

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—The Minister of Lands, Forests and Mines, before the issue of defendant's patent, considered and disposed of the claim arising under Zock's patent, and thereupon defendant received the certificate of title. That the Court cannot review his finding and judgment, is well settled.

But in view of the very strong opinion of the trial Judge that statements not only false, but false to the knowledge of Clayton were made by him to the department, whereby the officials were misled, and the Minister's judgment practically obtained by fraud, and of the further fact that in the present case a prior patent issued to the plaintiff, I agree that the Attorney-General should have an opportunity to intervene herein.

The plaintiff will notify him accordingly. If the Attorney-General signifies his intention not to intervene this appeal will be allowed with costs and the action dismissed with costs.

If the Attorney-General should desire to be heard or to adduce evidence or to cross-examine witnesses already called, he may be added as a party, and arrangements may be made either for re-argument or for hearing the new evidence.

Judgment will be withheld until the Attorney-General shall have determined what course he will take.

HON. MR. JUSTICE BRITTON:—All the material allegations in the statement of defence have in my opinion been established by the evidence.

The evidence before the Court shews that the Crown intended to grant, and did grant, to the defendants the island in question.

The claim of the plaintiff is that the island granted to Walter Duncan by patent No. 2803, and as to which a certificate of ownership under the Land Titles Act, was obtained by the said Duncan, calling the land parcel 1024, is the same island as was subsequently granted to the defendants by patent No. 3368, and as to which the defendants obtained a certificate of ownership under the Land Titles Act—describing the island as parcel 1620. The answer to plaintiff's case—apart from any question of fraud, is first, that the identity of parcels separately described as only one parcel