

inserted therein before the execution thereof; and when any deed of real estate has heretofore been or shall hereafter be executed under or by virtue of any such power, and all persons claiming by, through or under him or them, shall be forever barred and estopped from alleging in any pleading or proving upon trial in any cause or proceeding the fact that such power was so executed in blank.

When act to take effect.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 6, 1876.

CHAPTER LXVIII.

AN ACT TO AMEND CHAPTER 61, OF THE GENERAL LAWS FOR THE YEAR 1873, ENTITLED AN ACT TO PROVIDE A MORE EFFICIENT METHOD FOR THE TAKING OF DEPOSITIONS OF PERSONS WITHOUT THE STATE.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That section 1 of chapter 61 of the general laws of the year 1873, be and the same hereby is amended so as to read as follows:

Testimony—how taken—notice of same.

Section 1. Whenever the testimony of any person without this state is wanted in any civil action or proceeding in any court of this state, the same may be taken by and before any officer authorized to administer an oath in the state or territory in which the testimony of such person may be taken, upon notice to the adverse party of the time and place of taking the same. Such notice shall be in writing, and shall be served as other notices in civil actions are required to be served, and shall be served so as to allow the adverse party sufficient time by the usual route of travel, allowing one day for every one hundred miles of distance between the place of the service of the notice and the place of the taking of such testimony, and one day for preparation, exclusive of Sundays and the day of service; and the examination may, if so stated in the notice, be adjourned from day to day. *Provided*, that the justice of the peace or judge of the court before which, or the court commissioner of the county in which the action is pending may, on motion, and by order in the cause, designate the time and place for the taking of the testimony, and the time within which a copy of the order shall be served on the adverse party or his attorney. *And Provided, further*, that whenever the defendant in any action or

proceeding is in default for want of an answer, or other defense, such notice or order need not be served upon him.

SEC. 2. That the following new section be added to said chapter 59, viz.:

Sec. 5. Whenever any party shall under the provision of this act serve notice of the taking of the testimony of any person, and the adverse party shall, by himself or attorney, in pursuance of such notice, attend at the time and place therein named, and the party serving such notice shall fail or neglect to appear and proceed with the taking of such testimony, the justice of the peace or judge of the court before whom, or in which [the] action is pending, shall allow such adverse party such sum for expenses and for attorneys fees incurred in making such attendance as he shall deem proper, which sum shall be collected in the same manner as other costs and disbursements in the action or proceeding.

Failure to appear.

Costs.

SEC. 3. This act shall take effect and be in force from and after its passage.

When act to take effect.

Approved March 4, 1876.

CHAPTER LXIX.

AN ACT TO LEGALIZE THE FILING OF AFFIDAVITS IN CERTAIN CASES, AND MAKING THEM EVIDENCE.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That in all cases where affidavits authorized by sections fifty-four and fifty-five, of chapter seventy-three, (of) and sections nineteen and twenty, of chapter eighty-one, of the general statutes, have been heretofore filed and recorded, or shall hereafter be filed and recorded, such affidavits, or duly certified copies thereof, shall be received in evidence, in the same manner and with the same effect as if the same had been filed and recorded within the time in said sections specified.

SEC. 2. No proceedings in which such affidavits might have been heretofore filed and recorded, shall be deemed invalid in consequence of the failure to file and record the same within the time required by said sections.

SEC. 3. This act shall take effect from and after its passage.

When act to take effect.

Approved February 28, 1876.