1985 October 24

[MALACHTOS, DEMETRIADES, SAVVIDES, JJ.]

PAVLOS PANAYIDES AND OTHERS,

Appellants,

v.

THE POLICE,

Respondents.

(Criminal Appeals Nos. 4052-4061).

Criminal Law—The Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151—Section 4 of said law creates two offences, i.e. the offence of gambling at a particular game of chance and the offence of assembing together for the purpose of gambling—Gaming house, definition of (section 2 of the said law)—Ss. 3 (1) (a) and (2), 12 and 15 of the said law.

Criminal Procedure—Accused charged with the offence of gambling at the game of "Sheme" contrary to section 4 of Cap. 151—The accused could not have been convicted for the other offence created by the said section, namely the offence of assembling together for the purpose of gambling—Unless the charge had been amended by adding a new count charging the said second offence as per the provisions of section 85 (4) of the Criminal Procedure Law, Cap. 155—The necessary prerequisites for the application of the said section 85 (4) of Cap. 155.

Criminal Procedure—Section 39(d)—Cannot be applied in the present case.

On the 6.1.1979 the Police raided the club "Kypriaki", known as the club of Pavlis, which is situated in Limassol. As a result appellant 1 (appellant in Criminal Appeal 4052) was charged and convicted for keeping a gaming house contrary to sections 3(1) (a) and (2), 12 and 15 of the Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151 and appellants 2-9 were charged

for gambling at "Sheme" contrary to section 4 of the said Law. In so far as the case against appellants 2-9 was concerned the trial Judge stated in his judgment that "I am convinced that the accused assembled together in the said premises for the purpose of gambling and I do not think that it is necessary to make a specific finding as to which illegal game they intended to play with cards, dice or otherwise... I find that all accused other than accused 1 assembled together for the purposes of gambling and I find them guilty of having committed such an offence, without making any finding as to the game they intended to play at".

All appellants appealed against their above convictions.

Held, allowing the appeal of appellants 2-9 (Malachtos, J. dissenting): (1) Two separate offences are created under section 4 of the Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151; the one of "Gambling at a particular game of chance" and the one of "assembling together for the purpose of gambling".

(2) Appellants 2-9 were charged for "gambling" at a particular game of chance. They were not charged for "assembling to gamble." It follows that irrespective of whether or not a count charging the appellants for "gambling or assembling to gamble in a gaming house" might be bad for duplicity, in the circumstances of the present case and the way the charge was drafted section 39(d) of the Criminal Procedure Law, Cap. 155 cannot be applied.

(3) Once the trial Judge reached the conclusion that the appellants were guilty of the offence of assembling to gamble, the correct procedure which he should have adopted was to direct in accordance with section 85 (4) of Cap. 155 the amendment of the charge by the addition of a new count charging the accused for assembling to gamble and, subject to the satisfaction of the requisites set out in the said provision, convict them on the added charge. (4) The requisites which must be satisfied before section 85(4) can be applied are:

(a) It must be established by evidence that the accused has committed an offence not contained in the charge or information, (b) that the accused cannot be convicted with-

out amending the charge or information, (c) that the punishment provided by Law for the new offence does not exceed that of the original offence and (d) that the accused would not be prejudiced by the amendment in his defence.

Held, further, dismissing the appeal of appellant 1, that there was ample evidence to convict appellant 1 on the charge of keeping a gaming house.

Appeal 4052 dismissed.
Appeals 4053-4061 allowed by majority.

Cases referred to:

Kyriacou v. *The Welfare Office,* 1961 C.L.R. 227;

Attorney-General v. *HjiConstanti* (1969) 2 C.L.R. 5;

Chrysostomis v. *The Police,* 24 C.L.R. 197;

Kallis v. *The Police,* 23 C.L.R. 16;

Charalambous v. *The Municipality of Nicosia* (1965) 2 C.L.R. 63;

Fourri and Others v. *The Republic* (1980) 2 C.L.R. 153.

Appeals against conviction.

Appeals against conviction by Pavlos Panayides and others who were convicted on the 26th June, 1979 at the District Court of Limassol (Criminal Case No. 1088/79) whereby accused 1 was convicted on one count of the offence of keeping a gaming house contrary to sections 3(1)(a) and (2), 12 and 15 of the Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151 and the rest of the accused on one count of the offence of assembling to gamble contrary to sections 4, 12, 14 and 15 of the above Law and were sentenced by Eleftheriou, D. J. to pay fines ranging from £7.- to £15.-

P. Cacoyiannis, for the appellants.

Ch. Kyriakides for *A. M. Angelides,* Senior Counsel of the Republic, for the respondents.

Cur. adv. vult.

MALACHTOS J.: I shall deliver the first judgment of the Court and the second judgment will be delivered by my brother Judge Savvides.

MALACHTOS J.: These consolidated appeals are directed against the judgment of a disctrict Judge in a criminal case of the District Court of Limassol where appellant No. 1 was found guilty of a charge of keeping a gaming house contrary to sections 3 (1) (a) and (2), 12 and 15 of the Betting Houses, Gaming Houses, and Gambling Prevention Law, Cap. 151, and the rest of the appellants were found guilty that they were assembled to gamble in a gaming house. Originally, there appellants were charged for actual gambling in a gaming house at the game of "sheme" contrary to sections 4, 12, 14 and 15 of the Law, Cap. 151.

The trial Judge, however, on the evidence adduced, as accepted by him, found them guilty as aforesaid.

The facts of the case, as found by the trial Judge, shortly put, are the following:

On the 6th day of January, 1979, at about 9.30 a.m. upon information received, P.S. 2524 Nicos Antoniou, of the Limassol CID, together with two police constables, all dressed in mufti, raided the club "Kypriaki" known as the club of Pavlis, which is situated in Christodoulos Hji Pavlou Street in Limassol. The premises of the said club, which are on a firstfloor, consist of 6 to 7 rooms and of a cellar which communicates with the kitchen through an internal door. The only entrance of the said club is on Chr. Hji Pavlou Street and one in order to gain access into the premises has to climb a staircase consisting of 31 steps.

Before the raid was carried out the three policemen kept watch of the premises for a few minutes and they noticed in one room in which there was electric light a number of persons standing. They then run up the staircase and upon entering the premises, they heard a noise of moving chairs and tables and persons rushing out from the room where the light was on and who were then scattered entering other rooms. In the said room there was a large table and a number of chairs round it. Soon after, all these persons were brought into one room and there and then the

police sergeant informed them of the offence and a certain Alexandros Aristidou, who is accused No. 2 on the charge sheet, said "We were playing sheme. We did not come to play dolls" (epezame sheme, then irtamen yia na pexoume koukles). All the others denied that they were were playing sheme. Appellant No. 1, who was present there, was also informed of the offence and was asked by the police sergeant to deliver to him the sabeaux, which is an instrument with which the game of sheme is played, but he remained silent. However, he gave to the sergeant a sabeaux which was out of order as the piece of wood which is used for keeping the playing cards in order therein, was missing. A search of the premises was then carried out and in the cellar it was found a sabeaux, with a few playing cards in it, which was hidden under two cabbages and a tray containing 360 playing cards, which was hidden under a carton box. A certain Demos Tsavellas, accused No. 14 on the charge sheet, was also found hidden in the said cellar. Accused 2, 3, and 8 there and then made statements to the police admitting the offence. Upon checking the register of members of the said club, it was found out that accused 2, 7, 8, 10, 11, 12, 13, 14 and 15 on the charge sheet, were not members of the club.

All the appellants, when called upon to make their defence, made an unsworn statement from the dock just saying "I do not admit", and called no defence witnesses.

On the above facts the trial Judge found all the appellants guilty as stated earlier on in this judgment. The relevant part of the judgment of the trial Judge appears on pages 22 to 25 of the record and reads as follows:

> "I have watched the demeanour of all witnesses and with care listened to them as they testified before me and also examined with the utmost care the evidence adduced before me. I was extremely very well impressed by all witnesses for the Prosecution. I find them accurate and reliable ones and I feel confident that I can safely act on their evidence without any hesitation whatsoever, provided that their evidence proves all essential ingredients of the offences under consideration.

It is for the Prosecution to prove its case beyond any reasonable doubt and any doubts the Court may entertain in any area, must invariably be resolved in favour of the accused.

Gambling cases often give rise to points of difficulty and the present case is not a simple one. The Prosecution bases its case partly on circumstantial evidence but mainly on the presumption created by section 12 of Law Cap. 151.

It is for the Prosecution to prove that A) such premises were at the material time used as a gaming house, B) that accused 1 was at the material time the owner, occupier etc. of the premises in question and C) that all other accused or any of them were actually gambling at the game commonly known as sheme or any other game prohibited by Law or that they assembled therein for the purposes of gambling.

Section 2 of Law Cap. 151, defines a gaming house as 'including any place kept or used for gambling and a place shall be deemed to be used for gambling if it is used for gambling even on one occasion only'.

Section 12 (1) of Law Cap. 151, provides that every place entered under the provisions of this Law, in so far as they relate to a gaming house, shall be presumed, until the contrary is proved, to be a gaming house and to be kept or used by the owner, occupier or manager thereof as a gaming house in any of the following cases, that is to say:-

a) if any instruments or appliances for gaming are found therein or upon any person found therein or escaping therefrom;

. . . . . .

. . . . . .

b) if any persons are seen or heard escaping therefrom.

Section 3 (1) (a) of Law Cap. 151 specifically provides:- Any person who being the owner or occupier

of any place or having the use temporarily or otherwise thereof, keeps or uses such place ass a gaming house etc. is guilty of an offence etc.

Evidence has been adduced before the Court to establish the following:-

a) that the prosecution witnesses before carrying out the raid, watched for a while the said premises and saw people standing in the said room which was at the time lighted,

b) that the only furniture existing in that room was a big table and a number of chairs only,

c) that when accused 11 was informed of the offence he replied 'epezamen sheme den irtamen dia na pezoumen koukles',

d) the confessions of accused 2, 3 and 8 exhibits 4, 5 and 6,

e) the hiding of accused 14 into the cellar in question,

f) the fact that accused 2, 7, 8, 10, 11, 12, 13, 14 and 15 were not members of the club in question,

g) that when the presence of the Police was noticed by the accused, they started running and rushing outside the said room and were scattered in other rooms,

h) the fact that P. W. 1 on searching the said premises found the sabeaux, exhibit No. 2, with a number of playing cards in it, hidden below two cabbages in the cellar in question, as well as the tray with the playing cards in it (exhibit No. 3), which was hidden below a carton box, and

i) the hearing of a noise similar to that caused by moving chairs and tables.

Although I am of the view that the cumulative effect of all these facts (enumerated particularly above from item (a) to (i) inclusive, taken together, is sufficient to justify the inference that the accused were

assebled therein for the purpose of gambling, however relying on the presumptions created by paras (a) to (d) of section 12 (1) of Law, Cap. 151, and bearing always in mind the facts particularly described in items (g), (h) and (i) hereinabove, I am convinced that the accused assembled together in the said premises for the purpose of gambling and I do not think that it is necessary to make a specific finding as to which illegal game they intended to play with cards, dice or otherwise.

The Prosecution has therefore discharged the onus of proof cast on it and the onus of disproving is shifted on the defence. This may be discharged by evidence satisfying the Court on the balance of probabilities and not beyond any reasonable doubt as would be required of Prosecution in proving the charge. *R.* v. *Koutsiouk* (1957) 22 C.L.R. p. 61, at p. 64, *Antonakis Pissourios* v. *The Police* (1967) 2 C.L.R., p. 258, *R.* v. *Carr-Brian* [1943] K.B. at p. 612.

Having made my finding as to credibility and bearing in mind the above legal principles and the explanation given by the accused, I am not at all satisfied that their explanation is even reasonably probable and it is without any hesitation whatsoever that I reject same in toto.

Having made my finding as to the purpose of the presence of the accused in the said premises and bearing also in mind the definition of the gaming house as well as the provisions of section 12(1) of Law Cap. 151, I find that Kypriaki Club was at the material time, used as a gaming house.

Lastly, there remains to be decided whether accused 1, was at the material time, the owner, occupier, manager or whether there was any connection of the accused 1 with the club in question in any way whatsoever and within the sense and spirit of the relevant law.

The sense and the spirit of sections 3(1)(a) and 12 (1) of Law Cap. 151 is of a very wide meaning and the intention

of the legislator was to cover instances, such as where a person is in any way whatsoever the person in charge and/or responsible at the material time in relation to such premises. The above sections speak for themselves and further comment is unnecessary. The expression 'having the use temporarily or otherwise' has indeed such a very wide meaning, that it would suffice for the Prosecution to establish any relationship and/or capacity whatsoever of the accused with such premises.

If one goes through the record will note that when accused 1 was informed of the offence by P. W. 1, he was also requested to deliver to him the sabeaux, exhibit No. 1, which he did without any hesitation whatsoever and without contending that he had not any capacity in relation to the club. In cross examination it was put to this witness that when he requested the accused 1 to hand over to him the sabeaux, exhibit No. 1, he replied to the same witness 'I have many sabeauxs.'

P. Ws. 2 and 3 described the premises in question as the 'club of accused No. 1.' Needless to mention that the said witnesses were never cross-examined on this issue. When someone makes reference to the following phrase 'is tin leschin tou katigoroumenou 1" he means nothing but that the accused 1 was either the owner or occupier of the said premises.

In the circumstances I am convinced that the essential element that the accused 1, was at the material time the occupier of the premises in question has been established.

Finally I find that the Prosecution has proved its case beyond any reasonable doubt and I find the accused 1 guilty as charged.

Similarly I find that all accused other than accused 1, assembled together for the purposes of gambling and I find them guilty of having committed such offence, without making any finding as to the game they intended to play at."

The grounds of appeal, as stated in the Notice of Appeal of appellant No. 1, are the following:

1. The finding of the Court is not supported by the evidence adduced and is totally unreasonable and against the weight of evidence.

2. The conviction is wrong in law and in fact and relies mainly on presumptions which are unacceptable in law and, in any case, do not support the conviction; and

3. No evidence was adduced nor was it proved that the accused was the occupier of the premises occupied by the "Kypriaki" club.

As regards the rests of the appellants, the grounds of appeal stated in their respective Notices of Appeal, are identical and read as follows:

1. The conviction for assembling for the purpose of gambling is not authorised by law for the reasons that the accused was charged that he on the 6th day of January, 1979, at Limassol in "Kypriaki" club was found gambling at sheme. Such a charge was never amended or altered or replaced. In any case, the finding of the Court is not supported by the evidence adduced, it is unreasonable and against the weight of evidence; and

2. The conviction is wrong in law and in fact and relies mainly on presumptions which are not acceptable or admissible in law and, in any case, they were not sufficient to support the conviction.

Counsel for the appellants in arguing this appeal before us submitted that the charge against appellant No. 1 for keeping the club premises as a gaming house, has not been proved as no evidence has been adduced to prove gambling in the said premises at that particular time and, furthermore, it has not been proved by the prosecution that appellant No. 1 was at the time the occupier of such premises. As regards the other appellants, he submitted that the charge against them automatically fails on two grounds: First, these appellants were not convicted of the offence of gambing in a gaming house as required by section 4 of the Law, but only for assembling to gamble and, secondly, because they were not charged for gambling in a gaming house. He also submitted that the other appellants were

not convicted for actual gambling but for having assembled together for the purpose of gambling. For such offence the appellants were never charged nor the charge for which they pleaded not guilty was amended so as to include the count for such offence.

Finally, he submitted that the trial Court had no power to convict these appellants for an offence which was not contained in the charge sheet and the charge sheet was never amended to contain the offence of assembling to gamble.

No doubt, the premises of Kypriaki Club on that particular day were entered and searched by the Police by virtue of section 8 (1) (a) of the Law, Cap. 151, which reads as follows:

"8.(1) Notwithstanding anything in this or any other law contained, it shall be lawful for any member of the Police Force in charge of a station and for any police officer of or above the rank of sergeant, whether in uniform or not, with such assistance and by such force as may be necessary, by day or by night, without warrant, to enter and search any place which he has reasonable ground for believing is kept or used as a betting house or a gaming house or for playing at any of the games to which section 6 of this Law applies, in each of the following cases, that is to say-

(a) if the place proposed to be entered and searched is a 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".

. . . . . .

Taking into consideration the evidence adduced by the Prosecution, which stands uncontradicted on all material particulars, I am of the view that the trial Judge rightly applied the Law to the facts of the case, particularly section 12 thereof, and rigthly found the premises of Kypriaki Club that on that occasion were used as a gaming house and that appellant No. 1 was the occupier thereof and convicted him accordingly. Likewise, I am also of the view

that the trial Judge rightly convicted the rest of the appellants of the offence of assembling to gamble.

The submission of counsel for the appellants that the trial Judge could not convict them as they were not charged for assembling to gamble and the Charge Sheet was never amended by adding a new count, cannot stand in view of the provisions of section 85(3) of the Criminal Procedure Law, Cap. 155, which provides that "if a person is proved to have done any act with the intent to commit the offence with which he is charged, and if it is an offence to do such an act with such an intent, he may, without amending the Charge or Information and notwithstanding that he was not charged with such last mentioned offence, be convicted of the same".

For the reasons stated above, I would dismiss the appeals.

SAVVIDES J.: The 10 appellants in these consolidated appeals were convicted by the District Court of Limassol in respect of offences under the Betting Houses, Gaming Houses and Gambling Prevention Law, Cap. 151. Appellant 1 was convicted for keeping a gaming house, contrary to sections 3(1)(a)(2), 12 and 15 of Cap. 151 (count 1 on the charge) and the remaining 9 appellants for assembling to gamble in gaming house, contrary to sections 4, 12-14 and 15 of Cap. 151 and section 20 of the Criminal Code, Cap. 154, (count 2 on the charge). They were in fact accused (1), (2), (5), (8), (9), (10), (12), (13), (15) and (16) on a charge framed against 16 accused some of which pleaded guilty and against one the charge was withdrawn.

I shall not deal with the facts of the case, as they have already been explicity narrated by my learned brother Malachtos J. in his judgment but I shall proceed to examine whether the appellants were rightly convicted.

The particulars of the offence against appellants 2-9 on count 2, read as follows:

> "The accused 2-16 on the 6th day of January, 1978, at Limassol, in the District of Limassol, in 'KYPRIAKI' club, were found gambling at 'Sheme'."

The trial Judge having heard the evidence of three prosecution witnesses and the unsworn statements from the dock of the appellants, made his findings of fact and concluded as follows:

"Although I am of the view that the cumulative effect of all these facts (enumerated particularly above from item (a) to (i) inclusive), taken together, is sufficient to justify the inference that the accused were assembled therein for the purpose of gambling, however relying on the presumptions created by paras (a) to (d) of section 12(1) of Law Cap. 151, and bearing always in mind the facts particularly described in items (g), (h) and (i) hereinabove, I am convinced that the accused assembled together in the said premises for the purpose of gambling and I do not think that it is necessary to make a specific finding as to which illegal game they intended to play with cards, dice or otherwise."

Items (g), (h) and (i) to which reference is made in the above read as follows:

"(g) that when the presence of the Police was noticed by the accused, they started running and rushing outside the said room and were scattered in other rooms,

(h) the fact that P.W.1 on searching the said premises found the sabeaux, exhibit No. 2, with a number of playing cards in it, hidden below two cabbages in the cellar in question, as well as the tray with the playing cards in it (exhibit No. 3), which was hidden below a carton box, and

(i) the hearing of a noise similar to that caused by moving chairs and tables."

The trial Judge concluded his judgment as follows:

"Similarly, I find that all accused other than accused 1, assembled together for the purposes of gambling and I find them guilty of having committed such

offence, without making any finding as to the game they intended to play at."

Section 4 of Cap. 151 under which appellants 2-9 were charged and convicted, provides as follows:

"Any persons gambling or assembled together for the purpose of gambling in a gaming house shall be guilty of an offence under this Law."

In the particulars of the offence it was stated that the accused were found gambling at a particular game of chance, that is "Sheme."

It is clear, in my opinion, that two separate offences are created under section 4 of Cap. 151. The one "gambling at a particular game of chance" and the other one "assembling together for the purpose of gambling."

Useful reference may be made to provisions in other laws where separate offences are created by one and the same section of the Law which have been judicially considered.

Under section 54(1) of the Children Law, Cap. 352, it is provided that:

"If any person who has attained the age of sixteen years and has the custody, charge, or care of any child under that age, wilfully assaults, ill-treats, neglects, abandons or exposes or procures him to be assaulted, ill-treated, neglected, abandoned... shall be guilty of an offence..."

In *Frankiskos Kyriacou* v. *The Welfare Office,* 1961 C.L.R. 227 in which the accused was convicted for "abandonment and neglect of his children" Josephides, J. in delivering the judgment of the Court of Appeal had this to say at page 229:

"In this case the accused was charged with 'abandonment and neglect of his children' contrary to section 54(1)(2) of the Children Law, Cap. 352. In the particulars of the offence it was stated that the accused 'wilfully abandoned' his three under-aged children and that he

'failed to provide them with adequate food and clothing.'

We are of opinion that the charge, as framed, is defective. Section 54(1) provides, inter alia, that a person shall not wilfully 'abandon' his child in a manner likely to cause him injury to health. That is one offence. The same sub-section provides that a person shall not wilfully neglect his child in a manner likely to cause injury to health. It appears that these two separate offences were charged and included in the particulars of offence in one and the same charge.

In the circumstances of the case we are of opininon that the charge is defective and we, therefore, set aside the conviction."

Under section 39(d) of the Criminal Procedure Law, Cap. 155,

"where an enactment constituting an offence states the offence to be the doing or the omission to do any one of different acts in the alternative or the doing or the omission to do any act in any one of different intentions, or states any part of the offence in the alternative the acts, omissions, capacities or intentions or other matters consisting the alternative in the enactment may be stated in the alternative in the count charging the offence:

. . . . . .

Provided that no error in stating the offence or the particulars required to be stated in the charge shall be regarded at any stage of the case as non-compliance with the provisions of this Law unless, in the opinion of the Court, the accused was in fact misled by such error."

The application of this section was considered, inter alia, in *The Attorney-General* v. *HjiConstanti* (1969) 2 C.L.R. 5, in which the accused was charged "for establishing or commencing to establish or suffering or permitting the establishment of a citrus grove without a permit." The accused was acquitted by the District Court on the ground

that the charge was bad for duplicity. On appeal by the Attorney-General the Court of Appeal held that section 39(d) of Cap. 155 covered the case and that the way the charge was drafted was not bad for diplicity, particularly in view of the proviso at the end of that section.

The appellants in the present case were charged for "gambling" at a particular game of chance. They were not charged for assembling to gamble. Therefore, irrespective as to whether or not a count charging the appellants for "gambling or assembling to gamble in a gaming house" might be bad for duplicity, in the circumstances of the present case and in the way the charge was drafted section 39(d) of Cap. 155 cannot be applied.

Once the trial Judge came to the conclusion that on the evidence accepted by him the accused were guilty of the offence of assembling to gamble, the correct procedure which should have been adopted by him was that provided by section 85(4) of the Criminal Procedure Law, Cap. 155 and direct the amendment of the charge by the addition of a new count charging the accused for assembling to gamble and subject to the satisfaction of the requisites set out in the said provision, convict them on the added charge. Section 85(4) of Cap. 155 provides as follows:

> "If at the conclusion of the trial the Court is of opinion that it has been established by evidence that the accused has committed an offence or offences not contained in the charge or information and of which he cannot be convicted without amending the charge or information, and upon his conviction for which he would not be liable to a greater punishment than he would be liable to if he were convicted on the charge or information, and that the accused would not be prejudiced thereby in his defence, the Court may direct a count or counts to be added to the charge or information charging the accused with such offence or offences, and the Court shall give their judgment thereon as if such count or counts had formed a part of the original charge or information."

The requisites which had to be satisfied before section 85(4) can be applied, are:

"(a) It must be established by evidence that the accused has committed an offence not contained in the charge or information.

(b) That the accused cannot be convicted without amending the charge or information.

(c) That the accused must not upon his conviction on the new offence be liable to a greater punishment than if he were convicted on the charge or information as it stood, in other words that the punishment provided by law for the added offence must not exceed that of the original offence.

(d) That the accused would not be prejudiced by the amendment in his defence."

(See *Chrysostomis* v. *The Police,* 24 C.L.R. p. 197, *Kallis* v. *The Police,* 23 C.L.R. 16, *Nedi Charalambous* v. *The Muncipality of Nicosia* (1965) 2 C.L.R. 63, *Fourri & others* v. *The Republic* (1980) 2 C.L.R. p. 153 at p. 177).

For the reasons I have explained above, I have reached the conclusions that appellants 2-10 were wrongly convicted for the offence of assembling to gamble. In the result, appeals 4053-4061 are allowed and the conviction of appellants 2-10 is quashed.

I am coming now to the first appellant (appellant in Criminal Appeal 4052). I am in agreement with my learned brother Malachtos, J. that there was ample evidence to convict appellant 1 on the charge of keeping a gaming house and I agree with him that this appeal should be dismissed.

DEMETRIADES, J.: I have had the occasion of reading both judgments read by by brothers and I agree with the judgment delivered by my brother Judge Savvides.

MALACHTOS J.: In the result, Appeal No. 4052 is

dismissed and the conviction is affirmed, and appeals Nos. 4053-4061, both inclusive, are allowed by majority and the conviction is quashed.

Appeal 4052 dismissed.
Appeals 4053-4061 allowed by majority.