

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ANSOR CORPORATION,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH

1. THE ATTORNEY-GENERAL OF THE REPUBLIC,
2. THE OFFICIAL RECEIVER AND REGISTRAR,

Respondents.

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(Case No. 29/69).

Patent—Foreign patent—Patent sealed in the United Kingdom—Application for the registration thereof in Cyprus filed after the expiration of three years from the date of sealing—Refused on the ground that it was presented out of time—Rightly refused—Section 4 of the Patents Law, Cap. 266—Article 4(2) and (3) of the International Paris Convention for the Protection of Industrial Property (ratified by our Law No. 63 of 1965) and English Trade Marks Rules not applicable to the present case—Cf. section 9(1) of Cap. 266 (supra); Patents Rules, rules 6, and 28; English Patents Rules 1958, rules 6, 148 and 149—Section 4 of Cap. 266 (supra) not contrary to Article 28.1 and 2 of the Constitution—Comparison with provisions of the Foreign Judgments (Reciprocal Enforcement) Law, Cap. 10.

Constitutional Law—“Equal before the law” and “Discrimination” in paragraphs 1 and 2, respectively, of Article 28 of the Constitution—Meaning scope and effect of those words.

Equality—Principle of—Article 28.1 of the Constitution.

Discrimination—Principle against—Article 28.2 of the Constitution.

Constitutionality of legislation—Judicial control of the constitutionality of statutes—General principles applicable in that regard.

Constitutionality of legislation—Patents Law, Cap. 266, section 4—Provisions thereof (and particularly the time limit of three years provided therein) not repugnant to the provisions of Article 28.1

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and 2 of the Constitution, entrenching the principles of equality and of non-discrimination.

Patents Law, Cap. 266, section 4—Not contrary to Article 28.1 and 2 of the Constitution—See, also, hereabove.

Words and Phrases—“Equal before the law”, “discrimination” in paragraphs 1 and 2, respectively of Article 28 of the Constitution.

By this recourse under Article 146 of the Constitution the Applicant corporation is challenging the validity of the decision of the Registrar of Patents (Respondent 2) dated November 13, 1968 whereby he refused the corporation's application for registration of a patent in Cyprus under the provisions of the Patents Law, Cap. 266.

Section 4 of the Patents Law, Cap. 266 provides:

“ Any person being the grantee of a patent..... in the United Kingdom or..... may apply within three years from the date of the sealing of the patent to have such patent registered in the Colony (Now Republic of Cyprus).....”

It is common ground that the Applicant corporation are the grantees of the British Patent No. 999,213 which was sealed in the U.K. on the 10th of November 1965 and that their application for registration of the said Patent in Cyprus was filed or delivered to the Registrar of Patents on the 12th November, 1968. By letter dated November 13, 1968 the Registrar wrote to the Applicants informing them “that the said application cannot be accepted as it was delivered to me on the 12th November, 1968, and is therefore outside the three years period provided for in section 4 of the Patents Law, Cap. 266. The said Patent was registered in U.K. on the 10th November, 1965 and consequently the last date for applying to have it registered in Cyprus is the 9th of November 1968”.

It was contended on behalf of the Applicant corporation that the decision of the Registrar was taken under a misconception of the facts and of the Law: (a) because the 9th day of November was a Saturday and the Registrar ought not to have taken that date in consideration for the purpose of computing the period of three years; (b) in taking his decision the Registrar ought to have relied and followed by analogy the English Rules of Trade Marks and our Law No. 63 of 1965

which has adopted and ratified the International Convention of Paris for the Protection of Industrial Property; (c) having regard to the fact that the application, although delivered to the Registrar on November 12, 1968, was in fact "made" the previous day November 11, the Registrar ought, in view of rule 6 of the Patent Rules (see *post* in the judgment), to have considered that the application was made within the period of three years as provided by section 4 of Cap. 266 (*supra*), in as much as Sunday November 10, 1968, is a public holiday (see the Patents Rules 1958, S.L. 1958 No. 73 r. 148, 149, *post* in the judgment). It is not disputed that Saturday November 9, and Monday, November 11, 1968 are working days in Cyprus.

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Counsel for the Applicants further contended that, in any event the provision of section 4 of the Patents Law, Cap. 266, limiting the time, within which an application for registration in Cyprus of a patent should be made, to three years is contrary to Article 28.1 of the Constitution, because it discriminates in an unfair and unreasonable manner against persons entitled to be registered, as compared to persons who have in essence similar property rights, such as judgment creditors in a judgment given in a foreign country to which the provisions of the Foreign Judgments (Reciprocal Enforcement) Law, Cap. 10, have been extended, the period being in this connection six years.

Dismissing the recourse the Court:—

Held, (1). I have reached the conclusion that the decision of the Registrar, viz. that the application for registration was presented out of time, was not taken contrary to the provisions of section 4 of the Patents Law, Cap. 266, because the time prescribed in that section for filing the application is the period of the three years from the date of the sealing of the patent in the U.K. in the present case from November 10, 1965.

(2) The argument put forward by counsel that the Registrar ought to have relied on and followed by analogy, the English Rules of Trade Marks, is untenable because those Rules are dealing with an entirely different matter and because the period within which an application for registration of a patent must be made has been already fixed by section 4 of the Patents Law, Cap. 266.

(3) Because of the emphasis placed by counsel on the word "made", I would like to state that the word appears also in the English and Cyprus Rules of Patents. (See rule 6 in both).

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But, needless to say, that the argument put forward that the application was “made” earlier than the date it was filed, does not carry the case of the Applicant any further, because our Rule 6 (*supra*) applies to those cases only when the application is sent to the Registrar through the post (which is not the case here). (See rule 6 of the Patent Rules, *post* in the judgment).

Held: As to the question of the alleged unconstitutionality of section 4 of the Patents Law, Cap. 266.

(1) The term “equal before the law” in paragraph 1 of Article 28 of the Constitution does not convey the notion of exact arithmetical equality but it safeguards only against arbitrary differentiations and does not exclude reasonable distinctions which have to be made in view of the intrinsic nature of things. Likewise the term “discrimination” in paragraph 2 of the same Article does not exclude reasonable distinctions as aforesaid (*Argiris Mikrommatis and The Republic*, 2 R.S.C.C. 125 at p. 131 followed).

(2) In considering the question of constitutionality of section 4 of Cap. 266 (*supra*) I would adopt and follow the principles laid down by Mr. Justice Josephides in the case of *The Board for Registration of Architects and Civil Engineers v. Christodoulos Kyriakides* (1966) 3 C.L.R. 640 at pp. 654–55.

(3) Having considered carefully the authorities, I have reached the conclusion that the Applicants have failed to satisfy me beyond reasonable doubt that section 4 of the Patents Law, Cap. 266 is unconstitutional. I am not prepared to interfere with the wisdom of the policy adopted by the legislature. It is quite clear, in my view, that the period of six years with regard to registration of foreign judgments under Cap. 10 (*supra*) relates to an entirely different subject and that, therefore, it was open to the legislator to regulate differently the periods of time regarding different subjects.

Application dismissed with costs.

Cases referred to:

Mikrommatis and The Republic, 2 R.S.C.C. 125 at p. 131;

Board for Registration of Architects and Civil Engineers v. Kyriakides (1966) 3 C.L.R. 640 at pp. 654–55.

Recourse.

Recourse against the decision of the Respondent Official Receiver and Registrar refusing an application for registration of a patent in Cyprus under the provisions of the Patents Law; Cap. 266.

D. Themistocleous with G. Nicolaidis, for the Applicant.

K. Talarides, Senior Counsel of the Republic, for the Respondents.

Cur. adv. vult.

The following judgment was delivered by:-

HADJIANASTASSIOU, J.: In this recourse, counsel on behalf of the Applicant, Ansor Corporation, a corporation organised under the Laws of the State of Delaware, seeks an order, under Article 146 of the Constitution, to declare a decision of the Registrar dated November 13, 1968, refusing an application for registration of a patent in Cyprus, under the provisions of the Patents Law, Cap. 266, as *null and void*.

The grounds on which the order is sought, are that the Registrar wrongly applied the provisions of section 4 of the Patents Law as the application to have the patent registered was filed within the period of three years from the date of the sealing of the patent in the United Kingdom.

The Applicant company is the grantee of a patent, No. 999,213, for the production of metallic copper powder and ammonium sulphate from copper sulphate solutions. The patent was sealed in the United Kingdom on November 10, 1965. There is no dispute that the application to register the patent in Cyprus has been filed with the Registrar after the period of three years has expired. See the statutory declaration, *exhibit 1*.

The decision of the Registrar of Patents is contained in a letter dated November 13, 1968, addressed to Messrs. Themistocleous & Co., Patent and Trade Marks agents of the Applicant company in Cyprus. The letter reads as follows:-

“ With reference to your application on Form Pat 2 of the Patent Rules, for the registration in Cyprus of the above Patent, I wish to inform you that the said applica-

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tion cannot be accepted as it was delivered to me on the 12th November, 1968, and is therefore outside the three years period provided for in section 4 of the Patents Law, Cap. 266.

The said Patent was registered in U.K. on the 10th November, 1965, and consequently the last date for applying to have it registered in Cyprus is the 9th November, 1968.”

On January 24, 1969, the Applicant company, feeling aggrieved from the said decision of the Registrar, filed the present recourse. The opposition was filed on April 2, 1969, and was based on the following grounds of law:—

1. The decision of the Registrar of Patents to refuse registration of a patent in the name of the Applicants submitted to him on the 12th November, 1968, was properly and lawfully taken under section 4 of the Patents Law, Cap. 266.
2. The provisions of section 4 of Cap. 266 were correctly applied as the application to have the patent in question registered in Cyprus was not filed within three years from the date of the sealing of the patent in the United Kingdom.
3. The provisions of section 4 and in particular the period of three years therein mentioned are not unconstitutional. The Applicant is given equal treatment by the Patents Law, Cap. 266 as that given to any other person and no discrimination has been adversely exercised against him in the particular case.

I propose taking the facts shortly from the sworn statutory declaration dated January 17, 1969, of Mr. Frederick Bernard Briggs, Chartered Patent Agent, and a partner in the firm of Elkington and Fife of London.

“2. In accordance with instructions received from our United States Associates Messrs. Kenyon & Kenyon of 59, Maiden Lane, New York, N.Y. 10038, United States of America, I instructed our Records Department to order from the British Patent Office two prints of British Patent No. 999,213 and to obtain the Comptroller’s certification of these prints in accordance with the requirements for the Registration of a British Patent in Cyprus.

3. The obtaining of prints from the British Patent Office can take three or four days and once these prints were obtained they were immediately submitted for certification by the Comptroller but unfortunately this procedure is subject to considerable delay. We were in constant communication with the Patent Office in an attempt to obtain these certified Specifications quickly but in fact we were informed by the British Patent Office only on the 8th November, that the prints would be available for us on the 11th November.

4. British Patent No. 999,213 was sealed on the 10th November, 1965, and therefore as I understood the situation it was necessary to apply for the Registration of this Patent in Cyprus not later than the 10th November, 1968, but since that date fell on a Sunday I understood that a valid Application could be made on Monday the 11th of November.

5. During the week-end of the 9th and 10th November enquiries were made of British European Airways with a view to arranging for the transit of these Specifications to Cyprus on the morning of the 11th November immediately they were received from the British Patent Office and we were advised by BEA that these documents could be sent to Nicosia by air-freight on BEA flight 264 leaving London Airport in the morning of the 11th November.

6. The certified copies of the Specification were obtained from the British Patent Office soon after 10 a.m. on the morning of the 11th November and were immediately sent by taxi to London Airport where they were placed on BEA flight 264 to Nicosia.

7. Immediately I was informed that the Specifications had been accepted by BEA I attempted to telephone our correspondent in Cyprus, Dem. D. Themistocles & Co. and advise them that the Specifications were on the way to Nicosia and that they should be collected from Nicosia Airport and immediately filed in the Patent Office in Nicosia. However, I was informed by the Telephone Exchange in Nicosia that no reply could be obtained from the office of Dem. D. Themistocles & Co. and I was advised quite definitely by the Exchange in Nicosia

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that this was in all probability due to the fact that the 11th November, was a public holiday in Cyprus.

8. In view of this information we passed instructions to BEA London informing them that the documents then on the way to Nicosia should be retained in Nicosia Airport for collection on the 12th November.

9. In accordance with this new situation I caused to be sent to our associate in Cyprus a cable informing him that the documents would reach Cyprus on the 11th November and instructing him to arrange collection on the 12th November and immediate filing in the Patent Office. My cable referred to the fact that we understood that Monday the 11th November was a public holiday.

.....
11. At that time it was my understanding that since the final day for the Registration of this British Patent fell on a Sunday that it would normally be allowable to file the Registration on the subsequent Monday i.e. on the 11th November but, since I had been informed that this was a public holiday, I assumed that a valid Application for the Registration could be made on the following day, i.e. the 12th November. When I was therefore informed on the telephone that the documents were being filed in Nicosia on the 12th November I was satisfied that a valid Application for Registration had been made.

.....
14. I can offer no explanation as to why I was unable to contact the office of Themistocles & Co. on the 11th November nor can I explain the false information given to me by the Telephone Exchange in Nicosia with regard to the 11th November being a public holiday in Cyprus. Every possible effort was made by this office to ensure that the Certified Copies of the Specification were available in Cyprus within what I understood to be the statutory period for the filing of an Application for Registration and the failure to present these documents in good time resulted from factors over which we, our United States associates and of course the Patentee had no direct control.”

I find it convenient to deal first with certain sections of the

Patents Law, before dealing with the submission of counsel for the Applicants.

Section 4 provides for an application for registration of a patent, and is in these terms:-

“ Any person being the grantee of a patent (which expression shall include a patent of addition) in the U.K. or any person deriving his right from such grantee by assignment, transmission or other operation of the law, may apply within three years from the date of the sealing of the patent to have such patent registered in the Colony....”.

Section 9(1) deals with the power of the Supreme Court, and it reads:-

“ Subject to the provisions of this Law, the Law relating to patents for the time being in force in the United Kingdom shall, in so far as circumstances admit, apply to the Colony and the Supreme Court shall have power in accordance with such law to grant either absolutely or on such terms and conditions as shall seem just all remedies to which any person may be entitled within the Colony in respect of either claim to or defence of any right, title or interest in relation to any letters patent in force under a certificate granted under this Law.”

It would be added that the Patents Law continued in force after the establishment of the Republic and, therefore, under Article 188, any reference to the Colony of Cyprus shall, in relation to any period beginning on or after the date of coming into operation of this Constitution, be construed as a reference to the Republic.

Pausing there, it would be observed, that this section 9 introduces the English Law relating to patents for the time being in force in the U.K., but of course subject to the provisions of our own law.

Rule 19 gives power to the Governor in Council to make rules:

- “(a) prescribing the forms to be used under this Law;
- (b) providing for and regulating the search and inspection of the register;

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- (c) otherwise regulating the practice of registration under this Law;
- (d) prescribing and regulating the publication of any documents or applications filed or presented, or of any of the several matters done or required to be done in pursuance of this Law;
- (e) prescribing the fees and fixing the charges to be made for any act, matter or thing under this Law to be done or observed; and
- (f) generally for the better carrying into effect of the provisions of this Law.”

It would be constructive to observe that since the 7th November, 1924, under section 4 of the Patents Law, Cap. 200, the period for registering a Patent in Cyprus was again three years.

Counsel for the Applicant—who no doubt is fully aware of his difficulties—has contended (a) that the decision of the Registrar that the application was delivered to him outside the period of three years was taken under a misconception of the real facts and of the law; because the 9th day of November was a Saturday, and he ought not to have taken that date into consideration for the purpose of computing the period of three years; (b) that the Registrar, in taking his decision, ought to have relied and followed by analogy the English Rules of Trade Marks and our Law 63/65, which has adopted and ratified the International Convention of Paris for the Protection of Industrial Property; (c) that having regard to the fact that the application was made on the 11th November, the Registrar ought to have considered that the application was made within the period of three years, as provided by s. 4 of the Patents Law, irrespective of the fact that the application was delivered on the 12th.

In the light of these submissions, I consider it constructive to deal in brief with the legislation regarding patents in the United Kingdom. The position appears in Halsbury's Laws of England, 3rd ed. Vol. 29 at p. 189:

“The current legislation relating to patents consists primarily of the Patents Acts 1949, 1957 and 1958, the principal Act being the Patents Act, 1949, which came

into force on 1st January, 1950, and consolidated the bulk of the pre-existing patent law as laid down by the Patents and Designs Act, 1907, and a long series of amending Acts ending with the Patents and Designs Act, 1949. The Patents Act, 1949, does not, however, form a complete code. Many of the expressions in it are only intelligible by reference to decisions under earlier Acts, whilst parts of the law of patents have little statutory basis. Details of Patent Office procedure are in large part laid down by the Patents Rules, 1958 and 1959, made under the Patents Act, 1949; but here also the legislation is not a complete code, many matters being covered by rules of practice”.

With this in mind, I turn to the Patents Rules, 1958, rule 6, which provides machinery to facilitate applications by post. In effect, the Rule requires that any notice required or authorised to be given by or under the Patents Acts, 1949, 1957 and 1958, and any application or other document so authorised or required to be made or filed, may be given, made or filed by post; and any notice, application or other document sent to the Patent Office by post is deemed to have been given, made or filed when the letter containing the document would be delivered in the ordinary course of post.

Pausing there for a moment, it would be observed that our own Rule 6 of the Patents Rules has substantially adopted the English Rule. It reads:—

“ Any application, statement, notice or other document authorized or required to be left, made or given at the office or to or with the Registrar, or with or to any other person may be sent through the post by a prepaid letter; any document so sent shall be deemed to have been delivered at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.”

Where the time for doing anything expires on a day on which the Patent Office is deemed to be closed for that purpose, that time is extended to the next following day on which the office is not so closed. See the Patents Rules, 1958, S.L. 1958, No. 73 r. 148, 149.

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With regard to the hours of inspection, our own Rule 28 provides that the office shall be open to the public every week day, except public holidays, during Government office hours.

I would like to reiterate once again, that the rules are made subject to the Patents Law, and unless our law permits, the Registrar has no power to extend the prescribed time, where the law requires a time to be prescribed.

It is not in dispute that Saturday is a working day, and that the 11th November, 1968, which was a Monday, was not a public holiday in Cyprus.

Having given my best consideration to the contention of counsel for the Applicants, I have reached the conclusion that the decision of the Registrar, viz. that the application was presented out of time, was not taken contrary to the provisions of s. 4 of our Patents Law, because the time prescribed in that section for filing the application is the period of three years from the date of the sealing of the patent in the United Kingdom.

As regard the further argument of counsel, that the Registrar, in taking his decision, ought to have relied and followed by analogy the English Rules of Trade Marks, with the greatest respect, his argument is untenable, because the Rules of Trade Marks are dealing with an entirely different matter, and because we have our own rules with regard to patents. I quite agree, of course, that our own rules are silent on this point, but for obvious reasons, because the period under which an application must be made for registering a patent in Cyprus, has been already provided by s. 4 of our law.

Because of the emphasis placed by counsel on the word "made", I would like to state that the word appears also in the English and Cyprus Rules of Patents. (See r. 6 in both sets of Rules). But, needless to say, that the argument put forward that the application was made earlier does not carry the case of the Applicant any further, because our Rule 6 applies to those cases only when the application was sent to the Registrar through the post.

As regards the argument that the Registrar should have exercised his powers to register the foreign patent, relying under the provisions of our Law 63/65, which has adopted and ratified the International Paris Convention for the Protec-

tion of Industrial Property, I am again of the view that Article 4 does not apply to the present case; and I agree with counsel for the Respondent, that it applies only to the priorities of a person who has duly filed an application for a patent.

Article 4(2) & (3) reads:-

“(2) Every filing that is equivalent to a regular national filing under the domestic law of any country of the Union or under international bilateral or multilateral treaties concluded between several countries of the Union shall be recognised as giving rise to a right of priority.

(3) By a regular national filing is meant any filing that is adequate to establish the date on which the application was filed in the country concerned, whatever may be the outcome of the application.”

For the reasons I have endeavoured to advance, I would dismiss the submission of counsel for the Applicants, because, in my view, the decision of the Registrar was not made contrary to section 4 of our Patents Law, Cap. 266.

Counsel has further contended that the provisions of section 4 of the Patents Law, Cap. 266, limiting the time within which a patent should be registered in Cyprus to 3 years, are unconstitutional, and are contrary to Article 28.1 of the Constitution, because it discriminates in an unfair and unreasonable manner against persons entitled to be registered, as compared to persons who have in essence similar property rights, such as judgment creditors in a judgment in a foreign country to which the provisions of the Foreign Judgments (Reciprocal Enforcement) Law, Cap. 10, have been extended, the period being, in this connection, six years.

I propose reading Article 28 paragraphs 1 & 2:

“1. All persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby.

2. Every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class, or on any ground whatsoever,

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unless there is express provision to the contrary in this Constitution.”

In Argiris Mikrommatis and The Republic (Minister of Finance and Another), 2 R.S.C.C. 125 at p. 131, the President of the Supreme Constitutional Court, Mr. Forsthoff, dealing with Article 28.1 and 2, had this to say:—

“ In the opinion of the Court the term ‘equal before the law’ in paragraph 1 of Article 28 does not convey the notion of exact arithmetical equality but it safeguards only against arbitrary differentiations and does not exclude reasonable distinctions which have to be made in view of the intrinsic nature of things. Likewise, the term ‘discrimination’ in paragraph 2 of Article 28 does not exclude reasonable distinctions as aforesaid.”

With this in mind, and although in the light of my judgment, I feel that the question of constitutionality is no longer necessary to a decision of this case, nevertheless, out of deference to counsel, I shall deal in brief with this issue.

In considering the question of constitutionality of section 4 of the Patents Law, Cap. 266, I would adopt and follow the principle formulated by Mr. Justice Josephides, in the case of *The Board for Registration of Architects and Civil Engineers v. Christodoulos Kyriakides* (1966) 3 C.L.R. 640 at pp. 654–55:

“ A rule of precautionary nature is that no act of legislation will be declared void except in a very clear case, or unless the act is unconstitutional beyond all reasonable doubt. (*Calder v. Bull*, 3 Dall 386, 399, (1798)). Sometimes this rule is expressed in another way, in the formula that an act of Congress or a State Legislature is presumed to be constitutional until proved otherwise ‘beyond all reasonable doubt’: see *Odgen v. Saunders*, 12 Wheat. 212 (1827); and other cases ending with *Federation of Labour v. McAdory*, 325 U.S. 450 (1945); see also *The Attorney-General v. Ibrahim*, 1964 C.L.R. 195.

Another maxim of constitutional interpretation is that the Courts are concerned only with the constitutionality of legislation and not with its motives, policy or wisdom, or with its concurrence with natural justice, fundamental principles of government or spirit of the Constitution: see *Watson v. Buck*, 313 U.S. 387 (1941).

As was said by Mr. Justice Roberts in *Nebbia v. New York*, 291 U.S. 502 (1933); 78 Law. Ed. 940 at page 957, 'with the wisdom of the policy adopted, with the adequacy or practicability of the law enacted to forward it, the Courts are both incompetent and unauthorised to deal. The course of decision in this Court exhibits a firm adherence to these principles. Times without number we have said that legislature is primarily the Judge of the necessity of such an enactment, that every possible presumption is in favour of its validity, and that though the Court may hold views inconsistent with the wisdom of the law, it may not be annulled unless palpably in excess of legislative power'.

It is a cardinal principle that if at all possible the Courts will construe the statute so as to bring it within the law of the Constitution: *United States v. C.I.O.*, 335 U.S. 106 (1948); *Miller v. United States*, 11 Wall. 268 (1871).

The judicial power does not extend to the determination of *abstract* questions: *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288 (1935); 80 Law. Ed. 688. 'It is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case': *Burton v. United States*, 196 U.S. 283, 295; 49 Law. Ed. 482, 485, 25 S. Ct. 243. The Court will not formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied': *Liverpool, N.Y. & P.S.S. Co. v. Emigration Comrs.* 113 U.S. 33; 28 Law. Ed. 899, 5 S. Ct. 382.

In cases involving statutes, portions of which are valid and other portions invalid, the Courts will separate the valid from the invalid and throw out only the latter unless such portions are inextricably connected: *Pollock v. Farmers' Loan and Trust Company*, 158 U.S. 601, 635 (1895)."

Having considered carefully the authorities, I have reached the conclusion that the Applicants have failed to satisfy me beyond all reasonable doubt that section 4 of our Patents Law is unconstitutional. I am not prepared to interfere with the wisdom of the policy adopted by the legislature in considering that a period of three years was a reasonable period for an interested person to apply to register a foreign patent

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in Cyprus. It is quite clear, in my view, that the period with regard to the registration of foreign judgments in Cyprus relates to an entirely different subject, and I am in agreement with counsel for the Respondent that it was open to the legislator to regulate differently the periods with regard to different subjects.

It is further evident that we, in this country, have not as yet managed to establish a research centre in order to be able to decide whether an invention which is described by its author as new, is really new. In the absence of technical means to check the merit of a patent, in the inventive ability shown in the invention itself, or in the practical utility to the public—and the latter is the most important of the two—in my view, the legislature, quite properly and reasonably has not altered the law on this particular issue, until and when this country will be in a position to possess the means and technical knowledge.

For the reasons I have tried shortly to advance on this constitutional issue, I would dismiss the application with costs in favour of the Respondent.

Application dismissed with costs.