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# ACTS

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OF THE

## GENERAL ASSEMBLY

OF THE

# COMMONWEALTH OF KENTUCKY,

PASSED AT THE

REGULAR SESSION OF THE GENERAL ASSEMBLY, WHICH WAS  
BEGUN AND HELD IN THE CITY OF FRANKFORT, ON  
FRIDAY, THE THIRTIETH DAY OF DECEMBER,  
EIGHTEEN HUNDRED AND EIGHTY-SEVEN.

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FRANKFORT, KY.  
THE CAPITAL OFFICE, JOHN D. WOODS, PUBLIC PRINTER AND BINDER.  
1888.

the money and the faithful discharge of all his duties in relation to said bonds. The county judge shall cause a record to be kept of all bonds issued under this act, showing amount and date of each.

Approved March 27, 1888.

## CHAPTER 751.

AN ACT to amend an act, entitled "An act to charter the Maysville Water Company, and to ratify and validate the water-works ordinance of the city of Maysville and its contract thereunder with the Maysville Water Company."

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the Maysville Water Company is hereby given authority, by the proceedings hereinafter stated, to condemn to its use any and all kinds of property, in Maysville or Mason county, Kentucky, which it may need for the purpose of supplying water to the city of Maysville and other towns or localities near the said city. Condemn property.

§ 2. That whenever said corporation desires to condemn any property to its use, and shall be unable to contract with the owner or owners of any land or material necessary for its use for the purpose thereof, it shall file in the office of the clerk of the county court a particular description of the land and material which it is desired to condemn, and may apply to the county court to appoint commissioners to assess the damages the owner or owners thereof may be entitled to receive; and thereupon the said court shall appoint three impartial housekeepers of the county, who shall be sworn to faithfully and impartially discharge their duties under this act.

§ 3. It shall be the duty of said commissioners to view the land and material, and to award to the owner or owners the value of the land or material taken; and where less than the whole of the land is taken, they Commissioners' duties.

shall also award the damages, if any, resulting to the adjacent lands of the owner, considering the purposes for which it is taken ; but shall deduct from such incidental damages the value, if any, of the advantages and benefits that will accrue to such adjacent lands from the uses to which said land condemned shall be put by said corporation. They shall return a report in writing to the office of the clerk of the circuit court, stating their award, and shall describe in their report the land and material condemned, and give the names of the owners, and whether non-residents of the State, infants, of unsound mind, or married women.

§ 4. Upon the filing of said report the clerk of said court shall issue process against the owners to show cause why said report should not be confirmed, and shall make such orders as to non-residents and persons under disability as are required by the Civil Code of Practice in actions against them in the circuit court.

Duty of court.

§ 5. At the first regular term of said court, beginning not earlier than ten days after the date of the service of the summons, or thirty days from the date of the warning order, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this act, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report ; but if said report be not in conformity to this act, the said court shall require the commissioners aforesaid to amend the same, and, if necessary, to review the land and material taken.

Exceptions.

§ 6. If exceptions shall be filed by either party, the court shall forthwith order the case to trial ; except, for cause shown, the same may be continued to a later day in the same term or in the next term, in the discretion of the court. In the trial of said case said report shall not be considered as *prima facie* evidence of the value of the land or material taken. In assessing the damages the jury shall be governed by the rule prescribed in the third section of this act. If

sufficient cause be not shown for setting aside the verdict, the court shall render judgment in conformity thereto, and shall make such orders as may be proper for the conveyance of the title upon the payment or tender of the damages assessed.

§ 7. An appeal shall lie from the judgment of the circuit court to the Superior Court or Court of Appeals, according as the amount of damages awarded shall come within the jurisdiction of said courts. Appeal.

§ 8. Upon the filing of the report of the commissioners as aforesaid, the company may, upon the payment or tender to the owners of the amount due as shown by the report of the commissioners, be entitled to take possession of said land and material, and to use and control the same for the purposes for which they were condemned as fully as if the title had been conveyed to it; but if the company shall be dissatisfied with the award, it may pay the amount thereof into court at the time it files its exceptions to the report, and may proceed at once to take possession of the land and material as above described, which act on the part of the company shall not prejudice its right to litigate the question of value as hereinbefore described; and if the amount of the award shall be diminished, the company shall have the right to withdraw from said fund in court the difference between the amount of the verdict and the amount of the award; but if the amount of said award shall be increased, the company shall pay into court said difference. Possession.

§ 9. All acts or parts of acts in conflict herewith are hereby repealed, in so far as they may affect this corporation.

§ 10. This act shall take effect and be in force from and after its passage.

Approved March 27, 1888.