

within the meaning of the Act will depend in a great measure upon the nature of the contract or agreement, and the particular incidents connected with it, whether disqualification attaches or not.

2. I now come to the particular questions asked me. These assume that the person selling the land to the Crown is already a member of the House, so that the disability incurred would be the liability to the daily penalty prescribed by Section 12.

As to questions Nos. 1 and 2.—These may be taken together, as they relate to the same kind of contract, although effected by different classes of instruments :—

- (a.) Assuming that contracts for the sale of land to the Crown are within the Act (but which I have already said I do not think was intended), then I think that if the sale or assignment was effected while the House was sitting, the member would be incapable of sitting or voting.
- (b.) If the House was not sitting, and if the contract was completed before the meeting of Parliament, I think 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. The principle of *Royse v. Birley* would clearly apply to this branch of the question.

As to No. 3.—The information conveyed by the printed paper No. 3 (C. 6, 1875) is hardly sufficient to enable me to say what the actual contract was. It appears to be an arrangement to surrender certain claims to Native lands upon condition that a proportionate part of such lands shall be left in the occupation of persons contracting with the Government on terms stated. Paragraph 8 of the terms of arrangement states that a sum is to be paid by way of compensation on an equitable scale, if the whole or part of the lands are required by the *Provincial* Government; and paragraph 10 provides that actual money payments (made apparently as part payment of purchase from the Natives) shall be refunded by the *Government*. It is not stated by whom compensation is to be paid in the first case, nor what Government is to make the refund in the other. It will be seen the lands are spoken of as *Native lands*, and therefore do not come within the strict letter of the proviso to section 9 of the *Disqualification Act*, which excepts from the operation of the Act sales of, and other dealings with, *Waste Lands*. I am inclined to think, however, that by the terms of this arrangement the lands spoken of would be within the equity of the proviso; because they were apparently to be treated as waste lands. By paragraph 7 rent was to be paid at the rate and under conditions reserved by the *Waste Lands Regulations* of the province; and by paragraph 9 it is stated that as doubts exist as to the power of effectuating the agreement, the General and Provincial Governments shall take action to secure such “measures of legislation” as may be necessary to give effect to it.

But if this transaction be a contract upon which public money is to be paid, then the answers which I have given to the preceding questions as affecting a member of the House of Representatives would also apply to this case.

As to the 4th question.—

- (a.) I do not think that the taking of land compulsorily for railway purposes can be said to be within the *Disqualification Act*. In the city of Londonderry case (reported in *Wolferston and Bristowe's Reports of Decisions of Election Committees*, p. 206), it was settled that the lessee of a railway from the Public Works Loan Commissioners in Ireland was not disqualified from being elected a member of Parliament as a contractor, either by reason of his being such lessee, or by reason of his conveying mails on his railway under a contract with the Postmaster-General. The Irish Statute is the 41st Geo. III., cap. 52, and is similar in its provisions to the English Statute.

I do not think that the compulsory taking of land by the Crown under any Statute or authority authorizing the taking of such land, as, for instance, under the *Immigration and Public Works Acts*, could be held to be a contract or agreement within the meaning of the *Disqualification Act*; even although the party conveying executed a conveyance which he would be compellable to execute under “*The Lands Clauses Consolidation Act, 1863*,” or “*The Immigration and Public Works Act Amendment Act, 1871*.” In such a case there is really no contract or agreement at all in the ordinary meaning of the term; the seller may be, and often is, an unwilling party, and I think it would be a violent straining of the Act to say that such a transaction involved disqualification.

- (b.) If it is to be held that a sale of land is within the meaning of the *Disqualification Act*, then a voluntary contract or agreement to sell land for railway purposes would disqualify quite as much as such a contract as is referred to in the first question.

This last answer must, of course, be read in connection with the answer I have given to that question.

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