husband. No doubt, that presumption can be rebutted by proof of his non-access during the material period. If such proof be forthcoming another presumption would arise that the child was the legitimate offspring of the first husband. But with great respect, I do not think that the learned Judge stated the law correctly when he said that "presumption of legitimacy arising from conception during a valid subsisting marriage is conclusive." The date of birth and not that of conception is the test. In the case of a dissolution not only must the birth be within 280 days but the widow should further not have re-married. I agree that the appeal should be dismissed with costs.

SETHU v. PALANI.

WALLER, J.

K.R.

APPELLATE CIVIL.

Before Mr. Justice Venkatasubba Rao and Mr. Justice Reilly.

S. K. MARIYA PILLAI AND ANOTHER (RESPONDENTS), PETITIONERS,

v.

MUTHUVELU PANDARAM (PETITIONER), RESPONDENT.*

1925, July 13.

Local Boards Act (XIV of 1920) ss. 56 and 57—Taluk Board—Meetings—Failure of member to attend meetings—Discontinuance of membership, when caused—Non-attendance for three consecutive months, not three meetings, necessary—Computation of period of three months—From date of first default—Erroneous ruling of President that there was no discontinuance—No opportunity to Board to restore member—Decision as to discontinuance, whether affected.

Under section 56 (1) (*h*) of the Local Boards Act, 1920, it is the failure of a member of a Taluk Board to attend meetings of the Board for three consecutive months, and not three consecutive meetings, that entails discontinuance of his membership.

* Civil Revision Petition No. 311 of 1924.

MARIYA PILLAI v. MUTHUVELU PANDARAM.

The period of absence for three consecutive months is to be computed from the date of his first default in attending a meeting: *Kershaw* v. *Mayor etc., of Shoreditch* (1906) 22 T.L.R., 302, followed.

The fact that, owing to an erroneous ruling of the President of the Board that there was no discontinuance of membership caused by his absence, the Board had no opportunity to exercise its power to restore the member to his office, cannot affect the decision of the Court as to the discontinuance of the membership.

PETITION under section 107 of the Government of India Act to revise the order of A. S. BALASUBRAHMANYA AYYAR, District Judge of East Tanjore at Negapatam, in Original Petition No. 6 of 1924.

The material facts appear from the Judgment. The material portion of section 56 of the Local Boards Act, 1920, is cited in the Judgment.

T. R. Ramachandra Ayyar and *K. S. Champakesa Ayyangar* for petitioners.

S. Panchanadha Mudaliyar for respondent.

JUDGMENT.

VENKATA-SUBBA RAO, J.

VENKATASUBBA RAO, J.—This Civil Revision Petition raises an interesting question. The petitioners before us are two members of the Taluk Board of Tirutturaippūndi. There was a meeting of the Board on the 6th September 1923 and they attended it. On the 19th September there was another meeting. They failed to attend it. On the 17th October there was a meeting and the petitioners were again absent. In November no meeting was convened. On the 19th December there was a meeting at which they failed to be present. On the 17th January 1924, a meeting was convened and the petitioners attended it. The question that we have to decide is, did the petitioners cease to hold office by reason of the fact that they failed for three consecutive months to attend the meetings of the Local Board?

Section 56 (1) (*h*), so far as it is relevant to the present point, reads thus:

"Subject to the provisions of section 57, a member of a Local Board shall cease to hold his office, if he

(*h*) fails for three consecutive months to attend the meetings of the Local Board."

The words are "three consecutive months," not "three consecutive meetings." The first default occurred on the 19th September 1923. Computing three months from that date, it is obvious that the petitioners failed for three consecutive months to attend the meetings of the Board. That the period is to be computed from the date of the first default is settled by *Kershaw* v. *Mayor, etc., of Shoreditch*(1).

Schedule 2, rule 1, enacts:

"Every Local Board shall meet for the transaction of business at least once in two months."

This fixes merely the minimum and there is nothing to prevent the Local Board from meeting more often, say twice a month, if it chooses to do so. In this case, it met twice in September. The default having occurred on the 19th September, three months must be reckoned from that date.

A difficulty was suggested and it may be put in the form of an illustration. Supposing the Local Board does not meet in January, meets in February, does not meet in March; there is only one meeting held during the three months and it is asked, in such a case, does the sub-section apply? The answer is perfectly clear. The sub-section uses the word "meetings" and not "meeting." There must therefore be at least two meetings which a member has failed to attend and section 56 (*h*) will not otherwise apply.

If, on the other hand, the three months should be computed not from the date of the default, but the construction is that the month should be excluded when the petitioners attended a meeting (in this case the month of

(1) (1906) 22 T.L.R., 302.

MARIYA PILLAI v. MUTHUVELU PANDARAM.

VENKATA-SUBBA RAO, J.

September); even then they committed default, because they failed for three consecutive months, October, November and December, to attend the meetings of the Board.

Another contention has been urged on behalf of the petitioners and it has reference to sub-section (4) of section 56 which runs thus:—

"In the case of a person who has ceased to be a member in consequence of failure to attend meetings, the matter shall be reported by the President at the next meeting of the Local Board, which may at that meeting restore such person to office."

It has been contended that this provision has not been complied with. The President reported to the meeting that the petitioners had failed to attend meetings for three consecutive months. But he gave a ruling at that meeting that they did not forfeit their seats on that account. It is argued that the petitioners were thus deprived of an opportunity of having the question of their reinstatement considered. I cannot accept this contention. The result has been unfortunate, but as I hold that they did commit default, the fact that the petitioners easily acquiesced in the wrong ruling of the President, which happened to be in their favour, does not absolve them.

In the result, I am of the opinion that the decision of the District Judge is correct and the Civil Revision Petition is accordingly dismissed. We desire to make no order as to costs because the question raised is novel and of some difficulty and the petitioners have not acted improperly in taking the matter to this Court.

REILLY, J.

REILLY, J.—I agree that the petitioners ceased to hold office as members of the Taluk Board of Tirutturaippūndi because they failed to attend the meetings of that Board for three consecutive months from the 19th September 1923. I understand the expression "three consecutive months" in section 56 (1) (*h*) of the Act to

be equivalent to a period of three months. I do not think that the question whether the President of the Board reported the failure of the petitioners to attend the meetings of the Board—as he should have done under section 56 (4) of the Act—can affect the question whether they had or had not ceased to be members of the Board. I agree that the petition must be dismissed.

K.R.

APPELLATE CIVIL.

Before Mr. Justice Wallace and Mr. Justice Madhavan Nayar.

THE SECRETARY OF STATE FOR INDIA IN COUNCIL (PETITIONER), APPELLANT,

1926, January 4.

v.

SARVEPALLI VENKATA LEKSHMAMMA, RESPONDENT (PLAINTIFF), RESPONDENT.*

Civil Procedure Code (Act V of 1908), O. XXXIII, r. 10, O. XXI, rr. 54 and 66, and sec. 60 (n)—Suit in forma pauperis—Suit for future maintenance—Decree for plaintiff—Court-fee payable to Government from plaintiff—Application by Government for execution in respect of Court-fee—Application for attachment of the charge for future maintenance created by the decree—Attachment and sale of the charge, whether permissible—Proper method to recover Court-fee—Receiver to be appointed by Court—Payment by instalments.

The Government can recover the Court-fee decreed as payable to it by a pauper plaintiff, even when the plaintiff's property is confined to a right to future maintenance; and the proper method of recovering such Court-fee is by the Court appointing a Receiver to collect the maintenance amount and pay to Government (by instalments, if necessary, in order that plaintiff may have something to live upon) the Court-fee due by the plaintiff.

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* Appeal against Order No. 186 of 1924.