

condition to endanger persons, or horses or other animals, passing therein, any person while carefully using said street or public highway, and exercising ordinary care to avoid the danger, suffer damage to his person, or if any horses, animals, or other property, being lawfully ridden, driven, or conveyed through such street or public highway, be injured, lost, or destroyed, through any such defect therein, no recourse for damages thus suffered shall be had against the City of Oakland; but if such defect in the street or public highway have existed for the period of twenty-four hours or more after notice to the said Marshal, then the person or persons on whom the law may have imposed the obligation to repair such defect in the street or public highway, and also the officer or officers through whose official negligence such defect remained unrepaired, shall be jointly and severally liable to the party injured for the damage sustained.

SEC. 24. The City Engineer shall be:

*First*—The proper officer to do the surveying and other work necessary to be done under sections one and two of this Act, and to survey, measure and estimate the work done under contracts for grading streets, and every certificate of work done by him, signed in his official character, shall be *prima facie* evidence in all the courts of this State of the truth of its contents; he shall also keep a record of all surveys made under the provision of section one of this Act, as in other cases. The Marshal shall measure and determine any other work which may be done under the provisions of this Act.

*Second*—The words "improve," "improved," and "improvements," as used in this Act, shall include all necessary repairs of work all mentioned in section three of this Act, and also the reconstruction of all or any portion of said work.

*Third*—The term "main street," as used in this Act, means such street or streets as bound a block; the term "street" shall include crossings.

*Fourth*—The word "block" shall mean the blocks which are known and designated as such on the map and books of the Assessor of said city.

*Fifth*—The term "incidental expense" shall mean the expense for work done by the City Engineer under the provisions of this Act; also, the expense of printing, advertising, and measuring the work done under contracts for grading, and the expense of superintendence of sewers, and of piling and capping.

*Sixth*—The publication of notices required by the provisions of this Act shall be published daily (Sundays excepted), in a newspaper to be designated by the City Council of said city.

SEC. 25. The Marshal shall appoint a person or persons suitable to take charge of and superintend the construction and improvement of each and every sewer, and of piling and capping, whose duty it shall be to see that the contract made for the doing of said work is strictly fulfilled in every respect; and in case of any departure therefrom, to report the same to the Marshal. He shall be allowed for his time actually employed in the discharge of his duties such compensation as shall be just, but not to exceed five dollars per day. The sum to which the party so employed shall be entitled shall be deemed to be "incidental expenses," within the meaning of these words as defined in this Act; *provided*, that the owners of more than one half in frontage of the lots and lands fronting on the work proposed to be done under this section may, within forty-eight hours after the work has been commenced, appoint their own superintendent of the work, and provide for his compensation by private agreement.

SEC. 26. After a street shall have been paved, planked, or macada-

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