

shall fail to return his warrant within the time and in the form provided in this section, he shall thenceforth have no lien upon the property assessed: *provided, however*, that in case any warrant is lost, upon proof of such loss a duplicate can be issued, upon which a return may be made with the same effect as if the original had been so returned. After the return of the assessment and warrant, as aforesaid, all amounts remaining due thereon shall draw interest at the rate of one per cent per month until paid.

SEC. 12. The owner, contractor, or his assigns, and all persons, whether named in the assessment or not, feeling aggrieved by any of the acts or determinations of the said Superintendent of Public Streets, Highways, and Squares, in relation to the acceptance of work, or to the assessment, or to any act, proceeding, matter, or thing done, suffered, or committed by him, shall, within fifteen days after the issuance of said assessments as provided, appeal to said Board of Supervisors, as provided in this section, by briefly stating their objections in writing, and filing the same with the Clerk of said Board of Supervisors. Notice of the time and place of hearing, briefly referring to the subject matters of appeal, and to the acts or determination objected to or complained of shall be published for five days, Sundays and non-judicial days excepted. The said Board of Supervisors on appeal may correct, alter, or modify said assessment, as to them shall seem just, and may annul the same, and may order a new assessment to be made in the manner by them directed, and may make any order or decision in relation to any contract or the performance thereof, or in relation to any of the acts of the contractor, or the said Superintendent of Public Streets, Highways, and Squares, prior to the date of the hearing of said appeal: and all the decisions and determinations of said Board of Supervisors shall be final and conclusive upon all parties entitled to an appeal. The said warrant, assessment, and diagram shall be held *prima facie* evidence of the regularity and correctness of the assessment, and of the prior proceedings and acts of the said Superintendent of Public Streets, Highways, and Squares, and of the regularity of all the acts and proceedings of the Board of Supervisors upon which said warrant, assessment, and diagram are based. After jurisdiction to order any work has been obtained, no irregularity in any of the subsequent proceedings shall render any assessment illegal.

SEC. 13. At any time after the period of fifteen days from the day of the date of the warrant as hereinbefore provided, or if an appeal is taken to the Board of Supervisors, as is provided in section twelve of this Act, any time after five days from the decision of said Board of Supervisors, or after the return of the warrant or assessment after the same may have been corrected, altered, or modified, as provided in section twelve of this Act (but not less than fifteen days from the date of the warrant), the contractor or his assigns may sue in his own name the owner of the land, lot, or portions of lots, assessed on the day of the date of the recording of the warrant, assessment, and diagram, or on any day thereafter during the continuance of the lien of said assessment, and recover the amount of any assessment remaining due and unpaid, with interest thereon, as hereinbefore provided. And in all cases of recovery under the provisions of this Act, the plaintiff shall recover the sum of fifteen dollars in addition to the taxable costs as attorney's fees, provided he shall waive the percentage on recovery as provided by law. Suit may be brought in any Court in said City and County of San Francisco; and in case any one or more of the items in the assessment or assessments are 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 amounts 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.