

of public service had the power to grant such a concession. Section 3714, General Code, placed the care, supervision and control of public parks in the municipal council, while Section 4324, General Code, merely placed their management in the director. Under these statutes it was merely determined that the granting of such concessions belonged to the city council and not to the director of public service.

Your inquiry further calls for a consideration of the power of the Society to grant concessions other than for refreshment purposes. Generally, it may be stated that the Society has the power to grant only such concessions as are necessary, customary or incidental to *park purposes*, and that it can not grant even those if they are inconsistent with the purpose for which a particular park is created, or if they would unreasonably interfere with the right of the public to use the premises. For example, the Society would have no right to grant the privilege of selling automobiles or of conducting a shoe factory, for such enterprises are wholly foreign to the conduct of a park.

Your inquiry, too, necessitates some comment about the *products* derived from such parks. Generally, I think it may be safely said that the Society has the right to sell such agricultural products as are derived from the land naturally, such as fruit derived from trees found in the park or hay derived from a natural growth of grass, but that it has no implied right, under the power of conducting a park, to enter upon an affirmative program of farming.

The next question which becomes imminent is whether the Society may apply the profits derived from these parks to their upkeep. Section 2288, General Code, provides:

“As often as may be so required, each receiver of the public works of the state, register or receiver of a school land office, and *other collector or receiver of revenue of the state*, except state and county treasurer, shall pay into the nearest convenient county treasury or the state treasury, as the treasurer of state shall direct, all moneys by him collected or received, since making the last payment.” (Italics, the writer’s.)

Inasmuch as the park properties in question, belong to the state, any profits arising from them would belong to the state, and not to the Society; and, therefore, under said Section 2288, such profits must be paid into the nearest convenient county treasury or the state treasury, as the state treasurer shall direct.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

3966.

APPROVAL, BONDS FOR THE FAITHFUL PERFORMANCE OF THEIR DUTIES AS RESIDENT DIVISION DEPUTY DIRECTOR AND RESIDENT DISTRICT DEPUTY DIRECTOR IN MORROW COUNTY—IVAN R. AULT—K. B. GRAHAM.

COLUMBUS, OHIO, January 19, 1932.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted two bonds, each in the penal sum of \$5,000.00 for my approval. Upon one the name of Ivan R. Ault appears as principal and the Glenn Falls Indemnity Company appears as surety, and the bond is conditioned to cover the faithful performance of the duties of the principal as Resident

Division Deputy Director, Division No. 3; upon the other bond the name of K. B. Graham appears as principal, the Globe Indemnity Company as surety and the bond is conditioned to cover the faithful performance of the duties of the principal as Resident District Deputy Director in Morrow County.

Finding said bonds legal and proper as to form, I have endorsed my approval thereon and return the same herewith.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

3967.

APPROVAL, NOTES OF SEBRING VILLAGE SCHOOL DISTRICT,  
MAHONING COUNTY, OHIO—\$10,000.00.

COLUMBUS, OHIO, January 19, 1932.

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

3968.

GASOLINE TAX—REFUND OF SUCH MAY BE ASSIGNED.

*SYLLABUS:*

*A written assignment of an entire amount due as refunds of gasoline taxes under section 5534, General Code, is valid and the tax commission is authorized to accept such an assignment.*

COLUMBUS, OHIO, January 19, 1932.

*The Tax Commission of Ohio, Columbus, Ohio.*

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

“Will you kindly furnish us with an opinion as to the legality of an individual user of motor vehicle fuel who makes application for refund of the tax paid on such motor vehicle fuel assigning his interest in such refund to a third person?

We have a request from the X Refining Corporation with which we think you are familiar but we will explain it fully so that you will have all the facts.

This corporation wishes to sell naphtha to dry cleaners and others and at the time of sale they will bill the purchaser for the price of the naphtha also the tax but they will make collection of only the price of the naphtha and within thirty to sixty days they will have their customer assign his rights to refund of the tax to themselves, the X Refining Corporation. The user will make out his application for refund in the usual manner and at the same time will assign his right to the refund to the X Refining Corporation.

The only change that they are requesting is that instead of individual checks being made to the user, individual checks are to be made to the seller or one check may be issued to the seller to cover all assignments for a certain period.”

Your inquiry involves the authority to recognize valid assignments of refunds due under section 5534 of the motor vehicle tax law of Ohio. Section 5534 reads as follows:

“Any person who shall use any motor vehicle fuel on which the