

File No. 7249 Continued.

OPINION.

LAW DEPARTMENT.

Baltimore, December 26, 1907.

P. W. Wilkinson, Esq.,  
Secretary of Board of  
Fire Commissioners.

Dear Sir:-

5456

I reply to your letter of the 26th inst. The Fire Board has the power to appoint all of its subordinates and to fix their compensation, not, however, to exceed in number of employees or aggregate amount of compensation the limits fixed by ordinance, and the Fire Board has, as I understand it, a surplus in its hands arising out of the aggregate appropriation made to it for salaries.

In my opinion, having agreed with its subordinates upon the respective amounts of their compensations, and the services of these subordinates having been rendered pursuant to the terms of the several contracts, the Board is ~~now~~ powerless, in a legal sense, to use the surplus in question by way of extra compensation to these subordinates.

The Board has the unfettered power, within the limits set forth above, of contracting with its employees as to the amount of their compensations, but when this power has been exercised, the contracts are as much beyond the control of the Fire Board as of any other department. Extra compensation, therefore, to the subordinates of the Board, under the circumstances, would be a mere bonus or gratuity, and, of course, ~~neither the Fire Board nor any other branch of the City~~ government has any right to make such a disposition of the public money.

5457

I reach this conclusion on general grounds, but the conclusion, I might add, is but a re-affirmation of the general policy of the City as expressed in Section 40 of Article 1 of Pielert's Code. Had the Fire Board, at the beginning of the present year, agreed with its subordinates to pay them certain fixed amounts, with the further understanding that at the end of the year, if there was a salary surplus in its hands, the compensations would be increased to some reasonable amount within the discretion of the Board, a different question would