



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Mr. Leroy L. Moore
County Attorney
Houston County
Crockett, Texas

Dear Sir:

Opinion No. O-7303

Re: When a suit is filed for delinquent taxes, can the owner of the land file a plea of ten years limitation and have the school taxes deducted?

Your letter of October 25, 1946, requests in effect our opinion as to whether recent court decisions have overruled our prior opinions on the above subject.

In our opinions numbered O-3315, O-4495, O-0194 and O-6558, we held that under Article 7298, n. s., as amended in 1931, a delinquent tax payer in a suit against him for school district taxes may, by affirmative pleading, avail himself of the defense of the ten year limitation statute.

In *Saw Bassett Lumber Co. v. City of Houston*, 194 S. W. (2d) 114, the Galveston Court of Civil Appeals held the 1931 amendment to Article 7298 fixing a ten year statute of limitation on school district and road district taxes, to be unconstitutional and void.

After first declining to grant a writ, the Texas Supreme Court on motion for rehearing, granted the application for writ of error. Such cause, being No. A-926 on

Mr. Leroy L. Moore, Page 2

the docket of the Supreme Court, is set for submission in the Supreme Court on November 13, 1946. Point No. I in the application for writ of error challenges the correctness of the lower court's decision on the constitutionality of the 1931 amendment to Article 7298. The Supreme Court granted the writ of error with the notation that it was granted on Points I, II and III.

We trust that this is the information desired by you.

Yours very truly

ATTORNEY GENERAL OF TEXAS

[Handwritten signature]

By *J. Arthur Sandlin*
J. Arthur Sandlin
Assistant

JAS:ms

