

moyen de billets escomptés par la défenderesse, et ayant été remises à la dite succession;

“Considérant, vu tout ce que dessus, qu’il n’y a pas lieu d’accorder la dite motion des demandeurs;

“Renvoie l’action des demandeurs, et maintient la défense avec dépens contre les demandeurs.”

Ce jugement a été confirmé par la cour d’Appel.

*Sir L. A. Jetté, J. C. dissenting.*—“Joseph Mélangon in discharging alone the duties of the executors named by the will, was acting against the wishes of the testator. When several executors are named in a will it means that one of them cannot act alone. When they are jointly named they must act jointly, unless there is some indication in the will that one could act for the others. In the present case there was nothing in the will to show that one executor could act alone.

“What profit or advantage could accrue to the estate from the fact that the powers of the three executors had been transferred to one of their number? For the proper carrying into effect of the provisions of a will it is necessary to try and ascertain what the intentions of the testator are. The Mélangon will did not permit two of the executors to give a power of attorney to their co-executor, and the will did not authorize the numerous acts done by that executor alone and those acts were null and void.

“The executors should have acted together. These illegal acts were carried on during a long period, and, finally, when made aware of the dishonesty of Joseph Mélangon, the executors took no steps to repudiate their responsibility as executors. They remained dormant. They even assumed some of Joseph Mélangon’s debts and, in any event, they could not succeed for the full amount for which they took action.