

thereof, for the improvement of such roads within said township as may be designated in said resolution."

While the trustees of a township may, by resolution, permit the county commissioners to expend their share of such funds, or any portion thereof, such funds may be so expended only for the purposes provided by law, namely, "for the improvement of such roads within the township as may be designated in said resolution." It is clearly the intention of the legislature, as expressed by the above statutes, that no part of the proceeds of gasoline taxes which have been allocated to a township as provided by section 5541-8, General Code, may be used for poor relief. It necessarily follows, therefore, that the trustees of a township would have no authority to transfer money from its gasoline tax fund to the county commissioners to be used by them for the purpose of poor relief.

I am of the opinion, therefore, that trustees of a township have no authority to transfer any money from its general fund or gasoline tax fund to the county treasury to be used by the county commissioners for the purposes of poor relief.

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

2689.

UNCLAIMED COSTS—UNDER SECTION 3043, GENERAL CODE, MAY BE RECOVERED WITHIN FIVE YEARS—DISPOSITION AFTER THAT PERIOD.

*SYLLABUS:*

*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.*

COLUMBUS, OHIO, May 19, 1934.

HON. PAUL A. BADEN, *Prosecuting Attorney, Hamilton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion which reads as follows:

"The Clerk of Courts of Butler County has informed me that he has on hand certain costs which have been unclaimed for a number of years. These costs consist mainly of witness fees and go back for a period of approximately ten years. The certified lists have been published as provided in Section 3041 G. C. and have been paid to the Treasurer of the County as provided in Section 3042 G. C.

The question now arises whether or not these fees or costs which have been in his hands longer than five years can be paid to the person entitled to them upon demand.

Section 3043 provides as follows:

'A person entitled to money so turned into the treasury, upon demand, shall receive a warrant therefor from the auditor, payable to the order of the person named in the list furnished the auditor as hereinafter provided, upon the certificate of the Clerk, Probate Judge or Sheriff in office at the time demand is made.'

Section 286 provides in part:

'The term "public money" as used herein shall include all money received or collected under color of office, whether in accordance with or under authority of any law, ordinance or order, or otherwise, and all public officials shall be liable therefor. All money received under color of office and not otherwise paid out according to law, shall be due to the political subdivision or taxing district with which the officer is connected and shall be by him paid into the treasury thereof to the credit of a trust fund, and to be retained until claimed by the lawful owner. If not claimed within a period of five years after having been so credited to said special trust fund, such money shall revert to the general fund of the political subdivision where collected.'

There seems to be a conflict in these two Sections and the question which I would like to have you answer is whether or not this part of Section 286 applies to unclaimed costs and whether or not the Clerk of Courts is entitled to pay out such costs after five years."

The provisions of law concerning unclaimed costs are, as stated in your letter, covered by sections 3040, et seq., General Code. It might be well to quote section 3042, General Code, which reads as follows:

"All such advertising moneys, fees, costs, debts and damages, remaining in the hands of such clerk or probate judge, and all unclaimed moneys, other than costs, remaining in the hands of the sheriff from expiration of thirty days from the ending of such time of advertisement, shall be, by such officer, or successor of either, paid to the treasurer of the county, on the order of the county auditor, indicating in each item in his cash book and docket the disposition made thereof. Upon ceasing to be such officer, each clerk, probate judge, and sheriff immediately shall pay to his successor all money in his hands as such officer."

Sections 3040, et seq., General Code, have been on the statute books of Ohio for a long time. It is to be noticed that there is no time limit placed by these statutes as to when a person may recover these costs from the county treasury. So far as these sections are concerned, a person might be paid such funds twenty years after he is entitled to the same.

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.