moved by *mandamus* to compel them to admit him, on the ground that he was not disqualified by bankruptcy, and supported his argument with Rex *v.* Chitty. The disqualification clause did not contain any disqualification on the ground of bankruptcy, but ratepayers were the persons entitled to vote and to be elected. There were certain disqualifications, such as the taking of contract a under the Council, but no disqualification as to bankruptcy in the qualification of candidates. The Attorney-General, in his argument, relied on section 48 of the New South Wales Act, which enacted that any Councillor, &c., having his estate placed under sequestration or becoming bankrupt should vacate his seat, and should not be capable of being re-elected until he had obtained his discharge or paid his debts in full, and he contended that the words "having his estate placed under sequestration" prohibited the election of an undischarged bankrupt and distinguished the case from Rex *v.* Chitty. Stephens said: "It has been argued that it appears from the 48th section that the Legislature intended that an uncertificated insolvent should not be elected at all. But it is a clear rule of construction that a disqualification or forfeiture never arises except by express words, and it seems to me also that this case is not distinguishable from the one cited. The 48th section applies to any one holding any office. How can a retrospective meaning be given to the words 'having his estate placed under sequestration,' and not to the other alternative words? The same rule must be applied to all." Now, the member for Awarua did not hold office at the time he became bankrupt. How can your Honours give a different meaning to the word "is" in subsection (4) to the other words in the other sections? You must apply the same rule to all. That is what the Chief Justice says in the case I have quoted. Mr. Justice Hargrave said "It was not, intended that the insolvency should be made use of to deprive the electors of their franchise. If the electors chose to elect an insolvent they can do so," and Mr. Justice Clarke concurred. I submit that the same reasoning applies here, because, if so, it would be in the section, and if it is not, we have no right to read into the section words not contained in it. These two cases are authorities directly in point, not only on the Constitution Act, but upon our statute, because the expressions of the Chief Justice mean this, which I submit is sound law, that when you have a statute with a number of cases stated, and you find that in reference to all these cases except one you can apply a certain rule, you must apply that rule to that one unless there is some distinct language preventing this. Now, clearly, this man Mossman was a man having an estate under sequestration, but as he did not hold office at the *time* of the sequestration, the Court held that he was qualified to be elected. So here I submit the bankruptcy referred to as a disqualification is an act of bankruptcy after the person becomes a member, and has no reference whatever to the state of bankruptcy before he became a member. Passing on through the examination of subsequent statutes—I quote those two cases as bearing on the Constitution Act—we find there was a Disqualification Act of 1858, disqualifying persons who held Government offices. Practically the same provisions were in that Act as in the Act now in force of 1878. Then we come to a significant statute—the Public Offenders Disqualification Act of 1867. If your Honours will recollect, in the Constitution Act there was no disqualification of a "public defaulter." His seat was rendered vacant if he became a "public defaulter," but there was no provision preventing a "public defaulter" from submitting himself for election, and, therefore, taking his seat again, and that continued until 1867, when the Legislature seemed to recognise that and passed "The Public Offenders Disqualification Act, 1867," with a view of adding to the disqualifications in the Constitution Act that of "public defaulters," and they were very careful in that statute to disqualify the person, not only from sitting and acting as a member, but from being elected. Section 2 says, "Every person coming within the meaning of either of the following subsections, that is to say—(1.) Every person attainted of treason or convicted of felony or of any infamous offence; (2.) Every person convicted under the provisions of this Act or of 'The Provincial Audit Act, 1866,' or of any other Act, or of wrongfully extending, using, or taking any public money; and (3.) Every person indebted upon any judgment recovered against him at the suit of Her Majesty under the provisions of this Act, or at the suit of any Provincial Auditor under the provisions of 'The Provincial Audit Act, 1866,' if such judgment shall have remained unsatisfied for a period of thirty days and during such time thereafter as it shall remain unsatisfied, shall be incapable of being *elected* or of being or continuing to be a Superintendent of any province, a member of the House of Representatives, a member of any Provincial Council, a Mayor of any municipality, and of being nominated to or of holding or continuing to hold a seat in the Legislative Council, and generally of being appointed or elected to or of holding any office or employment in the public service, whether of the service or of any province therein, and every such election, nomination, and appointment shall be null and void, and every public office or seat held by any such person be and be deemed to be vacant."

Mr. Justice Denniston: That is not retrospective.

Mr. Cooper: No; the seat of a sitting member was rendered vacant under the Constitution Act.

Mr. Justice Denniston: But supposing he had been re-elected in the interim?

Mr. Cooper: It was not retrospective, and this supports my contention.

Mr. Justice Denniston: That particular Act would not apply to any person who had been a "public defaulter" before.

Mr. Cooper: I do not think so. I quote that Act to show that the Legislature recognised the necessity for disqualifying such persons by statute, because the disqualification had been omitted from the Constitution Act. The Disqualification Act of 1858, disqualifying Government servants and contractors, was practically re-enacted by the Disqualification Act of 1870; and although it has been repealed there is a section in it which is significant. That section disqualifies persons who had any office under the Government from being elected. The words are, "Shall not be capable of being elected, or of sitting, or of voting," and, in order that there might be no mistake, the Legislature in section 10 says, "If any person hereby disqualified or declared incapable of being elected a member of the House of Repre-