

Criminal Law—Gaming—Unlawful possession of appliances used for the playing of the game known as “automatic gaming machine”—The Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151, sections 6(1) (2) (3), 15—The Gambling (Machines of Games of chance) Order, 1961, clause 2—‘Slot’ machine—The wording of sub-section (2) of section 6 of Cap. 151 empowers the council of Ministers to declare any other game, in addition to the games referred in sub-section (1), to be a prohibited game within the meaning of that sub-section (1)—The rule of ejusdem generis not applicable—The order of the Council of Ministers need not mention specifically the kind of game—The expression «μηχανή τυχηροῦ ποικύλιου» (“machine of game of chance”) in clause 2 of the Order of the Council of Ministers (supra) is wide enough to cover the so called ‘Slot’ machine involved in this case.

Section 6 of Cap.151 (supra) reads as follows :—

“(1) Any person, wherever found, playing at any of the games commonly known as “cholo”, “kazandi”, “zari” or “roulette” or any other similar game which in the opinion of the Court trying the offence is a variation of any of such games or assembled together for the purpose of playing at any such game or any variation thereof as hereinbefore provided, shall be guilty of an offence and shall be liable to imprisonment not exceeding one year or to a fine not exceeding one hundred pounds or to both such imprisonment and fine.

(2) The Governor in Council may, by Order, declare any game to be a game for the purposes of subsection (1) of this section in addition to the games specified therein and thereupon the provisions of subsection (1) of this section shall apply to such game as they apply to the games specified in such subsection.

(3) Any person who, in any street, club, coffee-shop, hotel or khan or a place licensed for the sale of intoxicating

liquors by retail or a place of public resort or public entertainment, is in possession of any instruments or appliances used or appearing or intended to be used or to have been used for the playing of any of the games to which this section applies, shall be guilty of an offence and shall be liable to imprisonment not exceeding one year or to a fine not exceeding one hundred pounds or to both such imprisonment and fine”.

The Council of Ministers, acting under the powers given to the Governor by sub-section (2) of section 6 of Cap. 151 (*supra*), made the Gambling (Machines of Games of Chance) Order, 1961 (public instrument No. 309/61 of the 4th September 1961), whereby, inter alia, the handling of any “machine of game of chance” as defined in clause 2 thereof was declared to be a prohibited “game” for the purposes of sub-section (1) of section 6 of Cap. 151 (*supra*).

The appellant was convicted of possessing appliances used for the playing of the game known as “automatic gaming machine” contrary to sections 6(3) and 15 of the Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151. On appeal it was argued on behalf of the appellant that the machine in question is merely a ‘Slot’ machine and not a “machine of game of chance” «μηχανή τυχηροῦ παιχνιδιού» as defined in clause 2 of the Gambling (Machines of Games of Chance) Order, 1961 (*supra*). It was further argued that: (1) on the *eiusdem generis* rule this particular machine to be prohibited should be a variation of the games of “cholo”, “kazandi”, “zari”, or “roulette” within the meaning of sub-section (1) of section 6 of Cap. 151 (*supra*), and, (2) as this so-called ‘Slot’ machine is not specifically mentioned in the definition clause of the Ministerial Order (*supra*), it is not an offence to possess such a machine.

The High Court dismissing the appeal.—

Held: (1) Sub-section (1) prohibits the playing of any of the games commonly known as “cholo”, “kazandi”, “zari” or “roulette” or any other similar game which in the opinion of the Court trying the offence is a variation of any such game.

(2) The wording of subsection (2) of section 6 clearly empowers the Council of Ministers to declare any other game, in addition to the games of “cholo”, “kazandi”, etc. to be a prohibited game within the meaning of sub-section (1) of that section.

(3) Although this so-called 'Slot' machine is not specifically mentioned in the definition clause of the Ministerial Order, still it is an offence to possess such a machine. The expression, «μηχανή τυχηροῦ παιγνίου» in clause 2 of that Ministerial Order is so wide as to cover the machine in question.

(4) The dominant words in the definition are the words «τυχηροῦ παιγνίου» that is to say, "of game of chance". There is no question that this is not a machine. The only question is whether this is a "machine of game of chance". And we hold that it is.

Appeal against conviction dismissed. The appeal against sentence has been abandoned and is also dismissed.

Appeal against conviction and sentence.

The appellant was convicted on the 15/6/62 at the District Court of Famagusta (Cr. Case No. 7258/61) on one count of the offence of possessing appliances used for the playing of the game known as "automatic gaming machine" contrary to ss. 6(3) and 15 of the Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151 and was sentenced by Orphanides, D.J. to pay a fine of £10.— or two months' imprisonment in default and all monies found in the tube were ordered to be forfeited.

*Fronis Saveriades with Miss E. Ioannides for the appellant
V. Aziz for the respondent.*

The judgment of the Court was delivered by JOSEPHIDES, J.

WILSON, P. : We think it is unnecessary to call on Counsel for the Republic in this case. Mr. Justice Josephides will deliver the judgment of the Court.

JOSEPHIDES, J. : The appellant in this case was convicted of the offence of possessing appliances used for the playing of the game known as 'automatic gaming machine' contrary to sections 6(3) and 15 of the Betting Houses, Gaming Houses and Gambling Prevention Law, Chapter 151.

The first point taken on behalf of the appellant before us is that the machine in question, which was produced in Court as an exhibit, is a 'slot' machine and that it is not a «μηχανή τυχηροῦ παιγνίου» as defined in clause 2 of the Gambling (Machines of Games of Chance) Order, 1961 (Public Instrument No. 309/1961) made by the Ministerial Council under the provisions of section 6(2) of the aforesaid Law, Chapter 151, which subsection reads as follows :

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“The Governor in Council (now the Ministerial Council) may, by Order, declare any game to be a game for the purposes of subsection (1) of this section in addition to the games specified therein and thereupon the provisions of subsection (1) of this section shall apply to such game as they apply to the games specified in such subsection”.

Subsection (1) prohibits the playing of any of the games commonly known as “cholo”, “kazandi”, “zari” or “roulette” or any other similar game which in the opinion of the Court trying the offence is a variation of any such game.

Mr. Saveriades argued on the *ejusdem generis* rule that this particular gaming machine should be a variation of the game of “cholo”, “kazandi”, “zari” or “roulette” to be prohibited. But the wording of subsection (2) of section 6 clearly empowers the Ministerial Council to declare any other game, in addition to the games of “cholo”, “kazandi” etc., to be a prohibited game within the meaning of subsection (1) of that section.

Appellant's counsel further argued that as this so-called 'slot' machine is not specifically mentioned in the definition it is not an offence to possess such a machine. We are of the view that the expression «μηχανή τυχηροῦ παιγνίου» in clause 2 of the Ministerial Order is so wide as to cover the machine in question. The dominant words in the definition are the words «τυχηροῦ παιγνίου», that is to say, “of a game of chance”. There is no question that this is not a machine. The only question is whether this is a “machine of a game of chance”, and we have held that it is.

For these reasons the appeal against conviction is dismissed. The appeal against sentence has been abandoned and is also dismissed.

Appeal dismissed.