

## **Chapter 156.**

### **Drainage.**

#### **SUBCHAPTER I. DRAINAGE BY INDIVIDUAL OWNERS.**

##### Article 1.

Jurisdiction in Clerk of Superior Court.

Part 1. Petition by Individual Owner.

##### **§ 156-1. Supplemental proceeding.**

The proceedings initiated under this Chapter may be, to the extent practicable, supplemented by the procedures of Chapter 40A. (Code, s. 1324; Rev., s. 4028; C.S., s. 5260; 1981, c. 919, s. 23.)

##### **§ 156-2. Petition filed; commissioners appointed.**

Any person owning pocosin, swamp, or flatlands, or owning lowlands subject to inundation, which cannot be conveniently drained or embanked so as to drain off or dam out the water from such lands, except by cutting a canal or ditch, or erecting a dam through or upon the lands of other persons, may by petition apply to the superior court of the county in which the lands sought to be drained or embanked or some part of such lands lie, setting forth the particular circumstances of the case, the situation of the land to be drained or embanked, to what outlet and through whose lands he desires to drain, or on what lands he would erect his dam, and who are the proprietors of such lands; whereupon a summons shall be served on each of the proprietors, and, on the hearing of the petition the court shall appoint three persons as commissioners, who shall be duly sworn to do justice between the parties. (1795, c. 436, P.R.; 1852, c. 57, ss. 1, 2; R.C., c. 40, s. 1; Code, s. 1297; Rev., s. 3983; C.S., s. 5261.)

##### **§ 156-3. Duty of commissioners.**

The commissioners, or a majority of them, on a day of which each proprietor of land aforesaid is to be notified at least five days, shall meet on the premises and view the lands to be drained or embanked, and the lands through or on which the drain is to pass or the embankment to be erected, and shall determine and report whether the lands of the petitioner can be conveniently drained or embanked except through or on the lands of the defendants or some of them; and if they are of opinion that the same cannot be conveniently done except through or on such lands, they shall decide and determine the route of the canal, ditch, or embankment, the width thereof, and the depth or height, as the case may be, and the manner in which the same shall be cut or thrown up, considering all the circumstances of the case, and providing as far as possible for the effectual drainage or embankment of the water from the petitioner's land, and also securing the defendant's lands from inundation, and every other injury to which the same may be probably subjected by such canal, ditch, or embankment; and they shall assess, for each of the defendants, such damage as in their judgment will fully indemnify him for the use of his land in the mode proposed; but in assessing such damages, benefits shall be deducted. (1795, c. 436, P.R.; 1852, c. 57, ss. 1, 2; R.C., c. 40, s. 2; Code, s. 1298; Rev., s. 3984; C.S., s. 5262.)

##### **§ 156-4. Report and confirmation; easement acquired; exceptions.**

The commissioners shall report in writing, under their hands, the whole matter to the court, which shall confirm the same, unless good cause be shown to the contrary; and on payment of the

damages and cost of the proceedings the court shall order and decree that the petitioner may cut the canal or ditch, or raise the embankment in the manner reported and determined by the commissioners; and thereupon the petitioner shall be seized in fee simple of the easement aforesaid: Provided, that, without the consent of the proprietor, such canal, ditch, or embankment shall not be cut or raised through or on his yard or curtilage, nor be allowed when the same shall injure any mill, by cutting off or stopping the water flowing thereto; nor shall such dam be allowed so as to create a nuisance by stagnant water, or cut off the flow of useful springs or necessary streams of water, or stop any ditches of such proprietor when there is no freshet. (1795, c. 436, s. 2, P.R.; 1835, c. 7; 1852, c. 57, ss. 1, 2; R.C., c. 40, s. 3; Code, s. 1299; Rev., s. 3985; C.S., s. 5263.)

**§ 156-5. Width of right-of-way for repairs.**

The commissioners, when they may deem it necessary, shall designate the width of the land to be left on each side of the canal, ditch, or dam, to be used for the protection and reparation thereof, which land shall be altogether under the control and dominion of the owner of the canal, ditch, or dam, except as aforesaid: Provided, that in no case shall a greater width of land on both sides, inclusive of a dam, be taken than five times the base of such dam. (R.C., c. 40, s. 6; Code, s. 1302; Rev., s. 3985a; C.S., s. 5264.)

**§ 156-6. Right of owner to fence; entry for repairs.**

Any proprietor, through or on whose land such canal or ditch may be cut or embankment raised, may put a fence or make paths across the same, provided the usefulness thereof be not impaired; and the owner of the canal, ditch, or dam, his heirs and assigns, shall at all times have free access to the same for the purpose of making and repairing them; doing thereby no unnecessary damage to the lands of the proprietors. (1795, c. 436, s. 2, P.R.; 1835, c. 7; 1852, c. 57, ss. 1, 2; R.C., c. 40, s. 4; Code, s. 1300; Rev., s. 3986; C.S., s. 5265.)

**§ 156-7. Earth for construction of dam; removal of dam.**

The earth necessary for the erection of a dam may be taken from either side of it, or wherever else the commissioners may designate and allow. And such dam may be removed by the proprietor of the land, his heirs or assigns, to any other part of his lands, and he may adjoin any dam of his own thereto, if allowed by the court on a petition and such proceedings therein as are provided in this Chapter, as far as the same may apply to his case: Provided always, that the usefulness of the dam will not be thereby impaired or endangered. (R.C., c. 40, s. 5; Code, s. 1301; Rev., s. 3987; C.S., s. 5266.)

**§ 156-8. Earth from canal removed or leveled.**

The earth excavated from the canal or ditch shall be removed away or leveled as nearly as may be with the surface of the adjacent land, unless the commissioners shall otherwise specially allow. (R.C., c. 40, s. 7; Code, s. 1303; Rev., s. 3988; C.S., s. 5267.)

**§ 156-9. No drain opened within 30 feet.**

The proprietor of any swamp or flatlands through which a canal or ditch passes shall not have a right to open or cut any drain within 30 feet thereof but by the consent of the owner. Such proprietor, however, and other persons may cut into such canal or ditch in the manner hereinafter provided. (R.C., c. 40, s. 8; Code, s. 1304; Rev., s. 3989; C.S., s. 5268.)

**§ 156-10. Right to drain into canal.**

Any person desirous of draining into the canal or ditch of another person as an outlet may do so in the manner hereinbefore provided, and in addition to the persons directed to be made parties, all others shall be parties through whose lands, canals, or ditches the water to be drained may pass till it shall have reached the furthest artificial outlet. And the privilege of cutting into such canal or ditch may be granted under the same rules and upon the same conditions and restrictions as are provided in respect to cutting the first canal or ditch: Provided, that no canal or ditch shall be allowed to be cut into another if thereby the safety or utility of the latter shall be impaired or endangered: Provided, further, that if such impairing and danger can be avoided by imposing on the petitioner duties or labor in the enlarging or deepening of such canal or ditch, or otherwise, the same may be done; but no absolute decree for cutting such second canal or ditch shall pass till the duties or work so imposed shall be performed and the effect thereof is seen, so as to enable the commissioners to determine the matter whether such second canal or ditch ought to be allowed or not: Provided, that any party to the proceeding may appeal from the judgment of the court rendered under this section to the superior court of the county, where a trial and determination of all issues raised in the pleadings shall be had as in other cases before a judge and jury. (R.C., c. 40, s. 9; Code, s. 1305; 1887, c. 222; Rev., s. 3990; C.S., s. 5269; 1973, c. 108, s. 94.)

**§ 156-11. Expense of repairs apportioned.**

Besides the damages which the commissioners may assess against the petitioner for the privilege of cutting into such canal or ditch, they shall assess and apportion the labor which the petitioner and defendants shall severally contribute towards repairing the canal or ditch into or through which the petitioner drains the water from his lands, and report the same to court; which, when confirmed, shall stand as a judgment of the court against each of the parties, his executors and administrators, heirs and assigns. (R.C., c. 40, s. 10; Code, s. 1306; Rev., s. 3991; C.S., s. 5270.)

**§ 156-12. Notice of making repairs.**

Whenever the canals or ditches for the reparation of which more than one person shall be bound under the provisions of G.S. 156-11 shall need to be repaired, any of the persons so bound may notify the others thereof, and of the time he proposes to repair the same; and thereupon each of the persons shall jointly work on the same and contribute his proportion of labor till the same be repaired or the work cease by consent. (R.C., c. 40, s. 11; Code, s. 1307; Rev., s. 3992; C.S., s. 5271.)

**§ 156-13. Judgment against owner in default; lien.**

In case the person so notified shall make default, any of the others may perform his share of labor and recover against him the value thereof, on a notice to be issued for such default, in which shall be stated on oath made before the clerk the value of such labor, and unless good cause to the contrary be shown on the return of the notice, the court shall render judgment for the same with interest and costs; which judgment shall be a lien upon the lands from the date of the performance of the work. (R.C., c. 40, s. 12; Code, s. 1308; 1899, c. 396; Rev., s. 3993; C.S., s. 5272.)

**§ 156-14. Subsequent owners bound.**

All persons to whom may descend, or who may otherwise own or occupy lands drained by any canal or ditch, for the privilege of cutting which any labor for repairing is assessed, shall contribute the same, and shall be bound therefor to all intents and purposes, and in the same manner and by the

same judgment as the original party himself would be if he occupied the land. (R.C., c. 40, s. 13; Code, s. 1309; Rev., s. 3994; C.S., s. 5273.)

**§ 156-15. Amount of contribution for repair ascertained.**

Whenever there shall be a dam, canal, or ditch, in the repairing and keeping up of which two or more persons shall be interested and receive actual benefit therefrom, and the duties and proportion of labor which each one ought to do and perform therefor shall not be fixed by agreement or by the mode already in this Subchapter provided for assessing and apportioning such labor, any of the parties may have the same assessed and apportioned by applying to a magistrate, who shall give all parties at least three days' notice, and shall summon two disinterested freeholders who, together with the magistrate, shall meet on the premises and assess the damages sustained by the applicant, whereupon the magistrate shall enter judgment in favor of the applicant for damages or for work done on such ditch or lands. (R.C., c. 40, s. 14; Code, s. 1310; 1889, c. 101; Rev., s. 3995; C.S., s. 5274; 1973, c. 108, s. 95.)

**§ 156-16. Petition by servient owner against dominant owner.**

Any person owning lands lying upon any creek, swamp, or other stream not navigable, which are subject to inundation and which cannot be conveniently drained or embanked on account of the volume of water flowing over the same from lands lying above, and by draining the same the lands above will be benefited and better drained, such person may by petition apply to the superior court of the county in which the lands sought to be drained or embanked, or some part of such lands, lie, setting forth the particular circumstances of the case, the valuation of the lands to be drained or embanked, and what other lands above would be benefited, and who are the proprietors of such lands; whereupon a summons shall be served upon each of the proprietors, who are not petitioners, requiring them to appear before the court at a time to be named in the summons, which shall not be less than 10 days from the service thereof, and upon such day the petition shall be heard and the court shall appoint three persons as commissioners, who shall, before entering upon the discharge of their duties, be sworn to do justice between the parties. (1889, c. 253; Rev., s. 4016; C.S., s. 5275.)

**§ 156-17. Commissioners to examine lands and make report.**

The commissioners, or a majority of them, on a day of which each proprietor is to be notified at least five days, shall meet on the premises and view the land to be drained and the lands affected thereby, and shall determine and report whether the lands of the petitioner or petitioners ought to be drained exclusively by him or them, and if they are of the opinion that the same ought not to be drained exclusively at the expense of the petitioner or petitioners, they shall decide and determine the route of the canal, ditch, or embankment, the width thereof, and the depth and height, as the case may be, and the manner in which the same shall be cut or thrown up, considering all the circumstances of the case, and providing as far as possible for the effectual drainage of the petitioner's land, and the protection and benefit of the defendant's lands; and they shall apportion the labor to be done or assess the amount to be paid by each of the owners of the lands affected by such canal, ditch, or embankment, towards the construction and keeping the same in repair, and report the same to the court, which, when confirmed, shall stand as a judgment of the court against each of the parties, his executors, administrators, heirs and assigns. (1889, c. 253, s. 2; Rev., s. 4017; C.S., s. 5276.)

**§ 156-18. Cost of repairs enforced by judgment.**

Whenever any such ditch, canal, or embankment shall need repairs or cleaning out, and any of the parties interested therein refuse to perform the labor apportioned to them, or refuse to contribute the amount assessed against them, the same shall be enforced in the manner hereinbefore provided for the joint repair of canals and ditches. (1889, c. 253, s. 3; Rev., s. 4018; C.S., s. 5277.)

**§ 156-19. Obstructing canal or ditch dug under agreement.**

Where two or more persons have dug a canal or ditch along any natural drain or waterway under parol agreement, or otherwise, wherein all the parties shall have contributed to the digging thereof, if any servient or lower owner shall fill up or obstruct said canal or ditch without the consent of the higher owners and without providing other drainage for the higher lands, he shall be guilty of a Class 3 misdemeanor. (1899, c. 255; Rev., s. 3375; C.S., s. 5278; 1993, c. 539, s. 1070; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 156-20. Right of dominant owner to repair.**

In the absence of any agreement for maintaining the efficiency of such ditch or canal, or should the servient owner neglect or refuse to clean out or aid in cleaning out the same through his lands, it shall be lawful for the dominant or higher owner, after giving three days' notice to the servient owner, to enter along such canal and not more than 12 feet therefrom and clean out or remove obstructions or accumulated debris therefrom at his own personal expense or without cost to the servient owner. (1899, c. 255, s. 2; Rev., s. 4025; C.S., s. 5279.)

**§ 156-21. Canal maintained for seven years presumed a necessity; drainage assessments declared liens.**

After a canal has been dug along any natural depression or waterway and maintained for seven years, it shall be prima facie evidence of its necessity, and upon application to the clerk of the superior court of any landowner who is interested in maintaining the same, it shall be the duty of the clerk of the superior court to appoint and cause to be summoned three disinterested and discreet freeholders, who, after being duly sworn, shall go upon the lands drained or intended to be drained by such canal, and after carefully examining the same and hearing such testimony as may be introduced touching the question of cost of canal, the amount paid, and the advantages and disadvantages to be shared by each of the parties to the action, shall make their report in writing to the clerk of the superior court stating the facts and apportioning the cost of maintaining such canal among the parties to the action, and the cost of the action shall be divided in the same ratio; and their report when approved shall be properly registered by the clerk and the said report or reports shall, when filed in the office of the clerk of the superior court, be a lien upon each tract of land embraced in said report or reports to the extent of the proportionate part of the costs stipulated in said report or reports as a charge against same, and shall have the effect and force of a judgment thereon, and such judgments shall be subject to execution and collection as in cases of other judgments. (1899, c. 255, s. 3; Rev., s. 4026; 1917, c. 248, s. 1; C.S., s. 5280; 1931, c. 227, s. 1.)

**§ 156-22. Supplemental assessments to make up deficiency; vacancy appointments of assessment jurors.**

The freeholders, commissioners or jurors, appointed in any application or proceeding filed or instituted under G.S. 156-21 or any other section of Article 1 of this Chapter, are authorized and empowered during the establishment of and providing for the construction, maintenance and

payment therefor, of such ditch, canal or drain, to make other and further assessments for the costs of establishment, construction and expense, when it shall be determined by the clerk of the court that the provisions in the former report for the payment thereof are insufficient, and that such supplementary reports shall be made on the same basis of an equitable and just proportion, as made in the former report, which report or reports shall be filed with the clerk of the superior court and have the same force and effect as the former or original report.

In case of death, resignation, removal or for any other cause there becomes a vacancy as to the freeholders, commissioners or jurors, appointed to carry out the provisions of the sections contained in this Chapter, the clerk of the superior court is authorized to fill such vacancy by the appointment of some disinterested freeholder in the county, and the said person so appointed to fill such vacancy shall qualify before the clerk of the superior court before entering upon his duties. (1931, c. 227, s. 2.)

**§ 156-23. Easement of drainage surrendered.**

If any persons, or those claiming through or under them, who have cut any ditch or canal into which any other person has been permitted to drain land under any proceeding authorized in this Subchapter, shall desire to surrender their easement or right in such ditch or canal and be discharged from any judgment rendered and existing under such proceedings, such persons may on motion have such proceeding reinstated for hearing and file a petition therein setting forth such fact or any other grounds for relief thereunder, and upon proof satisfactory to the court that such petitioners have cut another ditch or canal which drains their lands formerly drained by the first ditch or canal, and have abandoned the use of it for any purpose of drainage, the court shall adjudge the easement or right of the petitioners surrendered and determined, and from that time the petitioners and their land shall forever be discharged and released from the judgment heretofore rendered in such former proceedings: Provided, however, that all parties then having an easement or right in such ditch or canal shall be served with notice of such petition 20 days before the hearing thereof. (1887, c. 222, s. 3; Rev., s. 4027; C.S., s. 5281.)

**§ 156-24. Obstructing drain cut by consent.**

If any person shall stop or in any way obstruct the passage of the water in any ditch or canal having been cut through lands of any person by consent of the owner of said land, before giving the interested parties a reasonable time to comply with the mode of proceedings provided for the drainage of lowlands, he shall be guilty of a Class 3 misdemeanor. (1891, c. 434; Rev., s. 3376; C.S., s. 5282; 1993, c. 539, s. 1071; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 156-25. Protection of canals, ditches, and natural drains.**

If any person shall fell any tree in any ditch, canal, or natural drainway of any farm, unless he shall remove the same and put such ditch, canal, or natural drainway in as good condition as it was before such tree was so felled; or if any person shall stop up or fill in such ditch, canal, or drainway and thereby obstruct the free passage of water along the said ditch, canal, or drainway, unless the said person shall first secure the written consent of the landowner, and those damaged by such obstruction in said ditch, canal, or drainway, or unless such person so filling in and stopping up such ditch, canal, or drainway shall, upon the demand of the person so damaged, clean out and put the said ditch, canal, or drainway in as good condition as the same was before such filling in and stopping up of the said ditch, canal, or drainway happened, he shall be guilty of a Class 3 misdemeanor. (1901, c. 478; Rev., s. 3382; C.S., s. 5283; 1993, c. 539, s. 1072; 1994, Ex. Sess., c. 24, s. 14(c).)

Part 2. Petition under Agreement for Construction.

**§ 156-26. Procedure upon agreement.**

(a) Agreement; Names Filed. – Whenever a majority of the landowners or the persons owning three fifths of all the lands in any well-defined swamp or lowlands shall, by a written agreement, agree to give a part of the land situated in such swamp or lowlands as compensation to any person, firm, or corporation who may propose to cut or dig any main drainway through such swamp or lowlands, or shall, by written agreement, contract with any person, firm or corporation to cut or dig any main drainway through such swamp or lowlands, then the person, firm, or corporation so proposing to cut or dig such main drainway shall file with the clerk of the superior court of the county, or, if there be two or more counties, with the clerk of the superior court of either county in or through which the proposed canal or drainway is to pass, the names of the landowners, with the approximate number of acres owned by each to be affected by the proposed drainway who have entered into the written agreement with the person, firm, or corporation, together with a brief outline of the proposed improvement, and in addition thereto shall file with the clerk the names and addresses, as far as can be ascertained, of the landowners, with the number of acres owned by each of them to be affected by the proposed drainway, who have not made any agreement with the person, firm, or corporation proposing to do the improvement.

(b) Notice. – Upon the filing of such names, it shall be the duty of the clerk to forthwith issue a notice which shall be served by the sheriff to all landowners who have not made any agreement to appear before him at a certain date, which date shall be not less than 10 and not more than 20 days from the service of such notice, or, in lieu of the personal service hereinabove required, it shall be sufficient for the clerk to publish in a newspaper published in the county once a week for four weeks a notice to all landowners who have not made any agreement to appear before him at a certain date, which date shall be not less than 30 days and not more than 40 days from the first publication of notice, at which time and place the landowners shall state their objections to the proposed improvement, and in addition thereto make an estimate of the amount of damage that might be done to the land owned by each of them on account of the proposed drainway.

(c) Hearing; Viewers. – Upon the hearing it shall be the duty of the clerk of the superior court to forthwith appoint three disinterested persons, none of whom shall own land to be affected by such drainway, if requested by the person, firm, or corporation proposing to do the improvement, whose duty it shall be to familiarize themselves with the proposed improvement, view the premises of the landowners, estimating damages, and make an estimate themselves of the amount of damages that might accrue to the lands of each landowner filing objections on account of the proposed improvement, and report the same to the clerk of the superior court within 15 days from the date of their appointment.

(d) Report; Bond. – Immediately upon the filing of the reports the clerk of the superior court shall forthwith notify the person, firm, or corporation proposing to dig the drainway or canal of the estimated damages contained in the reports, and the person, firm, or corporation shall execute and deliver a bond in a surety company authorized to do business in the State of North Carolina in twice the sum total of the estimated amount of damages, which bond shall be payable to the clerk of the superior court and conditioned upon the payment to the landowners of the amount of damages that may be assessed in the manner hereinafter provided.

(e) Construction Authorized. – Upon the execution and delivery to the clerk of the said bond, the person, firm, or corporation so proposing to cut or dig such main drainway shall be and they are hereby authorized to proceed with the cutting or digging of the drainway through any lands

in its proposed course, whether the owners of the land may have consented thereto or not, and the person, firm, or corporation so proposing to cut or dig the drainway shall have the proper and necessary right-of-way for that purpose and for all things incident thereto through any lands or timbers situated in such swamp or lowlands. (1917, c. 273, s. 1; C.S., s. 5284; 1969, c. 1046.)

**§ 156-27. Recovery for benefits; payment of damages.**

After the drainway herein provided for shall be completed the person, firm, or corporation cutting or digging the same shall be entitled to recover of the landowners owning that part of the land with reference to which no contract for compensating those cutting or digging the drainway may have been made, an amount equal to the benefits to accrue to such lands by reason of the drainway, and shall be required by the clerk of the superior court to pay to any landowner the amount of damages in excess of benefits which may be done to the land to be determined in the manner hereinafter provided: Provided, that the recovery from any owner of the land shall be limited to the benefits to accrue to that land owned by such person, and situated in such swamp or lowlands or adjacent thereto; and provided further, that the amount to be so recovered as herein provided for until fully paid shall be and constitute a lien upon such land, the lien to be in force regardless of who may own the land at the time the amount to be recovered as compensation for digging or cutting the drainway shall be determined. (1917, c. 273, s. 2; C.S., s. 5285.)

**§ 156-28. Notice to landowners; assessments made by viewers.**

After the completion of the main drainway, upon the application of the person, firm, or corporation, or their heirs or assigns, digging or cutting the same, the clerk of the superior court of the county in which any land through which the drainway may pass is situated shall issue a notice to be served by the sheriff upon any person who may have failed to agree with the person, firm, or corporation digging or cutting such drainway, upon a compensation to be paid by the landowner for the digging or cutting of such drainway, notifying the landowner that on a certain day, which shall be named in the notice and not less than 20 days from the date of the issuing of the notice, the clerk of the superior court will appoint three competent and disinterested persons, one of whom may be a surveyor, and none of whom shall own land to be affected by the drainway, to view the land so drained and for which no compensation for the drainage may have been agreed upon as aforesaid, and report to the clerk of the superior court what amount shall be paid therefor by the various landowners who may have failed to arrange for and agree upon the compensation for the drainage as aforesaid, and the amount of damages in cases where the damages have exceeded the benefits, which shall be paid to the landowners by the person, firm, or corporation cutting or digging such canal or drainway. In making the appointment of the viewers the clerk of the superior court shall hear any objections which may be advanced by those interested to any of the persons the clerk may consider to be appointed as viewers, but the clerk shall name those whom he considers best qualified. (1917, c. 273, s. 3; C.S., s. 5286.)

**§ 156-29. Report filed; appeal and jury trial.**

A report signed by two of the persons appointed as viewers shall be entered by the clerk as the report of the viewers. Any landowner affected by the report, and the person, firm, or corporation digging or cutting the drainway, has the right of appeal and the right to have any issue arising upon the report tried by a jury, provided exceptions shall be filed to the report within 20 days after the filing of the report with the clerk, in which exceptions so filed may be a demand for a jury trial. If a jury trial is demanded, the clerk shall transfer the proceedings to the civil-issue docket, and it shall



be heard as other civil actions. If no jury trial is demanded, the clerk shall hear the parties upon the exceptions filed, and appeal may be had as in special proceedings except as modified by this section, but no jury trial may be had unless demanded as provided in this section. (1917, c. 273, s. 4; C.S., s. 5287; 1999-216, s. 17.)

**§ 156-30. Confirmation of report.**

Unless an appeal is taken, the clerk of superior court shall confirm the report of the viewers. If exceptions are filed and no jury trial is demanded, the clerk shall hear the exceptions and enter judgment as in other special proceedings. If the report is confirmed by the clerk because no exceptions or demand for a jury trial is filed, the judgment of confirmation is the judgment of the court. Any judgment entered against the person, firm, or corporation cutting or digging the drainway is a judgment against the person, firm, or corporation and against the surety on the bond required by G.S. 156-26. (1917, c. 273, s. 5; C.S., s. 5288; 1999-216, s. 18.)

**§ 156-31. Payment in installments.**

The amount to be recovered from any person as compensation for digging or cutting the drainway after the amount shall be definitely determined as herein provided for, shall be payable in five equal annual installments, the first payable one year from the filing of the report of the viewers with the clerk of the superior court, and one payment on the same day of each year thereafter until the full amount be paid. The amount to be recovered from the person, firm, or corporation cutting or digging the drainway, on account of any damages in excess of benefits to the lands of any landowner, shall be payable in one installment which shall be due and payable one year from the filing of the report of the viewers with the clerk of the superior court. (1917, c. 273, s. 6; C. S., s. 5289.)