

13/74

SUPREME COURT OF VICTORIA

WHITEHEAD v KOULOUKIDIS

Murphy J

19 June 1974

PROCEDURE – REQUEST FOR PARTICULARS OF OFFENCE – CHARGES IN RELATION TO USING PREMISES FOR UNLAWFUL GAMING – INFORMANT REQUESTED TO PROVIDE PARTICULARS OF EACH ACT SAID TO CONSTITUTE USE OF HOUSE FOR GAMING AND ANY ACTS OR FACTS CONSTITUTING UNLAWFUL GAMING – SOME PARTICULARS PROVIDED – MAGISTRATE REQUESTED TO ORDER PARTICULARS TO BE SUPPLIED – MAGISTRATE HELD THAT THE PARTICULARS PROVIDED WERE ADEQUATE – WHETHER MAGISTRATE IN ERROR: *LOTTERIES, GAMING AND BETTING ACT 1966*, SS11, 12(a), 17, 18, 44; *SUMMARY OFFENCES ACT 1966*, S20.

HELD: Order nisi absolute. Informant ordered to supply particulars as requested.

1. In every case where an informant alleges an offence, and the offence is one which can be classed as non-specific, it is a sufficient statement of the offence to follow the words used in the Act creating the offence, but, on a request for particulars being made by the defendant, the informant must supply sufficient particulars to identify, not only the transaction or occurrence, but every other ambiguous or non-specific element of the offence. If particulars are supplied and they themselves contain ambiguities, then further particulars of such ambiguous matters should be ordered, so as to ensure that the defendant, or any other person looking at the matter, knows what has been charged and what has to be met.

2. The particulars supplied by the informant in respect of the alleged offence against s12(a) of the *Lotteries, Gaming and Betting Act 1966* (Act) were insufficient. The defendant was entitled to know how his alleged 'use' of the premises was constituted, whether by himself being present on the premises at the material time or whether by allowing others to be present on them at the material times or whether in both ways, or in some other way. He was also entitled to know the precise nature of the alleged 'unlawful gaming' particularly as this could be constituted in any one of a wide variety of ways.

3. It may be that the informant recognised this and sought to supply this information in his letter. If so he failed to do so. The letter used ambiguous and imprecise language. If the 'Machines' referred to were gambling machines of some sort or other, then they should have been identified as such. Not all machines are unlawful. Nor was it clear who operated them or what 'operating' meant. Was it for example alleged that the machines, or – either of them – for they could be different, were 'skill ball' machines, or 'poker' machines, or 'totalizators' or 'washing' machines, or, as counsel put it, 'lathes' or something else.

4. In relation to the charge under s17 of the Act whereby the defendant was charged with being the occupier of a certain house or place, did unlawfully use the same for the purpose of betting, particulars of each alleged act of the defendant constituting the 'use' alleged were requested. The informant in his letter of 24th July 1973, simply said as to this request: 'The informant relies upon the particulars supplied above.'

5. Although the matter was not approached with any clarity, the defendant was entitled to particulars specifying the act or acts relied upon, which should presumably indicate whether the betting in question was with persons in person or by messenger agent post telegraph telephone or otherwise or by any one or more method, and so alert the defendant as to the case he had to meet. None of the particulars supplied did this. Accordingly, the order nisi on this charge was made absolute.

6. In relation to the charge which alleged that the defendant did act in the conduct of a common gaming house, particulars were sought of each act fact or matter said to constitute the acting in conduct and the premises being a common gaming house.

7. Nowhere was the 'manner' in which the defendant was alleged to have acted set out in the particulars. The offence required that particulars of the 'manner' in which any person was alleged to have acted in the conduct of a common gaming house should have been supplied. Furthermore, if

the house was alleged to be a common gaming house because, for example, a totalizator was being conducted thereon, or because of any other reason, particulars specifying the same should have been supplied.

8. None of the particulars which were supplied specified whether any and what unlawful game was being played on the premises, or whether persons were betting in some way, or whether lotteries were being conducted, or betting odds communicated, or whether any and which of the matters set out in s40 of the Act were apposite. As a result, it was impossible for the defendant to know what precisely was being alleged against him on this information. Accordingly, the order nisi on this information was made absolute.

9. In relation to the charge under s20 of the *Summary Offences Act 1966* alleging that the defendant did suffer gaming at premises where refreshments were sold or disposed of, particulars of each act constituting the gaming were requested.

10. 'Suffered' and 'suffer' may not mean the same as 'allow', and the defendant would have been entitled to know what it was alleged that he did which constituted the alleged suffering. He was not charged in the wording of the section itself. If the informant was alleging simply that the circumstances demonstrated that the defendant did not do everything that he could to prevent the alleged gaming – or that he rented his house or premises to someone who gamed thereon, it might well have been a different case that the defendant had to meet from one where it was alleged that he took part in or fostered gaming or stood by whilst it went on, and took no steps to prevent. It is not known, nor was it particularised, what the defendant was alleged to have done. He was said twice to have 'suffered' gaming. The defendant was at least entitled to obtain particulars of the alleged 'suffering'. In the circumstances, the order nisi was made absolute.

MURPHY J: By consent four orders nisi to review rulings pronounced by the Magistrates' Court at Footscray on 25th July 1973, were heard together before me. In each case a ruling had been given by the Stipendiary Magistrate refusing a request by the defendant for further particulars of four offences alleged to have been committed by the defendant. These rulings were reviewed, being 'orders' within the meaning of the *Justices Act*. cf. *Byrne v Baker* (1964) VR 443; (1964) VR 443.

The first information alleged that the defendant on the 18th December 1972, at Yarraville in the State of Victoria, being the occupier of a certain house or place, to wit, 338 Williamstown Road Yarraville, did use the same for the purposes of unlawful gaming being carried on therein. This information was laid under s12(a) of the *Lotteries, Gaming and Betting Act 1966* and contains a sufficient statement of the offence alleged: see *Justices Act* s218.

Section 11 of the *Lotteries, Gaming and Betting Act* declares that a number of games, some appearing to involve the use of machines, some to involve cards and others being specifically named are: 'Unlawful Games'. 'Instruments of gaming' are defined in Clause 3 to include tables, cards, dice and many other things including even a totalizator which is also defined as a machine or contrivance. 'gaming' is also defined to include playing of games for any wager or stake of money. It is thus to be seen that the alleged 'unlawful gaming' referred to in the information could involve or be related to any one of a wide variety of activities.

Accordingly the defendant requested further particulars of the information as follows:

- "1. Particulars are requested of each alleged act of the Defendant constituting the "use" of the house or place, to wit, 338 Williamstown Road, Yarraville alleged in the said information.
2. Particulars are requested of each act fact matter or thing constituting the "unlawful gaming" alleged in the said information.
3. Particulars are requested whether the informant relies upon any and which of the provisions of s11 of the *Lotteries, Gaming and Betting Act 1966* in respect of the said information":

The informant answered this particular request as follows:

"On the 18th of September 1972 at or about 12.30 p.m. and shortly thereafter the informant received from the defendant two payments of \$1.90 and \$2.40 respectively as a result of his operating machines on premises occupied by the defendant, such operating having been made possible by the insertion of 10 cent coins into the machines. On the 19th September 1972 the defendant made certain admissions in the presence of the informant and other members of the police force.

It is contended that whether or not the premises were used in breach of s12(a) of the *Lotteries, Gaming and Betting Act 1966* and whether or not the activities therein constituted unlawful gaming, are matters for the decision of the court according to law. The informant, of course, avers that the said premises were used for the purpose of unlawful gaming."

The defendant complains that those particulars are insufficient and ambiguous. He says he does not know what type of machine is referred to (it might even be a lathe) and that a more frank answer identifying the machine or its type would enable him to prepare his defence or to plead guilty. He does not know, he says, what 'use' of the premises it is alleged he made.

In support of the request for particulars he relied on the general principles enumerated in *Johnson v Miller* [1937] HCA 77; (1937) 59 CLR 467; [1938] ALR 104 particularly per Evatt J at pp497-8 and Dixon J at p490 (CLR); *Byrne v Baker* [1964] VicRp 57; (1964) VR 443 at 454-456 a decision of the Full Court of Victoria; *Marchesi v Barnes* [1970] VicRp 56; [1970] VR 434 at p439 a decision of Gowans J.

Mr Liddell of counsel who appeared to move the order absolute, submitted that only the informant knew what selection he had made out of any number of a variety of machines, some perfectly legal – other illegal. And the informant should be called upon to specify or identify the machine in question or its type.

He says that the particulars supplied are, in any event, unintelligible. It appears he submits, that as a matter of grammar, the defendant was operating machines 'on premises occupied by the defendant'. The number of machines is not clear except that there was more than one. It seems to be alleged that the result of the defendant (or possibly the informant) operating the machines was that the informant received from the defendant two payments, one of \$1.90 and another of \$2.40. Where he received them is not specified. There is only one offence alleged, and whether the machines were all of the same sort is not stated. The particulars given are, accordingly, he submits, quite unsatisfactory.

In connection with the identification of the kind of machine, Mr Liddell relied upon the case of *Marchesi v Barnes & Keogh* [1970] VicRp 56; [1970] VR 434 in which Gowans J considered an application which had been made for particulars of an offence against s124 of the *Companies Act 1961*. At p439/440 of the report of that decision His Honour sets out the circumstances in which the common law power of a Magistrates' Court to order particulars will be exercised.

The 'Governing consideration is the necessity for avoiding injustice being done to the defendant'.

His Honour said that if the particulars contain within them ambiguity, and the information set out may mean any one of several possible things, and the selection in fact made by the informant is not specified, then if the particular piece of information relates to a material part of the case, further particulars should be ordered by the Magistrate and if would be an injustice to withhold that information from the defendant.

The Magistrate in the present case said that the:

'particulars adequately set out what use of the house or place is alleged to have been made by the defendant, – set out that the machines were operated and how they operated, this also is sufficient as to what is alleged to be the unlawful gaming'.

Mr Liddell also relied upon the cases of: *Ex Parte Graham; Re Dowling* (1968) 88 WN (NSW) 270 per Asprey JA at pp280-281 where His Honour draws together a number of the cases which establish the principles applicable to a request for particulars of an alleged offence.

As to particulars of the 'use' of the house in question Mr Liddell relied upon the Queensland decision of *Cochrane v Price* [1943] St RQd 122; 37 QJPR 55. There the defendants had been charged with using a common gaming house and requested particulars of the nature of the user alleged. This request was refused by the informant and the Magistrate refused to order the particulars be delivered.

The Full Court of the Supreme Court of Queensland said that as a common gaming house

can be used for a number of diverse purposes, the refusal to order the particulars be delivered amounted to a mistrial, and the defendant's conviction should be quashed. The Court did not say what particulars of 'user' should have been supplied, but Mr Liddell submitted that as the Act speaks in general terms and does not create a specific offence arising from one set of facts only, particulars must be sufficient to identify the actual user to be relied upon. See *Ex parte Ryan re: Johnson* (1943) 44 SR (NSW) 12 at p16; 61 WN (NSW) 17 per Jordan CJ. See also *R v Hermes: ex parte Ball* (1967) ALR 158; (1966) 10 FLR 375 per Joske J and *Barnes v Polito; Polito, Ex p* (1967) Qd R 155.

The defendant is entitled, he said, to know the specific act charged so that it may be identified, and any ambiguity removed. The defendant is entitled to know with precision what he had to meet and if a variety of circumstances can constitute a user, the precise circumstances must be specified. Finally he referred to three decisions of the Supreme Court of South Australia: *Lafitte v Samuels* (1972) 3 SASR 1; *Giles v Samuels* (1972) 3 SASR 307; *Dalton v Bartlett* (1972) 3 SASR 549 all of which convictions were set aside on the ground that particulars should have been given, and that the defendant had been prejudiced in the conduct of his defence by the Prosecution failure to provide them.

Mr Graham of counsel who appeared to show cause, sought to restrict the principle of *Johnson v Miller* as enunciated by Dixon J to four points, namely,

- (a) the prosecutor shall identify the transaction on which he relies.
- (b) he should do this whenever it appears that the information is equally capable of referring to a number of occurrences.
- (c) the defendant is entitled to know not only the legal nature of the offence but also the particular act alleged as the foundation of the complaint.
- (d) If the complaint is equivocal then the prosecutor must by particulars distinguish the occasion from like occasions.

He submitted that particulars such as are requested here are really in the nature of interrogatories and should not be allowed. A prosecutor is not, he submitted, required to outline his evidence, nor to set out the common law or statutory provisions on which he intends to rely in order to persuade the court of the sufficiency of the evidence to support the charge. He submitted that to supply particulars of 'use' would of necessity require evidence to be set out, and that the defendant must wait until such evidence is given.

In my view the particulars supplied by the informant of the alleged offence against s12(a) of the *Lotteries, Gaming and Betting Act 1966* were insufficient. The defendant was entitled to know how his alleged 'use' of the premises was constituted, whether by himself being present on the premises at the material time or whether by allowing others to be present on them at the material times or whether in both ways, or in some other way. He was also entitled to know the precise nature of the alleged 'unlawful gaming' particularly as this could be constituted in any one of a wide variety of ways.

It may be that the informant recognised this and sought to supply this information in the letter dated 24th July 1973. If so he failed to do so. The letter uses ambiguous and imprecise language. If the 'Machines' referred to were gambling machines of some sort or other, then they should have been identified as such. Not all machines are unlawful. Nor is it clear who operated them or what 'operating' means. Is it for example alleged that the machines, or – either of them – for they could be different, were 'skill ball' machines, or 'poker' machines, or 'totalizators' or 'washing' machines, or, as Mr Liddell put it, 'lathes' or something else.

The particulars supplied state that the defendant made certain admissions on the day after the informant received from the defendant two payments. I fail to see that this has any bearing whatever on the matter of particulars. There may be an implied innuendo that the informant has an open and shut case (and this may be true) but it does not affect the issue here.

I am of the opinion that the informant was quite right in refusing to state whether he relied on s11 of the Act in question. However, in order to avoid injustice being done to the defendant the

informant should have been ordered to identify the 'user' upon which he relied, and to identify the type or types of 'machine' in question, sufficiently to identify them.

In my opinion in every case where an informant alleges an offence, and the offence is one which can be classed as non-specific, it is a sufficient statement of the offence to follow the words used in the Act creating the offence, but, on a request for particulars being made by the defendant, the informant must supply sufficient particulars to identify, not only the transaction or occurrence, as Mr Graham put it, but every other ambiguous or non-specific element of the offence. If particulars are supplied and they themselves contain ambiguities, then further particulars of such ambiguous matters should be ordered, so as to ensure that the defendant, or any other person looking at the matter, knows what has been charged and what has to be met.

The Order nisi No. 6972 of 1973 relating to s12(a) of the *Lotteries, Gaming & Betting Act* 1966 will be made absolute.

The next information related to s17 of the same Act and charged that the defendant being the occupier of a certain house or places, to wit premises known as 338 Williamstown Road, Yarraville, 'did unlawfully use the same for the purpose' (singular) 'of betting'. Particulars of each alleged act of the defendant constituting the 'use' alleged were requested. The informant in his letter of 24th July 1973, simply said as to this request: 'The informant relies upon the particulars supplied above.'

'Bet' is defined in s3 of the Act to include 'wager' and 'Betting-includes wagering'. 'Wager' and 'wagering' are not defined. *[After setting out the provisions of s17, His Honour continued]* ... Mr Liddell submitted that if the prior particulars were all that were alleged against the defendant on this information, then the magistrate should have struck out the information. Mr Graham submitted that this information was saved by s18(2) of the Act which reads:

"In any information under this Division and in all orders convictions warrants and other proceedings following thereon a house or place opened kept or used for the purposes aforesaid or any of them may be described generally as a betting house or place for betting and wherever necessary the purpose aforesaid or any of them may be described generally as "purposes of betting" and no objection shall be taken to any such description on the ground of duplicity or otherwise and at the hearing of any such information evidence may be given with reference to all or some or any of such purposes."

It is my opinion that s17 of the Act is directed against the house or place in question, making it a common nuisance, and s18(1) is in fact the section which is directed to the individual. However, nothing was made of this point before me. Section 18(2) is an enabling section, which permits a general description to be given in an information, and avoids argument which might otherwise be advanced as to sufficiency for the purposes of the Act and as to duplicity. It does not, as I see it, avoid the necessity of supplying particulars, if requested, identifying the purpose or purposes relied on.

It seems that if a house or place is used in any one or more of the manners or for any one or more of the purposes specified in ss17 to 22 inclusive of the Act, an offence may be committed against s18(1) of the Act.

An information shall not be defeated on the ground of duplicity if more than one of the purposes specified in s17 or 18 is shown by the evidence to be involved or suggested by the evidence to be present. Nonetheless if a defendant is charged with unlawfully using a place for the 'purposes of betting' and he seeks particulars of the purpose or purposes alleged, he is in my opinion entitled as a matter of justice to particulars of the purpose or purposes (if more than one) alleged, and also of the matter of betting, under s17(1)(a). Whether this was what was requested when particulars were sought 'of each alleged act of the Defendant constituting the 'use' of the premises for the purpose of betting' is not clear.

The information contains the words 'for the purpose of betting', using the word 'purpose' in its singular sense meaning, in the context, 'in order to'. For this reason, the defendant requested particulars of the 'use' alleged, and not of the 'purpose' in question. If 'purposes of betting' was meant or intended then no doubt particulars of such 'purposes' could have been sought.

The information, in the form in which it was served, did not allege a plurality of purposes and s18(2) is not precisely in point. In my opinion the informant has confused s17(1)(a) and s18. If the information was confined to a use for the purpose of betting, it should have specified whether the betting was carried on with persons or 'in person or by messenger or agent post telegraph telephone or otherwise'. See s18(1)(a) and s17(1)(a). The absence of the plural in the information has clearly caused confusion.

In my opinion if the information had gone on to specify that the defendant used the place for the purpose of betting (1) 'with persons in person' and/or (2) 'with persons by messenger' and/or (3) 'with persons by agent' or by 'post', 'telegraph', 'telephone' or by whatever means were relevant, it would at least have been clear that the information charged properly under s18(1)(a) was directed against the defendant for using the house or place for a purpose mentioned in s17.

As it is the confusing character of s17 has confused the informant, and the presence of s18(2) has compounded the error by referring therein to the 'purposes of betting'. In the circumstances, I feel that the Magistrate also has been misled, for all that he said about the request for 'particulars, on this charge was

"As regards the information under s17 what I have said in relation to the charge under s12 applies equally to this information and in my view the particulars are adequate."

In my view, although the matter was not approached with any clarity, the defendant was entitled to particulars specifying the act or acts relied upon, which should presumably indicate whether the betting in question was with persons in person or by messenger agent post telegraph telephone or otherwise or by any one or more method, and so alert the defendant as to the case he had to meet. None of the particulars supplied did this, so far as I can make out. The order nisi on this charge shall be made absolute.

As to the third information based on s44 of the *Lotteries, Gaming & Betting Act*, this information charged that on 18th September 1972 the defendant 'did act in the conduct of a common gaming house at premises situated as 338 Williamstown Road, Yarraville. Particulars were sought of each alleged act of the defendant constituting the 'acting in the conduct' and of each alleged act fact matter or thing constituting the said premises a 'common gaming house'.

Particulars were also sought whether the informant intended to rely upon s43 of the Act. In my opinion the informant was not bound to deliver particulars relating to s43. The informant in his said letter of 24th July 1973, said that he 'relied upon the particulars supplied above to support his allegation that the defendant acted in the conduct of a common gaming house.'

Section 44 reads:-

"If any house or place is a common gaming house or place, the keeper or other person having the care and management thereof, and also every banker croupier and other person who acts in any manner in the conduct thereof shall be liable for a first offence to a penalty of not more than \$250 or to imprisonment for a term of not more than three months and for a second offence to a penalty of not more than \$500 or imprisonment for a term of not more than six months and for any subsequent offence to imprisonment for a term of not more than twelve months.'

It is clear that the information does not charge the defendant with being a keeper or banker or occupier, but it does charge him with simply being a person who acted in the conduct of a common gaming house. Nowhere is the 'manner' in which the defendant is alleged to have acted set out. The offence appears to me to require that particulars of the 'manner' in which any person is alleged to have acted in the conduct of a common gaming house should be supplied.

Furthermore, if the house was to be alleged to be a common gaming house because, for example, a totalizator was being conducted thereon, or because of any other reason, particulars specifying the same should be supplied. None of the particulars which were supplied specified whether any and what unlawful game was being played on the premises, or whether persons were betting in some way, or whether lotteries were being conducted, or betting odds communicated, or whether any and which of the matters set out in s40 of the Act were apposite. In my opinion, it was impossible for the defendant to know what precisely was being alleged against him on this information. The order nisi on this information will be made absolute.

As to the final information laid under s20 of the *Summary Offences Act* 1966. This information charged that the defendant 'on 18th September 1972 at premises situated at 338 Williamstown Road, Yarraville where refreshments are sold or disposed of did suffer gaming therein.' Particulars were requested of each alleged act of the defendant constituting the 'suffering' alleged and of each act fact matter or thing constituting the gaming alleged. In the said letter from the informant dated 24th July 1973, the following particulars were supplied;

"On 18th September 1972 at or about 12.30 p.m. the defendant suffered gaming, to wit the playing of machines, as a result of which payments of money were made, such gaming having taken place on premises being of a kind specified in the said section 20."

Section 20 of the *Summary Offences Act* itself reads:

"Any person who allows in any house building tent or other premises wherein liquors provisions or refreshments are sold or disposed of and drunkenness or other disorderly conduct or suffers any gaming whatsoever therein or suffers prostitutes or persons of notoriously bad character to frequent his premises shall be guilty of an offence."

The Magistrate said about this request for particulars that he agreed that 'suffered' simply meant 'allowed' and that the 'particulars supplied clearly set out what amounts to the gaming under this particular section, having regard to the evil which is mentioned.

I do not follow what exactly the Magistrate had in mind in making reference to the evil which is mentioned in the section, but no doubt the phrase, 'the playing of machines' has acquired some special meaning. In New South Wales it would mean what are termed 'poker machines', and what were formerly known, as I recall, as 'fruit machines'. The *Oxford Dictionary* states that a 'fruit machine is a coin operated gaming machine in which a player is successful who gets a certain combination of different coloured balls'. One might presume that it was this sort of machine which the informant was referring to in this case, but one might be quite wrong. The particulars do not identify the type of machine, which could be simply done and which would avoid any error arising from a false presumption.

The next point to note is that the Act uses the word 'allows' but the information substitutes the word 'suffer' and the Particulars use the word 'suffered'. It has been held that 'suffer' and 'permit' are to all intents and purposes the same and carry no real distinction for the purposes of the *Licensing Act*. See *Somerset v Wade* (1894) 1 QB 574. And a person 'suffers gaming' if he or his servant in charge knows or ought to know that gaming is going on. *Bosley v Davies* (1875) LR 1 QB 84. But to 'allow' a thing to be done or omitted, there must be some direct or indirect sanction of it. A man cannot be said to allow that of which he is unaware or which is something he cannot prevent. Per Darling J in *Crabtree v Fern Spinning Co* (1901) 85 LT 549; *Federal Supply Co v Angehrn* (1910) 103 LT 150. In s20 of the *Summary Offences Act*, the legislature has used the word 'allows' in this special sense. As was said by Cussen J in *Gilbert v Gulliver* [1918] VicLawRp 27; [1918] VLR 185 at 189; 24 ALR 69; 39 ALT 150:-

"I think that ordinarily speaking before a person can be said to 'allow' anything there must be something in the nature of actual knowledge or connivance or in some cases extensive delegation of authority in circumstances where the defendant has delegated his power to prevent the act from being done."

cf. *Ferrier v Wilson* [1906] HCA 77; (1906) 4 CLR 785 at 795-6 per Barton J and at p801 per Isaacs J. In *Proudman v Dayman* [1941] HCA 28; (1941) 67 CLR 536 the High Court of Australia construed the meaning of the word 'permit' in an offence of permitting an unlicensed person to drive a motor car. Without going into that case in detail, it seems to me that the word 'suffer' – if it is to be equated to the word 'permit, – may mean something quite different from what the legislature meant when it used the word in s20 of the *Summary Offences Act* 1966,

It is sufficient to say that 'suffered' and 'suffer' may not mean the same as 'allow', and the defendant would have been entitled to know what it was alleged that he did which constituted the alleged suffering. He was not charged in the wording of the section itself. If the informant was alleging simply that the circumstances demonstrated that the defendant did not do everything that he could to prevent the alleged gaming – or that he rented his house or premises to someone who

gamed thereon, it might well be a different case that the defendant had to meet from one where it was alleged that he took part in or fostered gaming or stood by whilst it went on, and took no steps to prevent.

It is not known, nor is it particularised, what the defendant is alleged to have done. He is said twice to have 'suffered' gaming. In my opinion the defendant was at least entitled to obtain particulars of the alleged 'suffering'. It need not be by any means the same thing as 'allowing' as the magistrate appears to have thought it was.

In the circumstances, it is appropriate that this order nisi should also be made absolute. Each information will be remitted to the Magistrate for hearing, and the informant will be ordered to deliver within fourteen days to the defendant further particulars -

(a) In the information under s12(a) of the *Lotteries, Gaming & Betting Act 1966*

(i) of the acts matters things and circumstances constituting the 'use' referred to therein;

(ii) of the acts matters things and circumstances constituting the unlawful gaming referred to therein.

(b) In the information under s18(1)(a) of the said Act

(i) of the acts matters things and circumstances constituting the unlawful use as alleged therein.

(c) In the information under s44 of the said Act

(i) of the acts matters things and circumstances constituting the 'act in the conduct' alleged therein and specifying the precise manner in which it is alleged that the defendant did so act;

(ii) of the acts matters things and circumstances alleged which constitute the premises 'a common gaming house' as alleged therein.

(d) In the information under s20 of the *Summary Offences Act 1966*

(i) of the acts matters things and circumstances alleged to constitute the 'suffering' alleged therein;

(ii) of the acts matters things and circumstances alleged to constitute the gaming alleged therein.
