

1247.

PLATS—SECTION 6886 G. C. NOT APPLICABLE TO PLATTING OF LANDS—APPROVAL OF COUNTY COMMISSIONERS TO RECORDING OF PLATS OF LANDS OUTSIDE OF MUNICIPAL CORPORATIONS NOT REQUIRED.

*Section 6886 G. C. has no reference to the platting of lands and does not have the effect of requiring approval of the county commissioners as a condition precedent to the recording of plats outside of municipal corporations, even though such plats may show a dedication of streets or roads to public use.*

COLUMBUS, OHIO, May 14, 1920.

HON. CLARE CALDWELL, *Prosecuting Attorney, Warren, Ohio.*

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

“Under section 6886 General Code, have the county commissioners authority to refuse to accept and approve a plat, laid out in the county before the streets thereon have been graded and drained in accordance to rules established by the board?

The board of county commissioners of this county are desirous of putting reasonable restrictions upon the platting of land, and this seems the only available section, provided it is broad enough to allow the same.’

Before quoting the statute which you mention, it is proper to call attention to sections 3580 et seq G. C., appearing in a chapter of the municipal code, entitled “Plats.” Certain aspects of the earlier forms of these last named statutes were discussed in an opinion of this department (No. 619) of date September 10, 1919, directed to Hon. Haveth E. Mau, prosecuting attorney, Dayton, Ohio, a copy of which opinion is enclosed.

For reasons pointed out in that opinion, it is plain that notwithstanding the fact that the sections appear in the municipal code, the reference in the opening line of section 3580 to the laying out of a village has reference, not to a municipal corporation, but to the platting of lands outside of municipal corporations. Nowhere in said series of sections nor elsewhere in the statutes is there found any requirement that as a condition precedent to the recording of a plat of lands outside a municipal corporation, the approval of such plat by the county commissioners must be obtained,—in fact, so far as has been found, the only statute requiring an approval of plats of lands outside of municipal corporations is section 4346 to the effect that when a person plats lands within three miles of the corporate limits of a city, the platting commissioner of such city is to endorse his approval on the plat before it is entitled to record.

The section to which you refer, reads as follows:

“Any person or persons may, with the approval of the county commissioners, dedicate lands for road purposes. A definite description of the lands to be dedicated with a plat of the same thereto attached and signed by the party dedicating the same, with the approval and acceptance of the commissioners endorsed thereon, shall be placed upon the proper road records of the county in which such road is situated. Provided, however, that if the lands so dedicated contemplate a change in an existing road, the same proceedings shall be had thereon, after the commissioners by proper resolution approve and accept the lands for such purpose, as are provided for

in cases where the commissioners by unanimous vote declare their intention to locate, establish, widen, straighten, vacate or change the direction of a road without a petition therefore, but otherwise the proposal to dedicate land for road purposes together with the acceptance of the grant by the commissioners shall constitute the lands so dedicated a public road, without any further proceedings thereon."

This statute does not in its terms refer to the platting of land,—it concerns merely the dedication of lands for road purposes. A description and plat of the lands proposed to be dedicated is required; but plainly, such plat is for the purpose only of showing the course and nature of the proposed road. Furthermore, the statute made its appearance in connection with the revision of the highway laws commonly known as the Cass Act (106 O. L. 574); and, again, the statute names the road records as the place of recording of the documents relative to dedication.

For the reasons just given, it is quite plain that the statute cannot be read so as to have any effect upon the platting statutes first above referred to. Therefore, such platting statutes and said section 6886 are to be given full force and effect each within its own sphere. It is unnecessary here to express an opinion upon the question whether county commissioners in the case of the proposed dedication of a road under section 6886 as distinguished from the incidental dedication of streets in connection with the platting of a tract of land, have power to require the grading and draining of the road prior to accepting the dedication thereof on behalf of the public,—it is sufficient to say that a person who plats lands outside of a municipal corporation is not under the necessity of presenting his plat to the county commissioners, and is at liberty to record the same without so presenting it, provided that he complies with the provisions of section 3580 et seq. and in certain instances with section 4346.

Hence, answer to your question may be made by the statement that section 6886 G. C. has no reference to the platting of lands and does not have the effect of requiring approval of the county commissioners as a condition precedent to the recording of plats of lands outside of municipal corporations, even though such plats may show a dedication of streets or roads to public use.

Respectfully,

JOHN G. PRICE,  
Attorney-General.

1248.

SCHOOLS—FEES RECEIVED FOR GRANTING OF CERTIFICATE AND RENEWAL OF CERTIFICATES TO TEACHERS BY SUPERINTENDENT OF PUBLIC INSTRUCTION PAYABLE INTO STATE TREASURY—ALSO FEES RECEIVED FROM CERTIFICATES ISSUED BY SUPERINTENDENT OF PUBLIC INSTRUCTION AND REQUIRED OF APPLICANTS WHO DESIRE TO BE LICENSED AS DENTISTS—SAME RULE AS TO FEES APPLICABLE WHEN CERTIFICATE ISSUED FOR LOST OR DESTROYED CERTIFICATE.

1. *Under the provisions of section 24 G. C., the fees received by the superintendent of public instruction from applicants during any week, for the granting of certificates and renewal of certificates by such superintendent of public instruction, must be paid into the state treasury on or before Monday of the following week, and there is no provision in existing law for the return of such fees even though the certificate or the renewal of any certificate has not been granted.*

2. *The certificate from the state superintendent of public instruction required*