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[VASSILIADES, P., TRIANTAFYLLIDES, JOSEPHIDES,  
STAVRINIDES, HADJIANASTASSIOU, JJ.]

ANDREAS  
KOULLAPIDES  
LTD.  
AND OTHERS  
v.  
MUNICIPALITY  
OF NICOSIA

ANDREAS KOULLAPIDES LTD. AND OTHERS,  
*Appellants,*  
v.  
THE MUNICIPALITY OF NICOSIA,  
*Respondent.*

(*Criminal Appeals Nos. 2934–2937*).

*Municipal Corporations Law, Cap. 240—Section 172—Cap. 240 ceased to be in force on December 31, 1962—Section 172 thereof, along with a great number of other sections of the said statute, re-enacted in December, 1964, by means of section 8 (2) of the Municipalities Law, 1964 (Law No. 64 of 1964) of which the whole text is in Greek—Held to have been validly re-enacted notwithstanding that the said sections of Cap. 240 have not been promulgated—Legislating by reference on this occasion held not to offend against the Constitution—Articles 3, 52 and 189 thereof—Convictions based on said section 172 (on charges relating to failure to pay weighing fees etc. etc.) sustained by the Supreme Court on appeal.*

*Constitutional Law—Legislation by reference—Promulgation of laws—Articles 3 and 52 of the Constitution—Promulgation of laws should be made in the official languages of the Republic—Article 3—Re-enactment by reference of legislation that ceased to be in force some time after Independence—Such legislation originally enacted in English before Independence under the British rule—Only the actual text in Greek of the re-enacting statute itself as voted by the House of Representatives has to be promulgated—Article 189 of the Constitution not applicable—The case of Mayor, etc. etc. of Famagusta and Petrides and Others, 4 R.S.C.C. 71, followed.*

*Legislation by reference—See supra.*

*Re-enactment of a statute drawn up in English—By means of a statutory provision in Greek passed by the House of Representatives—No promulgation of the statute so re-enacted—No constitutional impropriety in the said process—See further ante, passim.*

*Promulgation of Laws—See supra passim.*

*Languages—Official languages—Article 3 of the Constitution—See ante passim.*

*Weighing fees and germane matters—See ante under Municipal Corporations Law, Cap. 240.*

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The appellants in these four consolidated appeals challenge their conviction on charges that on various dates in January, 1966, within the municipal limits of Nicosia, they did sell flour without complying with the statutory provisions regarding payment to the municipality of the prescribed weighing fees. Their convictions were all based on section 172 of the Municipal Corporations Law, Cap. 240. Now, Cap. 240 enacted in English prior to the establishment of the Republic of Cyprus (August 16, 1960) ceased to be in force on December 31, 1962. But section 172 together with a great number of other sections of Cap. 240, was re-enacted, by reference, by means of section 8 (2) of the Municipalities Law, 1964 (Law No. 64 of 1964 enacted and promulgated in Greek on December 1, 1964).

The basic argument put forward by counsel on behalf of the appellants was that the convictions in question should be set aside on the ground that section 172 of Cap. 240 (*supra*) on which they were based was not validly in force at the material time because it was not duly promulgated in accordance with the Constitution (Articles 3 and 52, *infra*).

It was common ground that the texts (in English) of those sections of Cap. 240, including section 172 thereof, which have been re-enacted as aforesaid by section 8 (2) of Law 64/64 (*supra*), were not promulgated together (or, indeed, at all) with that re-enacting Law; on the other hand, the same Law 64/64 provides expressly that all such sections of Cap. 240 so re-enacted—and which sections continue to remain in English—are deemed to form part of the new Law 64/64, the whole text of which as promulgated is, of course, in Greek. In the result, we have, thus, what counsel for the appellants called a statutory Anglo-Greek mosaic, where the sections in English (those of Cap. 240 *supra*) outnumber those in Greek. It should be noted that under Article 3 of the Constitution the official languages of the Republic are the Greek and the Turkish.

It was argued by counsel for the appellants that in view of Articles 3 and 52 of the Constitution (*infra*) read together with Article 189 (*infra*), all the aforesaid provisions of Cap. 240, re-enacted by Law 64/64 (*supra*) ought to have been

promulgated in Greek ; counsel further submitted that there were no valid reasons which would render permissible the adoption on this occasion of the technique of legislating by reference in such a manner and to such an extent:

Articles 3 and 52 of the Constitution read as follows :

Article 3 :

“ 1. The official languages of the Republic are Greek and Turkish.

2. Legislative, executive and administrative acts and documents shall be drawn up in both official languages and shall, where under the express provisions of this Constitution promulgation is required, be promulgated by publication in the *Official Gazette* of the Republic in both official languages.

3. Administrative or other official documents addressed to a Greek or a Turk shall be drawn up in the Greek or the Turkish language respectively.

4. Judicial proceedings shall be conducted or made and judgments shall be drawn up in the Greek language if the parties are Greek, in the Turkish language if the parties are Turkish, and in both the Greek and the Turkish languages if the parties are Greek and Turkish. The Official language or languages to be used for such purposes in all other cases shall be specified by the Rules of Court made by the High Court under Article 163.

5. Any text in the *Official Gazette* of the Republic shall be published in both official languages in the same issue.

6. (1) Any difference between the Greek and the Turkish texts of any legislative, executive or administrative act or document published in the *Official Gazette* of the Republic, shall be resolved by a competent Court.

(2) The prevailing text of any law or decision of a Communal Chamber published in the *Official Gazette* of the Republic shall be that of the language of the Communal Chamber concerned.

(3) Where any difference arises between the Greek and Turkish texts of an executive or administrative act or document which, though not published in the official

*Gazette* of the Republic, has otherwise been published, a statement by the Minister or any other authority concerned as to which text should prevail or which should be the correct text, shall be final and conclusive.

(4) A competent Court may grant such remedies as it may deem just in any case of a difference in the texts as aforesaid.

7. The two official languages shall be used on coins, currency notes and stamps.

8. Every person shall have the right to address himself to the authorities of the Republic in either of the official languages.”

Article 52 :

“ The President and the Vice-President of the Republic shall, within fifteen days of the transmission to their respective offices of any law or decision of the House of Representatives, promulgate by publication in the official *Gazette* of the Republic such law or decision unless in the meantime they exercise, separately or conjointly, as the case may be, their right of veto as in Article 50 provided or their right of return as in Article 51 provided or their right of reference to the Supreme Constitutional Court as in Articles 140 and 141 provided or in the case of the Budget their right of recourse to the Supreme Constitutional Court as in Article 138 provided.”

Article 189 of the Constitution provides :

“ Notwithstanding anything in Article 3 contained, for a period of five years after the date of the coming into operation of this Constitution—

(a) all laws which under Article 188 will continue to be in force may continue to be in the English language ;

(b) .....

The argument based on Article 189 of the Constitution was to the effect that if the aforesaid re-enacted sections of Cap. 240 (in English) were allowed to stand then a rather odd state of affairs would arise, that is to say:—Whereas the statutes (all in English) enacted in Cyprus under the British rule and which under Article 188 of the Constitution continued

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in force after Independence Day, have to be brought into Greek within the five years' period prescribed by Article 189 (*supra*), on the contrary the numerous sections of Cap. 240 (in English) re-enacted by Law 64/64 as aforesaid would without any constitutional impropriety continue to be in force after that five years' period as they stand (*viz.* in English), for the very simple reason that Article 189 of the Constitution does not apply to Laws enacted or re-enacted after Independence *i.e.* under the regime of the Republic of Cyprus.

The Court rejected all the above submissions made by counsel for the appellants—including the submission that *Petrides'* case (*infra*) is distinguishable from the cases now in hand—and, following that case *i.e. Mayor of Famagusta and Petride and Others*, 4 R.S.C.C. 71, dismissed the appeals and :—

*Held*, (1). In our opinion the case *Mayor, etc. of Famagusta and Petrides and Others*, 4 R.S.C.C. 71 is a precedent on the point in issue in these appeals with which we see no reason to disagree ; it was laid down thereby that what has to be promulgated in the *Official Gazette*, according to the relevant constitutional provisions (Articles 3 and 52 of the Constitution) is only “ the actual text of a legislative act itself as voted by the House of Representatives ” and not, also, any provisions of another Law re-enacted by means of reference to them in a new Law.

(2) We do not share the view of counsel for the appellants that the present cases are distinguishable from the *Petrides'* case (*supra*) in that when Law 64/64 (*supra*) was enacted Cap. 240 was no longer in force, unlike the position in the *Petrides'* case, which again involved re-enactment by reference of provisions of Cap. 240. (Editor's note : *Petrides'* case refers to a state of affairs after Independence Day, August 16, 1960, but prior to December 31, 1962 when Cap. 240 ceased to be in force as aforesaid). We are of the opinion that the *ratio decidendi* of the *Petrides'* case applies with equal force to the re-enactment by reference of a provision which is in force and of one which has previously ceased to be in force.

(3) Nor do we agree with counsel for the appellant that in the present instance there was excluded, by Article 189 of the Constitution, the re-enactment by reference of provisions the text of which was still in English. This Article is a transitional provision which could never have been

intended to apply to such a contingency ; it merely provides for certain exceptions from the operation of Article 3 of the Constitution which exceptions cannot affect our already expressed view regarding the relevant effect of Article 3.

*Appeals dismissed.*

Cases referred to :

*The Mayor, etc., of Famagusta and Petrides and Others,*  
4 R.S.C.C. 71.

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### **Appeals against conviction.**

Appeals against conviction by Andreas Koullapides Ltd. and Others who were convicted on the 28th June, 1967, at the District Court of Nicosia (Criminal Case Nos. 2482/66, 2485/66 and 2486/66) on several counts of the offence of selling flour within the municipal limits without informing the municipal weigher that same was ready and required to be weighed, contrary to section 8(2) of the Municipal Corporations Law, 1964 (Law 64 of 1964) and section 172 (1) and (2) of the Municipal Corporations Law, Cap. 240 and were sentenced to pay a fine of £0.250 mils on each count and they were further ordered to pay the fees payable in respect of each count.

*Fr. Markides*, for the appellants.

*K. Michaelides*, for the respondent.

*K. Talarides*, Senior Counsel of the Republic, for the Attorney-General as *amicus curiae*.

VASSILIADES, P.: Mr. Justice Triantafyllides will deliver the judgment of the Court.

TRIANTAFYLLIDES, J.: The appellants in these four consolidated appeals attack their convictions on charges—(several in the case of each appellant)—that, on various dates in January, 1966, within the municipal limits of Nicosia, they did sell flour without informing a municipal weigher that such flour was ready and required to be weighed, and without such flour having been weighed by a municipal weigher.

Such convictions were based on section 172, of the Municipal Corporations Law (Cap. 240), which, together with a great number of other provisions of Cap. 240—

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(which ceased to be in force as from after the 31st December, 1962)—was re-enacted, by reference, by means of section 8 (2) of the Municipalities Law, 1964 (Law 64/64).

The basic submission of learned counsel for the appellants has been that the convictions ought to be set aside because, at the material time, the said section 172—(like all the other provisions concerned of Cap. 240)—was not validly in force in view of the fact that its text had not been duly promulgated in accordance with the Constitution.

It has been argued by counsel for the appellants that Articles 3 and 52 of the Constitution rendered necessary the promulgation of the texts of the said provisions of Cap. 240 ; moreover, counsel submitted that there did not exist circumstances rendering permissible the adoption on this occasion of the course of legislation by reference in such a manner and to such an extent.

It is not in dispute that the texts of the provisions in question of Cap. 240, including section 172 thereof, which were re-enacted by means of section 8 (2) of Law 64/64, are still in English only and they were not promulgated together with Law 64/64.

In our opinion the case of the *Mayor etc. of Famagusta and Petrides and Others* (4 R.S.C.C. 71) is a precedent on this point with which we see no reason to disagree ; it was laid down thereby that what has to be promulgated in the *Official Gazette*, according to the aforesaid constitutional provisions, is only “ the actual text of a legislative act itself as voted by the House of Representatives ” and not also any provisions of another Law re-enacted by means of reference to them in a new Law.

We do not share the view of counsel for the appellants that the present cases are distinguishable from the *Petrides* case (*supra*) in that when Law 64/64 was enacted Cap. 240 was no longer in force, unlike the position in the *Petrides* case, which again involved re-enactment by reference of provisions of Cap. 240. We are of the opinion that the *ratio decidendi* of the *Petrides* case applies, with equal force, to the re-enactment by reference of a provision which is in force and of one which has previously ceased to be in force.

Nor do we agree with counsel for the appellants that in the present instance there was excluded, by Article 189 of the Constitution, the re-enactment by reference of provisions the text of which was still in English. This Article

is a transitional provision which could never have been intended to apply to such a contingency ; it merely provides for certain exceptions from the operation of Article 3 which—exceptions—cannot affect our already expressed view regarding the relevant effect of Article 3.

It was not contended that Law 64/64 (including its section 8 (2)) was not duly promulgated and, therefore, in the light of the foregoing, we find no merit in the contention that section 172 of Cap. 240 was not duly in force at the material time.

Finally, we would like to observe that, bearing in mind the nature of Law 64/64, and the particular circumstances in which it was enacted, we are of the view that resort to the method of legislation by reference was properly made, especially as the provisions concerned of Cap. 240, which were incorporated by reference into Law 64/64, must have been well known to all concerned, because such provisions have been on the statute-book for quite some decades and are to be found, too, in the latest—(the 1959)—codification of the Laws of Cyprus.

For these reasons these appeals fail and are dismissed.

*Appeals dismissed.*

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