

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.

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

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.

Approved February 28, 1876.