

member. Section 5 is clearly future. It is about the most important section as showing the true construction of clause 130: "If he is a public defaulter, or is attainted of treason, or is convicted of felony, or is convicted of a corrupt practice in reference to any election." I say that is clearly future dealing with the disqualification of a member after he has acquired the status of a member. Section 8 of the Act provides for that species of disqualification where a person is attainted or convicted of any treason felony or offence before he is elected. Subsection (5) of section 130 most clearly refers to a conviction or an attainder which takes place after a person has acquired the status of a member, because that particular form of disqualification is provided for in other parts of the Act. Subsection (6) is also clearly future: "If he resigns his seat by writing under his hand," &c. Subsection (7) is also clearly future: "If on an election petition the Election Court declares his election void." Subsection (8), "If he dies," is clearly future. Section 131 is the machinery by which the vacancy is to be notified to the proper authority, and which provides for the issue of the writ. It provides that where a member has been adjudged guilty of an offence notice is to be given to the Speaker; and, if during the recess, the Speaker notifies the vacancy by *Gazette*, and issues the writ forthwith. Now, how are these sections applicable to a person who is not a member? This is one of the dilemmas the Committee will be placed in unless the construction I suggest is adopted. You have a disqualification without any machinery provided for giving effect to it; because, under section 131, how could the Clerk of the Court notify the offence to the Speaker if the person committing it is not a member? Section 131 says as plain as language can speak that these matters are matters happening affecting the status of a member, so that really the substance of our contention will be that, although the language of all these sections is in the present tense, looking at the purpose of the sections, and comparing the different sections together, the whole of the sections are substantially in the future tense, and provide for matters happening after a person becomes a member. I have pointed out one dilemma which, if my contention is not sound, my opponents are put in. Now, I want to put to the Committee a very gross and ridiculous absurdity which exists, if my construction of the statute is not adopted, and which my construction entirely avoids. If my construction is not a sound one, then a person is entitled to be elected to the House and yet cannot sit in it. That is entirely based on my first assumption that there is no disqualification by bankruptcy, so far as eligibility is concerned. The result would be as I have put it. Therefore you would have a person entitled to be elected time after time, immediately disqualified, and upon disqualification there would be no tribunal to give effect to his disqualification from sitting. We should have had a petition lodged after Mr. Ward's election if Mr. Cowan had been advised there was ground for disqualification in Mr. Ward's candidature. The policy of a statute is sometimes adduced as an aid to construction, but it is almost always a doubtful aid, because different minds ascribe different reasons for the passing of the Act. Parliament, however, may very well have said, "If a person after being elected becomes bankrupt he shall go back to his constituency"; but it may very well have thought that "it would not prevent electorates from electing an undischarged bankrupt if they choose to do so. They are the best judges of a man's moral character, and if they choose to send back an undischarged bankrupt Parliament might have chosen not to prevent it." I submit that is a very reasonable intention to impute to the Legislature. In all the statutes where bankruptcy has been declared a disqualification the statute has been explicit. It has always explicitly said that a bankrupt should not be capable of being elected, or of sitting or voting. Sometimes the vacancy is *instantly*, and sometimes it extends over twelve months to enable the bankrupt to get his discharge; but in all cases it is an expressed disqualification as to eligibility, and to sit and vote. The first disqualification is completely absent here. I have merely indicated the general topics on which Mr. Ward will contend by counsel that he is not disqualified, because his bankruptcy was anterior to the period at which he acquired his status as a member. I do not suppose the Committee will require me to quote legal authorities. I have at least shown that the matter is a substantial one, and that it is a question which ought to be settled by some satisfactory tribunal. If, on the other hand, the Committee desire to make a recommendation to the House, I shall ask permission to be heard more fully on this matter. I think that is only a reasonable request. With regard to the issues, I think it will be plain to members why I suggest an alteration in the first issue. There is no attempt on my part—and I am sure there is none on the part of any member of the Committee—to burke a fair statement of the legal question. Such a desire would be unworthy of a person occupying the position of counsel. Issue 1 is directed to the first question, Is Mr. Ward disqualified from eligibility? It is really not a question that the House has to determine. If he was not qualified, Mr. Cowan had his complete remedy, and the time has gone by for that. I wish to impress the Committee that it should have the actual facts stated, and ask whether they amount to a question of eligibility or disqualification from sitting. The facts are stated in the following proposed issue: "1. Is a person who has been adjudged bankrupt under 'The Bankruptcy Act, 1892,' whose adjudication has not been annulled, and who has not been granted an order of discharge from his bankruptcy, but who otherwise possesses the necessary qualifications, qualified to be elected a member of the House of Representatives?" It is necessary for this statement of fact to go in, because you are asking whether he is qualified, and, of course, he is not qualified unless he possesses the other qualifications. "Is a bankrupt within the meaning of the law relating to bankruptcy qualified to act as a member of the House of Representatives?" is the first issue of the sub-committee. I think it unnecessary for me to remark further on this. I submit to the Committee that the other issue is satisfactory as it stands, and requires no amendment.

*Mr. Montgomery*: I understand that you contend that Mr. Ward is not a bankrupt within the meaning of the laws relating to bankruptcy?

*Mr. Skerrett*: Yes.

*Mr. Montgomery*: You do not propose to raise that point here, but that will be one of your contentions?

*Mr. Skerrett*: Yes.