

township trustees may legally lease road machinery to the county surveyor when the county commissioners have authorized him to improve a county road by force account under the provisions of Section 7198, General Code, providing such machinery is not needed by the township during the term of the lease.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3202.

CORPORATIONS—INCORPORATORS NOT REQUIRED TO PUBLISH
NOTICE OF DISSOLUTION WHEN.

SYLLABUS:

Section 8623-81, General Code, does not require the incorporators of a corporation to publish a notice of dissolution when such incorporators have filed a certificate of dissolution pursuant to the provisions of Section 8623-79, General Code.

COLUMBUS, OHIO, May 4, 1931.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“Directing your attention to G. C. 8623-79 which permits the filing of a certificate of dissolution by incorporators of a corporation, your opinion is requested as to whether or not the notice required to be given by Section 8623-81 should be given, and if your opinion is in the affirmative, please advise as to whether or not the notice may be given by all or a majority of the incorporators.”

Section 8623-79, General Code, provides in so far as pertinent:

“A corporation may wind up its affairs and dissolve in the following manner:

(a) If the amount of capital with which the corporation will begin business as stated in the articles has not been subscribed, the incorporators, or a majority of them, may file in the office of the secretary of state a certificate, verified by their oath, that such amount of capital has not been subscribed and that they elect to dissolve the corporation.

* * *

The balance of the foregoing section provides for the dissolution of corporations by the directors and by the officers under authority of the stockholders.

Section 8623-81, General Code, is as follows:

“The directors of such dissolved corporation shall forthwith cause a notice of such dissolution to be published once a week on the same day of each week for two successive weeks in a newspaper published and of general circulation in the county in which the principal office of the cor-

poration is located, and shall also cause written notice of such dissolution to be given by mail to all shareholders and to all known creditors and claimants."

In order to hold that this last quoted section imposes upon the incorporators of a corporation sought to be dissolved under paragraph (a) of Section 8623-79, supra, the duty of publishing the notice therein provided, the term "directors" must be liberally construed so as to include any group of persons who may be acting temporarily in lieu of a board of directors as in the case of an incorporation of a company prior to the election of directors. It is, of course, a primary rule of statutory construction that the intent of the legislature be deduced. In order to determine whether or not the legislature intended such a construction of Section 8623-81, supra, it is pertinent to consider the purpose of the enactment. It is obviously to apprise all persons with whom the corporation has been doing business of its dissolution. This being the case, the next matter of inquiry is whether or not it is contemplated that a corporation has been doing business when the amount of capital with which the corporation was to begin business as stated in the articles has not been subscribed.

The articles of incorporation of every corporation for profit must set forth the amount of capital with which it will begin business, which shall not be less than five hundred dollars. Section 8623-4, General Code. Under the provisions of Section 8623-11, the directors may not be elected until the amount of capital with which a corporation is to begin business has been subscribed. Since the officers of a corporation are elected by the directors, it necessarily follows that a corporation may not have officers until such time. Section 8623-13, General Code, provides that "No corporation shall commence business until the amount of capital specified in its articles as the amount of capital with which it will commence business has been paid in."

Under these circumstances, I am unable to find any justification for a construction of Section 8623-81, supra, such as suggested. To require a publication of the notice therein provided by the incorporators would, in my opinion, serve no valid purpose and would amount to writing into the law a requirement which the legislature has not seen fit to enact.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3203.

APPROVAL, CONTRACT FOR ROAD IMPROVEMENTS IN FRANKLIN
AND LAKE COUNTIES.

COLUMBUS, OHIO, MAY 4, 193f.

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