bankruptcy law is a matter of considerable importance in interpreting the position of a bankrupt member under section 130. I do not propose to labour the matter; but it does appear, if one looks at some of the principal sections of the Bankruptcy Act of 1892, that in most cases it would really be impossible for the two duties, that of membership and that of bankruptcy, to be concurrently exercised. The member would have to perform the duties of a member of the House and the duty he owes to his creditors under the statute. I submit the law of electoral disability has shown a process of evolution, and, beginning with the time when bankruptcy was no disqualification at all, it has spread, so to speak, first to disqualify the elector, then to include the disqualification of a member if the bankruptcy occurs after his election. I now submit that the process of evolution has gone further, and made bankruptcy a disqualification whether the act of bankruptcy takes place before or after election. I only want to point to some conclusions which show that if this legislation does not meet the present case, it ought to; and that it is a mischief which requires legislative interference. When I say that it ought to, I mean that the disabilities imposed under the Bankruptcy Act are of such a character that it is unreasonable to suppose that the member can perform the dual functions at the same time.

Mr. Justice Connolly: We are not asked to say what the law ought to be, we are only asked to say what it is. To ask us to say what the law ought to be seems to me to be beyond the question.

Mr. Gully: I am not asking the Court to make new statute law. I say that in order to arrive at the interpretation of the existing statute, it is necessary to ask the Court to consider the kind of mischief aimed at. The consideration of the Bankruptcy Act shows that the whole of the proceedings in bankruptcy would have to be suspended, at least during the time the member is attending the session of the House, and the two things, I submit, could not go on together. For instance, under the Bankruptcy Act of 1892, section 61 makes it incumbent on the bankrupt to make up his books for three years, and give the Official Assignee all the assistance that may be necessary. Under section 81 it assumes that he remains in the one place, and he must give every assistance in realising the estate. Under section 91 the whole of his correspondence is made subject to an investigation by the Official Assignee, or he can be summoned before a Resident Magistrate for examination. Well, if he became a Cabinet Minister it might be very inconvenient to have his correspondence made subject to investigation.

Mr. Justice Denniston: Is there not some provision by which the honorarium of a member is protected from bankruptcy?

Mr. Gully: I do not think it can be attached, but it has not been so decided in case of bankruptcy.

Mr. Justice Denniston: Is there not a specific provision against attachment?

Mr. Gully: Not in the case of bankruptcy. The honorarium becomes due *de die in diem.*

Mr. Justice Edwards: Do you not require an order from a judge before you can inspect correspondence?

Mr. Gully: Under section 91, I think so.

Mr. Justice Edwards: Well, the judge would not give you an order to inspect correspondence under the circumstances you mention.

Mr. Gully: I am only indicating the general absurdity of a bankrupt being called on to exercise continuous legislative duties. However, I do not want to press the contention too far. These sections and sections 124 and 125 show that during the period of suspense the bankrupt is practically completely (and ought to be) at the beck and call of the Assignee in his estate. He is, moreover, compelled under the statute to apply for his order of discharge within a period of four months, so that during that period at least, the functions of a member of the House could not be performed unless he broke his statutory duty under the Bankruptcy Act. Turning now to what is really the important feature in the case, the construction of section 130 of "The Electoral Act, 1893," and the group of subsections which follow it, I submit that the intention is (and the words in their ordinary sense carry out the contention) that the existence of bankruptcy at the time of election virtually disqualifies the candidate, and that thereupon the election becomes void. The wording of subsection (4) in the ordinary sense is entirely in accord with that contention. "*If he is a bankrupt*" at the time of the election, no matter whether he was bankrupt a week before, or a month. Now, my friends take that subsection, which is quite plain according to the ordinary interpretation of English, and they seek to control that by going back to the first part of section 130, which says, "the seat of any member of the House of Representatives *shall become vacant*" in the event of certain things happening. I submit that means can become vacant upon election. It is not precisely a disqualification, but it is another way of saying so. It is suggested that this leads to an absurdity, but I shall have something to say about that later on. Is there anything in the statute that shows there cannot be a vacancy occurring immediately on election? I contend that in the statute bankruptcy is contemplated as creating a vacancy if only there "*is*" a bankruptcy. The statute informs the electors that if they elect a person who is disqualified their votes will be thrown away. Section 132 contemplates a vacancy immediately on election, and why not section 130?

Mr. Justice Denniston: But of a seat previously declared to be filled. That refers to the election of an unqualified person. A man could not be elected to a vacancy caused by an unqualified person. It is the phrase "election" which is badly used.

Mr. Gully: The words used are "the seats for both shall thereupon become vacant." It doubles the disability, and, so far as the later election is concerned, it does create—what I contend for—a *vacancy* immediately *upon election.* The section says that A, a member for one district, shall not be capable of being elected to supply a vacancy in any other district, and in the event of his being returned, with his consent, for one district whilst he is member for any other, the seats for both *shall thereupon become vacant.* In one case the word "vacancy" would be properly used, in the other only in the electoral sense, and that is the sense it is used in under section 130. Coming now to section 133, that also I submit contemplates a vacancy occurring immediately on election, and not after an interval, because it relates back. Under this section (133) the person next on the