

tion can be paid to the Fire Chief or Firemen?" You state that the volunteer firemen are paid one dollar each in case of a fire, and it is enquired if it is permissible to pay the Fire Chief six dollars per month.

Chapter 50, Part IV of the Political Code, 1921, commencing with Section 5109, contains the law in relation to fire departments. Section 5110, R. C. M., 1921, explains the organization of such departments and the authority of the city in relation to compensation. Where departments are organized under this provision the statutes quite fully cover the subject. Section 5116, R. C. M., 1921, provides that this Act does not affect volunteer fire companies. Section 5125, R. C. M., 1921 requires the filing of a certificate by the city clerk of all cities whether they have an organized fire department, or a partly paid or volunteer department.

It is my judgment that the members of the volunteer fire department may be paid by the city and that the payments which are authorized and mentioned would be legal. If no other fund exists from which compensation could be paid, it may be paid from the general funds of the city.

You also ask whether it is permissible for the fire department to take all of the equipment out of the city and leave the city unprotected while they are gone. If they are allowed to help out in another town when there is a fire in such town, who is to pay them for the trip?

There appears to be no authority upon this matter. The fire department of a municipality is organized and conducted for the benefit of such municipality, and certainly such municipality would not be authorized to pay the expense of taking the equipment without the limits of the municipality for services elsewhere. If the equipment were taken to the assistance of another town, certainly there would be a moral obligation upon the part of such other community to pay for the use of same. The only authority I have been able to find is the case of *Matter of Brown*, 211 N. Y. S. 807, which is not directly in point.

To take equipment without the limits of the municipality for use elsewhere is not authorized by law. In cases of grave emergency it is frequently done.

#### Opinion No. 557

##### Cities and Towns—Fire Departments —Volunteer Fire Departments —Salaries—Equipment, Use of.

HELD: Members of a volunteer fire department may be paid by the city from the general fund of the city if no other fund exists from which compensation could be paid.

Taking fire equipment without the limits of the municipality for use elsewhere is not authorized by law, though frequently done in cases of grave emergency.

June 21, 1934.

You submit the question: "Where an incorporated city or town has a Volunteer Fire Department what compensa-