
LINOLEUM AS FIXTURE OR FURNISHING FOR BUILDING.

Where linoleum is used to finish a floor of a new building or to resurface a worn floor, whereby it is firmly and permanently attached to the floor, it is properly chargeable to the appropriation for construction of the building or for repairs to the same, as the case may be; but where it is intended as a floor covering for a completed and occupied building and is laid in such manner that it can be removed or replaced without material damage to the floor, it is not a fixture, and is properly chargeable to the appropriation for furniture.

Decision by Comptroller Warwick, August 8, 1919:

The Secretary of the Treasury applied July 28, 1919, for revision of the action of the Auditor for the Treasury Department in disallowing, per certificate 10744, dated July 24, 1919, credit for payments made on three vouchers in the account of J. L. Summers, disbursing clerk, Treasury Department.

The vouchers are in favor of W. & J. Sloane for linoleum furnished and laid in cement, as follows:

Voucher 381, customhouse, New York, N. Y.....	\$286. 78
382, post office, Knoxville, Tenn.....	77. 79
383, post office, Hartford, Conn.....	269. 24
Total.....	633. 81

The appropriation sought to be charged in each voucher was "Furniture and repairs of same for public buildings, 1919." The ground of disallowance was that linoleum laid in cement is a fixture rather than a floor covering and, as such, should be paid for from an appropriation for the erection of the building in the case of a new public building or from an appropriation for repair and preservation of public buildings in the case of a building already erected.

The appropriation for "Furniture and repairs of same for public buildings, 1919," provides as follows:

"For furniture, carpets, and repairs of same, for completed and occupied public buildings under the control of the Treasury Department, * * * and for furniture and carpets for public buildings and extensions of public buildings in course of construction which are to remain under the custody and control of the Treasury Department, * * * ." Act of July 1, 1918, 40 Stat., 639.

When linoleum is used instead of rugs or carpet as the most suitable form of floor covering it is properly chargeable to an appropria-

tion for furniture. When linoleum is used to finish a floor as in the case of concrete floors in a new building, or to resurface a worn floor as in the case decided by this office September 12, 1916, 78 MS. Comp. Dec., 886, it is then properly chargeable to the appropriation for the building itself, or for repairs to same as the case may be.

On June 27, 1919, 89 MS. Comp. Dec., 2031, this office approved the auditor's construction of the appropriation quoted, to the effect that it is not available to pay for linoleum in those "cases in which the linoleum is firmly and permanently attached to the floor in such a way that it can not be removed without material damage to the floor, so that it becomes a part of the building rather than a movable fitting which could be classed as furniture."

The auditor's action in disallowing the items now under consideration was based upon that decision.

It appears, however, that these items are for linoleum for use as a floor covering in completed and occupied buildings; that it was not intended as a resurface for worn-out floors; and that it was laid in cement or glue in such manner that it can be removed or replaced without material damage to the floor. Therefore the decisions of September 12, 1916, and June 27, 1919, hereinbefore cited, are not applicable to said items.

It appears to be the usual practice to lay linoleum in cement regardless of the purpose for which it is intended, not necessarily for the purpose of making it a permanent part of the floor, but also to prevent it from buckling and to make it more satisfactory as a floor covering.

The action of the auditor is reversed on revision, and a certificate of differences will issue accordingly.
