

File No. 36404 Continued.

taxes upon real estate are collected."

I cannot agree with you that this language is capable of the construction sought for by you. In my opinion, it refers only to the machinery for the collection of the charges. Under the terms of the Ordinance the procedure passes through three stages, viz: the Highways Engineer certifies the charge to the Appeal Tax Court; the Appeal Tax Court causes advertisement thereof, and, in the absence of objection or reversal on appeal, the charge is certified by the Appeal Tax Court to the City Collector, and it then becomes the duty of that official to make collection in the same manner as taxes on real estate. Some official of the City Government had to be charged in the Ordinance with the collection of these amounts, and it was only natural that the particular official who collects ordinary taxes should be designated as the official to collect these special assessments. In clothing him with this authority, the City Council intended that he should have the same machinery ordinarily used in the collection of ordinary taxes. The Council never intended, in my judgment, that the well recognized exception to the statute of limitations applicable to these charges should be eliminated. Moreover, the argument you now make was made in the Gould case. The Act in that case authorizes the City to provide by ordinance for the collection of the assessments "as other City taxes are collected". (substantially the same language in the ordinance of 1917). The Court distinctly held that the use of this phrase did not bring the charges within the four year clause. In that case as in this case the language of the Court is peculiarly applicable, "no ordinance has been passed providing that the collection shall be made within a specified time."

There is only left for consideration by me the equities of the situation which you suggest. I cannot necessarily agree with you that the equities are on the side of your clients. The owners have not been kept in ignorance of these charges; they have from time to time been billed for the same and have neglected to make payment and the interest and penalties have accumulated through the failure of the owners to pay and not because of any negligent conduct on the part of the City.