

thereof shall be transmitted by the Clerk of said Court to the Clerk of the City Council, who, upon the order of said Council, shall cause the amount thereof to be paid by the Marshal of said city to the parties entitled to the same, said judgment shall separately state the amount of damages to which each party is entitled. If the appellants, or either of them, recover no more in said County Court than the amount assessed to him by said Council, together with ten per cent. additional thereto, he shall pay the costs of the appeal; but if he or they recover a sum more than ten per cent. beyond the amount so allowed, he shall be entitled to recover of said city the said costs of appeal; *provided*, that if any claimant of damages shall not give notice of appeal in the manner and within the time hereinbefore specified, then he shall be deemed to have assented to said assessment of damages by said Council; and *provided*, further, that if any occupant or owner of such lands shall fail, after being notified as aforesaid, to appear and claim damages, he shall be deemed to have waived his right of appeal to said County Court.

The provisions of an Act entitled an Act to regulate proceedings in civil cases in the Courts of Justice of this State, and the Acts amendatory thereof and supplementary thereto, shall be applicable, so far as the same are not inconsistent with this Act. There shall be the same right to appeal from any such judgment rendered in said County Court, as if the action had been originally brought therein.

When the amount of damages shall be finally ascertained and determined, the said Council shall order the Marshal to pay the amount thereof to the parties entitled thereto, and upon such payment, or the tender thereof, the said Marshall shall proceed and open said street. All streets that have been laid out by the authorities of the Town or City of Oakland, and declared to be public thoroughfares or streets, and that have been used as such, shall be and are hereby declared public streets, to the extent that the same may have been used; *provided*, that private rights of property shall not be affected thereby.

SEC. 58. An Act to incorporate the City of Oakland, passed