

*Mr. Gully* : It is purely a matter of interpretation. I do not see that the result of repeated elections being caused can be taken into account. Supposing the Court had declared a person guilty of a corrupt practice, that nullifies the election, and the country is put to expense.

*Mr. Justice Edwards* : But here you say it allows a man to become a candidate, but immediately vacates his seat.

*Mr. Gully* : Although not disqualified by section 8, practically the Legislature has indicated that the election of a bankrupt is a nullity. It might have been done by adding it to section 8 as a disqualification ; but I submit a reason for not doing that, and that is that it would be most unfair and unreasonable to make bankruptcy a disqualification for an elector.

*Mr. Justice Edwards* : That is section 9. 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 for any electoral district.

*Mr. Gully* : One can always see when these cases arise that the object of the Legislature could be better expressed. As to the authorities cited by Mr. Cooper upon the question of construction, I do not see that they assist the matter. My friend asks that the Court, according to my contention, should modify the wording of subsection (4). I suggest that, taking the words in their natural sense, they are quite plain, and that no modification is required or possible ; and that with regard to the early part of section 130, and by looking at sections 132 and 133, the wording shows that a vacancy can take place immediately after election. Then comes the argument under section 131.

*Mr. Justice Williams* : Does it not imply that the seat must be filled, and if so, for how long?

*Mr. Gully* : I appreciate that point, but I have shown that section 132 does contemplate the vacancy immediately.

*Mr. Justice Denniston* : It disqualifies the person from the beginning, and in that case his election was a mere form.

*Mr. Gully* : Under section 132 he stands for election. It practically declares that on the second election that election shall be void. The words are "*The seats for both shall thereupon become vacant*"—the same expression as in section 130.

*The Chief Justice* : Properly, the seat he was contesting was vacant, but they wanted to vacate his own seat, and so they said both.

*Mr. Gully* : Yes ; but still, nevertheless, there is no necessity to imply the words "after an interval." As to section 131, this lays down the duty of the Registrar or Clerk of any Court after election. That, therefore, admittedly contemplates bankruptcy after election.

*The Chief Justice* : How is the Speaker to know? Supposing the member is returned, there is no statutory and prescribed means of informing the Speaker.

*Mr. Gully* : That is the object of section 131.

*The Chief Justice* : How is he to be informed of the vacancy in a case which happened after election?

*Mr. Gully* : Section 131 is intended to meet that case.

*The Chief Justice* : I mean the person who was bankrupt before his election. How is the Speaker to be advised of that fact?

*Mr. Gully* : I do not think the Speaker is intended to be advised, because section 130 provides for that.

*The Chief Justice* : Is there any prescribed method?

*Mr. Gully* : Not in the case of bankruptcy happening before election, but practically, although put in section 130, the matter is settled by statute ; and I do not quite see why the Speaker should require notice of disqualification in this any more than in any other case. If the person were an alien and an unqualified person I should think, under section 8, the election would be void. I do not think there is any machinery required to advise the Speaker of anything antecedent to the election.

*Mr. Justice Williams* : The Registrar would have knowledge. Supposing a man had been adjudged bankrupt two or three years before and had never obtained his discharge, and offered himself as a candidate for a district far away from the place of his bankruptcy, who is to advise the Speaker?

*Mr. Gully* : There is no provision. But nevertheless there would be the fact that it was an election of an unqualified person.

*The Chief Justice* : Is there any special provision for it in the other colonies?

*Mr. Gully* : I do not think so. It looks as if it was supposed to be completely provided for by the Constitution Act. With regard to the special argument on section 131, that, no doubt, does apply to something happening after election. It does not necessarily or inferentially limit the operation of section 130 as referring to something happening before election. All that section 131 and some subsequent sections do is to provide special machinery for bankruptcy and other matters if they occur after election. Section 130 does include things occurring after election, and therefore section 131 is necessary ; but it does not follow that that limits the operation of section 130. I contend, therefore, your Honours, first, that the policy of the law requires that the disability should be a general one, and that there is no sense in the disability occurring after and not before election. It has been suggested that it was intended that the constituency should have the right to consider the matter, and that that should not apply to the other sections ; but that in itself is a weak reason, and this distinction obviously leads to a great absurdity. Further, I contend that the Bankruptcy Act and the Acts relating to the status of a member also show the need of disability or a period of suspense, and that is the way the matter has been dealt with by the Legislature at Home. That being so, I submit, taking the first part of subsection 4, that the words used there are general, and the word "is" refers to status at the time election takes place, although it has been acquired beforehand by adjudication ; and then that fines the argument down to the point as to whether the first part of section 130 is to be taken as controlling the whole position. And I submit it is not doing violence to the language to adopt the expression used in section 132, and say that the seat becomes vacant by reason of bankruptcy immediately the election takes place.