13.—Accompanied by his family, including his mother, Mrs. La Salle Corbett Pickett, widow of the famous Confederate general, the body of Major Joe E. Pickett, paymaster, U. S. A., who died while the transport Logan was steaming for San Francisco, will be sent to Washington, D. C., tonight for burial. A military funeral will be given Major Pickett, and his body will lie in the national cemetery at Arlington.



DIRECTORS OF C. & S. TELL OF SUCCESS OF ROAD PROJECT

(Special Dispatch to The Journal.) Oregon City, Or., May 13.—The meeting of the directors and people interested in the work of building the Clackamas & Southern railroad, held Friday night, was well attended. Grant B. Dimick told of the labor that had been put in to get the movement started. He said that "now the secret of success is to pull together and all boost for the road." Mr. Dimick stated that \$28,000 had been subscribed for stock. This comes in four payments of 25 per cent per month.

The first and most expensive of the 17 miles to Molalla has been graded at a cost of approximately \$2000, far below the estimate of experienced, railroad men. The grade will be kept under 2 per cent to Molalla, so far 17-10 per cent being the highest grade.

Opens Rich Country. The rich farming and fine timber country that will be opened up by the road was also touched upon by Mr. Dimick. He said that this was Oregon City's last chance at the fine Molalla country, as other interests would probably build from another point if Oregon City did not make good.

Mr. O. D. Eby told of the loss to Oregon City when the Estacada country was turned away by another railroad and also of the country west of Oregon City being lost by the Oregon Electric taking it for Portland. He said that all Oregon City had left was the Molalla district and there was but one thing to do and that was to build the Clackamas Southern & Southern railroad.

Economy Is Explained. Mr. Huntley explained the economical work by the absence of high salaried officers. He said he invested money in the project because it looked like a good proposition to him. He expressed the belief that many thousands of dollars would be subscribed by Portland people.

Frank Busch, F. M. Swift, A. J. Lewis, F. S. Toole, John W. Loder, J. L. Waldron, George Randall, M. Justin, C. S. Noble, W. A. Sheppard, Mr. Marshall and M. Tilford all expressed their favor toward the road and hoped it would go. Just before the meeting closed Judge Dimick said he thought that at least \$50,000 would be subscribed by people of Portland.

Today Oregon City people have a better understanding of the plans of the directors and it is thought great benefit will be the result of the meeting.

MEXICAN GOLD SINKS WITH MERIDA

Fortune Being Taken to New York From War-Ridden Republic, Is Lost.

(United Press Leased Wire.) New York, May 13.—With her bows badly staved in the steamer Admiral Farragut arrived this afternoon at the Brooklyn drydock for repairs. The officers of the Merida, which the Farragut ran down, declared today that the Merida had aboard when she sank \$2,000,000 in cash, which was being taken to New York from Mexican banks. The passengers of the Merida arrived here today by rail.

JEWELERS TO HOLD CONVENTION HERE

Meeting Will Be Held Rose Festival Week; 150 Delegates Are Coming.

The Oregon Retail Jewellers' Association is preparing for the largest and most important convention in its history, to be held in Portland, June 5 and 6, the opening days of the Rose Festival. One hundred and fifty delegates representing the retail jewellers of Portland and of the state generally will be in attendance. By voluminous correspondence E. J. Jaeger, chairman of the executive committee, has succeeded in securing the largest list of representative jewelers from the east who have ever visited the west. The presence of these men is expected to be of large importance to the jewelry business of Oregon.

A meeting of the executive committee has been called for next Monday afternoon in Portland. There are a number of issues important to the retail jewelry trade which will come before the convention and the manner of their presentation will be subject for determination at the meeting Monday. The members of the committee are E. J. Jaeger, chairman, L. W. Bruns, F. A. Heltkemper, C. H. Williams, Condon, I. E. Staples, F. M. French, Albany.

Among the speakers, men well known in the jewelry business of the nation, will be E. W. Chapman of the Elgin Watch company; M. McKern of the Waltham Watch company; Charles F. Higginbotham, South Bend Watch company, whose subject is "A Glimpse Through the Corridors of Time"; H. S. Tuttle of Portland, who will deliver the address of welcome on behalf of the jewelry trade; and E. S. Kingsbury of Placerville, Cal., both representing the Keystone Watch Case company; a number of addresses by local jewelers.

The convention will be held in the convention hall of the Commercial club. For the entertainment of the wives of the delegates who will accompany them to Portland, theater parties and sight-seeing trips by automobile and trolley have been arranged. The delegates will be banqueted by the wholesale jewelry dealers Tuesday evening, in the Commercial club banquet hall.

Mr. Jaeger has just received a number of convention badges made by the Elgin Watch company, which will be worn by the delegates.

PLEADS GUILTY TO SMASHING WINDOW

(Special Dispatch to The Journal.) Vancouver, Wash., May 13.—Albert Wright, who pleaded guilty in the superior court yesterday to hurling a stone through the Charles Wood drug store window at Washougal, was fined \$75 and costs. It cost John Ellis of Sifton \$170 in repair cost yesterday for committing an assault on William Beersbaum of the same place. Ellis was convicted of using a knife on Beersbaum at Sifton on the night of April 3, 1911, and was fined \$100 and \$70 costs.

Peace Banquet Next Week.

(United Press Leased Wire.) New York, May 13.—Arrangements have been completed for the great peace banquet to be given next Wednesday by the New York Peace society. Baron D'Esterhazy de Constant de France will be the guest of honor, and Andrew Carnegie heads the list of speakers. Addresses also will be made by Dr. Nicholas Murray Butler, president of Columbia university, and Dr. Henry Van Dyke.

CHECKING PROCESS ON EIGHT PETITIONS IS BEING RUSHED

City Auditor A. L. Barbur has detailed a force of four deputies to work day and night in an effort to check up eight initiative and referendum petitions for charter amendments. Three, namely, the Ellis paving and billboard petitions and the million dollar paving plant petition, have already been checked and found wanting. "If I do not succeed in checking all the petitions by May 20, the final date on which amendments may go on the ballot," said the city auditor this afternoon, "I will have to place such of them as I have been unable to check over on the ballot anyway, but my office force is working early and late on the measures and we will do the best we can. The decision of Judge Gantenbein on the paving plant petition has necessitated the action we are taking."