

## Article 3.

### Waterways Obtained.

#### **§ 74-25. Water and drainage rights obtained.**

Any person or body corporate engaged or about to engage in mining, who may find it necessary for the furtherance of his operations to convey water either to or from his mine or mines over the lands of any other person or persons, may make application by petition in writing to the clerk of the superior court of the county in which the lands to be affected or the greater part are situate, for the right so to convey such water. The owner of the lands to be affected shall be made a party defendant, and the proceedings shall be conducted as other special proceedings. (1871-2, c. 158, ss. 1, 3; Code, ss. 3293, 3294, 3300; Rev., s. 4953; C.S., s. 6920.)

#### **§ 74-26. The petition, what to contain.**

The petition shall specify the lands to be affected, the name of the owner of such lands, and the character of the ditch or drain intended to be made. (1871-2, c. 158, s. 3; Code, s. 3294; Rev., s. 4954; C.S., s. 6921.)

#### **§ 74-27. Appraisers; appointment and duties.**

Upon the hearing of the petition, if the prayer thereof be granted, the clerk shall appoint three disinterested persons, qualified to act as jurors, and not connected either by blood or marriage with the parties, appraisers to assess the damage, if any, that will accrue to the lands by the contemplated work, and shall issue a notice to them to meet upon the premises at a day specified, not to exceed 10 days from the date of such notice. The appraisers having met, shall take an oath before some officer qualified to administer oaths to faithfully perform their duty and to do impartial justice in the case, and shall then examine all the lands in any way to be affected by such work, and assess the damage thereto, and make report thereof under their hands and seals to the clerk from whom the notice issued. (1871-2, c. 158, ss. 4, 5, 9; Code, ss. 3295, 3296, 3299; Rev., s. 4955; C.S., s. 6922.)

#### **§ 74-28. Confirmation of report; payment of damages; rights of petitioner.**

After the filing of the report and confirmation thereof by the clerk, who shall have power to confirm or, for good cause, set aside the same, the petitioner shall have full right and power to enter upon such lands and make such ditches, drains, or other necessary work: Provided, he has first paid or tendered the damages, assessed as above, to the owner of such lands or his known and recognized agent, if he be a resident of this State, or have such agent in this State. If the owner be a nonresident and have no known agent in this State, the amount so assessed shall be paid by the petitioner into the office of the clerk of the superior court of the county for the use of such owner. (1871-2, c. 158, s. 12; Code, s. 3298; Rev., s. 4957; C.S., s. 6923.)

#### **§ 74-29. Registration of report.**

The petitioner, or any other person interested, may have the report of the appraisers registered upon the certificate of the clerk and shall pay the register a fee of twenty-five cents (25¢) therefor. (1871-2, c. 158, s. 8; Code, s. 3298; Rev., s. 4957; C.S., s. 6924.)

**§ 74-30. Obstructing mining drains.**

If any person shall obstruct any drain or ditch constructed under the provisions of this Chapter, he shall be guilty of a Class 1 misdemeanor. (1871-2, c. 158, s. 12; Code, s. 3301; Rev., s. 3380; C.S., s. 6925; 1993, c. 539, s. 554; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 74-31. Disposition of waste.**

In getting out and washing the products of kaolin and mica mines, the persons engaged in such business shall have the right to allow the waste, water, and sediment to run off into the natural courses and streams. (1917, c. 123; C.S., s. 6926; 1937, c. 378.)