UNDER ADVISEMENT.

The Case of Fireman McMullen to Be Considered by the Commissioners.

HEARING ENDED AT NOON TODAY

The Cases of Captain Gilbert, Clark and Mawers Postponed Indefinitely.

—The Testimony.

The fire and police commission last night and a goodly portion of today devoted their time to hearing a representation of the charges preferred against Fireman McMullen as made by Chief Devine. All of the members were present, Noble having just returned from his Wyoming ranch, where he has been for a month or more. The cases of Gilbert, Clark and Mawers, which previously were to have been heard at the same time or in order were indefinitely postponed.

Last Night's Proceedings.

The board of police and fire commissioners held a meeting in their office in the old city hall last night, commencing at 8:30. All the members of the board were present, and the meeting room was filled to its utmost capacity. The business before the board was the case of the fireman who had recently been reinstated by order of the Supreme court, but who since that time had had the old and additional charges filed against them. They were represented by Mr. Stroup, of the firm of Powers, Stroup & Lipman, while the city's interests were looked after by Mr. Van Horne.

Before proceeding with the regular order of events, Mr. Stroup, in behalf of the recently suspended fire officials, Donovan and Sullivan, stated that they would controvert the right of suspension and claim pay for the time they are under suspension, and asked that he board fix a definite time for the hearing of said cases; he, however, suggesting that it be set for Friday the 26th, and that it take place during the day. After some discussion on the point, the board fixed Monday the 29th inst, at 8 p. m., for the commencement of said hearing. This done, the regular order of business was brought up and the case of Fireman John McMullen proceeded with. Mr. Stroup then presented the following: After reading the specific charges filed against Mr. McMullen he objected to the introduction of any evidence, or the trial of the case, upon the ground that the charges were contrary to rule 2 of the rules governing the fire department, which provides that "no charge shall be brought up unless within thirty days from date of filing," he therefore objected to the introduction of any evidence that was more than a year old.

Mr. Van Horne took it that that applied only to the charges preferred by the chief against members of the department. The following witnesses were then sworn in behalf of the court: Chief Devine, Dr. Meacham and Messrs. Workman, McCarthy and Chalmers.

The first witness was Dr. Meacham. He testified that he was a physician and surgeon, and that at all the times mentioned in the complaint he was practicing as such and that he was acquainted with the physical ability of Mr. McMullen. Witness was shown a certificate, and recognized it as being a paper drawn up by him; could not answer as to the defendant's use of intoxicating liquors, other than that contained in the certificate. When asked if the report was true to the best of his knowledge and belief, Mr. Stroup interposed an objection on the grounds that it was immaterial, irrelevant and incompetent, which objection was sustained. When asked whether he knew the habits of the defendant with regard to the use of alcoholic stimulants at the time of making the examination, the witness refused to answer, on the ground that he had the privilege of retaining that information to himself. The board overruled the refusal and said that the question should be answered, when the witness stated that he knew his habit in that regard. When asked what his habits were, the witness again refused to answer. Mr. Van Horne pleaded with the board to have the question answered. Mr. Stroup said the question was one regarding the habits of the man and not one which a physician would inquire into in a professional capacity, also that the supreme court has ruled that those who were members of the department at the time of the organization of the board were not subject to examination.

Cross-examined by Mr. Stroup: Stated that he had known the defendant, and had examined him as to his physical qualifications. When asked if he recommended his appointment he said that whatever the certificate showed was his recommendation. On being re-cross-examined by Mr. Van Horne, the certificate was offered in evidence. The defendant had certain ailments and habits which the doctor refused to divulge in public.

It appears that in the face of the certificate the doctor recommends his appointment, but on a slip attached thereto, he recommends that he be not appointed. Mr. Stroup seemed to be somewhat surprised at this, thinking perhaps that it had been tampered with, and on seeing the witness if he had attached said slip after the certificate had been prepared and presented to the board, the witness replied in the negative.

After some further examination Chief Devine was called upon to witness. Testified that he was chief of the department and had been since July 1894. He was acquainted with John McMullen and his habits and said that during the month of May he had even outlinked intoxicated while on duty in the headquarters of the department. He had conversation of an adversary nature with him and had asked him to cease his habits and lead a better life in his official capacity. Such conversation had always been of a friendly nature.

In his cross-examination he stated that he had seen him intoxicated a good many times but not to an extent that would incapacitate him from attending to his duties. The first time he saw him in that condition was about two or three months after Mr. Devine had taken his place.

The evidence of McMullen being intoxicated were witnessed by his general demeanor, speaking and closing of the eyes, smell of the breath, shaking of the head, etc. Had not seen him intoxicated since he was reinstated in the 20th of May, 1895. With friends is very good.

Mr. Workman, the next witness, was at present and had for some time been a member of the department. Knew John McMullen and did not think he was intoxicated today; he was able to judge from his appearance; had seen him in such a condition about May, 1894. McMullen had a talk with the chief in regard to drinking and had told witness that he intended to quit. Had seen him partially intoxicated after that, on one occasion when they went a run.

In his cross-examination the witness stated that he had taken a social drink with McMullen on several occasions.

Mr. Chalmers testified that he occupied the position of secretary and operator and had been in such position for about 19 months. Was acquainted with defendant and had seen him in a semi-intoxicated state on several occasions.

Cross-examined: Had never drank with him. Had warned of the same house and had noticed that he was under the influence of liquor on several occasions.

At 11:10 the board adjourned until 10 a.m. today.

TODAY'S HEARING.

Was McMullen Drunk? He Says He Was Not and so Does Assistant Chief Donovan.

Pursuant to adjournment, the fire and police board met this morning to further inquire into the charges preferred against Mr. McMullen. Mr. Stroup made a motion of non-suit upon the ground that sufficient charges had not been preferred to constitute a cause of action, which was overruled.

Mr. McMullen sworn in his own behalf, testified as follows: That he was employed by the fire department at all the times mentioned in the complaint and had been so employed ever since, with the exception of even time as he was under suspension. Was not intoxicated or under the influence of liquor at any of the times in question. Took an occasional drink, as an appetizer in the morning, never drank to excess.

That during a certain run in May, 1894, he was sent an alarm was turned in from box 25, but others said it was at box 31, and he was ordered to go there. Upon going there it was found that the alarm was turned in from box 25, and that after the fire, he spoke to some of the members about the poor judgment of certain parties, whereupon they accused him of being drunk. Had never been drunk while on duty, but admitted being drunk during his suspension. Had had several conversations with the chief, when he advised him to quit drinking if he wished to retain his position in the department.

M. M. Donovan, being sworn testified that he was at present assistant chief of the department and has been such ever since Mr. Devine became chief. Had occasion to observe the general demeanor and action of Mr. McMullen. Has never seen the defendant in an intoxicated state, although he had opportunities to notice his habits. Had never seen him in a state which would incapacitate him for the performance of his duties.

Mr. Charles Quale, was next called. He was a member of the department in the months of April, May and June, 1894. Was working on the same man since 8 in the morning and would see him several times a day. Never saw him in a condition to report the influence of liquor at any time. His reputation for sobriety was good. Had heard several members of the department speak of his general conduct as sober.

Mr. J. J. Clark said that he was employed by the department during the months mentioned in the complaint. McMullen's reputation for sobriety was good, and he had never seen him under the influence of liquor. Never noticed any change of demeanor in Mr. McMullen. Never knew him to be incapacitated for the performance of his duties.

P. J. Sullivan was called but was not considered a competent witness, as he was not regularly employed with McMullen.

Fireman McQueen testified as follows: Was employed at the same hose as Mr. McMullen. Never saw him intoxicated. If he had been intoxicated to the extent of disqualification he would have noticed it. He has seen him drink under suspension of the rules.

Mr. Stroup stated that there were other witnesses on the same line and thought it unnecessary to produce them.

The board took the case under advisement.

The hearing in the cases of Gilbert and others was laid over indefinitely.

The Court Was Merciful.

John Forslund, who got away with a $25 bottle of samples belonging to Henry Dohring, had his trial before a jury after in U.S. Commissioner's commissioner's office yesterday afternoon. It was late when a verdict was reached, but it was against Forslund, who was found guilty of the crime of embezzlement. There was in the finding of the jury a recommendation to mercy, and the commissioner considered this, fixing the punishment at $1 fine and costs. An appeal will be taken.

County Court Matters.

The county court held a short session this morning before the hours of equalization convened.

Bonds given by C. T. Nelson, of Farmers ward, and Harry H. Jones, of Murray, to retail liquors were approved.

The sale of the following real estate by the clerk to Mary W. Roberts, the owner, for $1 was approved: Commencing at the southwest corner of lot 5, block 76, plat D, Salt Lake City survey, and running thence west 41 feet; thence north 24 feet; thence south 41 feet; thence east 24 feet to place of beginning.

A communication from D. McLeod asking to be relieved as a constable for Deputy Sheriff Shields Garvin was received and will be granted if Davis will furnish new bonds.

Board of Equalization.

The board of equalization met to consider the most complaints and petitions this morning. Abatements to the amount made to the following widows: Hannah M. Mitchell, $1; L. Pedersen, Jane A. Buckley, Wm. Shives estate, D. M. Jennings, A. Fred Pinkney, Jennie H. Schettler, Elizabeth M. Tanner, Annie Lewis Dyer, Sarah A. Bird, Jane E. White, Mary Ann Green, Caroline Jensen, Mary Laney, and to Amy W. P. Lyndalch, mortgage, and on property belonging to Clara and Henry Cobb. Other abatements were made as follows: Johanna Nielsen, indigent, $4; Camilla Thorup, indigent, $1.05; M. L. Millard, widow, $9.45; Hannah Arnow, indigent, $1.05.

The assessed valuation of the property of the following was reduced: Sylvia McPhillips, $200; George R. Parke, $1,500; Maria C. Y. Dougall, $300; Wm. H. Butterfield, $100; Hannah Allison, $200; Wm. Hepworth, $200; George J. Sawyer, $300; E. G. Woodmansee, $750.

Thomas Adams and M. N. Wall were referred to the assessor. A number of requests were denied.

Financially Successful.

PLEASANT GROVE, July 15, 1895.—The Old Folks' executive committee of Pleasant Grove are pleased to be able to state that through the liberality of the citizens of Pleasant Grove after entertaining about two thousand people, consisting of the Old Folks and their friends and paying all expenses incurred thereby, the treasurer's account showed a balance in favor of $47.25, which amount they decided to divide among the three wards of the settlement. The committee also desire to tender their sincere thanks to all who so kindly assisted them in their labors.

J. D. WADLEY,
Treasurer.
JOSEPH W. ALLEN,
Secretary.
JAMES T. THORNLEY,
Chairman.

OGDEN.

OGDEN, UTAH, JULY 15, 1895.

Junction City Items.

W. H. Smith, an old soldier was up before Justice Bagley yesterday charged with obtaining money under false pretenses, and he pleaded guilty. He presented an order for $10 to Messrs. Dee & Rowland on C. E. Jenkins for that amount saying that he had that amount coming to him for carpenter work which he had done. He was fined $25 and costs.

M. J. Stevens has had his barn burned and damaged to the amount of $150 and no insurance.

The Peace Piano company, of New York, has filed suit against Albert Allen for $350 damages. The complaint alleges that they delivered a piano to defendant to be delivered at Wood Weber and that on account of negligence of the defendant it was wholly destroyed.

A number of colonists came up from Rock Lake and was driven around town and through Ogden canyon.

S. S. Smith, of Fort Collins, Colo., brought in a printing outfit intending to start a Democratic newspaper.

A marriage license has been issued to Michael C. Ryan, 35, and Jennie M. Williams, 30, both of Butte, Mont.

New Blood

And life have been given me by Hood's Sarsaparilla, in place of impurities, disordered stomach and catarrh. I regard

Hood's Sarsaparilla

a most excellent tonic and heartily commend it to all.—J. W. Jouneaux, City Clerk, Oakdale, Washington.

Hood's Pills Purely vegetable, mild and effective. 25c.

Special Offerings in Fine Table Linens and Napkins.

72 inch Genuine Silver Bleached Double Satin Damask, worth $1.50, during this sale 75 cents.

Three-quarter Napkins to match, worth $1.50, during this sale $2.25 per dozen.

F. AUERBACH & BRO.

Everybody can save money. Read now.

This cream laid two to seven in the Union Square Hotel, New York, and the prices approximate the old prices among the wealthy patrons of society.

HALF PRICE

For all cloth, silk and cassimeres for the customers and patronage of the wealthy who consider their work, it is conceded by all to be very, very, very,