to in the subsections of section 130 of the Electoral Act of 1893; and, inasmuch as the events referred to in these subsections must of necessity be future, and inasmuch as the Legislature has chosen the present tense for each one of these matters, it shows not a conscious alteration of language for the purpose of altering the law, but a grammatical alteration of words by the draftsman, because it might be better, in his opinion, to put the words in the present tense instead of the future. I suggest this position to your Honours, that the Parliament of England, in its desire to give a Constitution to the Colony of New Zealand, did not think it was expedient to prevent an undischarged bankrupt being elected to the House of Representatives, that Act being passed after a decision of the Court of Queen's Bench, which settled the law upon the subject that an undischarged bankrupt was entitled to be elected to representative assemblies, even though there was a section which vacated the seat of a man who became a bankrupt. The case I refer to is Rex against Chitty, 5 Adolphus and Ellis, at page 609. In that case an undischarged bankrupt was elected a Councillor for the Borough of Shaftesbury. He was declared a Councillor, made and subscribed the declaration, and took his seat. A rule *nisi* for a writ of *quo warranto* was obtained on an affidavit stating that at the time of the election, and still, he was an uncertificated bankrupt. The affidavits in answer stated that he was a ratepayer duly qualified, and that he had paid all rates for the year and was duly entered on the roll. Mr. (afterwards Chief Justice) Erle showed cause, and the Attorney-General (Sir John Campbell) supported the rule. After argument the rule was discharged. Now, in order that the full significance of the case may be appreciated, I would refer your Honours to a section of the Statute 5 and 6 William IV., chapter 76, and the disqualification clause was section 52, providing "that if any person holding the office of Mayor, Alderman, or Councillor for any Borough shall be declared bankrupt, or shall apply to take the benefit of any Act for the relief of debtors, or shall compound by deed with his creditors," his seat should be declared void. Then comes a very significant clause, showing that it could be suggested that the Legislature did not intend a person in the position of an undischarged bankrupt to become a member of these representative bodies, because it provides that such a person, ceasing to hold office because he was bankrupt, shall not be capable of being re-elected. This is the clause: "Every person so disqualified shall, on obtaining his certificate, or on payment of his debts in full, be capable of being re-elected to such office"; so that he could not become eligible until he had obtained his discharge or paid his debts in full, but the Court decided that there was nothing to prevent a man who was in the position of an undischarged bankrupt being elected a member of the Council. Your Honours will see the applicability of this case in the argument of Mr. Erle, which I appropriate, "that what the Legislature really intended was that a person who had become bankrupt should go before his constituents, who should have the right to say, 'Are you or are you not a fit person to sit in the Assembly?' and, if they did elect him, that was an expression of their opinion of their confidence in him notwithstanding his bankruptcy." Section 28 of this Act disqualified clergymen, dissenting ministers, persons employed by the local body, and contractors from being elected as Councillors, but not bankrupts. These were the disqualifications, and bankruptcy was not one of them, and the argument, which is short, is that the defendant was duly qualified, because at the time of the election he was duly entered on the roll. "The defendant is and was duly qualified," said Mr. Erle, "unless he be disqualified by having been an uncertificated bankrupt at the time of his election. Section 28 enumerates all the disqualifications and does not specify this." Then he argues that the provisions of section 52 do not apply to persons who are bankrupts at the time of their election. "The intention of the Legislature," he says, "in making this distinction was probably to give the electors an opportunity of determining whether the fact of the party becoming bankrupt made him in their opinion unfit for the office of Councillor. . . . It is simply an exercise of discretion given to the electors upon the occurrence of a new fact." Sir John Campbell, on the other side, used practically one of the arguments which Mr. Gully must use to-day. "The intention of the Legislature," he says, "was to prevent uncertificated bankrupts from being Councillors at all," and then he argued that the disqualification of bankruptcy must be read into section 28. Under this Act, if a man was elected a Councillor and would not take the seat, he was liable to be fined for not doing so, and there was no exemption by reason of his existing bankruptcy. Lord Denman, in giving judgment, said that "the Court would clearly not be justified in raising any inference of an intention to disqualify where such an intention is not expressed. We are bound by what is said. The Act has said what shall be a disqualification and what shall be a qualification. . . . It is enough for us to abide by the words of the Act," and he adds, "that if an undischarged bankrupt was disqualified, it should have been so declared in the 28th section, and it was not so declared." Patteson, J., says that the disqualification is confined to the cases mentioned in section 28, and did not comprehend this case. Mr. Justice Williams concurred, and Mr. Justice Coleridge said, "We are not at liberty to intend a disqualification where the clauses of the Act specify what is to be a disqualification." That is direct authority that an undischarged bankrupt could be elected a member under our Constitution Act. Seeing that the Act provided—and we must so construe it according to this judgment—that an undischarged bankrupt was not an unfit person to hold his seat as a member of the House, and seeing that the Legislature in the Act of 1881—the Act on which "The Electoral Act, 1893," is founded—only made a grammatical alteration in the various subsections, and did not think fit to introduce into the disqualification clause a disqualification on the ground of bankruptcy, I submit we may infer that the Legislature considered that an undischarged bankrupt, if he is sent by the votes of his constituents, who are the best persons to judge, is not a person disentitled to take his seat. That case has been followed in New South Wales, in *Ex parte* Mossman, 6 Supreme Court Reports, 1867, page 245. In that case Mossman was elected, and was an undischarged bankrupt. He was elected while in that position. He took his seat, and the Mayor and other Councillors practically threw him out. They simply said, "You are disqualified because you are an undischarged bankrupt and cannot hold a seat in the Council." He would not go out, and they put him out. Then Mr. Butler