the error in stating that it lay in front of lots 20 and 21, instead of lot 21 only, was falsa demonstratio. . . .

The plaintiff's title was not impugned; it still stands; it was not a case of recalling the patent issued to the plaintiff by mistake or otherwise. The decision of the Minister went upon the assumption that the island in question was not upon the original plan, and was not intended to be patented to the plaintiff, and was not in fact patented to him. None of these assumptions are, in my opinion, well-founded, the Minister having been led to this false conclusion owing to the false statement made by the defendants.

I agree with the judgment of Riddell, J., who took a different view from that of the majority of the Court below. . . .

A long line of decisions has settled that an action to declare void a patent, on the ground that it was issued through fraud, error, or improvidence, may be maintained, and that the Attorney-General, representing the Crown, is not a necessary party.

But, in my view, this jurisdiction does not rest solely on the decided cases, but upon the statute-law and on the Judicature Act. . . .

[Reference to 4 & 5 Vict. ch. 100, sec. 29; Halsbury's Laws of England, vol. 10, sec. 76, p. 35; Chitty's Prerogative of the Crown, p. 331; 16 Vict. ch. 159, sec. 21; C.S.C. ch. 22, sec. 23; 28 Vict. ch. 2, sec. 25; R.S.O. 1877 ch. 23, sec. 29; 50 Vict. ch. 8; Farah v. Glen Lake Mining Co., 17 O.L.R. 1; Con. Rule 241; Ontario Judicature Act, 1881, sec. 9; 9 Edw. VII. ch. 28, sec. 6; Boulton v. Jeffrey, 1 E. & A. 111; Barnes v. Boomer, 10 Gr. 532; Kennedy v. Lawlor, 14 Gr. 224.]

As was pointed out by my brother Riddell in the Court below, in none of these cases was there a prior patent issued to the plaintiff; on the strength of which an attack was made on the defendants' patent. In my opinion, the Court has jurisdiction wherever, upon the facts, the case is brought within sec. 29 of 4 & 5 Vict. ch. 100. . . .

[Reference to Martyn v. Kennedy, 4 Gr. 61; Proctor v. Grant, 9 Gr. 26; Laurence v. Pomeroy, 9 Gr. 474; Stevens v. Cook, 10 Gr. 410; Mutchmore v. Davis, 14 Gr. 346; Chisholm v. Robinson, 24 S.C.R. 704; The King v. Adams, 31 S.C.R. 220; Ontario Public Lands Act, R.S.O. 1897 ch. 28.]

It is quite obvious that the Crown did not act under sec. 24 of the Public Lands Act in issuing the second patent. There was no pretence of any fraud or violation of any conditions on the part of the plaintiff, nor did the Crown assume in any way to