of his public duties seeking re-election; there is no provision which renders him disqualified for the purpose of seeking his seat again. So also in reference to taking an oath of allegiance to a foreign prince or Power. In the disqualification clause there is nothing which disqualifies a man who has taken an oath of allegiance to a foreign Power. There is, it is true, the alien clause, and subsection (3) might in all probability bring that person within the definition of a statutory alien; but otherwise there is nothing in the disqualification clause which prevents a person from taking an oath of allegiance to a foreign prince or Power from standing for election. The words are in the future. It might be suggested—and I propose to meet this objection—that it would be entirely contrary to the traditions of Parliament that a man who has taken an oath of allegiance to a foreign prince or Power should be allowed to take his seat in the House. The answer is, first, that he is not disqualified; secondly, the House has complete jurisdiction over the conduct of members, and can expel a man who has shown that he had allied himself with a foreign prince or Power. But the point I make here is that subsections (2) and (3) are manifestly in the future tense, and that there is nothing in the Electoral Act to prevent a man who has taken an oath of allegiance to a foreign Power taking his seat unless he comes within the definition of "alien." There is nothing to prevent that man being elected to the House. In fact, an examination of precedents shows that aliens were at one time allowed to sit in the House of Commons, and the line was drawn only at Scotchmen. If a German was empowered to sit it shows the prejudice which existed at one time between the English and the Scotch. Now, aliens did sit in the House of Commons until they were excluded by statute, which practically placed an alien in the position of a person who was disqualified from having a vote. There is a remarkable instance in the Journals of the House of Commons in the time of James I., where the King chose to issue a writ for the return of a person "not being an outlaw or bankrupt," and a person was returned who was both an outlaw and a bankrupt. Notwithstanding that writ, and the return of the person, the House of Commons refused to declare his seat vacant. Possibly (there is only the resolution of the House recorded) on the ground that the King had no right to restrict the qualifications of a member of the House of Commons by his writ in the absence of statutory power. Later on, there is no doubt that persons in the position of a bankrupt had a complete right to sit in the House of Commons, and it is only because of statute that they were afterwards excluded. So also with public defaulters and persons convicted of felony. They might be excluded from the House on the ground that they were improper persons to sit there, and the House, by its inherent jurisdiction might expel them. The disqualifications in this colony rests upon the statute, and when I come to examine the prior legislation your Honours will find the significance of that. A person who was a "public defaulter" was not disqualified, and that continued for some years, until the Legislature discovered it and passed an Act to prevent a man who was a "public defaulter" from taking his seat in the House. The Legislature came to the conclusion that it was necessary to prevent a "public defaulter" from acting as a member of the House, and if a constituency chose to return him to disqualify him from being elected. It did not simply vacate his seat, but disqualified him from being elected while the consequences of his crime existed, until he had served his sentence or received the pardon of Her Majesty.

The Chief Justice: You say, if he is a "public defaulter" is equivalent to "if he has been convicted as a public defaulter." Section 8 says "if he is convicted as a public defaulter."

Mr. Cooper: I submit that we can read it with subsection (5), which is explained by the preceding section providing for the disqualification of a person, and it must mean "a man who is convicted of an offence" who is prevented from taking his seat.

The Chief Justice: Convicted after election?

Mr. Cooper: Yes, the words mean necessarily conviction after election, because we find the Registrar has to send to the Speaker notification of the conviction of a person declared to be a public defaulter. I submit the words mean "if he is declared to be a public defaulter." Who is going to say a man is a public defaulter unless he has had a trial? A "public defaulter" means a person convicted. That is in the interpretation clause, and the words mean not the embezzlement, but the conviction, so the expression used being "convicted of wrongfully expending, using, or taking any moneys the property of Her Majesty." In page 37, in the interpretation clause, we find "public defaulter" defined to be the "person convicted. There is no definition of the word "bankrupt" to be found. It is the conviction of the person who has embezzled the money which renders him incapable of keeping his seat—the conviction after he has become a member. It is the conviction prior to his application to be placed on the roll which disqualifies him from becoming a voter, and consequently of becoming a candidate. So that the provision in subsection (5), "if he is a public defaulter," cannot be read in any other sense than, "if he shall become a public defaulter"; because no person who is a public defaulter within the meaning of the interpretation clause can possibly become a member. Consequently, it must apply only to a person whose conviction takes place after he becomes a member. And, therefore, this gives a strong reason for contending that "if he is a bankrupt" must be read in the same way. By the way, I did not refer to section 75, which is the nomination section, and provides that "Any man qualified as provided in section 9 of this Act, with his consent, may be nominated as a candidate." Therefore, when we come to consider section 130 with reference to the subsections which follow, we find of necessity that every one of these subsections must be read in the future, although in each one it is significant that the Legislature has used the present, tense. Take subsection (8), "If he dies." That is bad grammar. It should be, "If he shall die"—if this thing shall happen to him. It is a colloquialism to use the present tense for the future. We find that things happening in the future are constantly referred to in the present. "Next Christmas is on Friday," "I am of such and such an age next year," are common expressions, and "If he dies" is another illustration of the present tense of the verb being wrongly used. But it is abundantly clear that it must be a future tense, because a dead man cannot possibly be elected a member. Now I propose to refer your Honours to prior legislation.