

effected while the House was sitting, the Member would be incapable of sitting or voting. If the House was not sitting, and if the contract was completed before the meeting of Parliament, the Member would not be disqualified from sitting or voting, because he could not be said to be concerned or interested in a contract which was wholly completed." Your Committee, after careful consideration of all the circumstances of this case, have to report their opinion that, whatever may be the correct view of the question in its legal and technical aspect, the spirit and intention of the provisions of the Disqualification Act have been departed from. They have further to report that there is such an uncertainty in the terms of the Act, especially in regard to transactions such as those with respect to land, which do not appear to have been contemplated at the time the Act was framed, as to call for an immediate amendment of the law of disqualification. They are of opinion that such amendment should be so framed as indicated in the resolution of the House of Representatives, of the 1st September, 1875, as to prevent any agreements or transactions being entered into, either during the recess or during the sitting of Parliament, between the Executive Government and Members of the Legislature, involving the payment of money or the granting of present or prospective pecuniary advantage to such Members, except under the express sanction of the Legislature.

A Member of the Committee, who was obliged to be absent when the report was drawn up, handed in a memorandum bearing on the legal aspect of the case, which your Committee think it right to append to this report.

29th September, 1875.

WM. ROLLESTON,
Chairman.

APPENDIX.

No. 1.—OPINION OF THE SOLICITOR-GENERAL.

In re "The Disqualification Act, 1870."

1. Does a member of the House of Representatives become disqualified by selling a portion of land to the Government and receiving a sum of public money therefor—
 - (a.) During the sitting of the House?
 - (b.) During the time the House is not sitting?
2. Does a Member of the House of Representatives become disqualified by assigning to the Crown for a sum of money a lease of land which he holds from certain Natives—
 - (a.) During the sitting of the House?
 - (b.) During the time the House is not sitting?
3. Whether the sale, transfer, or surrender of any rights or alleged rights, such as those which purport to be transferred in the Murimotu Papers (C. No. 6, p. 2), disqualify a member from sitting in the House?
4. Does the sale of land for railway purposes disqualify a member for sitting—
 - (a.) If the land is compulsorily taken?
 - (b.) If the owner consents to sell, or enters into a voluntary agreement?

The above questions turn upon the interpretation to be given to the ninth and succeeding clauses of the Disqualification Act; and it will be convenient in the first place to consider these clauses, for the purpose of ascertaining the mischief and defects they were intended to remedy, and in the second place to see if the cases referred to in the questions put to me come within the terms of the Act; or, if not, whether it is clear that they are wholly without the Act.

1. The 9th section, after reciting that it is expedient to prevent persons concerned or interested in contracts affecting the Public Service of the colony from exercising undue influence with or over the Government of the colony, proceeds to enact in substance, so far as is material to these questions, that—

No person concerned or interested in any contract or agreement with respect to the Public Service of the colony under which public money is to be paid for any service, work, matter or thing, shall be capable of being elected as a member of the House of Representatives, nor shall any such person sit or vote in the House during the time he shall be concerned or interested in any such contract or agreement.

The clause excepts certain contracts, which do not apparently affect the points raised.

The 10th clause is to the effect that if any person disqualified by the Act or declared incapable of sitting shall be elected, his election shall be void.

The 11th clause is not material to the question.

And the 12th clause declares that if any person disqualified or declared incapable of sitting or voting shall presume to sit or vote, he shall be liable to a penalty of £100 for each day he so sits or votes.

Appended hereto are the 1st and 2nd clauses of the Imperial Act—22 Geo. III. c. 45, (marked "A")—and the 9th clause of the Colonial Act of 1870 (marked "B").

Upon referring to the English Statute it will be seen that the disqualifying words of the 1st section are more ample and specific than in the Colonial Act; they not only enumerate the