this case. In that case a banker was held to be the holder for value of certain bills of exchange received from a customer, although the amount of the bills was simply carried to the credit of his overdrawn account, no money being actually paid, and the result of the decision, probably, was to determine that the bills had been negotiated at the time the banker received them, but not, as I have endeavored to point out, negotiated in the sense in which section 75 of the Bank Act uses the term "negotiated."

The policy of the Act, as I understand it, is to permit a bank to take security by means of such assignments as those in question in this case, for an obligation incurred to it at the time the security is given and for that only. That is, I think apparent from the language of section 74, which is the enabling section, and authorizes the security to be taken where money is lent by the bank, and the language of section 75 must be read in the light of that provision. It is therefore the payment of a bill or note which the bank obtains in, or a debt which is incurred to it arising out of, a transaction in the nature of a loan by the bank to its customer, which may be secured in the exceptional manner in which the Act permits security to be given.

Having come to the conclusion that no loan or real advance was made by the defendants to Zoellner at the time of the assignments in question, or either of them were made, and that no real debts were then incurred by Zoellner, it follows in my view of the law that the assignments are invalid as against the creditors of Zoellner so far as they sought to be supported under the provisions of the Bank Act.

It was urged by Mr. Scott that even if invalid under the Bank Act the assignments were good as against Zoellner, and being good against him were also valid as against the plaintiff; but it is impossible to give effect to that contention. The provisions of the Bank Act not being available to support the assignments, they must stand or fall according to the general law of Ontario applicable to such instruments, and not being registered they are under section 38 of the Bills of Sale and Chattel Mortgage Act (1894) void as against the plaintiff who is the assignee for the general benefit of creditors within the meaning of the Act respecting assignments and preferences by insolvent persons.

There must be judgment declaring the assignments and each of them to be void as against the plaintiff, and the defendants must pay the costs of the action.