Friday, March 4, 1870

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

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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 4th March 1870.

PRESENT:

Major General the Hon'ble Sir H. M. Durand, C. B., K. C. S. I., Senior Member of the Council, *presiding*.

His Excellency the Commander-in-Chief, K. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble Gordon S. Forbes.

The Hon'ble D. Cowie.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

COURT FEES BILL.

The Hon'ble MR. COCKERELL moved that the second Report of the Select Committee on the Bill to provide for the better regulation of Court Fees be taken into consideration. He said that the effect of the amendment which was carried when this Bill was last under discussion, was to postpone the consideration of the Select Committee's first report thereon; there were consequently two reports before the Council. He did not, however, on the present occasion, propose to make any further reference to those provisions of the Bill which were embraced in the former report, but would confine his remarks to a brief statement of the reasons for adopting the additional amendments which had been introduced into the Bill since its re-committal.

At the suggestion of his hon'ble friend, Sir Richard Temple, the provisions of section 7, clause v, paragraph (*c*), had been made more comprehensive. As was justly remarked when this subject was last before the Council, there were estates or tenures not included in the term inám, which, as regarded the principle and measure of their revenue-assessment, were not very dissimilar to 'inám' lands, and seemed to require the application of the same rule in

regard to the valuation of suits relating to such property. For instance, in the Lower Provinces of Bengal, it had been the almost universal practice, on the resumption of land which had escaped assessment at the general settlement of estates in its vicinity, to admit the holder of such land to engagement for the payment of the Government-revenue at half the customary rate of assessment; and this lenient settlement had been accorded, not with any reference to the productive character of the land, but in satisfaction of such equitable rights as the holder might be considered to have in virtue of his long possession of the land free from the payment of revenue. In such cases, no less than in that of inám-land, the amount of the revenue-assessment afforded no fair criterion of the value of the land; it was therefore thought expedient to substitute, for the term 'inám,' such general words as would embrace all estates and land subject to the direct payment of Government-revenue, but assessed at rates more or less below the full normal demand.

The Bill, as first amended, imposed a fixed charge of ten rupees on suits relating to rights of pre-emption, and the specific performance of a contract. In the case of the former class of suits, the effect of that provision would be to reverse the existing practice, under which such suits were assessed according to the value of the property regarding which a right of pre-emption was claimed. Further consideration of the matter had led to the conclusion that this practice was in accordance with the principle adopted throughout the Bill, that the valuation of suits should be regulated by the value of the subject-matter actually in dispute, and should therefore be maintained. In the cases referred to, the subject-matter was in fact the possession of the property which the litigants claimed a right to purchase, and the application of the above-mentioned principle to such cases was in no way barred or affected by the circumstance that one or other of the disputing parties had to pay a certain amount to some third person as a preliminary condition to obtaining the actual possession of the property to which the suit had reference. So, also, in respect of the various descriptions of contracts forming the subject of a suit to enforce specific performance, it could not correctly be said that the litigated matter had no appreciable market-value. The fixed charge formerly proposed was therefore thought inapplicable to this class of suits, and provision was made in section 7, clause x, of the re-amended Bill for substituting an *ad valorem* rate, regulated by the estimated value of the interest involved in the contract.

There was a property, or interest in land, the owner of which was in certain parts of the territories under the Government of the Lieutenant

Governor of the North-Western Provinces termed an Ubáridár, and in other parts of India was known under various designations, for the litigation of whose rights no specific provision was made in the former Bill. The person in whom this interest was vested could not be said to have possession of the land out of which the interest arose. His position was rather that of a farmer or assignee of the Government-revenue payable in respect of the land in question; hence a suit affecting his rights would not come within the provisions of section 7, clause v: and even were this not so, there would be the same objection to make the amount of the revenue paid to Government by such person the basis of the valuation of a suit relating to his interest, as had been shown to apply to this mode of valuation in the case of inám-land; for the revenue which the Ubáridár, or other person above referred to, paid to Government bore no adequate proportion either to the value of the land to which his interest related, or to the amount which he received from the persons in possession of such land, with whom the revenue-settlement had been effected. It was proposed therefore to apply the rule of section 7, clause v, paragraph (*c*), to this class of cases.

It was considered expedient that the sanction of the Governor General in Council should be required to validate the rules to be framed, under chapter IV of the Bill, for regulating the strength and cost of establishments, as well as the amount of the fees to be levied, for serving the processes issued out of the several courts. Imperial control was deemed essential to the well-working of the new system, the effect of which was to make the cost of serving processes a charge upon the general revenues. The difficulty which at first sight seemed likely to arise out of the habitual exercise of this power of control in regard to the numerical strength of the establishments to be employed in serving processes might be obviated, it was thought, by framing the rules so as to admit of fluctuations in the number of peons entertained from time to time, without the necessity of a reference to the Supreme Government in the case of every temporary increase.

As regards the determination of the description of stamp to be used for the purposes of this Bill, it had been strongly urged that the authority of the Governor General in Council should be substituted for that of the Local Governments. The stamps in use were for the most part supplied from England, and uniformity as to the style of stamp to be adopted was essential to their economical provision. The proposed change was needed, therefore, to guard against the increased expenditure which would be not unlikely to result from a divided control in this matter.

Heretofore, summary suits to recover possession of property from which the suitor had been forcibly ejected, and applications to a civil court for the enforcement of a specially registered bond or agreement, had been subjected to one-fourth only of the rates of fees leviable on the institution of a civil suit. It was thought that this privileged rate might now be fairly raised to one-half of the ordinary rates. The scale of fees imposed by the Bill afforded, in itself, such a material concession in favour of litigants for small amounts—and suits of the classes referred to usually involved only an inconsiderable amount or value—that the further retention of the one-fourth rates was held to be unnecessary. Moreover, great practical inconvenience must be anticipated in the operation of a scale of fees which would embrace several denominations, including the fractional parts of an anna.

It was at first proposed to substitute, for the fixed fee heretofore chargeable on applications for a review of judgment, an *ad valorem* fee of one-eighth of the ordinary rates leviable on the institution of a suit. The chief object of this change was to discourage the institution of such applications on frivolous or insufficient grounds. It had been represented that the practice of seeking to obtain a re-hearing of the suit in this way, on grounds not contemplated by the law, was greatly on the increase; and that the time of the courts was needlessly wasted thereby, the mere loss of the small fee paid on such applications being altogether insufficient to check their improper presentation. The Committee had since been advised on high authority that one-eighth only of the full *ad valorem* rate was far too inconsiderable an alteration of existing charges to secure the object in view, and that the fee in such cases should certainly not be less than one-half of the ordinary rates leviable on the institution of a suit. When it was borne in mind that, under the operation of section 15 of the Bill, the ultimate incidence of this enhanced fee on the applicant was restricted to cases in which the application for a re-hearing was not warranted by the circumstances in which it was made, the increase now proposed seemed unobjectionable.

On suits coming under the Pársí Marriage and Divorce Act, an institution fee of thirty-two rupees was levied, whilst the fee on suits brought under the later Indian Divorce Act was fixed at only five rupees. As there was no marked disparity in the circumstances of the persons affected by these enactments, and the subject-matter of the suit was the same, the distinction in the amount of fee imposed by either enactment was only to be accounted for on the supposition that these fees were determined very much at hazard, and were certainly not regulated by any fixed principle. One of

the useful results of the present attempt to consolidate the law on this subject had been the bringing to notice of inequalities of this kind, and the opportunity thus afforded for their rectification. The first proposal was to equalize these fees by reducing the higher to the level of the lower rate. Since the publication of the amended Bill, however, it had been pointed out that, with regard alike to the importance of the cause, the time occupied by the courts in its adjudication, and the circumstances of the general class of persons concerned, a fee of five rupees was far too low. It was proposed therefore to substitute the mean rate of rupees twenty for the different rates now in force.

A slight alteration had been made in section 22. As originally drawn, it provided for the specific apportionment of the number of peons to be employed in each court subordinate to a District Court, for serving the processes issued out of such courts. The Committee had since learned that the local High Court had in contemplation some new scheme for the remodelling of process-serving establishments, and that the above-mentioned provision of section 22 was regarded as likely to obstruct its operation. It was not, he (MR. COCKERELL) thought, quite clear that any difficulty would have been created by the adoption of the provision referred to in its original shape; but to remove all doubt on the subject, the words which might be construed as necessitating the maintenance of distinct establishments of process-servers in each civil court had been omitted.

There were other minor alterations which did not call for special notice.

The consolidation of the law relating to court fees, which was a prominent feature of the Bill, had been matured by the transfer of several provisions of other enactments, and there was good reason to believe that, in this respect, the measure was now as complete as possible.

The Hon'ble MR. CHAPMAN desired to make some general remarks on the alterations that had been made in Chapter IV, relating to process-fees. For his own part he should have wished that these funds had been kept, as heretofore, quite separate from the imperial revenues, and maintained on a self-supporting basis. But it had been decided that these fees should merge into the imperial exchequer. Such being the case, he was prepared to admit that it was necessary the Financial Department should have the same control over all disbursements from them as they had over ordinary public charges. He (MR. CHAPMAN) wished he could think this control would be exercised in a generous spirit and in a comprehensive manner. Judging from the past practice of the Department he believed there was no chance of its being so exercised. He feared that, ere long, they should hear complaints from the High Courts and

others charged with the administration of justice, of the inefficiency of these establishments, both in respect to numbers and pay. It seemed to him that it would be particularly hard on suitors, who were ready to pay liberally for honest and efficient service, to have their interests jeopardized simply because the Financial Department would insist on employing an insufficiently paid agency. He considered his Hon'ble friend, Sir Richard Temple, to be placed in a very unenviable and even unfair position in respect of the control over establishments he was called upon to exercise. He was in charge of the State caldron—a vessel of limited capacity; and he was surrounded by a clamorous crowd of hungry applicants, each of whom was pushing forward his plate and 'asking for more.' Some of these, perhaps the most diffident and not the least deserving, he silenced in a summary manner, and to others, and generally the most noisy, he doled out a spoonful. Now he (MR. CHAPMAN) ventured to think it was not the proper way to deal with this crowd in this indiscriminate manner. He would muster them in regular order, separate the honest, hard-working, able-bodied men from the idle, useless hangers-on; give the former their fill, and once for all send the latter to the right-about. In other words, what he (MR. CHAPMAN) thought was very necessary in the present day, was a thorough, independent revision of establishments. Such a revision should be conducted by competent officers, well versed in each of the separate branches of the administration, and made after full local enquiry. It was expecting too much from human nature to ask the Departments to reduce themselves. The kind of supervision that was now exercised at the head-office in Calcutta, by men necessarily ignorant of the local requirements of the different parts of this vast empire, and unacquainted with the working of the different Departments, consisted in cutting down and, if possible, negativing each separate application for an increase. He (MR. CHAPMAN) believed they were most indefatigable in their efforts in this direction, and yet, in spite of their exertions, charges were steadily increasing to an alarming extent. He entertained the belief very strongly that there was not a single branch of the administration in which vast savings might not be made, and that, too, without any sacrifice of efficiency. He believed that it was only by such thorough scrutiny as he had suggested that retrenchment could be effected and economy enforced. And entertaining this belief, he was glad to have had this opportunity of expressing it.

The Hon'ble SIR RICHARD TEMPLE said—"Sir,—I am sure that the Council will excuse me if I refrain from following my hon'ble colleague (Mr. Chapman) into the points which he has just adverted to. In reference to what he has said about the unremitting efforts of the financial authorities for reduction of expenditure, and to the need of continued vigilance in

spect, I am glad to hear such independent testimony publicly borne to certions of the Financial Department for the due discharge of its business, also to the necessity which exists for ceaseless economy in our public ses. But beyond making this acknowledgment, I shall hardly be expected e Legislative Council to enter into the purely executive details which my le colleague has mentioned. I can only say that the Government of in the Financial Department will continue to do, as it has heretofore its duty in these matters to the best of its knowledge and ability.

"I desire now to advert to one point which is of some importance. gh I acknowledge that the Bill as last amended has, in some five instances, ably raised the stamp-duties to an extent which may yield two lákhs ,000) or more to the State; still there is one point in which I think that full e has hardly been done to the financial interests of Government: and that is the valuation of land in permanently settled provinces.

"The Council will bear in mind that, in section 7 of the Bill, it is provided the value of land shall (for purposes of this Act) be deemed to be ten s the annual land-revenue in permanently settled districts, and five times and-revenue in districts not permanently settled. Now, in districts not anently settled, the above valuation, though very moderate, perhaps even low, lerably even and uniform, and so far correct, inasmuch as the land-revenue sufficiently fair index of the value of land in all parts of the country. if, as time goes on, rectification becomes necessary, it is supplied periodi- by revision of settlement. But, in permanently settled districts, the case uite different. There, the land-revenue has probably long ceased to be a index of the value of the land in different parts of the country; and it become more and more disproportionate to value as the country advances prosperity. In some cases, indeed, the standard of ten times the land- nue may prove to be too high a valuation. But in many cases it will e much too low; and, on the whole, I fear that the tendency of this ion will be to under-value (for the purposes of this Act) the lands of the anently settled districts. And, inasmuch as these rich districts are the places where large suits regarding land are most likely to arise, the under- ation for stamp purposes will be of some financial importance. I admit, ever, that the section does not make any unfavourable change, but merely es the law as it was.

"But if this valuation be defective, how is a better valuation to be devised? is indeed not an easy question, and, as at present informed, I am only

able to answer it by saying that the market-value of the land and the average nett profits might in each case be ascertained. Some authorities of local experience are, as I understand, in favour of this view. If an attempt were made to give effect to such a view, some such amendment would have to be proposed as follows: 'section 7, clause v, in suits for the possession of land—according to the market-value of the land. Such value shall be deemed to be fifteen times the average amount of the nett profits obtained from the land during the three years next preceding the year in which the plaint is filed in court: provided that such value shall be estimated to be not less than ten times the revenue payable for the land, where the land forms an entire estate, or a definite share of such estate, paying annual revenue to Government, or forms part of such an estate, and is recorded in the Collector's register or separately assessed with such revenue, and such revenue is permanently settled.'

"Such an amendment would no doubt meet the object in view, and would guard against the State losing stamp-revenue by reason of imperfect valuation, inasmuch as a minimum standard (ten times the land-revenue) is fixed, below which no valuation would be allowed to go.

"But to any such amendment there would be this manifest objection that, in every case, there would have to be an ascertainment of the market-value and the nett profits. In some cases, it might be said that an essential preliminary to the institution of a suit regarding land would be an elaborate enquiry in order to fix the amount of the stamp to be presented.

"When I brought the question before the Select Committee, the above objection seemed to have such weight as to preclude the entertainment of any such proposal. I myself, however, while sensible of the force of the objection, do not consider it an insuperable obstacle. For the principle of ascertaining market-value for stamp purposes, is already sanctioned by the Bill for several classes of cases. Still, having regard to the objection raised in Committee, and in the absence of complete local knowledge, I refrain from pressing the matter further at present.

"I merely make these remarks in the hope that the point may continue to receive attention, and that, if hereafter a better mode of valuation for land in permanently settled districts can be found, it may be embodied in our Court Fees Law."

The Hon'ble Mr. STEPHEN wished to offer one observation on the remarks made by the Hon'ble Sir Richard Temple in relation to the assess-

ment of estates. No doubt the mode which had been adopted in the Bill, as Sir Richard Temple had said, was arbitrary; but MR. STEPHEN thought it followed, from the fact that Sir Richard Temple did not propose any amendment, that of necessity we must make a somewhat arbitrary valuation, on account of the extreme difficulty of deciding upon any principle of valuation which was not arbitrary. There was no doubt, too, that any rule which was difficult of application, and which might involve nice calculations, would be so very great an evil to suitors and open so wide a door to litigation, that the proposed plan was the least of two evils. A rule by which the Government-revenue would sometimes lose and sometimes gain was not so bad as a rule that would open the door to litigation on the question as to the sufficiency of the stamp on the plaint. To introduce a question as to the market-value of the land in dispute, in order to decide what stamp was to be placed on the suit, would lead to uncertainty and be a hardship on suitors. The person who was to decide the question of the value of the land the subject of the suit was the plaintiff, and it was very hard to call on him to apply a difficult rule. The market-value of land was a matter on which you might raise infinite discussion, especially in all permanently settled provinces, where land had become subject to a very intricate system of sub-divisions. These were considerations which weighed very much with the Select Committee in adopting the present rule of a fixed ascertainable value. The question had been carefully considered by the Committee, and the result had been arrived at after much discussion.

The Hon'ble MR. STRACHEY said that, but for one reason, he would probably have said nothing regarding this Bill, and that reason being a purely personal one, he must apologize to the Council if he took up a few minutes in making an explanation which concerned nobody but himself. When the measure was introduced, in 1867, which the Council was now asked to repeal, it was stated that the main reason for a change in the law arose from the necessity of carrying out certain propositions which he (MR. STRACHEY) had made, and which had been approved by the Government, for making a large increase to the salaries of the subordinate Judges, and to the allowances of ministerial officers in the Civil and Revenue Courts throughout India. It was estimated that this increase of salaries would cost £300,000 a year, and it was avowed that it was a main object of the Bill to enable the Government to obtain additional funds to meet this additional charge. The Act of 1867, or at least that part of it which referred to Court fees, having thus been declared to have had its origin, to a great extent, in the propositions made by himself, he found that he frequently got the credit of having had something to do with the preparation of that law; and this had been so repeatedly said in one shape

or another, that he took this opportunity of correcting the mistake. The fact was that there had hardly ever been an Act passed by the Indian legislature to which he more strongly objected, and the disappearance of which from the statute-book he would see with greater satisfaction. He had always believed that, of all bad taxes that existed, there were none worse than high taxes on the administration of justice; and the taxes imposed under the existing law were in his opinion enormous.

In a paper which he had before him, written by the Advocate General of Madras and circulated to the Council, there was an illustration of this, which was worth repeating. He quoted a case which lately came before the High Court at Madras—the case of a suitor who had to pay the enormous sum of 32,000 rupees before he could even ask the Court to hear his case, whereupon the Chief Justice remarked that in no country but India could such a state of things exist. MR. STRACHEY agreed with the Advocate General that schedule B of Act XXVI of 1867 was as unwise and unjust a measure as ever emanated from any legislature, and he thought that the remarks made by the Advocate General, and which MR. STRACHEY would now read to the Council, were perfectly justified by the facts. The Advocate General said that what was formerly foretold by him as to the Act of 1867 had admittedly come to pass. He said—

"The Act has proved repressive of litigation; not dishonest litigation, but the *bonâ fide* pursuance of real or imagined rights; and when we learn that, while litigation has fallen-off twenty per cent., and revenue from judicial taxes increased by thirteen lákhs, I think it is hardly possible to bring forward two more damnatory statements; for, while twenty per cent. of those seeking justice have been absolutely debarred from redress, additional revenue has been squeezed out of those unfortunate suitors whose necessities compelled them to persevere in claiming their rights in the face of prohibitory and oppressive fines."

MR. STRACHEY did not pretend to say that, in his opinion, the present Bill afforded a really adequate measure of relief; but, in the existing state of the finances, he thought that it must be admitted that it gave as much relief as we could reasonably expect could be given. It would now be waste of time to talk of reducing, to an extent which he himself believed would, under other circumstances, be proper, the taxes which were levied on suitors for justice. But while he certainly hoped that the time would come when we should see a much larger measure of relief than the present, this Bill was, he thought, a decided step in the right direction. He (MR. STRACHEY) believed that it would remove a very considerable amount of hardship and of injustice, and he thought that, by adopting it, the Council would get rid of an extremely bad law, which had

been proved by actual experience to have been the cause of very serious denial of justice.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL then moved that the following clause be inserted after section 32 :—

"And the Indian Income Tax Act, section twenty, shall be read as if, for the words 'the value of the said stamp,' the words 'the fee on the petition,' were substituted."

The Hon'ble SIR RICHARD TEMPLE expressed his concurrence.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

WEIGHTS AND MEASURES BILL.

Colonel the Hon'ble R. STRACHEY, in moving for leave to introduce a Bill to regulate the Weights and Measures of British India, said that the Bill was designed to give effect to the conclusions lately adopted by the Governor General in Council, and concurred in by the Secretary of State, as to the steps to be taken towards reforming the weights and measures of British India.

The proposals of the Government of India, which were entirely approved by the Secretary of State, were as follows :—

"We therefore consider that the new unit of weight should be a ser, equal to the kilogramme, or 2·205 lbs. avoirdupois, and that a system of decimal multiples and sub-divisions of the unit of weight should be accepted as a fundamental part of the new scale to be recognized by law. We are, however, of opinion, for the reasons stated by Mr. Strachey in his minute, that other multiples and sub-divisions should not be prohibited wherever their continued use appears to be demanded on considerations of present convenience and expediency, and that, while it is desirable that the new system of weights should be brought into general use as speedily as possible, it should not be forced on any class of the community until such class is to some extent prepared to accept it. The best preparation for the general adoption of the new weights will undoubtedly be their introduction and authoritative use in the public Departments of the Government, which are so widely scattered over the whole of the country. We therefore propose that the new unit of weight, with a system of decimal multiples and sub-divisions, should be authoritatively adopted in all Departments of the Government, by all municipal bodies, and on the railways, as soon as practical convenience will admit."

The discussions that had taken place on the subject of the weights and measures of India had now been prolonged over, he (COLONEL STRACHEY) thought, something like thirty years, and it might safely be affirmed that all

that it was possible to know on the subject, likely to have any influence on a decision, whether they referred to the facts of the case or the opinions formed on those facts by persons worthy of attention, were before the Government when it came to the conclusion he had just stated.

At the present time, India was in the somewhat singular position of having no weights or measures recognized by any law. The only law that referred to the weights of India had recently been repealed, with a number of other old Acts considered to be obsolete, he did not know under what exact circumstances. He referred to Bengal Regulation VII of 1833, which established for the purposes of the Government Mints certain weights to be employed in dealing with the bullion brought to the Mints for assay. These weights were based on the tola or the weight of the rupee, 180 grains, which had about the same time been finally adopted as the standard of the currency of India. The ser under this system consisted of 80 tolas, the maund of 40 sers, and it was exactly equal to 100 pounds troy.

But hardly any attempt was ever made to adopt these weights authoritatively in any part of India, excepting in a limited way in some of the Government Departments, and their inconvenience in relation to commercial transactions with Great Britain, owing to their being related to the pound troy, and not to the pound avoirdupois, had long been apparent.

The adoption of these weights was moreover limited, with some few exceptions, to the Government offices in the Bengal Presidency, and they might be said to be unknown in the provinces of Madras and Bombay.

The result of the enquiries that were made after the general subject was taken up in 1863, on the motion of the Government of Madras, which, he (COLONEL STRACHEY) thought, was due to the then Governor, Sir. W. Denison, was to bring out, in a very unmistakeable manner, the fact that there were no such things as recognized weights and measures in any part of India; and of all the suggestions that were made with the object of remedying this confusion, none, he thought, were to the effect that any existing Indian weight or measure could be accepted as worthy of constituting new units for general use.

The following general description of the existing weights and measures of British India would enable the Council to appreciate the state of things that had to be dealt with :—

"Throughout India the old standard of weight seems almost universally to have been the current coin of the locality, and the multiplicity of coinages has been, and is still, accompanied by an equal or even greater multiplicity of weights. Not only do the weights vary

from province to province, but from town to town, and even within the same town or rural district. Different weights are used in various trades in the sale of different commodities, and in wholesale and retail transactions.

"In Northern India, the usual unit of weight is the tola, which is the weight of the current rupee-coin. The ser is a given number of tolas, varying from 70 to 100. The *man* (by the English commonly called maund) is usually 40 sers. A weight of five sers, called pusseree, is generally recognized, and the ser is sub-divided into sixteen chittacks. The rupee of the British Government weighs 180 grains; the ser of the British Government being 80 tolas is equal to $2\frac{5}{7}$ lbs. avoirdupois, and the Government maund is 82⅔ lbs. avoirdupois, or 100 lbs. troy. Local sers and maunds vary on either side of 2 lbs. avoirdupois, and 80 lbs. avoirdupois.

"In Southern India, the original unit of weight commonly used was the pagoda, a coin no longer current. The common katcha ser was 80 pagodas, and was equivalent to 24 current rupees. The maund of Southern India usually contains 40 such sers, and is commonly divided into 8 viss, or five ser weights, and forty palams. The khandi of 20 maunds is another weight in ordinary use. At Madras the Government, some years back, endeavoured to establish a local system of weights on the basis of the rupee weighing 180 grains. The ser was not acknowledged in this system, but would be 0·617 lbs. The viss was 3·086lbs., and the maund 24·686 lbs. This system, however, never came into use. In practice, the commercial maund in the town of Madras is taken at 25 lbs. avoirdupois, and the viss and khandi are modified accordingly; but beyond the municipal limits, other weights are employed. The weight in common use in Burma is called viss also; it is 3·65 lbs., and is sub-divided into 100 ticals each of 252 grains.

"In Guzerat, a ser of 40 local rupees weight, a maund of 40 such sers, and a khandi of 20 maunds, are the common weights. These maunds vary from 37 to 44 lbs, and the sers are about 1 lb.

"In Malwa, a ser of 80 local rupees weight, and a maund of 20 such sers, are common. This maund is approximately the same as the Guzerat maund, the ser being about 2 lbs, as in Northern India.

"At Bombay, the old ser was about 10 or 12 oz. avoirdupois, being reckoned as equal to 30 pice. The Bombay maund being 40 such sers is nearly 28lbs., at which it is now commonly reckoned. This maund is the usual one also on the Malabar coast, south of Bombay; but the ser is the Madras one of 24 rupees weight, so that the maund consists of 46 to 48 sers instead of 40. At Bombay and in the Deccan, the sub-division of the ser is into 72 parts called tank. The Deccan ser is commonly 80 of the local rupees, or about 2 lbs; the maund varies greatly. In the Deccan the weights seem to merge into the Madras systems on the one side, and into the systems of Malwa and Northern India on the other.

"Measures of capacity are hardly known in Northern India. In Bengal and Southern India they are more frequently used, and, as a rule, are intended to be equivalent to certain determinate weights of grain. In Burma, grain is universally sold by measure. There is, however, such great variation among measures having the same name, that it would be useless to refer to them in detail.

"The usual lineal measures are the cubit or hâth, and the yard or gaz, the latter being divided in Upper India into 16 girás or 24 tasus. The hâth varies from 14 to 20 inches; the gaz from 28 to 40 inches. Thirty-three inches is the length assumed for the gaz in fixing the official land-measures in the North-Western Provinces. The kos is sometimes taken to be 4,000 gaz, about 2¼ miles, and sometimes half that distance; but 5,000 gaz, equal to about 4,500 yards, or 2½ miles, would seem to have been the old kos of North-Western India.

Measures of area are commonly based on the hâth or gaz, but vary so exceedingly from one district to another, that no general account can be given of them. Frequently the denomination of the land-measures is the same as that of the grain-measures, it being understood that the quantity of grain in a given measure will sow the area of land having the same name. It is common in Southern India to find the land-measure of the same name differ considerably according as the crops are irrigated or unirrigated. For all Government purposes, the English acre has now almost universally been adopted, and the revenue-records are, I believe, almost everywhere drawn out on this basis, though the local measurement is at the same time still recognized."

This state of confusion was without parallel in any country in which even a moderate amount of supervision had been exercised over the weights and measures, and it led naturally, and he might say necessarily, to proposals that some one of the established systems of Europe should be accepted for India. The proposals of this sort could be divided into those for adopting the English pound and yard as the new units, and those in favour of the adoption of the metrical system.

The arguments for and against these alternative plans had been long and thorough. The Council would, he thought, hardly expect him to follow these arguments at length on this occasion, and he would ask a reference to the papers on the subject, published in the *Gazette of India* of the 18th February 1869. These contained all the more important elements of the controversy, as he supposed he must call it, as to the merits and demerits, respectively, of the British metrical systems of weights and measures as related to their suitability for adoption in India.

The Government of India thus summed up the grounds on which it adopted the metrical unit of weights in preference to the British:—

"For the reasons there assigned, we are of opinion that the adoption of the English system of weights is not advisable. Neither the English pound, nor any multiple of it, can be a convenient unit of weight for India. It has been almost universally admitted that the new unit should approximate to the existing Indian ser, the average weight of which is about 2¼ lbs. To reduce the ser to 2 lbs. would be extremely unpopular and objectionable.

"On the other hand, the kilogramme of the metric system, which weighs 2·205 lbs., at once provides a ser, which would certainly be as acceptable to the people as any that could

be chosen. Further, we consider that, on account of its simplicity and its symmetrical form, the metric system of weight in its integrity will be more convenient for India than any other. While it will be perfectly suitable for the internal wants of India, it will be in harmony with the system which has been already adopted in the greater part of the civilized world, and which may be ultimately adopted by England herself. In any case, it will be more convenient for commercial transactions between England and India than any other system not really commensurable with that of England."

He (COLONEL STRACHEY) might add that, so far as could be ascertained from the expression of opinion on the subject in the newspapers of India, these conclusions had met with the general assent of the public. Also, if he did not mistake the reference made to the subject in the last report of the Calcutta Chamber of Commerce, that influential body accepted with satisfaction the proposals of the Government.

The question might be asked, perhaps, what was the necessity for interfering by a legislative enactment in this matter? The reply was easy, and he thought complete. At the present time, it was practically impossible to say what was a false weight, because there was no such thing as an established and recognized true weight. Any one might say, in a manner that could not be controverted, that the particular weights that he used were those by which he consented to sell, and that it was the affair of the purchaser to satisfy himself what was the magnitude of these weights, and whether the terms of the sale were satisfactory or not.

Quite recently he was informed by a district officer that, in a part of the country where he had been employed, it was the practice of the sellers of goods at the bázárs or markets to go provided with a series of weights of increasing magnitude. The bargaining for the goods brought for sale began by an offer of a certain quantity for a certain sum, according to the weight which was produced. If this was not accepted as too high, the seller, instead of reducing the price, increased the size of his weight, and produced the next larger weight of his series. And so he went on until, by a suitable variation of the weight, the price having remained unchanged, the customer was satisfied.

No doubt trade could be conducted on such a system, but he thought few persons would argue that it was likely to be convenient. If, instead of altering the prices we paid for commodities, we discussed the intrinsic value and weight of the coin with which we purchased, and varied these, instead of varying the quantities to be got for a fixed quantity of money of a certain standard-value, we should not do what was more inconvenient.

Of course, the illustration he had just given of the condition of the weights of the particular district referred to, was a very extreme one, but it was instruct-

ive, as indicating the rudimentary condition of the trade of parts of this country and the singular expedients to which the people were forced to resort in the absence of fixed weights or measures.

In truth, the step which the Government of India now purposed to take in regard to the adoption of a standard for weights, was quite analogous to that which was taken some thirty or thirty-five years ago in adopting a standard of value. Before that time, there were a vast number of various sorts of rupees of various values. In all purchases, the precise value of the coin in which payment was made was just as important as the precise quantity of the article sold. The adoption of a single standard of value had removed all necessity for considering the variation of more than one element in commercial transactions, all dealings being now based on a definite money-value, the only doubtful matter being the quantity of the article bought or sold.

What was now desired was to give a common standard of weight, which should be as generally accepted, and with as great security to buyers and sellers, as was the standard of value.

By persons not acquainted with the results of the absence of precise and recognized standards of value and quantity, the extreme inconvenience of not having such standards would not easily be appreciated. The only thing to which the want of such standards could be compared was the want of a common language or of the arts of writing or printing. That societies could go on without these artificial helps was not to be disputed, but that very great inconvenience was thus caused, and very great obstruction placed in the way of the growth of trade and improvement generally, was incontestable.

He could not conclude these observations without remarking that it seemed to him certain that it would be a cause of no little astonishment to those who succeeded us, how it could have happened that the Government of India so long left the country without any defined standards of quantity. The necessity for such conveniences in the transactions of a community so wealthy and engaged in so vast a commerce, external and internal, was so obvious and so urgent, that it was marvellous, not that the present proposal was now made in the year 1870, but that it should have been so long delayed. What was proposed for India was in no sense what certain persons in England had desired in respect to the weights and measures of that country. We did not ask for an assimilation of weights and measures with those of other neighbouring countries with which we had great transactions, on the score of the greater convenience of the other weights and measures, and the importance of having uniformity in transactions conducted on so large a scale. What was desired for

India was for the first time to adopt 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 had till now 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. We hoped, it was true, at the same time that we did this to give the greatest possible ultimate convenience to the community in their internal trade, by the adoption of a system which was in itself very simple and more perfectly suited to arithmetical computations than any other system could be. While, by accepting the system which was now almost exclusively used on the continent of Europe, and the recognition of which in England also seemed now almost certain to come to pass before many years were over, we might expect to place the external commerce of India, in respect to the weights it employed, on a footing in which no further change was ever likely to be called for.

The Motion was put and agreed to.

The Council adjourned to Friday, the 11th March 1870.

WHITLEY STOKES,
Secy. to the Council of the Govr. Genl.
for making Laws and Regulations.

CALCUTTA,
The 4th March 1870.

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