

“And considering that the respondent has established that he had a *prima facie* title to the possession and property of the said lots of land, such a location ticket being a promise of sale from the Government of the Province of Quebec, on the conditions determined by law, with possession, which entitled the said respondent to claim and obtain an injunction enjoining the appellants, who, having no title to cut timber on the said lots of land, are by law considered as having cut by trespass the timber mentioned in the respondent's petition, until the said appellants had established in the regular course of law the insufficiency of the respondent's title and their right to cut the timber on the said lots of land;

“And considering that there is no error in the judgment rendered on the 24th day of February, 1887, by the Superior Court for the district of Ottawa, sitting at Aylmer, except in the expression that the writ of injunction issued in this cause was declared to be perpetual, which might exclude the appellants from hereafter asserting in due course of law their right to cut the timber on the said lots of land;

“This Court, for the above reasons, doth maintain the said writ of injunction, and doth enjoin the said Allan Gilmour, John Gilmour, David Gilmour and John David Gilmour, defendants below, now appellants, to discontinue and cease all lumbering and all operations and works in connection therewith on said lots numbers 62 and 63 of the sixth range of the township of Egan, in the district of Ottawa, now in possession of the respondent, under and in virtue of a location ticket granted to him, and bearing date 21st day of April, 1886, under the penalties ordained and prescribed by law.”

The defendants complain, first, that the injunction, though not intended to be perpetual, is in fact made so, and that they are excluded from hereafter asserting any right to cut timber on the land in question. It is true that the mandatory part of the order is indefinite in point of time, and if unexplained might read as being perpetual, but taken in connection with the expressed motives, it is plain enough that if the defendants have a

better title to assert they may do so in a proper suit.

The principal contention of the defendants is that the plaintiff has not shown any valid title to the land, and in order to show the precise bearing of this contention, the positions of the parties must be stated.

The plaintiff claims title under a license of occupation, commonly called a location ticket, granted to him on the 21st April, 1886, by the Agent of Crown Lands. The license states that the plaintiff has paid \$12, being one-fifth of the purchase money of 200 acres of land contained in lots Nos. 62-63, in the township of Egan, the balance being payable in four equal annual instalments. The grantee is bound to take possession within six months, to continue residence and occupation for two years at least, to clear or cultivate at least 10 acres in the 100, and to build a habitable house of a certain size. Before his patent is issued, he is not to cut wood except for clearance, fuel, building, or fences. The sale is expressly made subject to all timber licenses actually in force.

By Sec. 16 of the Public Lands Act of 1869, 32 Vict., cap. 11, such a license gives to the grantee a right to take possession of and occupy the land therein comprised, and to maintain suits in law or equity against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown, and such license is to be *prima facie* evidence of possession in any such suit, but is to have no force against a license to cut timber existing at the time of the granting thereof.

From the 4th December, 1885, to the 30th April, 1886, the defendants held a license to cut timber over a tract of land, roughly speaking about 50 square miles in extent, which embraced lots 62-63, in the township of Egan. This license contained a proviso that all lots sold or located by the authority of the Commissioners of Crown Lands should cease to be subject to it after the 30th April following. Probably the reason for inserting a clause exempting located lots at a date after the expiry of the license was that such licensees had claims to renewal of their licenses which were recognized by the Crown officers.