

1895.
August 15, 20.

WIJERATNE v. PERERA.
P. C., Kurunégala, 3,643.

*Ordinance No. 17 of 1889, ss. 5 and 18—Keeping a common gaming-place—
Improper use of bagatelle table—Game of “Kurunégala rouge et blanc.”*

The game of bagatelle sanctioned by the Ordinance No. 17 of 1889, section 18, is not the game of “Kurunégala rouge et blanc.”

The occupiers of a house keeping a house for the playing of that game for stakes, and to which the public have access, are liable under section 5 of that Ordinance.

THE evidence adduced in this case established that the two accused persons were the occupiers of a house in a thickly populated part of the town of Kurunégala ; that there was a bagatelle table in that house ; that the house was the nightly resort of all sorts and conditions of persons ; that the table was used for the purposes of playing a peculiar game in the following manner : a red ball being placed upon the table at the spot point, a man who held the cue played the white ball against it, and the spectators round the table staked money, some upon the white ball, others upon the red ; that the stakes were placed upon the table ; and that the accuseds took a share thereof as their

commission, leaving the remaining money to be divided among the winners according as the white or the red ball fell into any one of the holes in the table. 1896.
August 15, 20.

The Police Magistrate convicted the accused of keeping a common gaming-place, and thereby committing an offence under section 5 of the Ordinance No. 17 of 1889, and sentenced them to pay a fine of Rs. 250 each.

They appealed.

Dornhorst and *Roberts*, for appellant.

Rámanáthan, *S.-G.*, for respondent.

Cur. adv. vult.

20th August, 1895. BROWNE, J.—

It is very patent that the accused have sought—under the protection given by the Gaming Ordinance, 1889, section 18, to the game of bagatelle—to keep or use for their own profit a common gaming-place, whereat on a bagatelle table a game (which after this prosecution will perhaps be known as “*Kurunégala rouge et blanc*”) was, according to the evidence, played in the following manner :—

The red ball being spotted, Horatella, a carter, who alone and always throughout the fifteen minutes when the witnesses were present handled the cue, played the white ball against it. The spectators standing on either side of the table had made bets, placing their money on either side of the table, whether the red ball or the white ball would fall into a hole. If both balls fell in, they were taken out and the stroke was repeated. When only one ball had on the first or after the repeated stroke fallen into a hole, those who staked their money on that coloured ball falling into the hole took their money. The bets were of various sums up to 50 cents. The two accuseds, father and son, stood on either side of the table, and before each game was commenced took as commission 3 cents out of each 25 cents staked, *i.e.*, 6 cents out of each 25 cents bet. Five or six such games were played in the fifteen minutes.

Appellants called no witnesses out of the thirty or forty Sinhalese, Tamil, Moor, and Malay frequenters of their *salon* on this occasion to depose to the game being other than what the witnesses for the prosecution described. In their petition of appeal they submit that the stroke of white on red so described is but the first stroke at bagatelle, and that this limitation of the game to a series of repetitions of first stroke is only such a variation of the ordinary game as pyramids and snookers may be

1895. considered to be of the game of "billiards," which the Ordinance
August 15, 90. leaves legitimate. It is inadvisable now to hazard any opinion
whether those variations would be so protected. Probably those
who are in doubt on the point will not play them for cash betting
or stakes. But the judgment of the Police Magistrate, that this
Kurunégala *rouge et blanc* is not the game of bagatelle sanctioned
by the Ordinance, is one which I affirm. For this, which I
believe to be the first conviction of the kind, I reduce the sentence
to Rs. 100 fine, and in default three months' rigorous imprison-
ment.

