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"where immediately before the commencement of this Ordinance (Act) any evacuee property in a Province has vested in any person exercising the power of Custodian under any law repealed hereby, the evacuee property shall on the commencement of the Ordinance (Act) be deemed to have been vested in the Custodian appointed or deemed to have been appointed for the Province under the Ordinance (Act) and shall continue to so vest".

The definitions of the phrase "evacuee property" in the Central Ordinance and by the Central Act are clear and unambiguous so as to include the interest of an evacuee in any property held as a trustee or beneficiary. There is no reason to think that "evacuee property" as defined in the Bihar Ordinance was meant to be anything different. The words used in this definition are of sufficient amplitude and we are of the opinion that the Bihar definition comprised also *wakf* property and interest therein. We are also of the opinion that the successive repeals of the Bihar Ordinance by the Central Ordinance and the Central Act and the continuance of the vesting in the Custodian, places the matter beyond any doubt. This contention must, therefore, fail. This appeal also must accordingly succeed.

In the result both the appeals are allowed. The appellant in the circumstances will get only the costs incurred before the High Court on remand in Civil Appeal No. 97 of 1952.

Appeals allowed.

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February 22

SHYABUDDINSAB MOHIDINSAB AKKI

v.

THE GADAG-BETGERI MUNICIPAL BOROUGH AND OTHERS.

[VIVIAN BOSE, JAGANNADHADAS and B. P. SINHA JJ.]

Bombay Municipal Boroughs Act, 1925 (Bombay Act XVIII of 1925), s. 19 as amended by Bombay Act LIV of 1954—Legal effect thereof—Validity of election—S. 35(3)(6)—Notice of meeting—Provisions of s. 35(3)—Whether directory or mandatory—S. 35(6)—Presence or absence of public—Whether affects the validity of meeting.

The first respondent—Municipality—governed by the Municipal Boroughs Act, 1925 (Bombay Act XVIII of 1925) consists of 32 councillors, S, (the appellant) being one of them. The last general election to the Municipality took place on the 7th May 1951. The term of the councillors was three years computed from the first meeting held on 10th July 1951 after the general election. In that meeting the 4th and 5th respondents were elected President and Vice-President respectively for a term of three years. Act XVIII of 1925 was amended by Bombay Act XXXV of 1954 under which the term of office of the councillors was extended from 3 to 4 years ending on 9th July 1955. As the term of respondents 4 and 5 was to expire at the end of three years from the 10th July 1951 and as the term of the Municipality was extended by one year under the Amending Act XXXV of 1954 a fresh election of President and Vice-President was necessary to fill up the vacancies thus occurring. The Collector called a special general meeting for the 30th July 1954 to elect a President and Vice-President for the remaining period of the quadrennium and nominated the Prant Official (the District Deputy Collector) to preside over that meeting. On the 30th July 1954 the Prant Officer adjourned the meeting to the 3rd August 1954 under instructions from the Collector without transacting any business. The objection raised by respondent No. 3 against the adjournment was overruled by the presiding Officer. The special general meeting was held on the 3rd August 1954. An objection raised by S (the appellant) that under the provisions of the Act a President could not be elected for a term less than a year was overruled by the presiding Officer. On this 13 councillors (including S) out of the 32 who were present walked out on the ground that the President was to be elected for a term less than a year contrary to the provisions of the Act. The remaining 19 councillors elected the 2nd respondent as the President for the remaining period of the quadrennium. Immediately after that another meeting presided over by the newly elected President elected respondent No. 3 as Vice-President. The same point of order raised by S as in the case of the President was overruled, on which 6 councillors walked out and the meeting was held by the remaining councillors. All the 32 councillors were present both on the 30th July 1954 and the 3rd August 1954. An application under Art. 226 of the Constitution presented by S questioning the validity of the meeting of the 3rd August, 1954, and consequently the validity of the election of respondents Nos. 2 and 3 as President and Vice-President for the remaining period of the quadrennium was dismissed by the High Court.

Held, (1) that the meeting of the 3rd August 1954, in substance though not in form, complied with the requirements of the law for holding a valid special meeting and therefore the meeting was not invalid because the record of proceedings would show that whatever had been done on the 30th July 1954 and the 3rd August 1954 had been done under the orders of the Collector. The notice to the councillors required under s. 35(3) of the Act satisfied the requirements of three clear days, that the provisions of s. 35(3) regarding the ser-

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vice of notice are directory and not mandatory; and that any omissions in the manner of service of the notice are mere irregularities which would not vitiate the proceedings unless it is shown that those irregularities had prejudicially affected the proceedings which had not been alleged or proved in the present case. All the councillors constituting the Municipality were present on both the occasions namely the 30th July 1954 and the 3rd August 1954 and thus had ample notice of the meeting to be held on the 3rd August 1954, the time and place of the meeting and the business to be transacted. That under the provisions of s. 35(3) of the Act the presence at or the absence from the meeting of the members of the public has no legal consequence so far as the validity of the election is concerned;

(2) that as s. 19 of the Bombay Boroughs Act, (Bombay Act XVIII of 1925) had been amended by the Bombay Municipal Boroughs Act, 1954 (Bombay Act LIV of 1954) and was retrospective in its operation, it had the effect of curing any illegality or irregularity in the election with reference to the provisions of s. 19 of the Act and therefore respondents Nos. 2 and 3 had been validly elected as President and Vice-President respectively.

King v. *The General Commissioners of Income-tax for Southampton, Ex parte W. M. Singer* ([1916] 2 K.B. 249) and *Mukerjee, Official Receiver* v. *Ramratan Kuer* ([1935] L. R. 63 I. A. 47), referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 215 of 1954.

Appeal by Special Leave from the Judgment and Order dated the 23rd day of August 1954 of the High Court of Judicature at Bombay in Special Civil Application No. 1665 of 1954 under Article 226 of the Constitution of India.

R. B. Kotwal, J. B. Dadachanji and *Rajinder Narain*, for the appellant.

Naunit Lal, for respondents Nos. 1 to 3.

1955. February 22. The Judgment of the Court was delivered by

SINHA J.—This is an appeal by special leave against the judgment and order dated the 23rd August 1954 of the High Court of Judicature at Bombay, dismissing the appellant's petition for a writ of *quo warranto* or any other appropriate writ directed against the election of the 2nd and 3rd respondents as President and Vice-President respectively of the Gadag-Betgeri

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Municipal Borough, the 1st respondent in this appeal.

The facts of this case are not in dispute and may shortly be stated as follows: The 1st respondent is a municipality governed by the provisions of the Municipal Boroughs Act (Bombay Act XVIII of 1925) which hereinafter shall be referred to as the Act for the sake of brevity. The appellant is one of the 32 councillors constituting the municipality. The last general election to the municipality took place on the 7th May 1951. The term of the councillors was three years computed from the date of the first general meeting held after the general election aforesaid—in this case the 10th July 1951. In that meeting the 4th and 5th respondents were elected President and Vice-President respectively of the municipality for a term of three years. The Act was amended by Bombay Act XXXV of 1954, under which the term of office of the councillors was extended from 3 to 4 years ending on the 9th July 1955. As the term of respondents 4 and 5 aforesaid was to expire at the end of three years from the 10th July 1951 and as the term of the municipality was extended by one year under the amending Act aforesaid, the vacancies thus occurring had to be filled up by a fresh election of President and Vice-President. The Collector therefore called a special general meeting of the municipality to be held on the 30th July 1954 to elect a President and Vice-President for the remaining period of the quadrennium. The Collector had nominated the Prant Officer (the District Deputy Collector) to preside over that special general meeting. On the 30th July 1954 the Prant Officer under instructions from the Collector adjourned the meeting to the 3rd August 1954 without transacting any business, the only item on the agenda being the election of the President and Vice-President. The 3rd respondent raised a point of order against the adjournment but the presiding officer aforesaid overruled that objection. Hence the special general meeting was held on the 3rd August 1954. At that meeting the appellant raised a point of order that under the provisions of the Act a President could not be elected for

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a term less than a year and that therefore the proposed election would be in the teeth of those provisions. The presiding officer who was the same person who had adjourned the meeting on the 30th July 1954 overruled that objection too. Thereupon 13 out of the 32 councillors who were present walked out on the ground that they did not propose to participate in a meeting in which the proposal was to elect a President for less than a year contrary to the provisions of the Act. The appellant was one of those 13 councillors who walked out. It may be added that the full strength of the municipality is 32 councillors all of whom were present both on the 30th July 1954 and the 3rd August 1954. The remaining 19 councillors proceeded to transact business and elected the 2nd respondent as the President, the proposal being that he "should be President of the municipality for the remaining period of the quadrennium" and that was the proposal which was carried. Immediately after the election of the President another meeting was held for the election of the Vice-President under the presidency of the newly elected President (the 2nd respondent). The appellant raised the same point of order as he had done in the case of the election of the President and that was also overruled. Thereupon six of the councillors present including the appellant walked out and the remaining councillors elected the 3rd respondent as the Vice-President.

The appellant moved the High Court of Bombay under art. 226 of the Constitution for a writ of *quo warranto* or any other appropriate writ or order or direction against the 2nd and 3rd respondents "restraining them from usurping the office of the President and Vice-President respectively of the opponent No. 1 Municipality and restraining them from performing any duties and from exercising any powers as President and Vice-President respectively". The High Court held that the election of the 2nd and 3rd respondents was not illegal and dismissed the application. It held that on a proper construction of the relevant provisions of the Act it was not correct to say that the term of office of the councillors or of the newly

elected President and Vice-President shall end with the 9th July 1955; that the intention was to elect the President and the Vice-President for the remaining term of the municipality which was not only a period of four years certain but an additional period up to the date when new President and Vice-President would be elected and take over after a fresh general election; that the adjournment of the meeting of the 30th July was not beyond the powers of the presiding officer; and that consequently the meeting of the 3rd August was not vitiated by any illegality. It was also pointed out by the High Court that all the councillors constituting the municipality had notice of the adjourned meeting and did as a matter of fact attend that meeting and that even if there was any irregularity in the adjournment on the 30th July 1954 that did not affect the illegality of the adjourned meeting and the business transacted therein.

The appellant moved the High Court for leave to appeal to this court but that application was rejected. The appellant then applied to this court for special leave to appeal which was granted on the 3rd September 1954.

It has been argued on behalf of the appellant that the meeting held on 3rd August 1954 as aforesaid was invalid for the reasons :

1. that it was not an adjourned meeting inasmuch as the meeting of the 30th July 1954 had not been validly adjourned,

2. that it had not been called by the Collector, and

3. that the written notice required by section 35(3) had not been given and in any event, had not been served and published as required by law.

Secondly it was urged that the meeting of the 3rd August being thus invalid, the business transacted at that meeting, namely, the election of the President was equally invalid. Thirdly it was urged that the election of the President being invalid, the meeting held that very day under the presidency of the President thus elected was also invalid and the election of the Vice-President consequently was illegal. It was

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further argued that the election of the President and the Vice-President being in violation of section 19 of the Act was invalid on that ground also; and finally, that the amendment of section 19 by the amending Act LIV of 1954 after leave to appeal had been granted by this court could not affect the present proceedings which were then pending even though the amending Act purported to make it retrospective.

On behalf of respondents 1, 2 and 3 who only have appeared in this court, it has been urged that a President and Vice-President could be elected for a term of less than one year as section 19 of the Act was subject to section 23(1)(A); that in any view of the matter, section 19 as amended by the amending Act LIV of 1954 rendered the election beyond question as the Act in terms was meant to validate all elections held between the passing of the amending Act XXXV of 1954 and the amending Act LIV of 1954; that the presiding officer had inherent, if not statutory power to adjourn the meeting of the 30th July 1954 and that in any event the meeting held on the 3rd August 1954 could be treated as a fresh meeting called by the Collector and that any irregularity in serving the notice or in the appointment of the presiding officer was cured by the provisions of section 57 of the Act. It was also argued that the appellant was not the councillor who had objected to the adjournment of the meeting of the 30th July and could not therefore object to it at a later stage. Finally it was argued that the appellant had no right to a writ or order prayed for as he had not been injured in any sense.

It would thus appear that there are two main questions in controversy between the parties, namely,

(1) whether the meeting of the 3rd August, 1954 had been validly held; and

(2) whether the president and the vice-president having been elected, "for the remaining period of the quadrennium" had been validly elected.

There are a number of subsidiary questions bearing upon these two main questions which have been canvassed before us.

A good deal of argument was addressed to us contending that the presiding officer had no power to adjourn the meeting of the 30th July, 1954 in view of the provisions of section 35(11) of the Act. In this connection reference was also made to the proviso to section 19-A(2). Those provisions, it was argued, point to the conclusion that the powers of the presiding officer are the same as those of the president of a municipality when presiding over an ordinary meeting of the municipality except that section 35(11) relating to adjournments had been qualified only to this extent by the proviso aforesaid, that the Collector or the officer presiding over the meeting for the purpose of holding an election of the president or vice-president may refuse to adjourn such a meeting in spite of the wishes of the majority of the members present to the contrary. It was also argued that the High Court had wrongly taken the view that the presiding officer had the inherent right to adjourn the meeting. Reference was made to certain passages in "The Law of Meetings" by Head, "The Law on the Practice of Meetings" by Shackleton, and "Company Meetings" by Talbot. In our opinion, it is unnecessary for the purpose of this case to pronounce upon the merits of that controversy in the view we take of the meeting of the 3rd August, 1954, assuming that the meeting of the 30th July, 1954 had been adjourned without authority.

It is common ground that it was the Collector who called the meeting of the 30th July 1954 and that it was under instructions from the Collector that that meeting was adjourned. Under the provisions of section 23(1)(A), on the expiry of the term of office of the president or vice-president as determined by the municipality under section 19(1) of the Act, a new president or vice-president shall be elected within 25 days from the date of such expiry. The provisions of section 19-A which relate to the procedure for calling a meeting of a newly constituted municipality for the election of a president and vice-president have been made applicable to the calling of a meeting and the procedure to be followed at such meeting for the

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election of a president. Section 19-A requires the Collector to call a meeting for holding such an election. Such a meeting shall be presided over by the Collector or such officer as the Collector may by order in writing appoint in this behalf. The Collector or his nominee, when presiding over such a meeting, shall have the same powers as the president of a municipality when presiding over a meeting of the municipality has, but shall not have the right to vote. On the 30th July, 1954 a special general meeting had been called by the Collector for the election of the President. In the proceedings of that meeting it has been recorded that "Under instructions from the Collector of Dharwar the presiding authority adjourns the meeting to 3rd August 1954 at 3 P.M.". At that meeting all the 32 councillors were present and admittedly in their presence the presiding officer declared openly that the meeting will be held on the 3rd August 1954 under instructions from the Collector concerned. When the meeting was held on the 3rd August 1954 at 3 P.M. as previously notified, again the 32 councillors were present. The proceedings show that the same Prant Officer "occupied the chair as authorised by the Collector". The presiding authority read out and explained to the members present the following telegraphic message from the Collector :

"Government have directed to hold election of President of Gadag Municipality on 3rd August as already arranged. Hold election accordingly today without fail".

At this meeting the appellant raised two points of order, (1) that the election of the president for the remaining period of the quadrennium as mentioned in the agenda was illegal, and (2) that the meeting was not an adjourned meeting of the municipality and was also illegal because it was under the instructions of the Collector that the adjourned meeting was being held and that the Collector had no such power. The minutes of the proceedings further show that "the presiding authority ruled out the points of order on the ground that this was a special meeting called by the Collector for the election of the President and

the election has to be held as already fixed". After the ruling given by the presiding authority, 13 members including the appellant expressed a desire to walk out and walked out with the permission of the presiding authority. The remaining members, as already indicated, continued the business of the meeting and the proposal that the 2nd respondent should be elected president of the municipality for the remaining period of the quadrennium after having been duly made and seconded was carried unanimously and the meeting terminated.

It would thus appear that the meeting of the 3rd August 1954 for the election of the president had been called by the Collector who had authorized the Prant Officer to preside over that meeting and that the 2nd respondent was duly elected president. Under section 35(3) of the Act, for such a special general meeting three clear days' notice has to be given "specifying the time and place at which such meeting is to be held and the business to be transacted thereat shall be served upon the councillors, and posted up at the municipal office or the kacheri or some other public building in the municipal borough and also published in a local vernacular newspaper having a large circulation if such exists".

It has been contended on behalf of the appellant that the notice required by section 35(3) contemplates a written notice to be served and published in the manner specified, and that the meeting of the 3rd August 1954 could not be said to have been held after complying with the terms of sub-section (3) of section 35. It was also contended that the requirements of section 19-A(1) and (2) have also not been complied with because there is no evidence that the Collector had called that meeting or that he had made an order in writing that the presiding authority had been authorized to preside over that meeting. In our opinion, there is no substance in any one of these contentions. From the record of the proceedings of the proposed meeting of the 30th July 1954 and the actual meeting on the 3rd August 1954 it is clear that whatever had been done had been done under the orders of

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the Collector. He had called the meeting of the 30th July as also of the 3rd August 1954. It was he who had appointed the Prant Officer as the presiding officer for both those meetings. It is true that the notice of the meeting of the 3rd August 1954 had not been given in writing but had only been intimated to all the councillors who were present at the meeting of the 30th July 1954. The notice amply satisfies the requirement of three days' clear notice, though it was not in writing. It had indicated the time of the meeting and the business to be transacted. Under section 35(4) the ordinary venue of a meeting is the municipal office unless otherwise indicated in the notice. It is also true that the notice was not served in the manner indicated in sub-section (3) of section 35 of the Act. There is no evidence that there existed a local vernacular newspaper with large circulation, in which the notice of the meeting could be published. The question is, do those omissions render the notice ineffective in law. That could only be so if those provisions were held to be mandatory. The following provisions (omitting the words not material to this case) would show that those provisions of section 35(3) are directory and not mandatory and that any omissions in the manner of service of the notice are mere irregularities which would not vitiate the proceedings unless it was shown that those irregularities had prejudicially affected the proceedings :—

"No resolution of a municipality.....shall be deemed invalid on account of any irregularity in the service of notice upon any councillor or member provided that the proceedings of the municipality..... .....were not prejudicially affected by such irregularity".

Fortunately for the respondents, all the councillors constituting the municipality were present on both the occasions, namely, 30th July and 3rd August, 1954. Hence they had ample notice of the meeting to be held on the 3rd August, 1954, the time and place of the meeting and the business to be transacted. It has not been either alleged or proved that the irregularities in the service of the notice or the omissions com-

plained of had prejudicially affected the proceedings. But it was contended that as the notice had not been posted up at the municipal office or the local kacheri or some other public building and had also not been published in a local vernacular newspaper, if there were one, though all the councillors were present on 3rd August, 1954, the members of the public had no such notice and naturally therefore could not be present at that meeting. In this connection it was pointed out that sub-section (6) of section 35 provides that every such meeting shall be open to the public, unless the presiding authority directs to the contrary. It is evident from the provisions of that sub-section that though the presence of the public at such meetings may be desirable, it is not obligatory. The presence at or the absence from such a meeting of the members of the public has no legal consequence so far as the validity of the election is concerned. It must therefore be held that the meeting of the 3rd August, 1954 in substance, though not in form, complied with the requirements of the law for holding a valid special general meeting and that therefore that meeting was not invalid, assuming, as already said, that the order of the presiding authority adjourning the meeting of the 30th July, 1954 was not authorized. It has to be remembered in this connection that such a special general meeting can be presided over only by the Collector or the person authorized by him and if either the Collector or his nominee does not hold the meeting, it is not competent for councillors present to elect their own chairman for presiding over such a meeting. Therefore if the presiding authority admittedly under instructions from the Collector refused to proceed with the elections on the 30th July 1954, the councillors present could not hold a meeting of their own with a president of their own choice and transact the only business on the agenda, namely, the election of president. Hence, rightly or wrongly, if the meeting called for the 30th July was not held, another meeting had to be held for the purpose within 25 days of the occurrence of the vacancy. In this case, as a

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result of the expiry of the original term of office of the president and vice-president, another meeting giving the required three days statutory notice had to be held. The meeting held on the 3rd August 1954 was such a meeting. Indeed, there were some omissions in the manner of publication or service of the notice but those in law were mere irregularities which do not have the effect of vitiating the election held at that meeting. The election of the president therefore, if not otherwise invalid, could not be assailed on the ground of the irregularity in the service or publication of the notice, in the special circumstances of this case. If all the councillors had not been present on the 30th July or had not been informed of the proposed meeting of the 3rd August 1954, other considerations may have arisen but in this case it is clear that there was absolutely no prejudice to any party or individual or the municipality as a whole. But it was further contended that the walking out of the 13 councillors rendered the meeting infructuous. In our opinion, such a result does not follow from the voluntary act of the 13 councillors who chose to walk out. It was not even suggested that there was no quorum for the special general meeting after the 13 councillors walked out.

The next question is whether the provisions of section 19(1) as they stood on the 3rd August 1954 render the election of the president and the vice-president on the 3rd August 1954 invalid as it was "for the remaining period of the quadrennium". The High Court has taken the view that the remaining period of the quadrennium would not necessarily end on the 9th July 1955, in view of the proviso to section 19(1) "that the term of office of such president or vice-president shall be deemed to extend to and expire with of the on which his successor is elected". In view of the events that have happened it is not necessary for us to pronounce on the correctness or otherwise of that decision. After the judgment of the High Court and after the grant of special leave by this court, the Bombay Legislature enacted Act LIV of 1954 which was published in the Bombay Gazette on the 14th

October 1954. Sections 2 and 3 of the amending Act are in these terms :

"2. In section 19 of the Bombay Municipal Boroughs Act, 1925, in sub-section (1),—

(1) after the words 'not less than one year' the words 'or not less than the residue of the term of office of the municipality, whichever is less' shall be inserted;

(2) for the words 'three years' the words 'four years' shall be substituted.

3. (1) The amendments made by this Act shall be deemed to have come into force on the date on which the Bombay District Municipal and Municipal Boroughs (Amendment) Act, 1954, came into force (hereinafter in this section referred to as 'the said date') and all elections to the office of the president or vice-president, held on or after the said date and before the coming into force of this Act, shall be deemed to be valid as if this Act had been in force on the said date; and any person elected to the office of the president or vice-president at any of such elections shall not be deemed to have been illegally elected merely on the ground that the residue of the term of office of the municipality being less than one year at the time of such election, he would hold his office for a term less than one year in contravention of section 19 of the Bombay Municipal Boroughs Act, 1925, as it was in operation before the coming into force of this Act.

(2) Nothing contained in this section shall affect the judgment, decree or order of any competent court, passed before the coming into force of this Act, holding any of such elections invalid on the ground specified in sub-section (1)"..

It has not been contended that section 19 as amended by Act LIV of 1954 does not in terms cover the elections now impugned, nor that section 3 of the amending Act quoted above is not retrospective; but it has been urged on behalf of the appellant that it is not retrospective to the extent of affecting pending proceedings. In terms the amendment in question is deemed to have come into force on the 11th May 1954

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on which date the amending Act XXXV of 1954 had come into force. Section 3 in terms also declares that all elections to the office of president and vice-president held on or after the 11th May 1954 and before the coming into force of the amending Act shall be deemed to have been valid. The section also declares in unequivocal terms that such an election shall not be questioned simply on the ground of contravention of section 19 on which the election of the 2nd and 3rd respondents had been questioned before the High Court. The legislature apparently thought fit to declare beyond all controversy that an election of president or vice-president for the unexpired portion of the term of a municipality could not be questioned on the ground that the provisions of section 19 as it stood before the amendment had been contravened. But it was argued on behalf of the appellant that in terms the amendment had not been made applicable to pending litigation and that therefore this court should hold that the amendment did not have the effect of validating the elections which were already under challenge in a court. No authority has been cited before us in support of the contention that unless there are express words in the amending statute to the effect that the amendment shall apply to pending proceedings also, it cannot affect such proceedings. There is clear authority to the contrary in the following dictum of Lord Reading, C.J. in the case of *The King* v. *The General Commissioners of Income-tax for Southampton; Ex parte W. M. Singer*(1);—

"I cannot accept the contention of the applicant that an enactment can only take away vested rights of action for which legal proceedings have been commenced if there are in the enactment express words to that effect. There is no authority for this proposition, and I do not see why in principle it should be the law. But it is necessary that clear language should be used to make the retrospective effect applicable to proceedings commenced before the passing of the statute".

That was a case in which the Act in question had

(1) [1916] 2 K.B. 249, 259.

validated assessments made by commissioners for wrong parishes. It was held by the court that the retrospective effect of the relevant section extended to proceedings for a prohibition commenced before the Act came into force and the rule *nisi* for a prohibition was therefore discharged. In every case the language of the amending statute has to be examined to find out whether the legislature clearly intended even pending proceedings to be affected by such statute. A number of authorities were cited before us but it is only necessary to refer to the decision of their Lordships of the Judicial Committee in *Mukerjee, Official Receiver* v. *Ramratan Kuer* (1), which is clearly in point. In that case while an appeal had been pending before the Judicial Committee the amending Act had been passed clearly showing that the Act was retrospective in the sense that it applied to all cases of a particular description, without reference to pending litigation. In those circumstances their Lordships pointed out that if any saving were to be implied in favour of pending proceedings, then the provisions of the statute would largely be rendered nugatory. Those observations apply with full force to the present case, inasmuch as if any saving were to be implied in favour of cases pending on the date of the amendment, the words "all elections to the office of the president or vice-president, held on or after the said date and before the coming into force of this Act, shall be deemed to be valid" could not be given their full effect. As there are no such saving clauses in express or implied terms, it must be held that the amendment was clearly intended by the legislature to apply to all cases of election of president or vice-president, whether or not the matter had been taken to court. It is the duty of courts to give full effect to the intentions of the legislature as expressed in a statute. That being so, it must be held that the amending Act had the effect of curing any illegality or irregularity in the elections in question with reference to the provisions of section 19 of the Act.

For the reasons aforesaid it must be held that the

(1) [1935] L.R. 63 I.A. 47.

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meeting of the 3rd August 1954 had been validly held and that there is no illegality in the election of the 2nd and 3rd respondents as president and vice-president respectively. We accordingly affirm the orders of the High Court, though not for the same reasons. The appeal fails and is dismissed with costs.

Appeal dismissed.

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February 23

HANS MULLER OF NÜRENBURG
v.
SUPERINTENDENT, PRESIDENCY JAIL, CALCUTTA AND OTHERS.

[MUKHERJEA C.J., S. R. DAS, VIVIAN BOSE, BHAGWATI and JAGANNADHADAS JJ.]

Constitution of India, Arts. 14, 21 and 22—Entry 9 and entry 10 in Union list of Seventh Schedule to Constitution—Preventive Detention Act 1950 (Act V of 1950), s. 3(1)(b)—Whether ultra vires *Constitution—Foreigners Act 1946 (Act XXXI of 1946), s. 3(2)(c)—Whether* ultra vires *Constitution—Extradition Act 1870 and Foreigners Act, 1946—Distinction between.*

The petitioner, a West German subject, was placed under preventive detention by an order of the West Bengal Government under s. 3(1)(b) of the Preventive Detention Act 1950 on the ground that he was a foreigner within the meaning of the Foreigners Act 1946 and that it had become necessary to make arrangements for his expulsion from India and therefore he was required to be detained until the issue of an appropriate order from the Central Government.

The questions for determination in the case were :—

(i) whether s. 3(1)(b) of the Preventive Detention Act was *ultra vires* the Constitution inasmuch as it contravenes Arts. 14, 21 and 22 of the Constitution and whether it was beyond the legislative competence of Parliament to enact such a law;

(ii) whether, in any event, the detention was invalid as it was made in bad faith.

Held that the impugned portion of the Preventive Detention Act and s. 3(2)(c) of the Foreigners Act on which it is based are not *ultra vires* the Constitution inasmuch as;

(i) in view of Entry 9 and Entry 10 of the Union list of the Seventh Schedule to the Constitution, the language of which must be given the widest meaning, the legislative competence of Parliament to deal with the question of preventive detention of foreigners