

not before, the party who had the right to the land ratified and confirmed the act of the stranger. This was held to be inoperative, though such ratification within the five years would probably have been good. The principle of this case . . . appears to us to govern the present. There the entry to be good must have been made within the five years; it was made within that time, but till ratified it was merely the act of a stranger and so had no operation against the fine. By the ratification it became the act of the party in whose name it was made, but that was not till after the five years. He could not be deemed to have made an entry till he ratified the previous entry, and he did not ratify until it was too late to do so." It seems to me that the acts of ratification relied on by the respondents were too late.

A further authority against ratification relating back, where persons other than the contracting party have acquired interests prior to ratification, is found in *Re Gloucester Municipal Elections Petition*, [1901] 1 K. B. 683.

The same view of the law is also found in Lord Halsbury's *Laws of England*, vol. 1, p. 181, (sec. 389.)

And in *Cyc.*, p. 1284, we find it stated that if a third person has a complete cause of action or defence when a suit is commenced, he cannot be deprived thereof by the subsequent ratification of an act without binding force without such ratification.

Following these authorities, the acts of ratification relied upon here are ineffectual.

The circumstances under which the names of Edward Harper and William Batte appear on the petition,—they being two of the 273,—make their allowance open to objection. It is evident from Harper's affidavit and his cross-examination thereon, that he at no time intended to sign the petition and that he absolutely refused to sign it. After this refusal, he was approached about signing a memorandum relating to the increase in prices which was submitted to him; this he agreed to sign, and his evidence is that what he read over before signing referred only to prices and not to early closing, and that if it turns out that his name appears as having been signed to the petition for early closing it is improperly there.

Worthall, an active promoter of the petition, and who presented it to Harper for signature, admits that at the