

such actions. The said warrant, assessment, and diagram, with the affidavit of demand and non-payment, shall be *prima facie* evidence of such indebtedness, and of the right of the plaintiff to recover in the action. The Court in which 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, as in other cases of sale of real estate by the process of said Courts; and on appeal, the Appellate Courts 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 all suits now pending, or hereafter to be brought, to recover street assessments, the proceedings therein shall be governed and regulated by the provisions of this Act, and also, when not in conflict herewith, by the Civil Practice Act of this State. This Act shall be liberally construed to effect the ends of justice.—[Amendment, April 25, 1863.]

SEC. 14. The Superintendent of Public Streets and Highways 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, specifying in said notice what improvement is required. After the expiration of three days, the said Superintendent shall be deemed to have acquired jurisdiction to contract for the doing of the work or improvements required by said notice. If such improvement be not commenced within three days after notice given as aforesaid, and diligently and without interruption prosecuted to completion, the said Superintendent may enter into a contract with any suitable person applying to make said improvements, at the expense of the owner, tenant, or occupant, at a reasonable price, to be determined by said Superintendent; and such owner, tenant, or occupant shall be liable to pay the same. After the certificate referred to in section fifteen shall have been recorded, the sum contracted to be paid shall be a lien, the same as provided in section ten of this Act, and may be enforced in the same manner.

SEC. 15. If the expenses of the work and material for such improvements, 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, under the provisions of this Act, for the amount contracted to be paid, and the certificate of the Superintendent 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 materials, and of the right of the contractor to recover for 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 resolution or ordinance, to prescribe the penalties that shall be incurred by any owner or person liable, or neglecting, or refusing to make improvements when required, as provided in section fourteen of this Act, which fines and penalties shall be recovered for the use of the city and county, by prosecution in the name of the People of the State of California, as in other cases provided for in subdivision eleven of section fifteen, Chapter Four Hundred and Ninety-Three, on page five hundred and forty-four of the Statutes of said State, approved May eighteenth, eighteen hundred and sixty-one, and may be applied, if deemed expedient by the said Board, in payment of the expenses of any such improvements, when not otherwise provided for.

SEC. 17. The person owning the fee, or the person in possession, of lands, lots, or portions of lots, or buildings under claim, or exercising acts of ownership over the same, shall be regarded, treated, and deemed to be the "owner" (for the purposes of this law), according to the intent and meaning of that word as used in this Act; and in case of property leased, the possession of the tenant or lessee, holding and occupying under such person, shall be deemed to be the possession of such owner, and the person so defined to be such owner shall be personally liable for the payment of any charge or assessment lawfully made or assessed upon said lands, lots, or portions of lots, by said Superintendent, or contracted to be paid to the contractor for improvements to cover the expenses of any work done under and authorized by the provisions of this Act.

SEC. 18. Any tenant or lessee of the lands or lots liable, may pay the amount assessed against the property of which he is the tenant or lessee, under the provisions of this Act, or he may pay the price agreed to be paid, under the provisions of section fourteen of this Act, either before or after suit brought, together with costs to the contractor, or his agent, or assigns; or he may redeem the property, if sold on execution or decree, for the benefit of the owner, within the time prescribed by law, and deduct the amounts so paid from the rents due, and to become due, from him; and for any sum so paid beyond the rents due from him, he shall have a lien upon, and may retain possession of the said lands and lots, until the amount so paid and advanced be satisfied, with legal interest, from accruing rents or by payment by the owner.

SEC. 19. The records, kept by the Superintendent of Public Streets and Highways, in con-