to the workman when the added workmanship is so important that it greatly exceeds the value of the material employed. The workman has only the faculty of retaining the thing on paying the owner the price of the material, and thus becoming the owner.

The action was in revendication of 250 cords of shingle wood for cedar butts, valued at $125.

The respondent, a lumber dealer, held under license from the Provincial Government certain lots in the third range, northeast of the township of Stratford, with the right of cutting timber growing thereon. In the winter of 1879-80, as he alleged, a quantity of cedar was cut by trespassers and brought to the appellant's mill, where it was partly converted into shingles. The respondent, on learning this, caused the timber to be seized.

The defence was that the shingle wood had been purchased in good faith.

The Court at Sherbrooke maintained the defence, and held that the timber had been cut by permission.

This decision was reversed by the Court of Review at Montreal and the action was maintained. It was from this judgment that the present appeal was taken.

RAMSAY, J. This is an action by way of *saisie-revendication* of certain wood cut on Government limits of which respondents, plaintiffs in the Court below, are the lessees. In first instance the action was dismissed; but in Review this judgment was reversed, and $125 accorded as the value of the timber before it was manufactured into shingles.

Appellant's first proposition is this, there could be no revendication because the wood was manufactured into shingles, the labour was of greater value than the new material, and therefore the manufacturer became the owner. This is not the meaning of Art. 435, C. C. The rule of ownership is established by Art. 434, that the owner is he to whom the material belongs. If, however, the workmanship be so important as to exceed in value the material, the workman may invert the general rule, and make himself owner, by disinteresting the proprietor by paying him the value of the material. Till that is done the owner remains owner of the manufactured article. The case of the *Paper Co. & B. Am. Land Co.* (5 L. N. 310) has a resemblance to this and no more. It was alleged that the appellant was in fraud, to give some consistency to the action; but the existence of fraud was the reverse of being proved, and the judgment of this Court going on the principle that *possession vaut titre*, held, that the defendants bought in good faith from a dealer in such an article—fire-wood from the owner of a bush lot—and had paid the price, and that they could not be obliged to pay again, much less to pay for the value of the fire-wood. As for the words referred to, they do not maintain the doctrine sought to be established by appellants, namely, that the wood became defendants' by turning it into fire-wood or shingles; but only this, that as between the innocent third party and the Land Company the former could not be compelled to pay more than the value of the wood, for that the manufacturer *in any case* was entitled to the value of his workmanship.

Appellant's second proposition is somewhat different. He says the wood was cut by consent of the lessee, and consequently it was only a question of the value of the timber.

If this be true the revendication should have been discharged with the extra costs it entailed, and defendant been compelled to pay the value of the timber.

The Court of Review took a different view of the case and thought that the permission to cut was not proved, that the value of the timber was proved, and they condemned the appellant to pay this value and no more. He has suffered no wrong, except in a matter of costs, and I do not think we should disturb the judgment, even if we were of opinion that under the evidence the judgment might have been framed otherwise in this particular.

Judgment confirmed.

Hall, White & Panneton for appellant.
J. J. Maclaren, counsel.
Camirand & Hurd for respondent.

COURT OF QUEEN'S BENCH.

MONTREAL, November 27, 1883.

DORION, C.J., RAMSAY, TESSIER, CROSS & BABY, JJ.

LA CORPORATION DU COMTE D'OTTAWA (deft. below), Appellant, and LA COMPAGNIE DU CHEMIN DE FER, M. O. & O., (Plff. below), Respondent.

Damages—Default to give debentures.

The failure to pay money at the proper time can only give rise to the immediate and direct damages resulting therefrom, which are limited by law to the legal interest on the sum. But an obligation to give debentures bearing interest is not to be treated as a mere obligation to pay money, and nominal damages may be allowed for default, without proof of actual damages.

The appeal is from a judgment of the Superior Court, Torrance, J., reported in 5 Legal News, p. 132.

The action in the Court below was for the recovery of damages, under unusual circumstances.

The plaintiffs, now respondents (the Montreal, Ottawa, and Western Railway Company), set up that on the 12th of June, 1872, the defendants passed a by-law authorising them to take stock in the railway to the amount of $200,000, and pay the same in bonds or debentures. On the 9th July, 1872, the by-law was adopted by the electors, and by 36 Vic., cap. 49, was declared valid. By this by-law the Mayor