were not *mandataires* of the respondent. Mr Justice Monk thought that the appellants were not *mandataires* of the respondent, and, further, that there had been maladministration.

The following opinion was delivered by

RAMSAY, J. This is an action based on a trust deed, by which the appellants undertook to carry on the lumber business of the firm of Têtu & Co., then on the verge of insolvency, and to pay off the creditors so far as the estate assigned to them by the deed would suffice, and to give the balance if any to Têtu & Co. The result of the transactions of the appellants was not successful, and the object of the action was to compel respondent, who was one of the creditors of Têtu & Co., to pay back certain dividends he had received on his claim, and to indemnify the trustees for the advances they had made and the losses they had incurred in executing the trust.

This action was met by a *défense en fait*, and by a special plea by which respondent in effect set up, first, that by the payment of the second dividend respondent who was indebted to Cirice Têtu, one of the firm of Têtu & Co., was completely disinterested in the operations of the trustees. Secondly, that by this payment, and by two other payments out of the funds of the said Cirice Têtu, the liabilities of the firm of Têtu & Co. were reduced to $25,000, and that the estate was then able to pay off all its debts, if the appellants had sold off the property as they were authorized to do; but that instead of doing so the appellants carried on for their own profit the business of Têtu & Co. in violation of the powers conferred by the deed and at their own risk. Thirdly, that their administration was bad, vicious and grossly negligent, and that they had exceeded their powers.

The learned Chief Justice of the Court below dismissed the action, solely on the grounds that the appellants were not parties to the deed, and that although it was to some extent made in their interest, it was not generally a bargain with them but between Têtu & Co. and the appellants: the creditors are only parties ratifying the deed. Now what is the effect of such a ratification? Chief Justice Meredith has thus stated the question:—

"If I ratify a deed entered into by another as my agent I make the deed my own; but if I ratify a deed entered into by others in the exercise of their own rights, and for their own interests, I merely deprive myself of the power of objecting to such deed, and undertake to do whatever by the deed I am required to do, but nothing further."

And he concludes:—"Upon the whole, after giving to the trust deed the best consideration in my power, I can see nothing either in the letter or spirit of that deed, which would justify me in holding that under it, the trustees were the agents of the creditors. According to my view, the trustees did not represent the creditors in any way, or to any extent, except as regards their interest in the estate assigned. And yet, according to the contention of the plaintiffs, they had power not only to render valueless the claims of the creditors against N. Têtu & Co., but also to subject the creditors personally and jointly and severally to debts to an unlimited extent. For if, as the plaintiffs contend, they had power to make the creditors liable for the $73,000, now alleged to be due to the plaintiffs, then the discretion of the trustees was the only limit to their power over the estates of the creditors.

"The capital obtained from La Banque Nationale from 1871 to 1876 was, as already mentioned, $850,000, and, according to the contention of the plaintiffs, each of the creditors was personally, jointly and severally liable for the whole amount so borrowed."

It appears to me that this is unanswerable as a general statement of the law; but has it no exceptions? Or rather, is this only a ratification of a deed entered into by others? I am inclined to think that this deed contains something more than a ratification of the acts of others, for there is at all events one clause which states that the consideration of the *transport* to appellants is the discharge of the Têtus. But this does not alter the question before us, for it is only an abandonment to the Têtus of all recourse against them in consideration of the cession they were about to make. From this I do not