

TAKING OF PUBLIC UTILITY BY CITY (EXCERPT)
Act 119 of 1919

213.123 Finding of necessity; determination of compensation; oath of jurors; duties; instruction; award.

Sec. 13. If the jury find that it is necessary to take for public use the absolute title in fee to the public utility mentioned in the petition, and no motion for a new trial having been made or determined, and no appeal from such finding of said jury being pending in the supreme court, then either the petitioner or any person entitled to compensation for the taking of said property may move the court for the empaneling of a jury to determine the just compensation therefor, and thereupon a jury shall be summoned and empaneled in accordance with section 6 of this act. All jurors so empaneled shall be sworn or shall affirm in substance as follows: "You do solemnly swear (or affirm) that you will well and truly ascertain, determine and award the just compensation to be made for the taking for public use the absolute title in fee to the utility mentioned in the petition and faithfully and impartially discharge all other duties that devolve upon you in this case and unless discharged by the court a true verdict give according to the law and the evidence, so help you God (or under the pains and penalties of perjury)." The jury shall hear the proofs and allegations of the parties and if so ordered by the court shall, in the charge of an officer, go to the place where said public utility sought to be taken is situated, and upon or as near thereto as practicable and examine the premises. They shall be instructed in their duties and the law of the case by the judge of the court and shall retire under the charge of an officer and render their verdict in the same manner as on the trial of an ordinary civil case, but the same shall be in writing and be signed by the foreman or by all the jurors. The jury shall award just compensation therefor to the owners of the absolute title in fee of the property taken, as well as to the owners of any mortgage, lease, agreement, lien, estate, or other interest therein, but the petitioner may take such property subject to any mortgage or lien therein in manner and form as provided in section 8 of this act.

History: 1919, Act 119, Eff. Aug. 14, 1919;—CL 1929, 3823;—CL 1948, 213.123.