

A supplement to the act entitled "An act to regulate the practice of the courts of law." P. L. 1873, p. 51.

Approved April 15, 1846. Notice of appeal by private corporations, how made.

311. SEC. 1. That in any and every case where proceedings have been or shall be taken by any private corporation authorized to exercise or use the right or power of eminent domain, to exercise or employ that right or power to acquire any lands, tenements, hereditaments, real estate, or any other property for the use of such corporation, and an appeal has been or shall be taken from the award of commissioners, and notice is required by the charter of such corporation to be given of the presentation of the petition or of the making of the application to the appellate court to enter an appeal, five days' notice of the presentation of such appeal, or of the making of such application, served upon the opposite party, in case of an individual, personally, or left at his or her usual place of abode, or in case of a corporation, by delivering the same to the president, secretary or treasurer thereof, personally, or leaving the same at the principal office of the company with some person employed in said office, shall be sufficient notice and sufficient service thereof.

An act relating to the proceeds of real estate sold or taken by law. P. L. 1858, p. 459.

Approved March 18, 1858. Distribution of proceeds of sale of lands paid into court.

312. SEC. 1. Whenever any lands, tenements, hereditaments, or real estate, shall be sold or taken upon compensation, pursuant to any competent judicial authority, or any law of this state, and the proceeds of such sale or the compensation for such taking, shall be paid into any court of this state, pursuant to such authority or law, such court shall order and direct such payment or payments, in gross, to be made out of such proceeds, as compensation to such person or persons as shall be entitled to any vested, certain and absolute estate or interest, less than the fee simple, of, in, and to such lands, tenements, hereditaments and real estate, or any part thereof, as such court shall deem a just and reasonable satisfaction for such estate or interest, and as the person so entitled shall consent, in writing, to accept in lieu thereof; but in case any such person shall fail to give such consent, before the making of the order for the distribution of such proceeds or compensation, then such court shall ascertain and determine what proportion of such proceeds or compensation will be just and reasonable to be reserved for the benefit of such person, and shall order the same to be put out at interest on sufficient security of real estate, or invested in public stock, under the direction and control of such court, for the benefit of such person.

Promissory Notes.

I. IN GENERAL.

1. When binding and transferable; action by endorsee.
2. Inland bills subject to same law as foreign bills.
3. Bills at sight, etc., entitled to grace if not drawn on bank.
4. Checks and drafts on banks payable without grace.
5. Bills in satisfaction of a debt when to be accounted payment.
6. If bill lost drawer to give another.
7. Actions at law on lost bills.

II. PROTEST AND NOTICE OF DISHONOR.

8. Notaries appointed by governor.
9. By whom protest to be made.
10. Oath of notary.
11. Notary or justice to keep record.
12. Record may be referred to in giving testimony.
13. Fees for protesting.
14. Legal holidays.
15. Notice of dishonor may be given on day next after a holiday.
16. Deposit in post office when a sufficient service of notice.

An act concerning promissory notes, bills of exchange, and notaries public.

R. S. 798.
P. L. 1850, p. 194.
" 1854, p. 366.
" 1859, p. 81.
" 1860, p. 410.
" 1862, p. 194.
" 1871, p. 13.
" 1873, p. 107.

Revision—Approved March 27, 1874.

I. In general.

1. That all notes in writing, heretofore or hereafter made and signed by any person or corporation, or by his, her or their agent thereunto lawfully authorized, whereby such person or corporation doth promise to pay to any other person or persons, or corporation, or order, or unto bearer,

What promissory notes good.

R. S. 798, § 4.
P. L. 1871, p. 13.

- any sum of money mentioned in such note, shall, by virtue thereof, be construed to be due and payable to any such person or persons, or corporation, to whom the same is or shall be made payable; and every such note, payable to any person or persons, or corporation, or order, shall be assignable or endorsable over, in the same manner as inland bills of exchange are or may be; and the person or persons, or corporation, to whom such sum of money is or shall be, by such note, made payable, may maintain an action for the same, in such manner as he, she or they might do upon any inland bill of exchange against the person or persons, or corporation, by whom, or in whose name the same was signed as aforesaid; and any person or persons, or corporation, to whom such note, that is payable to any person or persons, or corporation, or order, is or shall be endorsed or assigned, or the money therein mentioned ordered to be paid by endorsement thereon, may maintain his, her or their action for such sum of money, either against the person or persons, or corporation, by whom, or in whose name the same was signed as aforesaid, or against any of the persons who endorse the same; (a) and in such action, the plaintiff or plaintiffs shall recover his, her or their damages and costs of suit; and if such plaintiff or plaintiffs shall be non-suited, or a verdict be given against him, her or them, the defendant or defendants shall recover his, her or their costs against the plaintiff or plaintiffs; and such plaintiff or plaintiffs, or defendant or defendants, respectively recovering, may sue out execution for such damages and costs by writ of execution, as is usual in other cases.
2. Every bill of exchange, for the sum of eight dollars or upwards, drawn or to be drawn in, or dated or to be dated at or from any place in this state, upon any person or persons of or in any other place in this state, and payable at a future time, or at sight, or on demand, shall, in case of non-acceptance by the drawee, when presented for acceptance, or, if accepted, in case of non-payment by the drawee, when due and presented for payment, be protested in like manner as foreign bills of exchange, and shall in every respect, except where this act otherwise directs, be regulated and governed by the same law, custom and usage as regulate and govern foreign bills of exchange.
3. All checks, bills of exchange or drafts, other than those upon banks or banking associations, which shall be drawn payable at sight, or at no fixed time or period, or on demand or on presentation, shall be due and payable at the expiration of three days' grace after the same shall be presented for acceptance.
4. All checks, bills of exchange or drafts, appearing on their face to have been drawn upon any bank, or banking association, which are on their face payable at sight or on any specified day, or in any number of days after the date or sight thereof, shall be deemed due and payable on the day mentioned for the payment of the same, without any days of grace being allowed thereon.
5. If any person accept any bill of exchange, for and in satisfaction of any former debt, or sum of money formerly due to him or her, the same shall be accounted a full and complete payment of such debt, if such person accepting such bill for his or her debt, doth not take due course to obtain payment thereof, by endeavoring to get the same accepted and paid, and make his protest thereof in case of non-acceptance and non-payment.
6. In case any bill of exchange shall happen to be lost or miscarried, before the time for payment thereof, the drawer of the said bill shall be obliged to give another bill of the same tenor with that first given, the person or persons to whom the same is and shall be so delivered, giving sufficient security, if demanded, to the said drawer, to indemnify him against all persons whatsoever, in case the said bill of exchange, so alleged to be lost or miscarried, shall be found again.
7. In an action upon any negotiable instrument which is lost, or upon any plea or notice of set-off founded on such instrument, the fact that such instrument was lost while negotiable, by delivery or otherwise, shall not prevent a recovery thereon, in a court of law; but any court of law shall give judgment in the same manner as if such note was not lost, and may
- Transferable if payable to order or bearer.
- Action by endorsee.
- Inland bills of exchange to be governed by same law as foreign bills.
- R. S. 798, § 1. Amended.
- Bills, &c., payable at sight, &c., when due.
- P. L. 1862, p. 194.
" 1878, p. 107.
- Checks and drafts on banks payable without grace.
- P. L. 1862, p. 194, § 2.
- Bills taken in payment of debt to be satisfaction of such debt on neglect to protest.
- R. S. 798, § 3.
- If bill lost drawer to give another.
- R. S. 798, § 2.
- Action at law on lost bills, &c.
- P. L. 1859, p. 81.

(a) See *New Jersey Banking Co. v. Myers*, 7 Hal. 141, 149.

take the same order thereon as a court of equity would, to indemnify the party charged against the re-payment thereof. Indemnity to be given.

II. Protest and notice of dishonor.

8. The governor of this state for the time being may appoint and commission such and so many notaries public as to him shall seem necessary, who shall hold their respective offices during good behavior. Notaries appointed.
R. S. 798, § 5.

9. The protest of bills of exchange and promissory notes may be made by a notary public; *provided*, that such protest shall, for want or in default of a notary public, be made by any justice of the peace, whose act, in such case, shall be of equal efficacy and virtue with that of a notary public. By whom protest to be made.
Ib. § 1.

10. Every notary public in this state who may be hereafter commissioned, shall take and subscribe an oath or affirmation before the clerk of the county in which he resides, faithfully and honestly to discharge all the duties of his office, and that he will make and keep a true record of all such matters as are required by law; which oath or affirmation shall be filed with the said clerk; and the said clerk, for drawing, taking and filing such oath or affirmation, shall be entitled to the sum of fifty cents. Oath of notary.
Ib. § 10.

11. It shall be the duty of every notary public or justice of the peace in this state, upon protesting any bill of exchange or promissory note, to record, in a book to be kept for that purpose, the time when, place where, and upon whom, demand of payment was made, with a copy of the notice of non-payment, how served, and the time when; or if sent, in what manner, and the time when; and if sent by post, to whom the same was directed, at what place, and when the same was put into such post office, to which record they shall sign their names; and, upon the death or removal out of the state, of such notary or justice, such record shall be deposited in the office of the clerk of the county in which he last resided; and it shall also be the duty of such notary public or justice of the peace to furnish to the person paying the costs and expenses of such protest, a certificate under his hand and official seal of the matters and things so required to be by him entered of record as aforesaid. Notary or justice to keep record.
R. S. 798, § 7, 8.
What to contain.
In case of death or removal to be deposited in clerk's office.
Certificate thereof to be given.
P. L. 1862, p. 34, § 2.

12. It shall be lawful for such notary public or justice of the peace, when called upon to give evidence in any court of this state, upon the subject of such protest, to refer to the record so by him kept as aforesaid, for his own satisfaction; and whenever any question shall arise in any court of this state, touching the protest of any promissory note or bill of exchange, if it shall be made to appear that the notary or justice by whom the same was made, is dead, or has removed out of this state, or after diligent inquiry, his place of residence cannot be discovered, then the said record so deposited in the office of the clerk of the county, or a certified copy thereof, by the said clerk, under his seal of office, shall be received as competent evidence of the matters contained in said record. Record may be referred to in giving testimony.
R. S. 798, § 8.
In case of death or removal, record or transcript to be evidence.
Ib. § 9.

13. It shall be lawful for every notary public or justice of the peace for his whole services in making protest, and entering the same of record and giving a certificate, to take the following and no other fees, to wit: on every foreign bill of exchange, one dollar and seventy-five cents; and on every promissory note or inland bill of exchange for one hundred dollars or over, one dollar and fifty cents; and on every promissory note or inland bill of exchange for less than one hundred dollars, the sum of one dollar and thirty cents; and if any notary or justice shall charge any greater fees for the services mentioned than are herein allowed, he shall forfeit and pay to the party from whom he shall have taken the same, the sum of twenty-five dollars, to be recovered in an action of debt, with costs of suit, before any court of competent jurisdiction. Fees of notary or justice for protesting.
Ib. § 7.
P. L. 1850, p. 194.
Penalty for taking greater fees.

14. With respect to the presentation, protest, and notice of dishonor of bills of exchange and promissory notes, the following days shall be legal holidays, viz: Christmas day, the first day of January, the twenty-second day of February, the fourth day of July, and any day appointed by the governor of this state for a day of solemn fast or for a day of thanksgiving; and bills of exchange and promissory notes becoming due on any such legal holidays shall be payable on the day next preceding such legal holi- Certain days legal holidays with respect to bills and notes.
P. L. 1854, p. 366.
" 1860, p. 410.

(a) As to what certificate of notary must contain, see *Burk v. Shreve*, 10 Vr. 214. And see also, *Ea. kalow v. Johnson*, 1 Harr. 397.

day, and in case of non-payment may be noted and protested on such preceding day.(1)

In case of notes payable on certain holidays or on the day preceding.

P. L. 1854, p. 366.
" 1860, p. 410.

15. In cases of bills of exchange and promissory notes becoming due and payable on any of the days mentioned in the last preceding section as legal holidays, or on the day preceding any such legal holiday, it shall not be necessary to give notice of the dishonor of such bills of exchange or promissory notes until the day next after such legal holiday; and whenever any such legal holiday shall happen or be appointed on a Monday, it shall not be necessary to give notice of dishonor of such bills of exchange or promissory notes as shall be payable on the preceding Saturday, until the Tuesday next after such legal holiday; and every such notice so given as aforesaid, shall be valid and effectual to all intents and purposes.

Notice of dishonor where drawer or endorser resides in city or town in which bill or note is payable.

P. L. 1862, p. 194,
§ 3.

16. Whenever the residence or place of business of the endorser of a promissory note, or of the drawer or endorser of a check, draft, or bill of exchange, shall be in the city, town or township, or whenever the city, town or township indicated under the endorsement or signature of such endorser or drawer as his or her place of residence, or whenever, in the absence of such indication, the city, town or township where such endorser or drawer, from the best information obtained from diligent inquiry, is reputed to reside or have a place of business, shall be the same city, town or township where such promissory note, check, draft, or bill of exchange is payable or legally presented for payment or acceptance, all notices of non-payment and of non-acceptance of such promissory note, check, draft, or bill of exchange, may be served by depositing them, with the postage thereon prepaid, in the post office of the city, town or township where such promissory note, check, draft, or bill of exchange, was payable or legally presented for payment or acceptance, directed to the endorser or drawer at such city, town or township.

[For act "concerning the records of notaries public of other states and territories." See Title EVIDENCE, *ante* p. 387].

(1) See *ante* p. 481, title "LEGAL HOLIDAYS."

Protection Societies.

1. Societies how incorporated.
2. Certificate to be made and filed with county clerk.
3. Election of directors and officers.
4. Capital stock, for what to be used.
5. Companies already formed may have benefit of act.

An act to authorize the formation of societies for the protection of property.

P. L. 1851, p. 243.

Approved March 13, 1851.

Societies how incorporated.

1. That it shall be lawful for any ten or more citizens of this state, being legal voters, to meet at such time and place, within the township in which they reside, of which time and place ten days' notice shall have been given, either by publication thereof in a newspaper of that vicinity, or by posting such advertisement in a conspicuous place therein; and, when met, to elect, by plurality of voices, six or more directors or trustees, who are hereby constituted a body politic and corporate, by the name of "The Protection Society, or Company, of the township of _____, in the county of _____," or by such other name as may then and there be assumed by them, or by such directors or trustees then or afterwards assumed.

Certificate to be made and filed with county clerk.

2. That such directors or trustees, first elected, shall, under their hands and seals, make a certificate of such proceeding to the clerk of the county in which the same may be had, who shall record the same; and thereupon such body politic and corporate, and their successors, shall have full power to make all necessary or useful orders, regulations, and by-laws, as shall to them appear expedient (and not inconsistent with the laws of this state) touching the management and disposition of the affairs and effects of the company.