

then said applies with equal force to the phrase now involved, viz.: that the only limit provided by law is the one found in section 8667 G. C.

What has been said also disposes of the provision found in section 8719 G. C., which section authorizes the amendment of articles of incorporation so as to change unissued common shares to preferred shares "within the limits permitted by law," and the argument or reasons will not be repeated here.

What is most obvious in connection with amended sections 8698 and 8719 G. C. is the inaccuracy of their language. It is quite possible that whoever drafted the sections did not have before him or clearly in mind the exact language of section 8667 G. C. and of paragraph 4 of section 8625 G. C., or if he did, that he did not appreciate or grasp its import. He may have thought that section 8667 G. C. had to do with *par* proportions, rather than *actual capital* proportions. But however it may have been, it is quite certain that the only limitation on the amount of preferred stock, so far as companies subject to the general corporation laws are concerned, is that found in section 8667 G. C., and since amended section 8698 or 8719 G. C. have not prescribed another or different basis for determining the amount, "actual capital paid in in cash or property" only can be used.

3. With respect to corporations having non-par value common stock, your attention is directed to section 8728-1 G. C., 108 O. L. Pt. 2, p. 1288, which provides that "At no time shall the number of shares of preferred stock outstanding be more than two-thirds of the total number of shares, common and preferred, outstanding."

You will observe that the limitation goes, not to the nominal or authorized capital stock, but to outstanding shares, thereby making it consistent with sections 8625 and 8667, G. C. which, as interpreted in this opinion, place no limitation upon the nominal or authorized amount of preferred stock, but only upon the amount of shares that may be issued.

You are therefore advised that there is no limitation on the amount of nominal or authorized capital stock, either common or preferred, that may be stated in the articles of incorporation or in certificates of increases of capital stock of companies subject to the general corporation laws of Ohio; but the amount of preferred stock at par value that may be issued and outstanding after incorporation is limited to two-thirds of the company's actual capital paid in in cash or property.

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

2657.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND GRANT-BOULTON COMPANY, COLUMBUS, OHIO, FOR CONSTRUCTION OF RAILROAD SIDING AT INSTITUTION FOR FEEBLE MINDED AT ORIENT, OHIO, AT A COST OF \$19,270.40.

COLUMBUS, OHIO, December 2, 1921.

HON. LEON C. HERRICK, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted to me for approval a contract (five copies) between the state of Ohio, acting by the department of highways and public works, and Grant-Boulton Company, a partnership composed of Earl C.

Grant and Cal R. Boulton, both of Columbus, Ohio. This contract is for the construction of a railroad siding at the institution for feeble minded at Orient, Ohio, and calls for an expenditure of nineteen thousand, two hundred seventy and 40/100 dollars (\$19,270.40).

Accompanying said contract is a bond to insure faithful performance, executed by Indemnity Insurance Company of North America.

I have before me the certificate of the director of finance that there is an unencumbered balance legally appropriated sufficient to cover the obligations of this contract.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon, and return same to you herewith, together with all other data submitted to me in this connection.

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

2658.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND E. ELFORD OF COLUMBUS, OHIO, FOR REPAIRING RESERVOIR AT OHIO HOSPITAL FOR EPILEPTICS AT GALLIPOLIS, OHIO, AT A COST OF \$14,741—BOND EXECUTED BY GLOBE INDEMNITY COMPANY, NEWARK, N. J.

COLUMBUS, OHIO, December 2, 1921.

HON. LEON C. HERRICK, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted to me for approval a contract (five copies) between the state of Ohio, acting by the department of highways and public works, and E. Elford, of Columbus, Ohio. This contract is for the repairing of the reservoir at the Ohio hospital for epileptics at Gallipolis, Ohio, and calls for an expenditure of fourteen thousand seven hundred and forty-one dollars (\$14,741.00).

Accompanying said contract is a bond to insure faithful performance, executed by by Globe Indemnity Company of Newark, N. J.

I have before me the certificate of the director of finance that there is an unencumbered balance legally appropriated sufficient to cover the obligations of this contract.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon, and return same to you herewith, together with all other data submitted to me in this connection.

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