The appellants, the Canada Paper Company, during the winter of 1879-1880, amongst a large quantity of wood purchased from different parties for the purposes of their paper manufactory in the village of Windsor Mills, bought 130 cords from a young man named Edward Martin. The respondents alleged that this wood was stolen from them, and that it came into the possession of the appellants unlawfully, and they asked that the wood be given up to them, or that they be paid its value. The Court below maintained this demand.

White, for the appellants, submitted that the judgment was unfounded. The Land Company, respondents, on the 9th July, 1879, gave one Antoine Martin a location ticket for a lot of 200 acres, about four miles from the village of Windsor Mills. The price was $5 per acre. The location ticket contains a prohibition to cut timber. The appellants require a large quantity of cordwood for their establishment, and in the fall of 1879, among 105 persons who came to their office for the purpose of contracting to supply cordwood during the winter was Edward Martin, who, it subsequently appeared, was the son of Antoine Martin, and who was then eight months under age. The Company's agent, however, was not aware at the time that Edward Martin was related in any way to Antoine Martin. From the latter they would not have bought at all, as he had been guilty of trespassing on a previous occasion. The Company's agent made the purchase in good faith, and believed Edward Martin to be a dealer in wood. The appellants submitted that the Land Company never owned this cordwood. All they ever owned in it was the "stumpage,"—the trees or material from which the cordwood was manufactured. The trees had been cut down, and from them had been manufactured cordwood, which was an article of commerce, just as much as railway ties, shingles, fence rails or telegraph posts. The stumpage was worth less than twenty cents per cord. The distance to the village was four miles, and it was worth seventy cents per cord to haul it. The labor of chopping and cutting was worth more than double the value of the material. Secondly, it was submitted that the cordwood was not stolen from the respondents in the criminal sense, which would affect the rights of third parties. The cutting of the timber without permission was a breach of the contract between Antoine Martin and the Loan Company, and would be ground for a *capias*. The cutting and removing trees from the land of another is by statute a larceny, but here Antoine Martin, the father, was in possession of the land under a location ticket, and it was his property subject to the condition of payment. Antoine Martin could not have been convicted, under the circumstances, of stealing cordwood from the Land Company. Further, even if the Land Company were the owners of the cordwood after it had been cut, chopped and hauled, the sale to the appellant was not a nullity. The Paper Company bought in good faith from a person dealing in wood, and Article 1489 of the Code says: "If a thing lost or stolen be bought in good faith in a fair or market, or at a public sale, or from a trader dealing in similar articles, the owner cannot reclaim it without reimbursing to the purchaser the price he has paid for it." Martin was in actual possession of the wood as proprietor, and under Article 2268 actual possession of a moveable by a person as proprietor creates a presumption of lawful title. It was a commercial matter, and the appellants in any case were entitled, under Article 2268, to be reimbursed the price which they had paid for the wood.

Brooks, Q.C., for the respondents, contended that the appellants were shown to be in bad faith. Their agent (Travis) admitted that he would not have bought the wood from Antoine Martin, and yet he bought, without any enquiry whatever, from his son, a young man only twenty years of age. As to the fact of larceny, it was submitted that the theft need not be such as would render the party subject to indictment for larceny. The wood was unlawfully taken and carried away from their possession, without their knowledge and against their will, by Edward Martin, with intent to appropriate it to his own use. The respondents were proved to be owners of the wood, and the change of form from trees to cordwood did not affect their right to revendicate their property. The appellants' pretension that it was a commercial matter was not sustained by the evidence, it appearing merely that one person had bought one cord and another had bought three or four cords from Edward Martin.

RAMSAY, J. This action arises out of the rights retained by the respondents over lands conceded by them. It seems they give location tickets to settlers containing certain reserves, and amongst others a prohibition to cut wood. These location tickets are ***sous seing privé***, and they are declared to create only a personal covenant between the parties. One Antoine Martin obtained one of these tickets for a lot of land belonging to respondents, and in violation of his covenant with respondents he cut a quantity of wood, converted it into cordwood, and through his son, Edward Martin, sold 130 cords of it to appellants. Respondents attached the cordwood as being their property, and prayed that the wood might be restored to them or that appellants should pay them $1000 damages.