

that which has in practice been continuously delegated to the Election Court. But, whether it is to be determined by Parliament or by the Election Petitions Court, the question of the eligibility of a candidate depends purely upon the construction of the statute defining such eligibility. Now, sections 8 and 9 of the Electoral Act of 1893 are the two sections which together indicate the qualifications which candidates are to possess. Sections 8 and 9 are exhaustive. They are intended to be a complete statement of the whole of the causes of disqualification, as well as of what qualifications are requisite. Nothing can be imported into them not there expressed. Even Parliament itself, as I have pointed out, has only the duty of construing the Act. I will take section 9 first. Section 9 says: "Every man registered as an elector, and not coming within the meaning of the last-preceding section of this Act, but no other man, is qualified to be elected a member of the House of Representatives." Then, there is a proviso with regard to removal of names from a roll which has no bearing on the present case, and another in reference to women electors which is also unimportant. We then turn to section 8, which says: "No alien, lunatic, or person of unsound mind, nor any person attainted or convicted of any treason felony, or of any offence punishable by imprisonment for one year or upwards within any part of Her Majesty's dominions, or convicted within the colony as a public defaulter, or under 'The Police Offences Act, 1884,' as an idle and disorderly person or as a rogue and vagabond, unless such person shall have received a free pardon, or shall have undergone the sentence or punishment to which he shall have been adjudged for such offence, shall be entitled to be registered." My contention is very short. Nowhere in section 8 do you find bankruptcy as a disqualification of a candidate, and I say the Committee cannot make the law, and cannot read it in. If it is a *casus omissus*, this tribunal has no authority to supply that omission. There seems to be a consensus of opinion in legal minds that, under section 9, Mr. Ward was not disqualified as a candidate, because nowhere either in section 8 or 9 do you find bankruptcy set out as a disqualification. I now refer to the second class of disqualifications—namely, disqualifications affecting the status of a member. This class is of two kinds: Firstly, statutory disqualifications; and, secondly, the inherent power of Parliament to expel a member who is guilty of a grave offence. The second subdivision of this class is only a species of disqualification. It is only a power to expel, and if a member is expelled he appears to be entitled to again present himself for re-election. These are the only two classes of powers relating to the disqualification of a member—the statutory power, and the inherent power of expulsion. I submit that we are only concerned with the first power, that of statutory disqualification. It is quite clear that no member of the Committee thinks that Mr. Ward comes within that class of cases where Parliament says to a member, "You have been guilty of such gross offences that you are no longer considered fit to be a member of the House." Bankruptcy alone is not a grave offence. There is no instance in which it has been thought by the House of Commons to be so. The case of Townsend was merely the carrying-out of an express statutory disqualification. Moreover, in order to justify Parliament in exercising the power of expulsion, it must be satisfied that the member has committed a grave offence rendering him unworthy to sit in the House. This is done either by proof of the conviction of the member, or by the House or some Committee or Commission appointed by it being satisfied by sufficient evidence of the commission of the offence by the member proceeded against. I apprehend it is plain that I may confine my attention to the first class of disqualifications—namely, statutory disqualifications. The only other aspect of the matter which remains to be considered, therefore, is whether there is a statutory disqualification of Mr. Ward by reason of his being an undischarged bankrupt. I submit, on behalf of Mr. Ward, that this is purely a legal question, and that the proper course would be to relegate it to some competent legal tribunal such as that formed to hear an ordinary election petition. The question, I shall be able to show, is a real and substantial one, is one of great difficulty; and I quite respectfully say that a Committee like this, composed partly of lawyers, partly of gentlemen of experience in parliamentary uses, and partly of gentlemen who are laymen with no expert knowledge, cannot so satisfactorily deal with a question of purely legal construction as can Judges trained to that method of thought. Moreover, the atmosphere which surrounds a political Committee is not conducive to the satisfactory solution of legal questions. If I were to attempt to discuss the matter exhaustively, I should take up your time for a considerable period; but all I desire now to do is to persuade the Committee that there is a real and substantial question of law involved in this question, and that it is a question worthy of being decided by some proper tribunal. The whole question depends upon the meaning of section 130 of the statute, which reads, "The seat of any member of the House of Representatives shall become vacant"; and then there is a series of subsections, among which is subsection (4): "If he is bankrupt within the meaning of the laws relating to bankruptcy." The first point I desire to refer to is that you approach section 130 with the assumption that a bankrupt, although undischarged, is qualified to be elected. That refers to my contention in connection with clauses 8 and 9. It deals only with a person who is clothed with and has acquired the status of a member. Now, that will be of very great importance, as I shall show presently. The next observation I desire to make is that the section, though in the form of the present tense, is substantially in the future tense, and really deals entirely with events which happen after a member has been elected, and on this depends the real validity of my argument on Mr. Ward's behalf. The argument for Mr. Ward will be this: that section 130 relates wholly and entirely to events which happen after a person has become a member. I would ask you to look with me at the language of these different subsections of clause 130, and I venture to say that every one is referable only to something happening after a person becomes a member. Subsection (1) is: "If for one whole session of the General Assembly he fails, without permission of the House, to give his attendance in the House." That, of course, obviously is something to happen after he becomes a member. That is in the future. Subsections (2) and (3) are not so clearly in the future: "If he takes any oath or makes any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign Prince or Power." That is ambiguous. That might refer to something before the candidature of a person who becomes a