and the commissioners are of the opinion that this action was proper.

Charge 5, Specification "B," as to discharge of Mrs. McGinnis and employment of Robinson, we are of the opinion is not sustained.

Charge 5, Specifications "C" and "D," in regard to members of the department doing private work for the chief and failing to be able to respond to fire alarms in consequence.

The evidence shows that when the new apartments were being fitted up, windows were washed and floors scrubbed by members of the department; that this was work which would have been a charge upon the city, and the evidence shows that Mr. Paul was paid $2 50 for services he rendered, but we are of the opinion that the charge that he was moved from one house to another in consequence thereof is unsustained.

The evidence shows that on one occasion a member of the department while working at the fitting up of the chief's rooms did not get down in time to go with his apparatus, but was taken to the fire in the chief's buggy.

Charge 6, in regard to conduct unbecoming an officer and a gentlemen, we are of the opinion is unsustained.

There is no evidence to show that the chief had acted, other than in a gentlemanly manner towards insurance men of this city and San Francisco, but on the contrary several insurance men testified that they had always been extended every courtesy they had asked for.

In regard to specification "C," writing a letter to Mrs. O'Connor; the evidence shows that the letter to Mrs. O'Connor was written by the secretary of the department; same was read in evidence and in the opinion of the commission it was gentlemanly and proper.

Specification "D" in regard to trying to get Welch to swear to Bates' incompetency, we are of the opinion is not sustained.

Charges in No. 7, with reference to using city property for household purposes and in using poor judgment in purchasing supplies for the department, we find are not sustained.

The only supplies used by the chief was coal furnished by the city for the heating of his apartments in common with those of the men.

There was no evidence that any dog house was constructed for the chief and the wardrobe has already been mentioned.

In regard to purchasing poor hay, the evidence shows that when hay was offered for delivery which was not up to the standard, it was either rejected or a reduction made from the price.

Charge No. 8, with reference to favoritism in promotion of the men, we are of the opinion is not sustained.

The board, after giving careful consideration to all of the evidence, are of the opinion that neither side in the controversy is wholly without blame; we are of the opinion, however, that no evidence was produced and that no such state of affairs exists, as would warrant the suspension or removal of the chief. There was testimony to the effect that there is an uneasiness in the department in regard to removals, and fear among the men that they were going to be removed; the commission desires the members of the department to understand that the board is perfectly impartial and will allow no favoritism in the administration of the department, and that no member of the department need fear removal if he does his duty; on the other hand, we desire the department to understand that no insubordination or attempts to create dissension in the department will be tolerated.

FRANK W. JENNINGS,
N. A. EMPEY.
FRANK B. STEPHENS,
Committee Board of Police and Fire Commission.

NO SCHOOL TAXES.

In the district court at Ogden Tuesday, Judge Smith rendered a decision of startling importance to the school interests in cities of the first and second classes, in which he holds that no taxes for school purposes can be collected in such cities. The case under consideration was that of Ogden City vs Daniel Hamer, primarily involving the fees of Collector Hamer. The decision upholds the collector's fees to the amount of $4 for each sale, and validated tax sales to the city on account of the municipal tax levy, but maintains that the city and not the county must bid in the delinquent property. No allowance is made for sales of property under the school tax provision. That part of the decision regarding school taxes is given here. On that subject Judge Smith said:

Now passing to the question of school tax, it seems to me the county collector in this case in selling for the city taxes, also sold for the school tax that was due within the city district. That is, I think there is an independent school district—that would be the effect of it—within the organized cities of a certain class in this Territory, and Ogden is one of those cities; and it levies a tax in a peculiar way. The law originally provided that the board of education should make an assessment of the amount of money they wanted, and then the city assessor and collector should make a levy upon the taxable property within the district, within the city, sufficient to meet this estimated expenditure, and he should extend the levy upon the city tax roll, and thereafter he should collect it as other city taxes were collected.

This law was passed apparently originally on the very day that the office of city collector was abolished, and without any regard to it whatever, and on the very day when the city tax roll was abolished, and there is no provision of law for any such thing. I thought upon the argument, that the court might hold that, being passed upon the same day, they were all to be read together, as clauses of the same law, and that it should be read that inasmuch as the city making this levy and extending these taxes, that the county collector should make it, but I am clear upon reflection that the court has not any authority to do that. If these were sections of the same law, the office of city collector is squarely abolished, city assessor and collector; that is done in terms unmistakable and plain. It cannot be held that the subsequent section, even if it is treated as a subsequent section—I do not know which was passed first, and have not any advantage in that respect, and I do not think anybody knows, nor can it be now determined which was passed first, so it must be held they were passed together. If the Legislature should enact a law in which they in terms in one clause abolished an office—which they did—and in another clause of the same law abolished the city assessment roll, and then in another clause in the same law required of the city assessor and collector that he do certain things upon the assessor's roll—which they already had abolished—it does seem to me that their entire act is void, or at least, the latter provision is, because the first one is clear and explicit, and the effect of it could not be misunderstood, while it could only be claimed that the office was to be revived by implication in the second clause.

Among the statutes of 1892 there is the following: "The office of assessor for each incorporated city, town and village, and the office of collector is hereby abolished."

There is not any question about that; that wipes it out; the terms, "abolishing the city tax roll" are not so expressive, but they provide for the city tax to be extended upon the county assessment roll instead of the city assessment roll, and there is no provision for the city assessment roll at all. In act they provide that the only assessment shall be the one made by the county assessor and the equalization by the county court. Now, on the very same day they pass another act, after abolishing that office and abolishing that assessment, as follows:

"The board of education shall, on or before the first day of March of each year, prepare a statement and estimate of the amount necessary for the support and maintenance of the schools under its charge for the school year commencing on the first day of July next thereafter; also the amount necessary to pay the interest accruing during such year, or not included in any prior estimate, on bonds issued by said board, and shall forthwith cause the same to be certified by the president and clerk of said board to the assessor and collector for said city; and the assessor and collector for the city, after having extended the valuation of property on the assessment rolls shall levy such per cent as shall as near as may be raise the amount required by the board, which levy shall be uniform on all property within the said city as returned on the assessment roll thereof; and the said assessor and collector is hereby authorized and required to place the same on the tax roll of the city."

Now there is no such a thing.

"And the taxes shall be collected subject to the order of the board of education."

Now I am very clear about that proposition: whether any taxes can be collected or not for school purposes for the year 1893, or could have been collected, it is clear the county collector has nothing whatever to do with it: it is not his business to collect it, not his business to levy or extend it on any assessment roll. The act is the county clerk must extend the city taxes, and he extends them from the levy made by the city council and issues a warrant for their collection. In this case an officer that has no existence is directed to make this