"if he is bankrupt" at the time the election takes place. Beyond that, I do not think threshing out the presumed intention of the Legislature in the past assists the case at all. In the two cases, Rex *v.* Chitty and the New South Wales case, the language was perfectly clear that the seat should become vacant, and the member should cease to sit. The language was distinctly future—with us it is distinctly present. Considerations which the Legislature would probably at this time take into account are not necessarily what would have been taken into account so long ago as the time when Rex *v.* Chitty was decided. I seek to invoke the argument on the policy of the modern legislation, and it is only by looking at the modern legislation that any useful guide can be got as to the policy of the Legislature. Going no further than the recent legislation at Home, I submit that the Legislature has now definitely recognised the difficulty of a member who is an undischarged bankrupt being permitted to perform his functions as a member of the House of Commons. He is suspended for six months, which may be taken as the time during which the bankruptcy ought to be concluded, and if not so concluded, thereupon the vacation takes place. But in the meantime the modern law recognises that there is a period of suspension during which he is unable to perform his duties. Now, I want to refer to local legislation with reference to other bodies in regard to bankruptcy, and I think it will be found that, in every local body where there is a public function to be exercised, in every case the disability is recognised. I am not referring to this as helping in the interpretation to be used, but only in a general sense. In the several statutes different language is used. I would refer to "The Education Act, 1887," section 21, which refers to the duty of a member. Some of the Acts do not make the member ineligible, but in others they do.

Mr. Justice Edwards: Is there not in some of these cases a property qualification? May there not be a difference where the qualifications for an elector must be some property or interest in a property?

Mr. Gully: In some instances he is merely a ratepayer, but not in all. Under the Harbours Act, for instance, the members of the Board get their qualification in various ways—some are appointed by the Government, some by the merchants, and some by ratepayers. Then, under the Act of 1882, a Justice of the Peace, if he becomes bankrupt, *ipso facto* ceases to be a Justice of the Peace. Under the Road Boards Act we get a different phraseology. Section 29 says: A bankrupt or insolvent who has not obtained his final order of discharge "shall be incapable *of being* or *of being elected* a member." In this instance the Legislature not only refers to the qualification, but to the election, and my friends may use this as an argument against me. But my object now is to show the policy and intention of the Legislature as to disability under such circumstances. It is the same in the Counties Act of 1886, section 65, and "The Municipal Corporations Act, 1886," section 88. Those are the principal local bodies. The Legislative Council Act has already been submitted to the Court. Under "The Land Act, 1892," section 44, the seat of a member of the Board is vacated if he shall be adjudicated a bankrupt, and under "The Industrial Conciliation and Arbitration Act, 1894," a bankrupt shall not be appointed or elected or hold office as chairman, or as a member of any board, or as president or member of the Court, and if so elected or appointed shall be incapable of continuing to be such member, president, or chairman. Then there is the well-known case of the suspension of the civil rights of the bankrupt juror. Under the English law, by the Bankruptcy Act of 1883, section 33, "If a member of the House of Commons is adjudged a bankrupt, and the disqualifications arising therefrom under this Act are not removed within six months from the date of the order, the Court shall immediately after the expiration of that time certify the same to the Speaker of the House of Commons, and thereupon the seat of the member shall become vacant." In the other colonies the expression in most cases is future—"shall become." The expression originally used is retained in Victoria, Queensland, and New South Wales. In all these cases, however, I suggest that the analogy of similar statutes elsewhere really does not assist the Court. I think it is sufficient for the purpose of comparison to note the words used in the Constitution Act and the change we find in the Act of 1893. I submit, therefore, on consideration of section 130, by giving the ordinary meaning to the words there used under subsection (4), a person is bankrupt at the time his bankruptcy takes place, and his seat thereby becomes vacant.

The Chief Justice: Would you say you make the contention the same if he be "adjudged" bankrupt?

Mr. Gully: I do not know that I could. That is the expression used in the Canadian Act. It might be used to indicate the status—so long as he is a bankrupt.

The Chief Justice: Yes, the language of the Constitution Act is a little clumsy, "if he become bankrupt."

Mr. Gully: "If a man become bankrupt," that is an act *in futuro*. If it could be suggested that the word "become" was left out by mistake it might be read in, but I say the word "is" is intentionally used here, as indicating a continuing status disentitling the member to sit and vote at all. At any rate, it creates a vacancy upon election. I have already answered what my friends had to say. First of all, I say we do not mean to read anything into section 8, and I say our interpretation of section 130 does not lead to any absurdity any more than if it said he should be disqualified. There is no difference between a statute which says he shall not be elected, and one that says if he shall be elected the election shall be void. Bradlaugh's case shows that if a constituency time after time elect a person whom they have good reason to suppose is disqualified or may be expelled, they take that risk and throw away their votes.

Mr. Justice Denniston: What about the minority? You maintain that the majority can disfranchise the minority.

Mr. Gully: Where there is ground of expulsion and the electors are aware of that, they give their votes on the risk of being disfranchised.

Mr. Justice Edwards: What is the object of enabling the majority in this constituency to put the country to the expense? Why do you suggest that the country should be put to the expense?