

section, that if a taxpayer desires to avoid payment of assessments at the same time he pays his general taxes, he shall take the precaution of initiating the proceedings in court which will eventually result in escaping the payment of that particular portion of his tax. Manifestly, there is no hardship in this provision, because there is no escape from special assessments after they have been placed on the tax duplicate, except by an appeal to the courts under favor of Section 12075."

While section 2655 has been amended since the decision of this case, there has been no change which would affect the rule of law laid down therein. As stated in the case of *Spitzer, et al., vs. Stillings, Exr., et al.*, 109 O. S. 297:

"Where a statute is construed by a court of last resort having jurisdiction, and such statute is thereafter amended in certain particulars, but remains unchanged so far as the same has been construed and defined by the court, it will be presumed that the Legislature was familiar with such interpretation at the time of such amendment, and that such interpretation was intended to be adopted by such amendment as a part of the law, unless express provision is made for a different construction."

I am of the opinion, therefore, that where special assessments levied by a municipality are certified to the county auditor and placed upon the tax duplicate, the payment of which assessments is objected to by owners of the property assessed on the ground that they claim said assessments are illegal, the county treasurer has no authority to receive from such persons payment of general taxes without at the same time receiving payment of such installments of said assessments as are due, unless the payment of said assessments has been legally enjoined.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4153.

APPROVAL, NOTES OF ATHENS TOWNSHIP RURAL SCHOOL DISTRICT, ATHENS COUNTY, OHIO—\$3,000.00.

COLUMBUS, OHIO, March 16, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.