

1922.

Present: Porter J.

DICKMAN v. RAHIM.

386—M. C. Colombo, 3,930.

*Wrestling match—Is it an acrobatic performance?*

A "wrestling match" is not an "acrobatic performance" within the meaning of the expression in the by-law framed under sections 109 (1) and 110 (15) of the Municipal Councils Ordinance, No. 6 of 1910, and published in the *Government Gazette* No. 6,956 of July 12, 1918.

J. S. Jayawardene, for appellant.

August 24, 1922. PORTER J.—

In this case the Magistrate has convicted the appellant for having used an enclosure for the purpose of a public performance, to wit, wrestling match, in contravention of section 1 of the by-law framed under sections 109 (1) and 110 (15) of the Municipal Councils Ordinance, No. 6 of 1910, and published in *Government Gazette* No. 6,956 of July 12, 1918.

The by-law under which the accused was convicted has been held by the Magistrate to come within the meaning of the following:—"Public performance where there shall be an exhibition of pictures, or optical effects, by means of cinematograph, magic lantern, or other similar apparatus, or where there shall be any dramatic representation or exhibition of dancing, conjuring, juggling, acrobatic performance, or other stage entertainment in which stage effects are used."

The fact that the accused used a place for a wrestling contest is admitted. The Magistrate has held that a wrestling match does come within the definition of "an acrobatic performance." "Acrobatic" is defined in the Imperial Dictionary as derived from the Greek word "akrobatio" to go on tiptoe, climb upwards.

There seems to be no analogy between "acrobatic" and "wrestling." I cannot come to the same conclusion as the learned Magistrate has in this case. In the course of a wrestling match certain acrobatic attitudes are attained, but equally so at tennis or football, but that is not sufficient to bring a wrestling match within the meaning of by-law of Municipal Ordinance No. 6 of 1910. Powers are given to make by-laws respecting public performances. By-laws can be made to regulate wrestling matches if the authorities so desire, but that has not been done as yet.

I think this appeal should be allowed, and the conviction set aside.

*Appeal allowed.*