Boulton v. *Jeffrey* (1845), 1 E. & A. 111, is one example. The unsuccessful claimant filed a bill in equity to have the successful one declared a trustee for him; but he failed, and would have failed even if he had shewn improvidence, etc.

In *Barnes* v. *Boomer* (1864), 10 Gr. 532, the Crown Lands Department decided that one of two applicants should receive a patent; and it was held that the Court could not interfere. There, however, it was not shewn that the Crown acted in ignorance or misapprehension.

But in *Kennedy* v. *Lawlor* (1868), 14 Gr. 224, the Court (Vankoughnet, C.), held that it had no power to review the decision of the Commissioner, and say he acted improvidently or in error or mistake.

Somewhat to the same effect is *Farmer* v. *Livingstone* (1882), 8 S. C. R. 140.

But 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 or its validity as in the present case.

R. S. O. 1897, ch. 138, sec. 169, which was the Act in force at the time of the transactions in question, is relied upon by the defendants. The Local Master found Duncan's patent registered, sec. 169 (2), and gave notice accordingly to Zock, he received a certificate under sec. 169 (3), and thereupon discontinued the proceedings and disallowed the objection and claim founded on the Zock-Duncan instruments, as was his duty under that section. The legislation it seems to me makes the position of the defendants under their patent and the decision of the Commissioner unassailable—and the plaintiff must get rid of that patent before he can say that the defendants have no right in the island.

"A long line of decisions has settled that an action to declare void a patent for land, on the ground that it was issued through fraud or in error or improvidence, may be maintained, and that measure of relief granted, at the suit of an individual aggrieved by the issue of such patent, and to such an action the Attorney-General as representing the Crown is not a necessary party: *Bartyn* v. *Kennedy* (1853), 4 Gr. 61; *Stevens* v. *Cook* (1864), 10 Gr. 410, see also *Farah* v. *Glen Lake Mining Co.* (1908), 17 O. L. R. 1," per Moss, C.J.O., in *Florence, etc.* v. *Cobalt, etc.* (1909), 18 O. L. R. 275, at p. 284. If it were quite clear that there is nothing