

Report to be amended if defective.

SECTION 56. Whenever the report of any corporation is incomplete, defective or probably erroneous, the board of railroad commissioners shall notify such corporation to amend said report within fifteen days. Every corporation refusing or neglecting to make the report required in section fifty-two, or refusing or neglecting to amend such report when notified so to do, shall forfeit twenty-five dollars for each day's refusal or neglect.

#### EQUITY POWERS OF SUPREME COURT.

S. J. C. to have equity powers to enforce rules, orders, &c.

SECTION 57. In addition to the penalties herein provided, the supreme judicial court shall have full equity powers to compel the observance of all orders, rules and regulations made in accordance with this act by the board of aldermen of any city, or the selectmen of any town, or by the board of railroad commissioners.

Powers and duties.

SECTION 58. All corporations shall continue to exercise and enjoy their powers and privileges, according to their respective charters and to the laws in force; and shall continue subject to all the liabilities to which they are now subject, except so far as said powers, privileges and liabilities are modified and controlled by the provisions of this statute.

Proceedings already instituted not affected.

SECTION 59. This act shall not affect any proceedings already instituted for altering the location and position or revoking the location of the tracks of any corporation.

Repeal.

SECTION 60. Chapter two hundred and twenty-nine of the acts of the year eighteen hundred and sixty-four, and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

*Approved May 26, 1871.*

### Chap. 382

#### AN ACT IN RELATION TO BETTERMENTS.

*Be it enacted, §c., as follows:*

Portion of expenses in laying out, widening, &c., of streets, may be assessed upon estates receiving benefit therefrom.  
1867, 367, § 1;  
1868, 276; 1869,  
169, § 1.

SECTION 1. At any time within two years after any street, highway or other way is laid out, altered, widened, graded or discontinued, when in the opinion of the board of city or town officers authorized to lay out streets or ways respectively therein, any real estate, including that, a part of which may have been taken for such purpose, shall receive any benefit and advantage therefrom, beyond the general advantages to all real estate in the city or town where the same is situated, such board may adjudge and determine the value of such benefit and advantage to any such estate, and may assess upon the same a proportional share of the expense of laying out, alteration, widening, grading or discontinuance; but in no case shall the assessment exceed one-half the amount of

Assessment not to exceed one-half of adjudged benefit.

such adjudged benefit and advantage, nor shall the same be made until the work of laying out, altering, widening and grading is completed or discontinuance made; and in case of laying out a highway or town way by county commissioners, due allowance shall be made for any benefit set off under the provisions of section sixteen of chapter forty-three of the General Statutes.

SECTION 2. Any such assessment upon real estate which is invalid by reason of any error or irregularity in the making thereof, and which has not been paid, or which has been recovered back, may be re-made by such board, to the amount for which the original assessment ought to have been made, and the same shall be a lien upon the estate, and be collected in the same manner as re-assessed taxes are.

Assessment may be re-made, if invalid by any irregularity in making.  
1871, 217, § 5.

SECTION 3. The expense to be assessed upon the estates as herein provided shall include all damages for land and buildings taken; and in estimating such damages all buildings on the land, a part of which is taken, shall be included, and there shall be deducted therefrom the value of the materials removed, and of all buildings or parts of buildings remaining thereon; and the damages for land taken shall be fixed at the value thereof before such laying out, alteration or widening, and the damage so estimated shall be paid to the persons entitled thereto, in the same manner, and upon the same conditions as are provided by law in other cases of laying out, alteration, widening, grading or discontinuance of streets and ways.

Expense to be assessed to include damages for land and buildings taken.  
1866, 174, §§ 2, 3.

SECTION 4. If the owner of any building or materials on land, a part or the whole of which is taken for the purposes named in this act, after reasonable notice in writing from the board authorized to make assessments as aforesaid, shall refuse or neglect to take care of, or remove such buildings or materials, such board may take such care of the same as public safety, or the preservation thereof demands, or may remove such buildings or materials either upon the adjoining land of such owner, or otherwise; or they may sell the same at public auction, after five days' public notice of such sale, and hold the proceeds of the sale for the benefit of such owner; and the expense incurred by said board, or the value thereof to the owner, shall be allowed in reduction of the damages which said owner is entitled to recover.

If, after reasonable notice, owner fails to remove building, &c., the board may remove or sell it at public auction.  
1866, 174, § 4.  
1869, 367, § 3.

SECTION 5. Any person owning real estate abutting on any street, highway or other way which may be laid out, altered, widened, graded or discontinued, and liable to assessment under this act, may, at any time before the estimate of damages is made, give notice in writing to the board having

Expense to be allowed in reduction of damages.

Before damages are assessed owner may surrender estate to the city or town.  
1866, 174, § 8.

authority to make the assessment, that he objects to the same, and elects to surrender his estate to the city or town where situated; and if said board shall then adjudge that public convenience and necessity require the taking of such estate, for the improvements named, they may take the whole of such abutting estate, and shall thereupon estimate the value thereof, excluding the benefit or advantage which has accrued from the laying out, alteration, widening, grading or discontinuance, and such owner shall convey the estate to such city or town which shall pay him therefor, the value so estimated, and the same may be recovered by an action of contract; and the city or town may sell any portion of said estate not needed for such improvements.

Assessments to be a lien upon the real estate. 1866, 174, § 6. 1869, 367, § 2.

— may be apportioned into three equal parts and added to tax for three years ensuing.

Party aggrieved may apply by petition to the superior court. 1866, 174, § 7. 1871, 217, § 2.

If assessment is not reduced, petitioner to pay costs. 1871, 217, §§ 3, 4.

SECTION 6. All assessments made under this act shall constitute a lien upon the real estate so assessed, to be enforced in the same manner, with like charges for cost and interest, as provided by law for the collection of taxes; and if the owner of the estate shall give notice to the board authorized to make the assessment at any time before demand is made upon him for payment thereof, that he desires to have the amount of such assessment apportioned, said board shall apportion the same into three equal parts and certify such apportionment to the assessors of the city or town, and said assessors shall add one of said equal parts, with interest thereon from the date of the apportionment, to the annual tax of said estate for the three years next ensuing; and all assessments laid upon real estate, for any of the causes mentioned in this act, which shall remain unpaid after the same become due or payable, shall draw interest from the time when the same became due or payable, until the time of payment thereof.

SECTION 7. Any party aggrieved by the doings of such board, may apply by petition to the superior court for the county in which the estate is situated at any term thereof within one year after the passage of the order or proceedings upon which the application is founded; and after due notice to the city or town against which the petition is filed, a trial shall be had at the bar of the court in the same manner in which other civil causes are there tried by the jury, and if either party request it the jury shall view the place in question.

SECTION 8. If the jury shall not reduce the amount of the assessment complained of, the respondent shall recover costs against the petitioner, which costs shall be a lien upon the estate, and be collected in the same manner as the assessment, but if the jury shall reduce the amount of the assess-

ment, the petitioner shall recover costs, and all assessments shall be a lien on the estate for one year after the final judgment, in any suit or proceeding where the amount or validity of the same is in question, and be collected in the same manner as original assessments.

SECTION 9. When an assessment is made upon an estate, the whole or any portion of which is leased, the owner of the estate shall pay the assessment, and may thereafter collect of the lessee an additional rent for the portion of the estate so leased, equal to ten per centum per annum on that proportion of the whole sum paid, which the leased portion bears to the whole estate, after deducting from the whole sum so paid, any amount he may have received for damages to the estate, above what he has necessarily expended on such estate by reason of such damages.

Assessment upon a leased estate to be paid by owner.

SECTION 10. This act, except section four, shall not take effect in any town until the same is accepted by such town at a legal meeting called for that purpose, unless the town has passed the vote of acceptance provided for by section four of chapter one hundred and sixty-nine of the acts of the year eighteen hundred and sixty-nine.

To take effect if accepted by town.

SECTION 11. Chapter one hundred and seventy-four of the acts of the year eighteen hundred and sixty-six, chapters seventy-five and two hundred and seventy-six of the acts of the year eighteen hundred and sixty-eight, and chapters one hundred and sixty-nine and three hundred and sixty-seven of the acts of the year eighteen hundred and sixty-nine, and chapter two hundred and seventeen of the acts of the year eighteen hundred and seventy-one, are hereby repealed; but such repeal shall not affect any rights or liabilities already incurred, or any case pending under said chapters.

Repeal of 1866, 174. 1868, 75, 276. 1869, 169, 367. 1871, 217.

Rights and liabilities already incurred not affected.

SECTION 12. In any city where the mayor and aldermen are part only of the board authorized to lay out streets or ways, such mayor and aldermen shall constitute the board named in this act.

Mayor and aldermen of cities to constitute board named in this act.

SECTION 13. This act shall take effect upon its passage.

*Approved May 26, 1871.*

AN ACT TO ESTABLISH THE SALARIES OF THE FIRST ASSISTANT-CLERK OF THE AUDITOR OF ACCOUNTS, AND OF THE FIRST ASSISTANT-CLERK OF THE TREASURER AND RECEIVER GENERAL.

*Chap. 383*

*Be it enacted, &c., as follows:*

SECTION 1. The salary of the first assistant-clerk of the auditor of accounts, and of the first assistant-clerk of the treasurer and receiver general shall be two thousand dollars per annum, commencing with the present year.

Salaries established at \$2,000.

SECTION 2. This act shall take effect upon its passage.

*Approved May 26, 1871.*