

as they had credits in the other account. The two accounts had, of course, relation to each other, and seemed in reality to be treated as one account.

The contention of the plaintiff is that none of the securities referred to at the time of their acquisition by the bank were given in consideration of any actual present advance or the negotiation or contraction of any bill, note, debt or liability at the time of such acquisition. They also contend that the said securities were invalid inasmuch as there was no proper and definite description therein of the goods intended to be transferred, and that the goods in the factory at the time the defendant took possession were not the goods referred to in the securities nor covered thereby. They also say that at the time of making the agreement of the 4th May, 1912, the mortgage of the 27th November, 1913, and the mortgage of the 22nd January, 1914, Thomas Brothers, Limited, were insolvent and unable to pay their debts in full, and that the said securities have the effect of preferring the defendant bank to the other creditors and of hindering and delaying them and the liquidator from realizing their claims against the said corporation or a reasonable proportion thereof.

They also charge that the defendants have been in occupation and possession of the factory premises and goods, wares and merchandise of the said corporation, have sold large quantities of goods manufactured and in process of manufacture and raw material therefrom and have sold from the warehouses in Montreal and Ottawa large quantities of manufactured goods under title of the said securities and conveyances and have excluded the plaintiff company and the liquidator therefrom, and that as a result the liquidator has been and the other creditors have been and still are prevented and hindered by the said securities and conveyances from liquidating and winding-up the assets and affairs of the said corporation and realizing at least a fair part of their said claims.

They also claim that in any event there was no authority under s. 88 of the Bank Act for the bank taking security on any of the goods included in the jobbing portion of the business of the company.

It was held in the *Bank of Hamilton v. Halstead*, 27 O. R. 435, 24 A. R. 132, 28 S. C. R. 235, that an assignment made in the form "C." to the "Bank Act" as security for a bill or note given in renewal of a past due bill or note is not valid as a security under the seventy-fourth section of the "Bank Act." Girouard, J., at p.