

Section 286, General Code, the pertinent part of which is quoted in your letter, is a later statute than section 3043, supra. It is a well established principle of statutory construction that the legislature in the enactment of a law is presumed to have had in mind existing laws. The language of section 286 is sufficiently broad to include unclaimed costs. Certainly, these costs are "received or collected under color of office" within the meaning of that expression as used in section 286, supra. In your letter you state that there is an apparent conflict between these sections. Wherever possible, statutes should be harmonized so as to give effect to all provisions of law. Obviously, section 286 is a limitation upon the time when such money may be paid out of the county treasury as authorized by section 3043. Hence, both statutes may be harmonized and there is therefore no inconsistency between these sections. It follows, therefore, that after five years the money reverts to the general fund under the provisions of section 286, General Code. You do not ask and I express no opinion as to the authority of the county commissioners to appropriate any money from the general fund to pay the persons who would have been entitled to these costs within the five-year period.

It is therefore my opinion, in specific answer to your question, that a person entitled to money under the provisions of section 3043, General Code, may receive the same in accordance with the provisions of that section at any time within five years. At the end of that period, such unclaimed costs should be paid into the general fund of the political subdivision where the money was collected.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*

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2690.

APPROVAL—PROCEEDINGS RELATING TO APPLICATION MADE BY THE BALTIMORE AND OHIO RAILROAD COMPANY OF BALTIMORE, MARYLAND, FOR A REDUCTION IN THE ANNUAL RENTAL UPON LEASE OF OHIO AND ERIE CANAL LANDS IN AKRON, SUMMIT COUNTY, OHIO.

COLUMBUS, OHIO, May 19, 1934.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You recently submitted for my approval the report of your finding on an application made by the Baltimore and Ohio Railroad Company of Baltimore, Maryland, for a reduction in the annual rental to be paid by said company upon the lease of Ohio and Erie Canal lands in the city of Akron, Summit County, Ohio, which canal lands said company is now occupying and using for railroad purposes.

The lease we have in question, which bears Serial No. O. & E. 6, was executed under date of July 10, 1923, for a term of 15 years, expiring July 9, 1938, and the same provided for an annual rental of \$1370.00.

The application for a reduction in the amount of the annual rental provided for in this lease, was filed with you on or about the 27th day of November, 1933, pursuant to the provisions of House Bill No. 467, which was passed by the 90th General Assembly, under date of June 8, 1933, and which became effective on the 11th day of October, 1933. 115 O. L. 512.

By the provisions of this act, the Superintendent of Public Works, with the approval of the Governor and Attorney General, is authorized to make a rental adjustment on existing canal land leases for a period of one year in advance, beginning with the next semi-annual rental payment date provided for in such leases. Such rental adjustment can be made by the Superintendent of Public Works only upon an application therefor made by the lessee in the manner and form provided for in Section 3 of said Act, in and by which application, among other things the lessee is required to set forth the reasons why the annual rental provided for in said lease should be revised.

In the application filed by the lessee with you as Superintendent of Public Works, the reason assigned for the reduction in the annual rental, provided for in this lease, requested by the lessee, is economic conditions affecting railroad earnings.

Acting upon this application and presumably making the investigation which the statute contemplates, you have made a finding in and by which you have granted said lessee a reduction in the annual rental under said lease for a period of time between May 1, 1934, and May 1, 1935, and have fixed the annual rental to be paid by said lessee for this period, at the sum of \$822.00.

Upon examination of the proceedings relating to this matter, including the application for the reduction in rental, above referred to, I am inclined to the view that they are in substantial conformity with the statutory provisions outlined in House Bill 467 and the same are accordingly approved by me as to legality and form, as is evidenced by my approval endorsed in and upon the resolution of approval, which is made a part of the proceedings, relating to the reduction of said rental, and upon the copies thereof, all of which, together with the duplicate copies of your finding and the application, are herewith returned.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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2691.

OFFICES INCOMPATIBLE—VILLAGE MARSHAL AND TOWNSHIP  
CONSTABLE WHEN—DEPUTY VILLAGE MARSHAL AND CON-  
STABLE COMPATIBLE WHEN.

*SYLLABUS:*

1. *A village marshal may not at the same time serve as constable of a township where the limits of the township extend beyond the limits of the village, or where the limits of the township are identical with the corporate limits of the village.*