

Friday,
16th March, 1888

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXVII

Jan.-Dec., 1888

ABSTRACT OF THE PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

VOLUME XXVII



Published by the Authority of the Governor General.

CALCUTTA :
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1889

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 16th March, 1888.

PRESENT :

His Excellency the Viceroy and Governor General of India, K.P., G.C.B., G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.

The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble Sir C. U. Aitchison, K.C.S.I., C.I.E., LL.D., D.O.L.

The Hon'ble Sir C. A. Elliott, K.C.S.I.

The Hon'ble J. Westland.

The Hon'ble Rana Sir Shankar Bakhsh Singh Bahadur, K.C.I.E.

The Hon'ble Syud Ameer Hossein, C.I.E.

The Hon'ble Rájá Peári Mohan Mukerji, C.S.I.

The Hon'ble W. S. Whiteside.

The Hon'ble J. W. Quinton, C.S.I.

The Hon'ble R. Steel.

The Hon'ble F. M. Halliday.

The Hon'ble Sir Pasupati Ananda Gajapati Razu, K.C.I.E., Maharaja of Vizianágram.

INVENTIONS AND DESIGNS BILL.

The Hon'ble MR. SCOBLE moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Protection of Inventions and Designs be taken into consideration. He said :—

“ Since I presented the Report of the Select Committee on this Bill four weeks ago, I have had very few communications regarding it. Some suggestions have been made to which I will briefly refer.

“ The first relates to the time given to foreign inventors within which to apply for an exclusive privilege for their inventions in British India. In the Bill this is fixed at one year from the date of the grant of the patent elsewhere than in the United Kingdom. It is urged that two and a half or three years should be allowed : but the Select Committee was distinctly of opinion that, in the public in-

terest, one year was a reasonable time to grant for such applications, and I have therefore been unable to accept this suggestion. On the same ground I propose to retain the provision that when a patent expires in the country of its origin it shall also expire in India. Where the public interest and the interest of the inventor are in conflict, the former must prevail: and there seems no good reason why patents which have expired elsewhere should be kept alive to the disadvantage of the people of this country.

“It has also been urged that section 30, which allows ‘any person’ to apply to a High Court to quash an exclusive privilege upon certain specified grounds, ought to be limited to those classes of persons who are entitled to petition the Courts in England for revocation of patents under section 26 of 46 & 47 Vict., c. 57, that is to say, the Advocate General or any one authorised by him, or any person alleging that the patent was obtained in fraud of his rights, or that he was the true inventor, or that he had manufactured, used or sold the invention before the date of the patent. This point had not escaped the notice of the Select Committee, who preferred not to cut down the larger words of the Act of 1859, but to impose the condition that when an exclusive privilege is thus attacked the Court may require the attacking party to give security for costs, and in this way to put a check on vexatious litigation.

“I have therefore no amendments to propose in the Bill.”

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

MEASURES OF LENGTH BILL.

The Hon'ble MR. SCOBLE also moved for leave to introduce a Bill to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in British India. He said:—

“This Bill has its origin in five communications from the Bengal, Madras, Bombay, Rangoon and Karáchi Chambers of Commerce, asking that the English standard yard may be declared by law to be the standard measure of length for British India.

“The Bengal and Rangoon Chambers base their request on the general ground that it is anomalous that there should be no legal standard of length in

1888.]

[Mr. Scoble.]

this country while there is one in the United Kingdom, and that the absence of such a standard causes, in their opinion, 'difficulties in the working of the piece-goods trade of the country.' The Karáchi Chámber's representation is in similar general terms, their main ground being that 'in the working of the piece-goods trade of this country a standard of length is essentially necessary for the protection and convenience of the same.' But the Bombay and Madras Chambers go more into particulars, and urge the fixing of a legal standard of length on the ground that, under the existing law, the marking of false lengths on cloth goods is not punishable, and ought to be made so.

"Without entering upon the question whether the existing law is sufficient to deal with cases of cheating by false measurement, I think it must be admitted to be desirable that some standard measure of length should be adopted, and that, by the adoption of such a standard, fraud will be at all events rendered more difficult than it is at present. This is not the first time that the question has been considered by your Lordship's Council. In 1870, Colonel Strachey introduced a Bill to regulate the weights and measures of British India, and described its object to be 'to adopt for India for the first time some fixed standard of quantity where none had hitherto existed, and to place once for all on a definite basis the multitude of transactions of trade and commerce which till now had been left to be settled too often in a manner that placed the buyer at the complete mercy of the seller and gave the most objectionable openings to fraudulent dealings.' Unfortunately, as I think, the French metre was adopted in Act XI of 1870 as the unit for measures of length; but this Act was disallowed by the Secretary of State, and Act XXXI of 1871, which took its place, relates only to measures of weight and capacity.

"On looking through the report of the Committee which was appointed in 1868 to revise the system of weights and measures for British India, and which report was the basis of the legislation of 1870, I find it stated, 'with reference to measures of length, the English yard, foot and inch appear to be now used generally throughout British India;' and again 'in linear measure the Department of Public Works has done much to introduce our scale. The English yard has partially superseded the ever varying *gaz* of the Native dynasties throughout India. In all parts of the country people now use the English foot and inch, and hawkers sell their cloth by the English yard.' It is probable that, in the twenty years which have elapsed since these observations were written, English measures of length have become even more widely used, and that the statement of the Bombay Chamber of Commerce may be accepted that 'the English yard, with its subdivision of feet and inches, is now so generally

[*Mr. Scoble; Mr. Steel; Rájá Peári Mohan Mukerji.*] [16TH MARCH,

known and used throughout the country that it forms by far the most convenient length for adoption.'

"The object of the Bill which I ask leave to introduce is to give a settled legal meaning to the words which denote these measures, and thus pave the way for future legislation on the lines of the Merchandise Marks Act, which came into force in England last year, and the main provisions of which appear to be quite as much needed in this country as at home."

The Hon'ble MR. STEEL said:—"The proposed legislation will be welcomed by the mercantile community. The Bill which the hon'ble member proposes to introduce is a small measure, but it is a necessary preliminary to further legislation. There is a general consensus of opinion that it will be soon desirable to legislate in India on the same lines as the Merchandise Marks Bill recently passed in England; but as that measure is of an extremely complicated character, and has already developed certain faults which will require amendment, there is a general agreement that it is not desirable to initiate hasty legislation in India. When full experience has been gained of the working of the English Act, and when it is decided to follow it here, the prior establishment of the standard measure will be found to have facilitated such legislation."

The Hon'ble RÁJÁ PEÁRI MOHAN MUKERJI said:—"When the Government of Bengal a few months ago invited public opinion on the desirability of having a law for defining a standard unit of measure, it was apprehended in certain quarters that the intention of the Government was to supersede all local measures of length by a uniform measure throughout British India. The observations made by the Hon'ble the Law Member will remove that apprehension. The object of the Bill which he wishes to introduce is very different from what was at that time apprehended. Different provincial Acts defined the unit of measure which should obtain in the presidency-towns of Calcutta, Madras and Bombay, but there was absolutely no law whatever declaring what was the unit of measure outside the limits of the presidency-towns. It is to fill the void in the Statute-book that I think the present measure is intended. Perhaps, looking to the discussions which took place in 1864, and to which the learned Law Member has referred, it would have been more desirable if the unit of the French metre had been adopted. But for the present at least we must, I think, be content with the standard measure which obtains in the United Kingdom."

The Motion was put and agreed to.

The Hon'ble MR. SCOBLE also introduced the Bill.

1888.]

[*Rájá Peári Mohan Mukerji.*]

The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Friday, the 23rd March, 1888.

S. HARVEY JAMES,
Secretary to the Govt. of India,
Legislative Department.

FORT WILLIAM; }
The 19th March, 1888. }