

GENERAL STATUTES

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 2.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOW IN FORCE AND NOT IN
VOL. 1, THE SAME BEING THE CODE OF CIVIL PROCEDURE AND ALL REME-
DIAL LAW, THE PROBATE CODE, THE PENAL CODE AND THE CRIM-
INAL PROCEDURE, THE CONSTITUTIONS AND ORGANIC ACTS.

COMPILED AND ANNOTATED

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CHAPTER 82 (G. S. ch. 78).

ACTIONS ON OFFICIAL SECURITIES AND TO RECOVER FINES AND FORFEITURES.

Sections.

5544-5548. Actions on official securities.

5549-5551. For fines and forfeitures.

5552-5553. For penalties.

OFFICIAL SECURITIES.

SEC. 5544. **Security to all persons severally.**—The official bond or other security of a public officer to the state, or any municipal body or corporation, whether with or without sureties, is to be construed as security to all persons severally, for the official delinquencies against which it is intended to provide, as well as to the state, body or corporation designated therein: *provided*, that when no other provision is made by law, it shall run to the state of Minnesota.

G. S. ch. 78, § 1. 35 M. 169.

SEC. 5545. **Action on.**—When a public officer, by official misconduct or neglect, forfeits his official bond, or renders his sureties liable upon an official security; any person injured thereby, or who is by law entitled to the benefit of the security, may bring an action thereon, in his own name, against the officer and his sureties, to recover the amount to which he is entitled by reason of the delinquency.

G. S. ch. 78, § 2.

SEC. 5546. **For each delinquency.**—A judgment in favor of a party for one delinquency does not preclude the same or another party from an action on the same security for another delinquency.

G. S. ch. 78, § 4.

SEC. 5547. **Leave to bring.**—Before an action can be brought by a plaintiff, other than the state or body politic named in the bond, leave shall be obtained of the district court, or a judge thereof, within the county where the action is triable, by the production of a copy of the bond, and an affidavit showing the delinquency; and if the delinquency is such that, if established on the trial, it would entitle the party applying to recover in the action, leave shall be granted.

G. S. ch. 78, § 3.

SEC. 5548. **Execution.**—Upon the execution issued on a judgment recovered, upon the official security of a public officer, against him and a surety, there shall be endorsed a direction to the officer to whom the execution is delivered, to collect the same out of the property of the principal, if sufficient can be found, and, if not, then to collect it out of the property of the surety.

G. S. ch. 78, § 5.

FINES AND FORFEITURES.

SEC. 5549. **Actions for — By whom.**—Actions for fines and forfeitures may be prosecuted by the officers or persons to whom they are by law given, or who, by special provisions of law, are authorized to recover them; and, whether prosecuted by public officers or by private persons, are governed by the same rules as other civil actions, except as herein otherwise prescribed.

G. S. ch. 78, § 6.

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ACTIONS ON OFFICIAL SECURITIES, ETC. [SECS. 5550-5553.]

SEC. 5550. **Disposal of — Action by state.**— Fines and forfeitures not specially granted or appropriated by law shall be paid into the treasury of the county where the same are incurred; and whenever any property, real or personal, is forfeited to the state, or to any officer for its use, an action for the recovery of such property, alleging the grounds of the forfeiture, may be brought, by the proper officer, in the district court of any county where such property may be.

G. S. ch. 78, § 9, as amended 1870, ch. 73. Amendment struck out "treasury of the state" and inserted "treasury of the county where the same are incurred."

SEC. 5551. **Prosecutions for.**— All fines and forfeitures imposed as a punishment for any offence, or for the violation or neglect of any duty imposed by statute, may be prosecuted for and recovered by indictment in the district court; or, when the amount or value thereof does not exceed one hundred dollars, the same may be prosecuted for by complaint before a justice of the peace, who shall have jurisdiction therefor concurrently with the district court; and in all cases of the imposition of a fine pursuant to statute, as punishment for any offence, the offender may be committed till the same is paid, or he is otherwise discharged according to law.

G. S. ch. 78, § 10. 29 M. 187; 38 M. 149.

PENALTY.

SEC. 5552. **Action for.**— When an action is brought for a penalty which is limited by law not to exceed a certain amount, the action may be brought for that amount, and upon trial, the amount recovered shall be determined in proportion to the offence.

G. S. ch. 78, § 7.

SEC. 5553. **Collusive recovery.**— A recovery of a judgment for a penalty or forfeiture, by collusion between the parties, with intent to save the defendant from the consequences contemplated by law, in case where the penalty or forfeiture is given wholly or partly to the prosecutor, does not prevent the recovery of the same by another person.

G. S. ch. 78, § 8.