

ation of the facts and circumstances, and the fair inferences to be derived therefrom, it is manifest that a wrong conclusion has been reached.

It was strongly urged for the appellants that, in dealing with the question whether there had been misrepresentations and false statements, as to the fact of discoveries made, to the Crown in order to procure from it the issue of the leases the recall of which are the subject of this action, the Chancellor had erroneously assumed that the onus of proving the fact of the discoveries was on the defence, whereas it lay with the plaintiff to establish that there were no discoveries in fact; that there was no legislative provision or departmental rule rendering obligatory the statement of the date of a discovery; and that it was not enough for the plaintiff to shew that there were no discoveries in December, 1904, as alleged in procuring the leases; it was also incumbent on him to prove that there were not discoveries in the preceding November. If the case was to turn on this point, the plaintiff fully discharged the onus, so far as it was on him. The Crown having been led into the error of supposing that the discoveries had been made in the month of December, and having issued the leases on the basis of such alleged discoveries, could not be required to do more than shew the falsity of the statements on which its action was founded. How would the case have stood if the only evidence given in the case was the production of the affidavits of discoveries and the other material on which the Crown acted, the proof that the statements as to discoveries as alleged in the affidavits were untrue, and that there were no discoveries in December, 1904, as therein alleged?

There would have been but one finding, viz., that the Crown had been deceived and misled, and that there must be a restoration of its rights.

Here, the plaintiff did shew that, so far as the alleged discoveries in December were concerned, there was no foundation for the statements. That is now virtually conceded by the appellants. And if the case stopped there, they would be without any answer to the action.

But they set up that, admitting it to be true as alleged in the affidavits that there were no discoveries in December,