

Opinion No. 44-4570

August 31, 1944

BY: C. C. McCULLOH, Attorney General

TO: Mr. R. H. Grissom, Educational Budget Auditor, Santa Fe, New Mexico

I have your letter of August 16, 1944, wherein you request an opinion of this office concerning whether the statute of limitations runs against municipal bonds and interest coupons.

Section 27-123 of the N.M. 1941 Compilation provides:

"No suit, action or proceeding at law or equity, for the recovery of judgement upon, or the enforcement or collection of, any bond of any county, city, town, school district or other municipality in this state, or upon any coupon thereto attached, shall be commenced except within ten (10) years next after the date of the maturity of such bond or coupon, and all such suits or action not so commenced shall be forever barred."

A question arises concerning when the statutory period begins to run on interest coupons attached to various bonds. The rule seems well established, and is supported by decisions of the U.S. Supreme Court in many other states, that the statutory period starts running from the maturity date of the coupons themselves, and not from the maturity date of the bonds on which they constitute interest payments. Although there are cases holding that the statutory period does not begin to run on the coupons until the maturity date of the bond, this would appear to be the minority holding, and not applicable to New Mexico under the provisions of Section 27-123, which specifies:

"except within ten (10) years next after the date of the maturity of such * * * coupon * * *"

Hoping that the foregoing answers your questions, I remain

By HARRY L. BIGBEE,

Asst. Atty. General