[VASSILIADES, P., STAVRINIDES AND HADJIANASTASSIOU, JJ.]

EVANGELOS GEORGHIADES PAPILLAROS,
Appellant,

v.

THE POLICE,
Respondents.

(*Criminal Appeal No.* 3052)

Criminal Law—Sentence—Sentence of six months' imprisonment for possessing "Kazandi" appliances, contrary to sections 6 and 15 of The Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151—Object of sentence intended by trial Judge—Following up the effect of sentence on the convict, the best guide—On appeal sentence reduced—See, also, below.

Sentence—Sentence of imprisonment—Very short terms of imprisonment are, as a rule, undesirable, both on principle and in practice—See, also, above.

Gambling and Gaming—Possessing "Kazandi" appliances—Sentence—See above under Criminal Law.

"Kazandi"—Possessing "Kazandi" appliances contrary to sections 6 and 15 of Cap. 151 (supra)*—See above under Criminal Law.*

Cases referred to :

Mirachis v. *The Police* (1965) 2 C.L.R. 28.

The facts sufficiently appear in the judgment of the Court.

Appeal allowed. Sentence of six months' imprisonment reduced to one of three months' imprisonment from the date of conviction.

Appeal against sentence.

Appeal against sentence by Evangelos Georghiades Papillaros who was convicted on the 22nd October, 1968, at the District Court of Nicosia (Criminal Case No. 19611/68)

on two counts of the offences of possessing "Kazandi" appliances contrary to sections 6 and 15 of the Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151 and of misconduct contrary to section 188 (*d*) of the Criminal Code, Cap. 154, and was sentenced by Vakis, D.J., to six months' imprisonment on the 1st count and to one month's imprisonment on the 2nd count, the sentences to run concurrently.

Appellant, appearing in person.

M. Kyprianou, Counsel of the Republic, for the respondents.

The judgment of the Court was delivered by :

VASSILIADES, P.: This is an appeal against a sentence of six months' imprisonment for the possession of "kazandi" (a prohibited gaming appliance) in a public street, contrary to section 6 (3) of the Betting Houses, Gaming Houses and Gambling Prevention Law (Cap. 151) on the ground that the sentence is manifestly excessive.

The punishment provided by the statute is imprisonment not exceeding one year, or a fine not exceeding one hundred pounds, or to both such imprisonment and fine. The learned trial Judge took the view that as the appellant had several previous convictions for gambling with sentences varying from small fines and bonds to keep the peace, to a fine of £25 in March, 1948, which did not seem to have made the appellant abstain from gambling, the time had come for the court to impose "such sentence as would both impress upon him that he must . . . change his attitude (in connection with gambling) and on the other hand help him to become a good citizen in society and a good leader and supporter of his family . . ." (The appellant is a married man, 38 years of age, with a wife and six minor children to support).

With these considerations in mind, the trial Judge sentenced the appellant to six months' imprisonment, taking the view—as expressed in his note—that this sentence will serve the appellant better than the lenient sentences passed on him in the past.

Having heard and seen the appellant pleading before us this morning, we think that the object of the sentence, as intended by the learned trial Judge, has been practically

achieved. The appellant having served almost two full months of his sentence appears to have learned his lesson. He repeatedly assured this Court that he did so ; and that he is now determined, having tasted prison and having thought matters out during sleepless nights, never to gamble again. This strongly supports the correctness of the Judge's view in deciding to impose a sentence of imprisonment in this case.

We, moreover, think that once the trial Judge decided that imprisonment was the appropriate sentence, he was right in imposing a term of six months. Very short terms are, as a rule, undesirable, both on principle and in practice (see *Mirachis* v. *The Police* (1965) 2 C.L.R. 28). They do not provide sufficient time to operate on the convict's mind and habits as a treatment ; his natural adverse reaction to imprisonment has no time to subside ; his mind never settles down to a new way of life ; and he tends to upset discipline in his environment in the prison.

In this case, however, the critical first period of imprisonment has already been served under a sentence for six months. And if the appellant has really learnt his lesson, the object of the sentence imposed by the trial Judge has been attained ; while, on the other hand, placing trust in appellant's undertakings will, probably, help him to perform them. It is upon these considerations (and not because we think that the term imposed is excessive) that we have decided to reduce the sentence on the first count, to one of three months' imprisonment from conviction. The concurrent sentence on the second count has already been served. If we are wrong in our assessment of the effect of this first sentence of imprisonment on the appellant, this means that sooner or later the Courts will have the opportunity to correct our mistake in the next sentence. Following up the effect of any such treatment is the best guide.

In the result, the appeal is allowed and the sentence on the first count is reduced to one of three months' imprisonment from conviction. The concurrent sentence on the second count is affirmed. Order accordingly.

Appeal allowed ; sentence reduced as above.