

"Third. Did the court err in holding that the charge for 'superintending' was properly included in the assessment?

"The difference between the superintendent and the engineer in this case is, that the former was not a salaried officer, while the latter was. This appears from the finding of fact on this point. The fourth section of the act of March 17, 1876, does not require superintendents to be appointed for a fixed period, and where they are not so appointed, there is no provision for the payment of their services when employed under special contract, as in this case. We suppose that, under section 544 of the code, the proper city officers could, in their discretion, if they deemed it necessary, employ a superintendent for this particular work, and thereby incur the expense agreed to be paid for his services; and we see no reason why this expense would not constitute a proper and necessary expenditure in the construction of the improvement. If so, then a charge for such services would constitute a necessary item of expenditure in the construction of the work, and was properly included in the assessment."

The rule laid down in the above case is cited with approval in the case of Spangler vs. Cleveland, 35 Ohio St. 469.

By analogy it would seem that general expenses of an engineering department of a city may not be paid out of the "maintenance and repair fund" provided in said Section 6309-2 of the General Code.

However, from these cases it may be said that engineers, and other engineering employes, doing the engineering work in connection with the maintenance and repair of streets, as that phrase is defined in said Section 6309-2 of the General Code, who are appointed for a definite period of time, at fixed salaries, may not properly be paid out of such maintenance and repair fund. Engineering employes, doing the engineering work in connection with such maintenance and repair, employed for the special purpose, may properly be paid out of said fund.

Respectfully,

C. C. CRABBE,

*Attorney General.*

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1454.

APPROVAL, BONDS OF VILLAGE OF MT. HEALTHY, HAMILTON COUNTY, \$7,931.39, STREET IMPROVEMENTS.

COLUMBUS, OHIO, May 10, 1924.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

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1455.

APPROVAL, BONDS OF CITY OF ATHENS, ATHENS COUNTY, \$6,000.00, TO EXTEND, ENLARGE AND REPAIR WATERWORKS.

COLUMBUS, OHIO, May 10, 1924.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*