

the 3rd of March, 1871, was not only made to secure to the respondent his share of the profits arising out of the said mining transactions, but also to meet the contingent event of the claim of the said Alexander McEwan to the ownership of the said 80 shares, and that in consequence of the judgment herein-after mentioned, declaring the said Alexander McEwen owner of the said 80 shares, the said transfer became inoperative ;

" And considering that before the said transfer was duly completed and registered in the books of the Trust, the said Alexander McEwen claimed before the New York Supreme Court, as his share in the profits in the said transaction, the 80 shares or parts in the said Canada Land Purchase Trust so transferred by the appellant to the respondent, which 80 shares by a decree of the said Supreme Court of the 9th of December, 1871, were adjudged to be the property of the said Alexander McEwen ;

" And considering that subsequently the said Alexander McEwen, by compromise, agreed to transfer and did re-convey eight of the said 80 parts in the said Trust, to Walter Shanly and James D. Crawford, trustees appointed by the appellant and the respondent, to hold the said eight shares on their behalf until an adjustment of their claims had taken place, the said Trust being now represented by 288 shares of the nominal value \$100 each in the Silver Mining Company of Silver Islet and eight shares of The Ontario Mineral Lands Company ;

" And considering that through the adjustment in the present case of the accounts of the affairs of the said co-partnership, exclusive of the rights which the said parties may have against each other with regard to the said mining rights, there is now due to the appellant by the respondent a sum of \$16,185.51, as mentioned in the judgment rendered by the Court below ;

" And considering that through the claim of the said Alexander McEwen the said respondent has been deprived of the whole of the 40 shares allotted and transferred to him as his share of the profits in the said transaction ;

" And considering that he is entitled to claim his proportion of one-fourth of the sum

of \$9,000, for which the said respondent has sold 80 of the said 160 shares or parts in the said Canada Land Purchase Trust or \$2,250 currency, with interest on the said sum from the 30th December, 1870, date of the sale by the respondent of said mining rights, and also his one-fourth part of the said eight shares or parts in the said company now represented by the 288 shares of the nominal value of \$100 each in the Silver Mining Company of Silver Islet and eight shares of The Ontario Mineral Lands Company ;

" And considering that the said sum of \$2,250, and interest as aforesaid, are more than compensated by the sum of \$16,185.51, which is due and owing by the respondent to the appellant according to the adjustment of accounts as made in and by the judgment appealed from, to wit, the judgment rendered on the 31st of March, 1881, by the Superior Court sitting at Montreal, and that there is error in the said judgment of the 31st March, 1881 ;

" This Court doth reverse the said judgment of the 31st March, 1881 ; and proceeding to render the judgment which the said Superior Court should have rendered, doth adjudge and order that the said eight shares in the said Canada Land Purchase Trust, in the hands and possession of the said Walter Shanly and Jas. D. Crawford, in trust, which shares are now represented by 288 shares of the nominal value of \$100 each in the Silver Mining Company of Silver Islet and eight shares in The Ontario Mineral Lands Company, so that six of the said eight shares of the Canada Land Purchase Trust or 216 shares in the Silver Mining Company of Silver Islet, and six of the eight shares in the Ontario Mineral Lands Company, shall belong to the said appellant, and two of the said 8 shares of the said Canada Land Purchase Trust, or 72 of the said 288 shares in the Silver Mining Company of Silver Islet and two of the eight shares of the Ontario Mineral Lands Company shall belong to the said respondent, as their respective shares in the said partnership property, and the said parties are hereby ordered to make to each other within one month from the date of this judgment a regular transfer of their respective shares in