may desire and are able to tax themselves to pay for. The second part of your third question, therefore, is answered in the affirmative.

It is not required by the law that architects shall be employed or secured by a board of education through competitive bidding; but when the services of an architect are required the board of education has power to employ one. In section 7625 G. C. the board of education is required to make an estimate of the probable amount of money needed for the purpose for which such money secured by a bond issue is to be used. Such an estimate should be reasonable and in the making of the same the knowledge and advice of an architect is desirable. If an architect is willing to furnish plans and specifications in the manner indicated in your fourth question, assuming the risk that his labor may be without recompense should the voters of the district fail to authorize the issuance of bonds for the board of education to erect the buildings it has in prospect, there does not seem to be any law that requires a board to refuse such assistance. Such a contract is one whose completion and remuneration is determined by a future event, which may or may not occur to render the board liable for its fulfillment. So long as the board acts in a reasonable manner, without agreeing to make an excessive payment or more than is usual and customary in such cases, it seems that such action on its part is commendable and one that should be had in the interest of economy and fair dealing with the taxpayers before such bond issue is voted on. Of course, it must not be neglected, in conclusion, to say that section 5660 G. C. applies in answering your question to limit the action of the board of education and to increase the risk that the architect assumes in making such a tentative arrangement for a fee, contingent upon the question of the issuing of bonds to build, to be approved by the electors of the district. Should the issue fail, the services of the architect are gratuitous. In the absence of the clerk's certificate required under section 5660 G. C., showing the board's ability to pay, the agreement on the part of the board of education is invalid. With these facts in mind, no reason is seen why the board of education should not accept services offered in the manner indicated in your fourth question.

Respectfully,
JOHN G. PRICE,
*Attorney-General.*

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1512.

FOREIGN CORPORATIONS—FEES TO BE PAID SECRETARY OF STATE UNDER SECTIONS 180 AND 8728-11 G. C. WHERE AUTHORIZED CAPITAL STOCK COMPOSED OF PAR VALUE PREFERRED AND NON-PAR VALUE COMMON SHARES—NOT LESS THAN $15.00 NOR MORE THAN $50.00.

*The amount of the fee to be paid to the Secretary of State under section* 180 *G. C. by foreign corporations subject to the provisions of section* 8728-11 *G. C., and having an authorized capital stock composed of par value preferred and non-par value common shares, cannot be less than* $15.00 *nor more than* $50.00 *in any case.*

COLUMBUS, OHIO, August 24, 1920.

HON. HARVEY C. SMITH, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date relative to the construction to be placed

on the first sentence of the second paragraph of section 8728-11 G. C., as amended in 108 O. L. Part II, page 1293, was duly received.

The statutory provision referred to reads as follows:

> "The amount of fees payable by a foreign corporation having stock without par value under section 180 shall be the fees therein provided as to the authorized preferred stock, and one cent per share for the authorized common stock, without par value, but such fees shall not be less than fifteen dollars nor more than fifty dollars."

As I understand it, your request involves foreign corporations having an authorized capital stock composed of par value preferred and non-par value common shares, and the question for determination is whether the minimum fee of $15.00 and the maximum fee of $50.00 provided for in section 8728-11 G. C. must be applied to the preferred and common stock separately, or to the authorized capital stock as a whole.

Section 180 G. C., referred to in section 8728-11 G. C., provides for the payment of what may be called arbitrary fees, the amount to be paid in each particular case depending upon the amount of authorized capital stock involved, but to be not less than $15.00 nor more than $50.00, regardless of the existence or non-existence of different classes of stock.

The intention of the general assembly in enacting section 8728-11 G. C. undoubtedly was to maintain these minimum and maximum fees with respect to foreign corporations having an authorized capital stock made up wholly or partly of non-par value common shares. This intention is supported by and finds expression in that part of section 8728-11 G. C. reading:

> "But such fees shall not be less than fifteen dollars nor more than fifty dollars."

There is but one fee to be paid by foreign corporations under section 180 G. C., and the purpose of section 8728-11 G. C. is to provide a special rule or method for computing the amount of that fee when non-par value stock companies are involved,—such special provision being necessary by reason of the non-par value shares. No good reason suggests itself for exacting two minimum and maximum fees from foreign corporations having both par value preferred and non-par value shares, and a ruling to that effect would require a forced construction of that part of section 8728-11 G. C. first above quoted.

In my opinion the fee to be paid to the secretary of state under section 180 G. C. by foreign corporations subject to the provisions of section 8728-11 G. C. and having both par value preferred and non-par value common shares is the sum of two amounts, viz., first, the amount assessed against the preferred stock, and second, the amount assessed against the common stock,—both to be computed as therein provided. In other words, the minimum fee of $15.00 and the maximum fee of $50.00 cannot be applied twice to the same corporation, but once only.

Respectfully,
JOHN G. PRICE,
*Attorney-General.*