prived themselves of the power of impugning the said deed of trust, and secured to the said insolvent debtors the discharge to which they were entitled under the said trust deed, but that the said creditors, by signing the said trust deed, cannot be regarded as parties creating the trusts established, or granting the powers given in and by the said trust deed; and that the said trustees, as regards the said creditors, were merely administrators of the insolvent estate, so assigned to them as trustees, and cannot be regarded as having been, as they the plaintiffs contend they were, the agents of the said creditors of whom the defendant was one, and that the said trustees had not any power as regards the said creditors or their property, beyond the interest of the said creditors, to the said insolvent estate so assigned to them as the said trustees;

"And seeing that, by the said trust deed so entered into between the said insolvent debtors and the said plaintiffs, it is amongst other things declared that the said trustees 'shall have full and ample power to pledge and hypothecate, if they think fit, all or any part of the said property, moveable or immoveable, hereby conveyed to them in trust, and with the money obtained by and through such pledging and hypothecating to carry on the said establishments at Escoumains and at Sault-au-Mouton, or either of them, to the same, or a greater or less extent than the same have been hitherto carried on by the parties of the first part, and it is hereby agreed that the said parties shall carry on the said establishments, and shall continue, there and elsewhere, as they may deem fit, the business of the said firm of Nazaire Têtu & Co., for the benefit of the creditors of the said firm and of the said parties of the first part as hereinafter mentioned';

"And that by the concluding clause of the said trust deed it was declared: 'It is well 'understood that the winding up of the said 'estate shall be made within two or three 'years from this date,' that is, within two or three years from the said 16th day of November, 1870;

"And seeing that the said estate was not wound up within the said period of two or three years, and that even after the lapse of the said delay the business of the said estate was carried on by the said plaintiffs upon a more extensive scale than it had been carried on before, and that the plaintiffs, in order to carry on the said business aforesaid, raised a large amount of capital on their own credit, with which they carried on the said business, without having obtained the consent or concurrence of the said creditors;

"Seeing that, in pursuance of a resolution of certain creditors of the said estate, it was wound up in the year 1877, and that the result of the said liquidation of the said estate was that there was nothing whatever for the creditors, who were called upon not only to lose claims amounting to $69,000, with seven years' interest, but also to pay the sum of $73,334 to meet losses sustained by the plaintiffs in so carrying on the said business;

"And considering that although the said plaintiffs, as trustees, were by the said trust deed authorized to raise the funds necessary to enable them to discharge their duties as trustees, yet that they ought to have raised the required funds in their capacity as trustees and upon the strength of the trust property, and that the said trustees in raising, as they did, capital on their own credit, and in carrying on, as they did, extensive lumbering operations, with the borrowed capital so raised, (although they doubtless acted in good faith,) exceeded their powers; and, moreover, that whatever rights (if any) the said trustees may have, as regards the said losses, against the parties by whom they, the said trustees, were so named, they, the said trustees, cannot have any such rights against the creditors by whom they *were not named;*

"It is in consequence considered and adjudged that the action and demand of the said plaintiffs be and the same is hereby dismissed with costs in favour of the defendant."

In appeal the judgment was confirmed, the learned judges, however, differing as to the reasons of confirmation. The Chief Justice was of opinion that the appellants were *mandataires* of the respondent, but that they had administered imprudently and exceeded the terms of their trust. Justices Ramsay and Baby were of opinion that the appellants