BALLOT.

MARKING.

The provision in section 20 of the act approved March 4, 1891, known as the "Australian Ballot Law," for the marking of ballots with ink, is directory only, and ballots, if in other respects regular, will, in the absence of fraud be counted, although marked with a pencil. *State, ex rel. Waggoner* v. *Russell*, Supreme Court of Nebraska, March 2, 1892, Alb. L. J.

BANK—See Libel 3.

BANKS AND BANKING.

1. NOTE — NOTICE — BURDEN OF PROOF.

A bank which discounts a note is not affected with notices of defences thereto by reason of the fact that the person presenting it, and who has knowledge of the facts, is vice-president and director of the bank, and also a member of its discounting committee, besides being president of the payee, it appearing that such person in no way acted for the bank in the transaction.

Testimony of the president of a bank that the payee of a note "conferred" with him about the discount of it cannot be considered evidence of actual knowledge on his part that the note was obtained by the payee through fraudulent representations. N. C. Supreme Court., *Commercial Bank of Danville* v. *Burgwyn*, 14 S. E. Rep. 623.

2. ACTION ON NOTE — BONA FIDE PURCHASER—EVIDENCE.

A debtor, desiring to obtain a loan from a bank on notes to be taken by him at an intended cattle sale wherewith to discharge mortgages on the cattle, induced the cashier to attend the sale. After the sale was over, when the cashier was leaving, he said to the debtor: "You have had a good sale; it is all right. When will you be up?"—to which the debtor replied, "As soon as the notes are all in." There was no other evidence of any agreement on the part of the bank to advance money to pay off the mortgages. The bank advanced money on the notes so obtained, but the debtor failed to apply the same to the mortgages, which were afterwards enforced against the purchasers at the sale.

Held, in an action by the bank on one of the notes so taken, that the evidence was insufficient to sustain the defence that the bank had agreed to pay off the mortgages with the proceeds of the notes. Iowa Supreme Court. *City Bank of Boone* v. *Bennett*, 51 N. W. Rep. 246.

3. INSOLVENCY—PURCHASE OF STOCK —RIGHTS OF OWNERS.

The fact that a bank president invests, without authority, in the stock of the bank, money which he holds as executor of an estate, and a few days before the suspension of the bank causes the stock to be resold to the bank at par, and a certificate of deposit to be issued, does not confer upon the estate any greater rights than those of a stockholder, or allow it to recover, as against creditors, the price agreed upon. Bank v. King, 57 Pa. St. 202, and Hallett's Estate, 13 Ch. Div. 696, distinguished. *In re Columbian Bank*, 23 Atl. Rep. 625. Pa. Supreme Court.

4. INSOLVENT BANK — RIGHTS OF DEPOSITORS—SET-OFF.

A depositor in an insolvent bank, who had endorsed a note that was subsequently discounted by said bank, can, in a suit by the bank to recover the amount of the note, set off his deposit against this amount, when the note matured after the insolvency of the bank, and the maker made default in payment. Refusing to follow Armstrong v. Scott, 36 Fed. Rep. 63, and Stephens v. Schuchmann, 32 Mo. App. 333. Bank v. Price, 22 Fed. Rep. 697 distinguished. *Yardley* v. *Clothier*, Circuit Court E. D. Pennsylvania, Jan. 1892.

5. ASSIGNMENT — COLLATERAL SECURITY—RIGHTS OF ASSIGNOR.

Plaintiff assigned a claim against the city of New York to defendant bank, to be collected and applied to plaintiff's indebtedness to the bank and others, and the balance, if any, returned to the plaintiff. The bank in turn assigned the claim to its attorney, for collection, and he, on collection