

against owners thereof who cannot with due diligence be found, the service in each of such actions may be had, either in manner as is now prescribed by the Civil Practice Act of this State, or in manner as is prescribed by an Act of the Legislature of the State of California, entitled "An Act Supplementary to an Act entitled An Act in relation to Suits brought for the Collection of Delinquent Taxes, approved May twelfth, eighteen hundred and sixty-two;" approved March twenty-fourth, eighteen hundred and sixty-four, and the remedies therein provided are cumulative. The Court in which such suit shall be commenced shall have power to adjudge and decree a lien against the premises assessed, and to order such premises to be sold on execution or decree, as in other cases of the sale of real estate by the process of said Courts, and on appeal the Appellate Court shall be vested with the same power to adjudge and decree a lien, and to order to be sold such premises on execution or decree as is conferred on the Court from which an appeal is taken; such premises, if sold, may be redeemed as in other cases. In bringing an action to recover street assessments, the complaint need not show any of the proceedings prior to the issuance of the assessment, diagram, and certificate; but it shall be held legally sufficient if it shows the title of the Court in which the action is brought by the parties, plaintiff and defendant, the date of the issuance of the assessment, the date of the recording thereof, the book and page where recorded, a general statement of the work done, a description of the lot or lots sought to be charged with the assessments, the amount assessed thereon, that the same remains unpaid, and the proper prayer for relief. In all suits brought to recover street assessments the proceedings therein shall be general, and regulated by the provisions of this Act; and also, when not in conflict herewith, by the Civil Practice Act of this State; but no defense shall be interposed except: first, want of jurisdiction to order work; second, that the assessment has been paid; third, fraud in the assessment, or in any of the acts or proceedings prior thereto, setting out the facts showing such fraud. It is hereby expressly provided, that nothing but gold and silver coin of the United States shall be received in payment of street assessments, and the judgment or decree in every case shall be made payable in and entered for gold coin.

SEC. 14. The Superintendent of Public Streets, Highways, and Squares may require, at his option, by notice in writing, to be delivered to them personally or left on the premises, the owners, tenants, or occupants of lots, or portions of lots, liable to be assessed for work done under the provisions of this Act, to improve forthwith any of the work mentioned in section three of this Act, in front of the property of which he is the owner, tenant, or occupant, to the center of the street, or otherwise, as the case may require, or to remove all filth, sand, earth, or dirt from the street in front of his premises, and by a like notice to be served personally upon the President or any officer of a railroad corporation or company, or to be left at the office of said corporation or company, to require such corporation or company to improve forthwith any work mentioned in this Act, which said corporation or company are required by law to do and perform; said notice to specify what improvement is required or work is to be done. After the expiration of five days the said Superintendent of Public Streets, Highways, and Squares shall be deemed to have acquired jurisdiction to contract for the doing of the work or making the improvements, or the removing of the filth, sand, earth, or dirt required by said notice. If such improvement or work of cleaning be not commenced within five days after notice given as aforesaid, and diligently and without interruption prosecuted to completion, the said Superintendent of Public Streets, Highways, and Squares may enter into a contract with any suitable person to make said improvement or to do said cleaning, at the expense of the owner, tenant, or occupant, or railroad corporation or company, as the case may be, at a reasonable price, to be determined by said Superintendent of Public Streets, Highways, and Squares; and such owner, tenant, or occupant, or railroad corporation or company, shall be liable to pay the same. After the certificate referred to in section fifteen shall have been recorded in the office of [the Superintendent of] Public Streets, Highways, and Squares, the sum contracted to be paid shall be a lien, the same as provided in section ten of this Act, and also a lien upon the franchise and property of said corporation or company, and may be enforced in the same manner as other assessments.

SEC. 15. If the expense of such improvements or removing such sand, earth, dirt, or filth, after the completion thereof, be not paid to the contractor so employed, or his agent or assignee on demand, the said contractor or his assigns shall have the right to sue the owner, tenant, or occupant, or railroad corporation or company, under the provisions of this Act, for the amount contracted to be paid, and the certificate of the Superintendent of Public Streets, Highways, and Squares that the work has been properly done, and that the charges for the same are reasonable and just, shall be *prima facie* evidence of the amount claimed for said work, and of the right of the contractor to recover the same in such action.

SEC. 16. In addition and as cumulative to the remedies above given, the Board of Supervisors shall have power, by ordinance, to prescribe the penalties that shall be incurred by any owner, tenant, occupant, or railroad corporation or company neglecting or refusing to make improvements or remove sand, earth, dirt, or filth, as provided for in section fourteen of this Act, which fines and penalties shall be recovered for the use of the City and County of San Francisco, by prosecution, in the name of the People of the State of California, in the

ETNA INSURANCE COMPANY, OF HARTFORD, lost over \$3,000,000 in the CHICAGO FIRE, and paid in full, Dollar for Dollar.