1958 *Present :* **Weerasooriya, J., Sansoni, J., and Sinnetamby, J.**

V. A. SUGATHADASA, Petitioner, *and* (1) B. A. JAYASINGHE, (2) THE MINISTER OF LOCAL GOVERNMENT, Respondents

APPLICATIONS NUMBERS 11 (QUO WARRANTO), 12 (CERTIORARI) AND 13 (MANDAMUS)

Municipal Councils Ordinance No. 29 of 1947—Sections 21, 47, 97, 130, 171 (3), 277, 280, 284—Power of Minister to dissolve Council for incompetency, etc.—Must he act "judicially" ?—Effect of words "If it appears to the Minister"—Urban Councils Ordinance No. 61 of 1939, s. 196 (1)—Town Councils Ordinance No. 3 of 1946, s. 197 (1)—Village Communities Ordinance (Cap. 198), s. 61—Ceylon (Constitution) Order in Council, 1946, s. 15 (1)—Public Security Ordinance No. 25 of 1947, Part II—Quo warranto—Certiorari—Mandamus.

Section 277 (1) of the Municipal Councils Ordinance No. 29 of 1947 reads as follows :—

"If at any time, upon representation made or otherwise, it appears to the Minister that a Municipal Council is not competent to perform, or persistently makes default in the performance of, any duty or duties imposed upon it, or persistently refuses or neglects to comply with any provision of law, the Minister may, by Order published in the *Gazette*, direct that the Council shall be dissolved and superseded, and thereupon such Council shall, without prejudice to anything already done by it, be dissolved, and cease to have, exercise, perform and discharge any of the rights, privileges, powers, duties, and functions conferred or imposed upon it, or vested in it, by this Ordinance or any other written law."

Held, that, although a summary dissolution of the Council necessarily affects the legal rights of its members as a body and is independent of considerations of policy and expediency, Section 277 (1) of the Municipal Councils Ordinance does not impose any duty on the Minister to act judicially or quasi-judicially before he exercises his power of summary dissolution. The Minister must be guided only by the merits of the case and is not obliged to give a hearing to the Councillors and consider their objections, if any. He is the sole judge as to whether the Council is not competent to perform its duties, provided, however, that there is no misconstruction of the words "not competent" and there are sufficient circumstances from which it is apparent to him that the Council is not competent to perform the duties imposed upon it.

APPLICATIONS for writs of *quo warranto, certiorari* and *mandamus* in respect of an order made by the Minister of Local Government summarily dissolving the Colombo Municipal Council on December 2, 1957.

A strike of the employees of the Colombo Municipal Council had brought about a complete suspension of certain essential Municipal services such as conservancy, garbage removal, supervision of municipal markets and slaughterhouses, and prevention and control of infectious diseases. There was no immediate prospect of the strikers returning to work. In the meantime the Council itself was unable to meet, in

order to decide on what measures to adopt, nor could its executive officers take the necessary measures on their own responsibility without any mandate from the Council.

In the aforementioned circumstances the Municipal Council was summarily dissolved by the Minister under the provisions of section 277 of the Municipal Councils Ordinance No. 29 of 1947 and a Special Commissioner was appointed. Soon afterwards the present applications were filed.

D. N. Pritt, Q.C., with *E. B. Wikramanayake, Q.C., H. W. Jayewardene, Q.C., Isadeen Mohamed, C. G. Weeramantry, L. Mututantri, H. D. Tambiah* and *Carl Jayasinghe*, for the petitioner.

D. S. Jayawickreme, Q.C., with *G. T. Samerawickrame*, for the 1st respondent.

Douglas Jansze, Q.C., Acting Attorney-General, with *F. H. Lawton, Q.C., V. Tennekoon*, Senior Crown Counsel, *R. S. Wanasundera*, Crown Counsel, and *H. L. de Silva*, Crown Counsel, for the 2nd respondent. (Mr. F. H. Lawton, Q.C., of the English Bar, appeared with the permission of the Court.)

The following cases were cited in the argument: *Subramaniam v. Minister of Local Government* [1]; *Fernando v. University of Ceylon* [2]; *Leo v. Land Commissioner* [3]; *Ladamuttu Pillai v. The Attorney-General* [3A]; *R. v. Manchester Legal Aid Committee* [4]; *Board of Education v. Rice* [5]; *Local Government Board v. Arlidge* [6]; *De Verteuil v. Knaggs* [7]; *Cooper v. Wandsworth Board of Works* [8]; *Hopkins' case* [9]; *The King v. London County Council* [10]; *Smith v. The Queen* [11]; *Smith v. East Ellor Rural District Council* [12]; *Associated Picturehouse v. Wrenbury* [13]; *St. Pancras case* [14]; *R. v. Brighton Corporation* [15]; *Short v. Poole Corporation* [16]; *Roberts v. Hopwood* [17]; *Sydney Municipal Council v. Campbell* [18]; *The King v. Board of Education* [19]; *Demetriades v. Glasgow Corporation* [20]; *Lazarus Estates, Ltd. v. Beasley* [21]; *The Minister of Health v. The King (Ex-parte Yabbe)* [22]; *Perera v. Sockalingam Chettiar* [23]; *Wijesinghe v. Mayor of Colombo* [24]; *Vine v. National Dock Labour Board* [25]; *The Queen v. Commissioners for Special Purposes of the Income Tax* [26]; *Point of Ayr v. Lloyd George* [27]; *Robinson v. Minister of Town and Country Planning* [28];

[1] *(1957) 59 N. L. R. 254.*
[2] *(1956) 58 N. L. R. 265.*
[3] *(1955) 57 N. L. R. 178.*
[3A] *(1958) 59 N. L. R. 313.*
[4] *(1953) 2 Q. B. 413.*
[5] *1911 A. C. 182.*
[6] *1915 A. C. 132.*
[7] *1918 A. C. 557.*
[8] *8 L. T. 278.*
[9] *24 Q. B. 712.*
[10] *(1931) 2 K. B. 215.*
[11] *L. R. 3 A. C. 614 at 623.*
[12] *(1956) 2 W. L. R. 888, 909.*
[13] *(1918) 1 K. B. 223, 227.*
[14] *24 Q. B. D. 371, 375.*
[15] *85 L. J. K. B. 1552, 1551.*
[16] *(1926) 1 Ch. 66.*
[17] *1925 A. C. 578, 613, 601.*
[18] *1925 A. C. 338.*
[19] *(1910) 2 K. B. 165, 178.*
[20] *(1951) 1 A. E. R. 457, 463.*
[21] *(1956) 2 W. L. R. 502, 508.*
[22] *1931 A. C. 494.*
[23] *(1946) 47 N. L. R. 265.*
[24] *(1948) 50 N. L. R. 87.*
[25] *(1956) 3 A. E. R. 939.*
[26] *(1888) 21 Q. B. D. 313, 319.*
[27] *(1943) 2 A. E. R. 546.*
[28] *(1947) 1 A. E. R. 851, 857, 859.*

Robinson v. Sunderland Corporation [1]; *Dankoluwa Estates Co., Ltd. v. Tea Controller* [2]; *The King v. Arndel* [3]; *Land Release Company v. Postmaster-General* [4]; *Reg. v. Metropolitan Police Commissioner* [5]; *Nakkuda Ali v. Jayaratne* [6]; *Franklin v. Minister of Town and Country Planning* [7]; *R. v. Nat Bell Liquors, Ltd* [8]; *R. v. Northumberland Compensation Appeal Tribunal* [9]; *Cooper v. Wilson* [10]; *Queen v. Lords Commissioners of the Treasury* [11]; *Associated Provincial Picture Houses, Ltd. v. Wednesbury* [12]; *The King v. Minister of Health* [13]; *Rex v. London Rent Tribunal* [14]; *In re Smith and Fawcett, Ltd* [15].

Cur. adv. vult.

[The following Order was delivered by the Court :—]

April 7, 1958—

On the 2nd December, 1957, the Minister of Local Government and Cultural Affairs, by Order published in the Ceylon Government Gazette Extraordinary No. 11,211 and made under section 277 (1) of the Municipal Councils Ordinance, No. 29 of 1947, directed that the Colombo Municipal Council shall be dissolved and superseded as from that date. There was also published in the same Gazette an Order by the Governor-General under section 277 (2) appointing Mr. B. A. Jayasinghe as the Special Commissioner to have, exercise, perform and discharge all the rights, privileges, powers, duties and functions conferred or imposed upon or vested in the said Council or the Mayor by the Municipal Councils Ordinance or by any other written law.

At the time of the making of these orders the Mayor of the Colombo Municipal Council (hereinafter referred to as " the Council ") was Mr. V. A. Sugathadasa, while the Municipal Commissioner was Mr. B. A. Jayasinghe. Arising from the orders, three applications have been filed by Mr. Sugathadasa as petitioner and were argued together before us at the same hearing. Application No. 11 is for a writ of quo warranto declaring that the appointment of Mr. B. A. Jayasinghe as a Special Commissioner is void. The respondent to that application is Mr. Jayasinghe. Application No. 12 is for a writ of certiorari quashing the order dissolving and superseding the Council. Application No. 13 is for a writ of mandamus. The Minister of Local Government and Cultural Affairs (hereinafter referred to as " the Minister ") is the respondent in both these applications.

[1] *(1899) 1 Q. B. 751, 754, 757.*
[2] *(1941) 42 N. L. R. 197, 207.*
[3] *(1906) 3 Commonwealth L. R. 557, 566, 572, 576.*
[4] *(1950) Ch. 435, 440.*
[5] *(1953) 2 A. E. R. 717, 720.*
[6] *(1950) A. C. 66; 51 N. L. R. 457.*
[7] *1948 A. C. 104.*
[8] *(1922) 2 A. C. 128, 145, 151, 153, 154, 155, 156, 160.*
[9] *(1951) 1 K. B. 711 and (on appeal) (1952) 1 K. B. 338.*
[10] *(1937) 2 K. B. at 324.*
[11] *(1871) L. R. 7 Q. B. 387, 394, 397.*
[12] *(1948) 1 K. B. 223, 227.*
[13] *(1929) 1 K. B. 619, 624—625.*
[14] *(1951) 1 K. B. 641, 646, 647.*
[15] *(1942) Ch. 304, 308.*

According to the affidavits filed by the petitioner in the three applications, the Council at the time of its premature demise consequent on the Minister's order consisted of thirty-one Councillors representing the thirty-one wards comprising the Colombo Municipal limits and had been in existence less than twelve months, its term of office having commenced on the 1st January, 1957. The thirty-one members were elected at the general election which took place in December, 1956, and many of them had considerable previous experience in municipal affairs. Nineteen out of this number, including the petitioner, were members of the United National Party while only five were members of the Mahajana Eksath Peramuna, said to be the party which runs the central Government. These are matters of common ground. The petitioner also referred in his affidavits to an extract of a speech alleged to have been made by the Prime Minister on the 22nd December, 1956, as indicating the animus of the central Government against a Council which was so largely comprised of members of the United National Party, and it was sought to substantiate the allegation of such a speech by means of three newspaper reports marked A, B and C annexed to the affidavits, but these as well as so much of the affidavits as relates to the speech were objected to by Mr. Lawton, who appeared for the Minister, on the ground of hearsay and irrelevance. The particular statement imputed in documents A and B to the Prime Minister is that the five members in the Council who belong to the Government party " will rule Colombo " despite the numerical strength of the members belonging to the United National Party. But the document C gives another version of the speech—as allegedly stated by the Prime Minister himself—to which no exception could fairly be taken. Mr. Pritt's reply to the objection on the ground of hearsay was that, in proceedings such as these, under the relevant English Orders and rules relating to affidavits to which he drew our attention as governing the case, it is open to us to permit a fact to be proved by a statement of belief in an affidavit. In regard to the objection on the ground of irrelevance he submitted that what the Prime Minister said had a bearing on the bona fides of the Minister in making the order of dissolution. But we fail to see what relevance the passage relied upon, said to occur in a speech made nearly a year before, can have to the issue of good faith. Moreover, there is uncertainty as to what precisely was stated on that occasion. We hold, therefore, that the matters objected to cannot be taken into consideration in these proceedings.

It is also stated in the petitioner's affidavits—and this does not appear to be in dispute—that in the early part of November, 1957, a number of widespread strikes had taken place, many of them involving Government departments, and that these strikes led the Government to raise the cost of living allowances paid to those of its employees drawing salaries under three hundred rupees per month by an amount which involved an additional annual expenditure of about fifty-two million rupees.

Towards the middle of November the strike fever seems to have spread to the Council employees, and some twenty demands, as set out in the document R9, were put forward on their behalf before the Council.

The first of these demands was an all-round increase of Rs. 50 per month on the basic monthly salary or wages of every employee. They were considered by the Finance Committee of the Council at a meeting held on the 25th November, 1957, at which the petitioner presided, and according to the draft minutes of that meeting as set out in the document R10 it was resolved by the Committee to recommend all the demands to Government and to request it to pay to the Council "immediately a grant to cover all the commitments of the 20 demands". That the "commitments" would have amounted to approximately five million rupees per annum (document R12) and that the Council's depleted finances would not have enabled the Council to meet this additional expenditure did not deter the Finance Committee from passing this resolution. As appears from the document R11, the resolution was passed on the basis of an understanding between the Finance Committee and the representatives of the Municipal Employees Union that the central Government should pay the piper, failing which the 7,000 Council employees who were members of the Union were to take "necessary action", which in the context meant nothing less than strike action. This resolution was followed up by a letter from the petitioner to the President of the Colombo Municipal Employees' Union (R2) in which the petitioner, so to speak, washed his hands off the business by stating that the Council should not be blamed if the Government refused to grant the demands as recommended, a suggestion which was magnanimously acceded to by the President in his letter R3, where he also took the opportunity of stating that he did not expect Government to grant the demands. The collaboration thus shown between the petitioner and the Colombo Municipal Council Employees' Union is in strange contrast indeed to the petitioner's attitude towards it only one month previously when in a letter to the Commissioner of Local Government (R4) he referred to it as "a misguided body whose destinies appear to be seriously mixed up with politics of a certain brand", and described certain recommendations contained in a memorandum prepared by that body relating to the administration of the Council in such terms as "rubbish, utter rubbish" and "tripe". In that same letter he said that "the Union would be doing a far better service, both to its members and the ratepayers of the city, if it advised its members to give a fair return for the salaries and wages paid to them by this Council and thus remove from the minds of the public the general impression that Municipal employees did hardly do a half day's work for the salary and other emoluments enjoyed by them."

It would appear that out of some 7,250 officers and servants of the Council about 2,285 are members of the Local Government Service and as such they are under the control of the Local Government Service Commission. The majority of the employees including the entire labour force engaged in conservancy and garbage removal services were, however, under the control of the Council. The question of granting the demands which had been recommended by the Finance Committee of the Council had necessarily to be considered by the Local Government Service as well as the Government authorities. On the 29th November, 1957, as no decision had been arrived at by those authorities in regard to the demands, the Joint Council of the Colombo Municipal Council Trade

Unions addressed the letter R1 to the Minister communicating their decision to call a strike of all the Council's employees (with certain exceptions which need not be specified) as from midnight of that day. At the appointed hour the strike commenced, involving about 6,000 workers including those at the eleven sewage pumping stations situated in various parts of the city of Colombo, and those employed in the conservancy and garbage removal services. In regard to the cessation of operations at the sewage pumping stations, the affidavit of the petitioner is at issue on certain points with the counter-affidavit of Mr. Gunawardene, the Permanent Secretary to the Ministry of Local Government and Cultural Affairs, which was filed on behalf of the Minister. It is more or less common ground, however, that if the pumping stations did not function for an appreciable period a situation would have arisen which, both from the point of view of the possible damage to the sewerage system, as well as the danger to the health of the inhabitants of the city, it was essential to avoid by taking prompt action. But the petitioner maintains that the actual gravity of the situation has been much exaggerated as part of a plan "designed to give the impression of great chaos and crisis". The petitioner has also categorically stated that within three hours after the strike commenced there was a conference which he attended at the residence of the Governor-General and at which it was decided to call upon the military to man the pumping stations. The affidavit of Mr. Gunawardene seems to suggest that nothing was done in that behalf until late on the 30th November, 1957, when the decision referred to was arrived at after the Municipal Engineer had explained to the petitioner as well as to the Minister the serious consequences likely to ensue if the cessation of work at the pumping stations was prolonged. But it is not necessary to probe further into these conflicting versions as the decision to call in the military was implemented by midnight on the 30th November, and it is not in dispute that by such action any apprehended danger from the pumping stations not functioning was averted for the time being at least.

The position with regard to the effect of the strike on the scavenging and conservancy services was entirely different. That the adequate maintenance of these services in the city of Colombo is the responsibility of the Council is undeniable. The duties of the Council in that connection are clearly set out in sections 47, 97 and 130, *inter alia*, of the Municipal Councils Ordinance. As Mr. Lawton put it, these duties have to be performed by the Council in fair weather or foul, but, we would add, only in so far as is reasonably practicable. That the strike immediately brought about a complete interruption of these services is not disputed by the petitioner. The affidavits of Mr. B. A. Jayasinghe, the Special Commissioner, and of Dr. Nadarajah, the Chief Medical Officer of Health, Colombo Municipality, disclose that, in addition, there were other essential services which had been entirely suspended by the Council such as the supervision and control of municipal markets and slaughter houses, and the prevention and control of infectious diseases.

The petitioner has stated that on the 1st December "he took steps" to have the garbage which had collected during the previous twenty four hours in the Pettah cleared with the assistance of the office bearers

of the Kachcheri Market Union. He does not say what concrete results these steps produced. According to Mr. Jayasinghe what the petitioner did in dealing with this problem was no more than to request the Market Union officials to clean up the Kachcheri Road Market, which is quite different from cleaning up the entire Pettah area. This statement in Mr. Jayasinghe's affidavit has not been contradicted by the petitioner. Again, in regard to the situation brought about by the failure of the Municipal conservancy services, the petitioner makes the following somewhat cryptic statement: "I had discussions with the Medical Officer of Health of the Colombo Municipality who consequently proceeded to make arrangements to deal with the situation by certain methods of improvisation with the assistance of the Director of Medical and Sanitary Services". Apparently having had these discussions the petitioner was content to assume that he had adequately dealt with that particular situation, and that no further action on his part was necessary. Dr. Nadarajah's affidavit, however, throws a little more light on this subject. According to him although the Director of Health Services had offered a quantity of tropical chloride of lime for use in latrine buckets no arrangements could be made for distributing the stuff among the people who needed it, and the matter ended there.

On the 29th November, 1957, a requisition signed by three members of the Council under section 19 (1) of the Municipal Councils Ordinance for the summoning of a special meeting of the Council was received by the petitioner. As four clear days' notice of the meeting had to be given the petitioner instructed the Secretary of the Council to convene it for the 5th December. But on the 30th November these instructions were countermanded by the petitioner. The reason given by him for this step is the absence of the Municipal clerical staff and dislocation of work brought about by the strike. It is difficult to understand why the absence of the clerical staff should have made it impossible for such a simple matter as the issue of the requisite notices to the thirty-one Councillors being attended to. If, however, the reason is a valid one it shows to what extent the Council was paralysed, even on the very first day of the strike, in regard to any action that it might, or should, have taken to meet an emergency the gravity of which was increasing with each hour during which the strike continued. As far as the Council was concerned it could have decided on such measures as the situation demanded only by means of resolutions passed at its meetings, which would then be implemented by executive action on the part of the Council's officers. It does not appear that the special power given to the Municipal Commissioner by section 171 (3) of the Municipal Councils Ordinance in regard to the exercise and performance of his duties and functions under the Ordinance "in cases of extreme urgency" could have been availed of, in the absence of any special resolutions passed at a meeting of the Council, to deal with the many urgent problems that the strike had created. The business which in terms of the requisition would have been transacted at the special meeting of the Council originally convened for the 5th December related, apparently, only to the demands which the Finance Committee of the Council had already considered at its meeting held on the 25th November, and had nothing to do with the

situation brought about by the strike, which actually commenced several hours after the requisition had been submitted to the petitioner. But it is clear that had the strike continued up to the 5th December it would have been possible for the Council, under section 21 of the Municipal Councils Ordinance, to have brought up at that meeting a special resolution which would have enabled the Council to consider what measures were necessary to deal with the emergency.

The petitioner has drawn attention in his affidavit to the fact that on the 30th November when he decided to cancel his previous instructions for the summoning of the special meeting, an ordinary general meeting of the Council had already been called for the 9th December, 1957, and that the business for the purpose of which the special meeting was to be convened could have been brought up at the general meeting by a resolution in the manner previously referred to. But it is obvious—and no submission to the contrary was addressed to us on the petitioner's behalf—that the consideration of the urgent matters requiring immediate attention which had already arisen on the 30th November as a result of the strike could not possibly have been postponed for the general meeting fixed for the 9th December, 1957.

The order of dissolution was signed by the Minister at about 4 p.m. on the 2nd December, 1957. The petitioner has given as one of the grounds for his allegation of bad faith against the Minister that "there was every chance of the strike being settled on that day". He also stated that on the 30th November, 1957, the representatives of the strikers had dropped their demand for a wage increase and were concentrating on obtaining only a temporary relief allowance. But the document R8, which is a communication dated the 30th November from the chairman of the Joint Council to the acting head of the Cabinet makes it clear that the Joint Council had "unanimously resolved to continue the strike until decisive conclusions are reached on all the demands submitted". Furthermore, Mr. Gunawardene has stated in his affidavit that on the 2nd December, 1957, he presided at discussions between the Joint Council and the Local Government Service Commission with regard to the demands made by the Joint Council, that the chairman of the Local Government Service Commission intimated that the Commission was not prepared to agree to the demand for an increase of Rs. 50 on the basic monthly salary of all employees of the Council who were members of the Local Government Service and that the chairman of the Joint Council thereupon said that he would advise the strikers to continue the strike. According to Mr. Gunawardene these discussions ended at 2.30 p.m.

Having considered the various affidavits that have been filed we accept the statements relating to the position on the 2nd December as set out in the affidavits of Mr. Gunewardene, Mr. Jayasinghe and Dr. Nadarajah. That position may be summarised as follows. The strike had brought about a complete suspension of certain essential municipal services such as conservancy, garbage removal, supervision of municipal markets and slaughter houses, and prevention and control of infectious diseases.

There was no immediate prospect of the strikers returning to work. In the meantime the Council itself was unable to meet in order to decide on what measures to adopt, nor could its executive officers take the necessary measures on their own responsibility without any mandate from the Council. It is on the basis of these findings that we shall now proceed to consider the questions of law relating to the three applications before us.

The principal question that arises is whether under section 277 (1) of the Municipal Councils Ordinance a duty was imposed on the Minister to have acted judicially or quasi-judicially in respect of any step taken by him towards the making of the order the validity of which is challenged in these proceedings. That question is of particular importance in relation to the application for a writ of certiorari.

In considering the numerous authorities setting out the circumstances in which, and against whom, the writ of certiorari will issue, we cannot do better than begin with the general principle as stated by Atkin, L. J., in *R v. Electricity Commissioners* [1] that "whenever any body of persons having legal authority to determine questions affecting the right of subjects and having the duty to act judicially, act in excess of their legal authority they are subject to the controlling jurisdiction of the King's Bench Division exercised in these writs". In the present case it is not in dispute that the action taken by the Minister affected the legal rights of the Council as a body, or of the individual Councillors, and much of the arguments addressed to us on both sides pertained to the complex problem of whether the Minister was under a duty to act judicially or not. As pointed out in *R v. Manchester Legal Aid Committee* [2] the duty to act judicially may arise in widely different circumstances which it would be impossible, and, indeed, inadvisable to attempt to define exhaustively.

How wide these circumstances may be is to be gathered from the following cases, which are only a few out of the innumerable instances where the writ of certiorari has issued. In *The Queen v. Saunders* [3], where accounts had to be examined and items of expenditure allowed or disallowed (according to law) Crompton, J., held that the passing of the accounts was a judicial act. In *The King v. Woodhouse* [4] an order made by licensing justices referring to quarter sessions an application for renewal of a licence was brought up and quashed by way of certiorari. In *R v. Postmaster General. Ex Parte Carmichael* [5] and *R v. Boycott* [6] it was held that even the giving of a medical certificate, in the circumstances existing in those cases, was in the nature of a judicial act. The decision in *Labouchere v. The Earl of Wharncliffe* [7], which was an action for a declaration, seems to have gone partly on the basis that the committee of a club function as a quasi-judicial body when proceeding under the rules against a member for alleged misconduct. In that case the rules provided for the expulsion of a member if " in the opinion of the committee " such action was called for.

[1] *(1924) 1 K. B. 171 at 205.*
[2] *(1952) 1 A. E. R. 480.*
[3] *3 E. & B. 764 at 778.*
[4] *(1906) 2 K. B. 501.*
[5] *(1928) 1 K. B. 291.*
[6] *(1939) 2 A. E. R. 626.*
[7] *(1879) 13 Ch.D. 346.*

What is meant by the expression "quasi-judicial" was considered by the House of Lords in *Vine v. National Dock Labour Board* [1]. According to Lord Kilmuir (the Lord Chancellor) it means "that the functions so described can vary from those which are almost entirely judicial to those in which the judicial element is small indeed". Lord Somervell observed that an examination of the cases does not show that the expression suggests a well marked category of activities to which certain judicial requirements attach, and that where the Court had to consider whether a Minister, tribunal or board has to act judicially the respect in which the judicial procedure has to be observed will depend on the statutory or other provisions under which the matter arises.

The above observations of Lord Somervell appear to be particularly pertinent in the present case where the question already indicated by us will have to be decided on the provisions of the Municipal Councils Ordinance, with special reference to section 277 (1) thereof. In the course of our examination of those provisions it will be necessary to refer to certain allied provisions in other enactments also. Section 277 (1), as amended, is in the following terms—

> "If at any time, upon representation made or otherwise, it appears to the Minister that a Municipal Council is not competent to perform, or persistently makes default in the performance of, any duty or duties imposed upon it, or persistently refuses or neglects to comply with any provision of law, the Minister may, by Order published in the *Gazette*, direct that the Council shall be dissolved and superseded, and thereupon such Council shall, without prejudice to anything already done by it, be dissolved, and cease to have, exercise, perform and discharge any of the rights, privileges, powers, duties, and functions conferred or imposed upon it, or vested in it, by this Ordinance or any other written law".

The first time when a power of summary dissolution of a Municipal Council was entrusted by the legislature to any authority was in 1936 under section 88 (1) of the Colombo Municipal Council (Constitution) Ordinance (Cap. 194) the provisions of which have been taken over into section 277 (1) of the Municipal Councils Ordinance. Under the earlier enactments the power of dissolution was given to the Governor.

Section 277 (1) of the Municipal Councils Ordinance has its counterpart in various other ordinances dealing with the setting up of local bodies as, for example, section 196 (1) of the Urban Councils Ordinance, No. 61 of 1939, section 197 (1) of the Town Councils Ordinance, No. 3 of 1946, and section 61 of the Village Communities Ordinance (Cap. 198). But whereas, in the formulation of the condition precedent for the exercise of the statutory power given in section 277 (1) of the Municipal Councils Ordinance, the introductory words used are: "If, at any time, upon representations made or otherwise, *it appears to the Minister* that . . . . ", the corresponding word in the specified sections of the other enactments mentioned above are: "If at any time the *Minister is satisfied*

[1] *(1956) 3 A. E. R. 939, at 943, 950.*

that there is sufficient proof of . . . . .". The particular differences in language relied on by Mr. Lawton are represented by the words that have been italicized.

These differences apart, it is by no means unusual that in enactments setting up administrative or autonomous bodies there should be special provision made for their summary dissolution. Indeed, in the normal case, the power of dissolution of such a body would appear to be a necessary provision. Even in the case of a sovereign body like the British Parliament there exists a power (by virtue of the prerogative of the Crown) to dissolve it at any time, without question, though the matter is now governed by certain well defined conventions. As stated by Dicey in his Law of the Constitution (9th edition, p. 433) this prerogative can be constitutionally employed so as to override the will of the party in power. But the explanation for the exercise of it in this way is that an occasion has arisen on which there is fair reason to suppose that the opinion of the party in power no longer represents the opinion of the nation.

In respect of the Parliament of Ceylon the prerogative of dissolution is enshrined in section 15 (1) of the Ceylon (Constitution) Order in Council, 1946, which confers on the Governor-General the power to dissolve Parliament from time to time. Now, although a dissolution of Parliament necessarily affects the legal rights of its members in various ways, it does not seem open to any doubt that the power can be exercised without the members themselves, as a body or individually, or any other person at all, being heard in objection, nor can it be called into question in any Court of law. The simple reason, of course, is that it is something done in the exercise of the Crown's prerogative. While, therefore, there is little analogy between the power of dissolution of an autonomous body like a Municipal Council, it is well to bear in mind that the exercise of a summary power such as this, though involving the legal rights of the bodies concerned, does not necessarily connote that the authority exercising the power is, in the absence of a requirement to do so (whether imposed expressly or by implication) obliged to give a hearing to those whose legal rights will be affected by the exercise of the power.

Section 277 of the Municipal Councils Ordinance is the first of a number of provisions appearing in Part XIV thereof under the heading " Central Control ". Another of those provisions is section 284 which, *inter alia*, provides for a dissolution of the Council by the Minister either upon any variation of the limits of the Municipality for which the existing Council was constituted or for the purpose of constituting any other local authority in its place. The power of dissolution conferred under this section seems to be a clear instance, as conceded by Mr. Pritt, of a purely administrative function in the exercise of which no question arises of the Minister being obliged to act in a quasi-judicial manner. In regard to the discretion given under section 277 (1) to the Minister whether, in a case where it appears to him that the state of affairs enabling him to act exists, he should proceed to make an order of dissolution or not, we did not understand Mr. Pritt to go to the length of submitting that

the exercise of that discretion is in the nature of a quasi-judicial act. It will be observed that the section uses no express language which fetters the discretion given to the Minister whether or not to make an order of dissolution where "it appears" to him that any of the pre-requisite conditions exists. But Mr. Pritt submitted that before that stage is reached, there is, in respect of the question which the Minister has necessarily to consider, namely whether any of the pre-requisite conditions exists or not, an obligation (though not in express terms) to act quasi-judicially. In other words, according to Mr. Pritt, the Minister should in determining that question give a hearing to the Councillors and consider their objections, if any.

One of the provisions of the Municipal Councils Ordinance which was subjected to close scrutiny at the hearing before us is section 280, which also occurs in Part XIV. That section reads as follows :—

> "If at any time it appears to the Minister that any Municipal Council is omitting to fulfil any duty or to carry out any work imposed upon it by this Ordinance or any other written law he may give notice to the Council that unless, within fifteen days, the Council shows cause to the contrary, he will appoint a special officer to inquire into and report to him the facts of the case, and to recommend what steps such officer thinks necessary for the purpose of fulfilling such duty or carrying out such work. Such inquiry shall be conducted, as far as may be practicable, in an open manner."

Under this section, before the Minister exercises the power given to him he is required to notify the Council of his intention to do so, in order that the Council may have an opportunity of showing cause to the contrary. Mr. Pritt in dealing with the implications arising from this section boldly took the bull by the horns and argued that if prior to the exercise of the much lesser power conferred under the section the Minister is required to give a hearing to the Council, it would be reasonable to suppose that the legislature never intended that the far more drastic power of dissolution under section 277 (1) should be exercised without a similar opportunity being given to the Council. But an argument which is equally tenable, if not more so, would be that while under section 280 notice is required to be given to the Council and a procedure indicated as to the manner of giving it and of conducting the inquiry that follows, the legislature deliberately refrained from providing for such matters in respect of the power of dissolution of the Council whether under section 284 or section 277 ; and that the reason why the legislature deliberately refrained from doing so in section 277 is that it intended that the Minister should be the sole judge of whether any of the pre-requisite conditions exists or not.

Sometimes the language adopted in an enactment is by itself clear enough to furnish an answer to the question whether the act, for the performance of which provision is made, is of an administrative or quasi-judicial nature. For example, in the case of *Franklin v. The Minister of Town and County Planning* [1] power was given under section 1 (1)

[1] *(1947) 2 A. E. R. 289.*

of The New Towns Act, 1946, to the appropriate Minister if he was "satisfied, after consultation with the local authorities who appear to him to be concerned that it is expedient in the national interest that any area of land should be developed as a new town", to make an order designating that area as the site of the proposed new town. Although there was also provision in the Act requiring public notice to be given of the proposed order and for a public inquiry into any objections raised, it was held that the duties imposed on the Minister under section 1 of the Act were purely administrative. In this case expediency and policy were matters which on the words of the statute clearly entered into the consideration of the question whether an order should be made or not. *Robinson v. The Minister of Town Planning* [1] was a case under the Town and Country Planning Act, 1944, section 1 (1) of which began as follows: "Where (the Minister) is satisfied that it is requisite for the purpose of dealing satisfactorily with extensive war damage in the area of a local planning authority that . . . . ." Lord Greene, M.R., expressed the view that the words "requisite" and "satisfactorily" clearly indicated that the question was one of opinion and policy, matters which were peculiarly for the Minister himself to decide, and that no objective test was possible, even though there was provision for the holding of a public enquiry.

On the other hand, in the case of *De Verteuil v Knaggs* [2], where power was given in an ordinance to the Governor of Trinidad, "on sufficient ground shown to his satisfaction", to transfer the indentures of immigrants from one employer to another, the Privy Council were of the opinion that although no special form of procedure was prescribed there was "an obvious implication that some form of inquiry must be made, such as will enable the Governor fairly to determine whether sufficient ground had been shown to his satisfaction for the removal of the indentured immigrants". They accordingly held that in making such an inquiry there was, apart from special circumstances, a duty of giving to any person against whom a complaint was made a fair opportunity to make any relevant statement which he may desire to bring forward and a fair opportunity to correct or controvert any relevant statement brought forward to his prejudice. As regards the special circumstances which would justify the Governor, acting in good faith, to make an order of transfer without giving the person affected an opportunity of being heard, their Lordships gave as an instance the making of an order in an emergency, where promptitude is of great importance. Although in that case there was no question of the Governor's order having been made in circumstances of any emergency, Mr. Lawton relied on these observations of their Lordships as laying down a principle of general applicability. He submitted, therefore, that having regard to the emergency that existed at the time when the order of dissolution in the present case was made, the failure (which is conceded) of the Minister to give the Council an opportunity of showing cause against it should, even on the view that the Minister was under a duty to act judicially, be excused.

[1] *(1947) 1 A. E. R. 851, at 857.*

[2] *(1918) A. C. 557.*

The wording of the ordinance considered in the last mentioned case bears a close resemblance to the introductory words in those sections of the Urban Councils Ordinance, No. 61 of 1939, the Town Councils Ordinance, No. 3 of 1946, and the Village Communities Ordinance (Cap. 198) which correspond to section 277(1) of the Municipal Councils Ordinance, and which words (to quote them once again) are : " If at any time the Minister is satisfied that there is sufficient proof of . . . . " The decision in *Subramaniam v. The Minister of Local Government and Cultural Affairs* [1], which is one of the local cases relied on by Mr. Pritt, seems to have turned mostly on those words appearing in section 197 (1) of the Town Councils Ordinance. In holding that the Minister was under a duty to act judicially in the course of arriving at a decision to make an order under that section, Gunasekara, J., stated as follows : " Quite clearly the question whether there is sufficient proof of a fact is one that can only be decided on evidence, and not on considerations of policy or expediency. " These observations suggest that on the wording of the section there were two decisive factors influencing the conclusion that the Minister was under a duty to act judicially, namely, a form of enquiry by taking evidence was indicated and considerations of policy and expediency were irrelevant. He, therefore, refused to follow an earlier decision of this Court (also a judgment of a single Judge) in *Gunapala v. Kannangara* [2] where a contrary view was expressed on the identical wording in section 61 of the Village Communities Ordinance.

Another case relied on by Mr. Pritt is *Fernando v. The University of Ceylon* [3]. The relevant provision of law that was considered in this case commenced with the words " Where the Vice-Chancellor is satisfied that . . . . . ". But, as the judgment sufficiently indicates, the finding that the Vice-Chancellor of the University was under a duty to act judicially in respect of the particular allegation which he investigated was based not so much on the wording as on the consideration that the truth or falsity of the allegation could not fairly be determind except by the application of the judicial process or a form of procedure closely analogous to it, and without regard to questions of policy and expediency. Yet another local case to which our attention was drawn by Mr. Pritt is that of *Leo et al. v. The Land Commissioner* [4] which dealt with the powers of the Land Commissioner under the Land Redemption Ordinance, No. 61 of 1942, to acquire " agricultural land " if he is satisfied that it is land in respect of which certain specified conditions were fulfilled. The reason for one of the findings in that case, that a duty to act judicially was imposed on the Land Commissioner, is contained in the following observations of Gratiaen, J., (at page 180) : " One has only to examine the provisions of section 3(1) (*a*), (*b*) and (c) to appreciate that the issue whether any ' agricultural land ' is in fact qualified to become the subject of an order for acquisition can never be answered correctly except by application of the judicial process and without regard to questions of administrative policy and expediency ".

[1] *(1957) 59 N. L. R. 254.*
[2] *(1955) 57 N. L. R. 69.*
[3] *(1956) 58 N. L. R. 265.*
[4] *(1955) 57 N. L. R. 178.*

In *Nakkuda Ali v. Jayaratne (Controller of Textiles)* [1] the words " where the Controller has reasonable grounds to believe that . . . . " in a regulation were considered by the Privy Council, and it was held that they should be treated as imposing a condition that there must in fact exist such reasonable grounds known to the Controller, before he can validly exercise the power of cancellation. But their Lordships added that it does not necessarily follow from this that the Controller must be acting judicially in exercising the power, and on a consideration of various other matters they decided that he was under no such duty.

In *Dankoluwa Estates Co., Ltd., v. The Tea Controller* [2] the view taken was that the words " if it appears to the Controller ", unqualified as they were, left it open to the Controller to come to a conclusion from any information he may choose to receive and he was under no duty to act judicially.

These decisions are not exhaustive of the matters that may be taken into account where the wording of the statute is not clear as to the intention of the legislature. What those matters are must necessarily depend on the circumstances of each case. The ultimate test is, what did the legislature really intend by the language used ? It may be stated as a general rule that words such as " where it appears to . . . . ", or " if it appears to the satisfaction of . . . . ", or " if the . . . . considers it expedient that . . . . ", or " if the . . . . is satisfied that . . . . ", standing by themselves without other words or circumstances of qualification, exclude a duty to act judicially. These are the well-recognised forms of expression by which Parliament, to an increasing extent, entrusts the performance of various administrative functions to a Minister or other higly placed official relying on the sanction that the Minister will be answerable to Parliament in regard to the manner in which those duties are performed. Whether such persons are also subject to the control of the Courts in the performance of those duties will be discussed at a later stage when we deal with the applications for the writs of mandamus and quo warranto.

The words " if . . . . it appears to the Minister . . . . " in section 277 (1) of the Municipal Councils Ordinance are not qualified in any way and they seem to make the Minister the sole judge of whether the state of affairs which is a condition precedent for the exercise of the power appears to exist. It is not an unimportant circumstance that in this instance the power has been entrusted to the Minister himself and not to a subordinate officer, and also that no right of appeal from his decision is provided for. In the absence of any procedure as to how the Minister should set about obtaining information it is reasonable to hold that he may act on reports of various officers as well as on his own knowledge. But, Mr. Pritt argues, an order of dissolution of the Council would affect the legal rights of the Councillors and it is, therefore, proper that they should be given an opportunity of being heard. This argument, however, begs the very question that has to be decided since an obligation to give a hearing to the party affected does not arise unless there is a duty

[1] *(1950) 51 N. L. R. 457.* [2] *(1941) 42 N. L. R. 197.*

to act judicially. See, in this connection, the observations of Roche, J., in *Errington v. Minister of Health* [1]. Numerous instances will be found in the law reports of public officers being entitled to make administrative orders affecting legal rights without the persons concerned having any right to a hearing.

Mr. Pritt's next argument is that a duty to act judicially arises if, in reaching a decision whether the conditions precedent exist for the exercise of the Minister's power to make an order of dissolution, he may not take into consideration policy and expediency. Granting that questions of policy and expediency are irrelevant at that stage, no authority was cited to us for the proposition that in such a case what might otherwise have been an administrative act necessarily assumes the character of a judicial act. No doubt, certain dicta in the judgment in *R v. Manchester Legal Aid Committee* (*supra*) may appear to give the impression on a cursory reading that they come near to enunciating such a proposition because of the emphasis laid on policy and expediency in the discussion of administrative acts. But we do not think that there can be any possible doubt that it is well within the competence of Parliament to entrust to a Minister or other authority a purely administrative power in the exercise of which he should be guided only by the merits of the case, as they appear to him, without taking into account questions of policy and expediency. If that, indeed, be the kind of power which the legislature intended to confer on the Minister under section 277 (1) it is difficult to suggest any more appropriate language in which that power could be given than that actually adopted in the section.

We do not wish to be understood, however, as assenting to the view that questions of policy and expediency can never be taken into account by the Minister in the exercise of his powers under section 277 (1). Instances there may well be where, notwithstanding that it appears to him that a particular Municipal Council is not competent to perform, or persistently makes default in the performance of, any duty imposed upon it, he would be entitled to take into account policy and expediency in deciding not to make an order of dissolution. But, on the other hand, in deciding to make such an order, it would seem that he must be guided only by the merits of the case, as they appear to him, and not by considerations of policy and expediency. In our opinion this does not mean that in making the order of dissolution a duty to act judicially is imposed on him.

The fact that under section 280 of the Municipal Councils Ordinance there are requirements for the giving of notice and holding of an inquiry is, in our view, more a circumstance against, than in favour of, the argument of Mr. Pritt that a procedure should have been followed by the Minister of giving the Council a hearing before he decided to make the order of dissolution. The omission to provide for any form of notice or inquiry in section 277 seems to be deliberate and indicates that these matters were left entirely to the discretion of the Minister.

[1] *(1935) 1 K. B. 271, at 280.*

In our opinion in respect of no step which the Minister took in making the order in question was he obliged to act judicially. The objection to the validity of that order on the ground that he did not give the Council a hearing, accordingly, fails. It is not necessary, therefore, to decide whether in this case the Minister was excused by reason of the emergency from giving the Council a hearing before he made the order.

Mr. Pritt submitted that even if the Minister was under no duty to act judicially the Court would grant the application for certiorari if the Minister's administrative order is found to be in excess of the powers conferred by section 277 (1) of the Municipal Councils Ordinance. For this submission he relied on *The Minister of Health v. The King (on the Prosecution of Yabbe)* [1]. But as acting in excess of powers is one of the grounds in support of the applications for writs of mandamus and quo warranto it will be more convenient to consider that question in relation to those applications.

Mr. Pritt set out the following grounds on which he hoped to obtain the writs of mandamus and quo warranto—(1) the powers conferred on the Minister under section 277 (1)of the Municipal Councils Ordinance have not been validly exercised ; (2) the Minister exceeded his powers ; (3) he has misunderstood or misconstrued them ; (4) he has wrongly used for one purpose powers given to him for another ; (5) he has taken extraneous matters into considerations ; (6) section 277 (1) did not apply to this case at all ; and (7) the order of dissolution was made unreasonably and in bad faith. It seems to us, however, that grounds (2) to (6) are much the same as ground (1), and as between unreasonableness and bad faith the distinction is a matter of degree only. As regards the power of the Courts to interfere with an administrative act on grounds such as these, see *Associated Provincial Picture Houses, Ltd., v. Wednesbury Corporation* [2] and also *Ladamuttu Pillai v. The Attorney-General et al.* [3].

In considering the submissions addressed to us by Mr. Pritt under these grounds it is necessary to state certain matters to which reference has not yet been made. Under section 277 (2) of the Municipal Councils Ordinance power is given, in paragraph (*a*), to the Governor-General to appoint a special commissioner to function in the place of a Municipal Council which has been dissolved by an order made under section 277 (1), and in paragraph (*b*), as an alternative, to the Minister to direct that a new Municipal Council in accordance with the provisions of the Ordinance be constituted in place of the dissolved Council. Although the powers under (*a*) are given to the Governor-General, according to the accepted constitutional practice he would not take action in that behalf except on the advice of the Minister. Whether, therefore, upon the dissolution of a Council under section 277 (1) action should be taken to appoint a special commissioner or to direct that a new Municipal Council be constituted is essentially a matter in the discretion of the Minister. Mr. Pritt put forward the view that, a special commissioner having already been appointed in the present case, it is now not open to the

[1] *(1931) A. C. 494, at 503.* [2] *(1948) 1 K. B. 223.*
[3] *(1958) 59 N. L. R. 313.*

Minister to give a direction for the constitution of a new Municipal Council, and that *ad hoc* legislation would have to be enacted before a new Council can be established. He also drew attention to section 277 (4) which makes provision for any interim period that may elapse between the dissolution of a Council and, either the appointment of a special commissioner, or the constitution of a new Council. During such period the Municipal Commissioner is vested with all the rights, privileges, powers, duties and functions of the Council, the mayor or deputy mayor. Mr. Pritt urged that in view of these provisions, and also if the legal position be that with the appointment of a special commissioner the Minister put it out of his power to give directions at any future date for the constitution of a new Municipal Council, there was no need for the Minister to have precipitated the appointment. This, again, is a matter for the Minister. In the exercise of his discretion whether a special commissioner should be appointed or a new Council constituted, it is for the Minister to consider to what extent he should be influenced by the consequences that would ensue from the appointment of a special commissioner in the first instance.

Reference was also made to the fact that in 1953 on a state of emergency arising in some parts of Ceylon, including the city of Colombo, the Council was suspended for a certain period by means of a regulation made under Part II of the Public Security Ordinance, No. 25 of 1947. That regulation was published in the Ceylon Government Gazette Extraordinary No. 10,568 dated the 16th August, 1953. Mr. Pritt submitted that, as on that occasion, action should have been taken under the Public Security Ordinance to meet the situation caused by the strike and not under section 277 of the Municipal Councils Ordinance as the latter provision is, according to him, not intended to be invoked in an emergency. Assuming that the provisions of the Public Security Ordinance could have been invoked in such a situation, we do not think that what was not done under that Ordinance could possibly invalidate what was done by the Minister under the powers conferred by section 277 (1) of the Municipal Councils Ordinance, or throw doubt on the reasonableness of the exercise of those powers, or on his good faith.

In the affidavit of the Minister he has stated that on the 2nd December, 1957, it appeared to him that the Council was not competent to perform the duties imposed upon it, and that the facts on which he came to such a conclusion were set out in his speech in the House of Representatives on the 18th December, 1957, as reported in Hansard a copy of which is the document E. In that speech he has referred to the following matters : (1) the failure of the petitioner to hold a special meeting notwithstanding that (as the Minister put it) under section 19 (1) of the Municipal Councils Ordinance when a requisition is submitted by three members of the Council it is obligatory on the Mayor to hold such a meeting ; (2) the petitioner's inability or unwillingness to take any action in regard to the cessation of work at the sewage pumping stations up to the time when the military had to be called upon by the Governor-General to step into the breach, and (3) the inability or unwillingness of the petitioner

to take any action in regard to such essential services as conservancy and scavenging which had been completely interrupted since the strike commenced.

The points Mr. Pritt made in regard to this speech are : (1) that it is an entirely one-sided version designed to give the impression of the petitioner's negligence or incapacity, whereas the affidavit filed by the petitioner shows that he took such steps as were reasonably possible in regard to the emergency ; (2) that even assuming that the petitioner was negligent or incapable no allegation had been made against the Council, and there was no reason why the Council should be penalised by dissolution for the petitioner's negligence or incapacity ; and (3) that the Minister's lack of good faith is disclosed by his failure to give a word of explanation as to why he had not directed that a new Council be constituted in place of the one that had been dissolved. As regards (1), we have in an earlier part of this judgment recorded our findings as to the position on the 2nd December, 1957, resulting from the strike, and no further comment is necessary. As regards (2), we think that circumstances had arisen which rendered the Council incapable of performing the duties imposed upon it. As regards (3), the Minister was under no duty to explain, and it is not justifiable, therefore, to infer bad faith merely because he gave no explanation.

In the Minister's order dissolving the Council the ground stated for dissolution is that it appeared to him that the Council was not competent to perform the duties imposed upon it. Mr. Pritt submitted that the words " not competent to perform " in section 277 (1) of the Municipal Councils Ordinance connote "a chronic or settled state of incompetence " and are not applicable to the situation in which the Council unavoidably found itself during the short period of sixty-four hours (with a Sunday intervening) that elapsed between the commencement of the strike at midnight on the 29th November, 1957, and the making of the order of dissolution at 4 p.m. on the 2nd December, 1957. It is on this basis that he submitted that section 277 (1) did not apply to this case and that if any action had to be taken against the Council it should have been under the Public Security Ordinance.

We are unable to agree with these submissions. In our opinion the Council became " not competent " to perform the duties imposed upon it when circumstances arose that rendered it incapable of performing them. On our findings as recorded earlier the Council was not competent, in the sense explained, to perform the duties imposed on it.

Furthermore, in the view that we have taken of the Minister's functions under section 277 (1) of the Municipal Councils Ordinance, he was the sole judge as to whether the Council was not competent to perform its duties provided there was no misconstruction of the words " not competent ". This does not, however, mean that he is an arbitrary judge of that question. As pointed out by Lord Radcliffe in *Nakkuda Ali v. Jayasekera* (*supra*) words such as " Where the Controller has reasonable grounds to believe " are to be construed as imposing a condition precedent to the exercise of a power, but the value of the intended

restraint is in effect nothing if the question whether the condition has been satisfied is to be conclusively decided by the man who wields the power. It was, therefore, held in that case that the words should be treated as imposing a condition that there must in fact exist reasonable grounds known to the Controller before he can validly exercise the power of cancellation of a licence. Applying such a test in the present case, it seems to us that there were ample circumstances from which it could have appeared to the Minister that the Council was not competent to perform the duties imposed upon it.

In the result we hold that none of the grounds relied on by Mr. Pritt as invalidating the order of dissolution (such as, a wrong exercise by the Minister of the powers conferred on him, acting in excess of those powers, misconstruction of those powers, attention given to extraneous circumstances, unreasonableness, bad faith, &c.) have been made out.

The applications for writs of certiorari, mandamus and quo warranto therefore fail and are refused with costs. Both Mr. Pritt and Mr. Lawton were agreed that this was a case in which a special order for costs may be made instead of the usual order for taxed costs. The petitioner will pay to the respondent in application Nos. 12 and 13 one set of costs which we fix at rupees six thousand three hundred. The petitioner will also pay to the respondent in application No. 11 as costs the sum of rupees six hundred and thirty.

Sgd. H. W. R. WEERASOORIYA,
Puisne Justice.

Sgd. M. C. SANSONI,
Puisne Justice.

Sgd. N. SINNETAMBY,
Puisne Justice.

Applications refused.