

One of the regulations of 1889 was that "the entry of every holder of a grant for placer mining had to be renewed and his receipt relinquished and replaced every year."

Held, reversing the judgment of the Exchequer Court, 7 Ex. C R. 414, SEDGEWICK, J., dissenting, that the new entry and receipts did not entitle the holder to mine on the terms and conditions in his original grant only, but he was subject to the terms of any regulations made since such grant was issued.

The new entry cannot be made and new receipt given until the term of the grant has expired. Therefore, where a grant for one year was issued in December, 1896, and in August, 1897, the renewal license was given to the miner, such renewal only took effect in December, 1897, and was subject to regulations made in September of that year.

Regulations in force when a license issued were shortly after cancelled by new regulations imposing a smaller royalty.

Held, that the new regulations were substituted for the others and applied to said license.

Attorney General for Canada, and *H. S. Osler*, for appellant. *Armour, K. C.*, and *J. Travers Lewis*, for respondents.

Province of Ontario.

COURT OF APPEAL.

From Robertson, J.] McDERMOTT v. HICKLING. [Nov. 24, 1902.

Mistake—Recovery of money paid under mistake of fact—Mortgage—Account—Acknowledgment—Estoppel—Appeal—Cross appeal—Leave—Parties—Costs.

The judgment of ROBERTSON, J., 38 C. L. J. 85, reversed on appeal.

Held, that there could be no recovery against the executors because their testator was not the person who received the erroneous overpayments sought to be recovered back. He omitted to give credit in his books or on the plaintiff's mortgage for two sums paid to him; but the plaintiff made no mistake in paying them, for there was then so much and more due on the mortgage, and when the executors subsequently assigned the mortgage to the defendant, G. W. L. H., in part satisfaction of the legacy bequeathed to him by their testator, there was a considerable balance due thereon. The time when these payments should have been taken into con-