File No. 1149 Continued.

OPINION.

fees for such services as may be actually rendered by him.

1562 It appears in this case that Dr. Geer was called upon by the Fire Board to vaccinate a number of firemen, and for this work he has rendered a bill against the City of $1.00 per man, amounting to $480. I do not understand it to be contended that this bill is not reasonable, provided Dr. Geer is authorized to make any charge in the matter.

1563 The new Charter, Section 77, provides that the Commissioner of Health shall appoint a Vaccine Physician for each ward, "who shall vaccinate in his ward all such persons as may be designated by the Commissioner or Assistant Commissioner of Health as susceptible to smallpox contagion, and whose duty it shall be to visit each dwelling house in the ward for which he is appointed and vaccinate every person who may be presented to him for that purpose, and to be prepared at his office at such hours as may be designated by the Commissioner of Health to vaccinate all who may there call on him that are resident of said ward requiring vaccination." See also Code 1893 Supplement, Article 23, Section 126.

1564 It seems to me clear that this provision of the Charter contemplates the Vaccine Physicians as the physicians who shall do all vaccination work. The matter of vaccination is confided exclusively to them, and, if any member of the Fire Department requires vaccination, he should be sent to the proper Vaccine Physician, who is paid an annual salary for this very work. Dr. Geer is bound by knowledge of this provision of the Charter, and, therefore, bound to know that, when requested by the Fire Board to vaccinate firemen, he was called upon to do work which was confided by the Charter to other salaried city officials. He could, therefore, have refused to do the work, on the ground that it was no part of his duty, and that the Fire Board had no authority to call upon him in the matter; just as, prior to the reorganization of the Law Department by the new Charter, the City Solicitor could properly have declined to do any of the work specially confided to the City Counselor, to the City Attorney, or to the Examiner of Titles.

1565 The Fire Board, having called upon Dr. Geer to do work appertaining to the duty of the Vaccine Physicians, acted, I think, beyond their authority. I am, therefore, of opinion that the bill should not be paid.

Truly yours,

(Signed) W. Cabell Bruce,

City Solicitor.