22nd June following; but it will be observed that in each case the balances at the credit of Zoellner in account No. 2 were during the same periods increased by corresponding amounts, so that there was no substantial alteration of the state of his account between the dates referred to.

Is it possible that the assignments can, under the circumstances I have mentioned, be supported as against the creditors of Zoellner under the provisions of the sections of the Bank Act upon which the defendants rely (sections 74 and 75), and which alone can give them validity as against creditors?

Section 74 authorizes the bank to "lend money to any person engaged in business as a wholesale manufacturer of any goods, wares and merchandise, upon the security of the goods, wares and merchandise manufactured by him or procured for such manufacture." And section 75, so far as it applies to the circumstances of this case, prohibits the bank acquiring or holding any security under section 74 "to secure the payment of any bill, note or debt unless such bill, note or debt is negotiated or contracted at the time of the acquisition thereof by the bank."

Though in form it was otherwise, there was no debt contracted by Zoellner at the time the assignments were respectively acquired by the defendants, nor was there, in my opinion, any negotiating by him of a bill or note such as section 75 contemplates.

How, under the circumstances I have mentioned, can the transactions of the 1st of April, 29th March and 23rd July be treated as anything but mere book-keeping entries, having no real foundation to support them, and is it possible to come to any other conclusion than that they were merely clothed with the form which would apparently give them validity, while in substance and in fact they were intended to accomplish that which the Bank Act forbade being done?

It is, I think, impossible to treat any of the notes which the assignments purported to secure as having been "negotiated" in the sense in which that term is used in section 75, at the time the assignments were made; it is true that the form was gone through of taking the notes and passing the amount of them to the credit of one of the accounts, but contemporaneously with this an equal amount was placed to the debit of another of the accounts, and not a farthing of the amounts which the notes represented could be touched by Zoellner or made available by him for any purpose, unless he brought to the defendants and left for collection or discounted customers' paper, which would entitle him to credit in account No. 2 for an amount equal to that which he proposed to withdraw.

The decision *In re Carlew* is, I think, not applicable to