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The draught pint

Most of this Yardstick is devoted to the Parliamentary debate on the Product Regulation and Metrology Bill, specifically the part that relates to the draught pint for beer and cider. The pub pint is a prominent imperial flag in the metric-occupied retail sector; while it exists, there can never be total metrication of the mind. The downside is that the pint is also, and has been for decades, the chief propaganda tool for metrication *everywhere else*. The Lords debate reported in these pages shows nothing has changed in this regard.

End of the Hierarchy of Acts

In 2023, the Supreme Court rejected Lord Justice Laws' notion of a "Hierarchy of Acts", whereby some Acts are classed as "constitutional" and others "ordinary". This thinking formed the basis of his ruling in 2002 that regulations passed under the European Communities Act 1972, requiring metric, could overturn the Weights and Measure Act 1985, which permitted imperial units.

End of Section 1

Section 1 of the Weights and Measure Act 1985 contained the vital subsection (1) that gave imperial and metric units equal status in law. As part of the implementation of the Product Regulation and Metrology Bill, the government is removing the whole of Section 1. Whether this is in response to the 2023 Supreme Court ruling, or part of a general 'tidying up', we do not know; they have not replied to our letters.

King's English Society

The Director was invited in July to represent BWMA at a lunch in London, arranged by the King's English Society in memory of Mike Plumbe, former chairman of that Society, as well as BWMA. Formed in 1972 as the Queen's English Society, KES exists to encourage high standards of written and spoken English, and to discourage anything detrimental to clarity or euphony. Its website is www.kingsenglishsociety.org

John Gardner, Director

BWMA is a non-profit body that exists to promote parity in law between British and metric units. It enjoys support from across Britain's political spectrum, all manner of businesses and the general public. BWMA is financed by subscriptions and donations. Membership is £12 per year. Sort code 20-68-79, Account 60547255. Cheques/POs payable to "BWMA", 29 Chart House Road, Ash Vale, Surrey GU12 5LS

Product Regulation and Metrology Bill

House of Lords, 3rd reading

5 March 2025

Yardstick 87 reported the House of Lords Committee proceedings on 11 December regarding Amendment 38 to the Product Regulation and Metrology Bill, relating to the draught pint, proposed by Lord Sharpe of Epsom (Conservative) as follows:

Amendment 38: The Secretary of State may not use any powers under this Act to remove or disapply the use of the pint as a unit of measurement for alcoholic beverages sold or marketed in the United Kingdom.

On 5 March, Lord Sharpe further proposed that Amendment 38 be amended by Amendment 38ZA:

Amendment 38ZA: Leave out from “to” to end and insert “amend or repeal section 8(2)(d) of, or Part IV of Schedule 1 to, the Weights and Measures Act 1985.

This would change Amendment 38 to:

The Secretary of State may not use any powers under this Act to amend or repeal section 8(2)(d) of, or Part IV of Schedule 1 to, the Weights and Measures Act 1985.

Section 8 (2)(d) of the Weights and Measures Act 1985 is as follows:

(2) No person shall use for trade ... (d) the pint except for (i) the purposes of the sale of draught beer or cider, or (ii) the purposes of the sale of milk in returnable containers.

In other words, rather than protect the draught pint by referring to it directly, as in Amendment 38, Lord Sharpe of Epsom now sought to protect the clause that protected it, section 8(2)(d).

Lord Fox (Lib Dem) meanwhile proposed counter Amendments 38A and 38B.

Lord Sharpe of Epsom (Conservative), Shadow Minister (Business and Trade)

My Lords, I rise to speak to Amendment 38 standing in my name. As I stated in Committee, a pint of beer is not a bloodless, intangible item: it is a tangible institution. It is linked to our history and to a part of our heritage. The pint is a well-established unit of measurement in the UK that is recognised and understood by consumers and businesses alike. Removing or disapplying the use of the pint for alcoholic beverages would create unnecessary confusion, disrupt long-standing practices and sever a cultural and historical connection that has endured for centuries.

While we debate this issue of tradition and measurement, we must not lose sight of the real and immediate crisis facing pubs, brewers and the wider hospitality industry. The Budget announced by the Government has inflicted more damage on an industry that was already under enormous pressure. The UK’s core hospitality trade bodies - UKHospitality, the British Beer and Pub Association, the British Institute of Innkeeping, and Hospitality Ulster - have issued a stark warning. Pubs, brewers and hospitality venues will be forced to make painful decisions to weather these new costs, which will have a damaging impact on businesses, jobs and communities.

However, something else deserves mention here. Just recently, there was significant concern over how the forthcoming Employment Rights Bill could force pub landlords to monitor patrons’ conversations to avoid any potential harassment of staff. In effect, landlords might be asked to become the banter police, forced to scrutinise and restrict what customers say to avoid liability. After all of that, therefore, protecting the British pint is the very least the Government should do. I urge the Government to accept this amendment and protect the pint, and, more importantly, to ensure that our pubs and breweries remain places where our history, culture and heritage continue to flourish without unnecessary interference. I beg to move.

Moved by Lord Sharpe of Epsom

Lord Sharpe of Epsom continues

My Lords, this amendment [Amendment 38ZA] is not just about protecting the pint in the Bill; it would also ensure that the pint remains protected in law. That is why this amendment is rooted in primary legislation -the Weights and Measures Act 1985 - rather than being limited to the scope of the Bill. By embedding these protections in the broader legislative framework, we ensure that the pint remains a legally defined unit of measurement, safeguarded from regulatory drift, ministerial discretion or future legislative changes that could weaken its status.

I am very grateful to the noble Lord, Lord Fox, for introducing his own amendment, for two reasons. First, it got me thinking about the broad, and therefore possibly flawed, drafting of my own Amendment 38; secondly, the noble Lord’s amendment is also flawed. It addresses the “marketing” of the pint, which is important, but it does not mirror the wording of the Weights and Measures Act 1985. If sales are banned, marketing

is redundant. A mere definition of the pint within this Bill does not ensure that the existing legally binding protections remain intact.

That is where my amendment is different: we are closing any potential gaps, removing any possible loop-holes and ensuring that the pint remains fully protected in trade, measurement and law, and, most importantly, that there can be no future confusion with regard to existing legislation.

In the other House, Daisy Cooper [Deputy Leader of the Liberal Democrats] said that the pint is well and truly safe, “*so this scaremongering is just total nonsense*”.

If that were true, why the change in Liberal Democrat hearts? Why introduce their own amendment on this matter? It seems that now, they recognise that explicit legal protection is necessary.

I understand that the Government were sympathetic to the purpose of my Amendment 38 but were concerned about the drafting and various technical details, so I hope this manuscript amendment addresses those concerns in full, and will ensure that the pint remains Britain’s favourite. I hope the Government will now accept the amendment, and I look forward to their support, as well as that of the noble Lord, Lord Fox, and the Liberal Democrats.

“Fancy a pint?” remains one of the most pleasing questions in the English language. Let us make sure it stays that way. I beg to move.

Lord Fox, Liberal Democrat (Business)

My Lords, when I saw the manuscript amendment some time mid-morning, I was disappointed. I thought we were not going to get a reprise of the speech of the noble Lord, Lord Sharpe, which very few of your Lordships will have appreciated, because it was in Grand Committee, but I am relieved that he was able to give another rendition of it before speaking to the amendment. I understand he may take it on tour to provincial theatres - if he can get the backing.

The noble Lord having tabled this amendment, we then find a manuscript amendment, on which I have to say I congratulate the noble Lord. I have not participated in a manuscript amendment process before, so it was quite good to see it in action. As he noted, last week the Opposition chose to use some of their time in the Commons to debate the noble Lord’s then amendment. He mentioned the speech of my colleague, Daisy Cooper. I commend it to your Lordships, because it was both engaging and very thorough, setting out all the

things the Conservative Government did to make the job of a publican much, much harder.

On a serious note, I join the noble Lord in saying, “Minister, please don’t repeat those errors. Many of Britain’s pubs are teetering on the brink; please don’t be the Government who make the final push.” But that is a debate for another day and another Bill, which we will see soon. The issue described by this amendment is not that fatal push for those publicans. For some inexplicable reason, the noble Lord, Lord Sharpe, chose to split his amendment from my **Amendments 38A and 38B**. I will be giving the speech I would have given, had they been in the same group, but I assure your Lordships that I will not then repeat that speech when we get to the next group.

I do not believe that the Minister or his Government have ever had any intention of banning the pint glass, and I am sure the noble Lord, Lord Sharpe, does not believe that either. However, what we are talking about now is some form of reassurance. So while my honourable friend Daisy Cooper talked about this being unnecessary, she and I agree that this is an opportunity for the Government to reassure people that they have no intention of doing it, and that, as the noble and learned Lord, Lord Hope, mentioned in a different context, a future Government would not have that option either.

I ask myself, if the noble Lord, Lord Sharpe, is so passionate about the pint, why does he not also care about the pinta? The iconic pint milk bottle is so redolent of the UK, and it deserves the same reassuring protection as the pint glass. I have to say that my father milked cows: milk flows through my veins. So I tabled Amendment 38A, which ensures that both the pint and the pinta enjoy the reassurance of this Bill. It was the tabling of this new amendment, Amendment 38A, that caused the noble Lord, Lord Sharpe, to remember that, as well as bars, there are doorsteps. Perhaps the two should not be mixed - certainly not sequentially.

Lord Fox’s Amendment 38A:

The Secretary of State may not make regulations under this section to prevent or restrict the use of the pint in the marketing of —

- (a) draught beer or cider, or
- (b) milk in returnable containers.

Amendment 38B:

a “pint” is equal to 0.56826125 cubic decimetres.

Lord Fox continues: It caused him to realise that he was in danger of proposing an amendment that forgets the milkmen and women on their pre-dawn delivery rounds in so many of our streets - the whirl of the float, the clink of the crates. A manuscript amendment was tabled this morning. I did not know that manuscript amendments could be used to completely change an amendment; I thought they were for spelling errors and suchlike. If my mother were still alive, she would have deemed it too clever by half. Sadly, she is not.

The purpose of this debate is to assure the public of the continuation of the use of this iconic imperial measure for the purposes we have discussed. I am not entirely sure that the manuscript amendment, Amendment 38ZA, buttons things down in the way that the noble Lord, Lord Sharpe, asserts, but I do know that Amendment 38A does this, in plain sight and with no cross-referencing.

I think that the Minister and I see eye to eye on this. That is why I am hopeful that he will indicate support for my Amendments 38A and 38B, and that the Government will accept both. It is clear that, in the event of that acceptance, the hastily amended effort from the noble Lord, Lord Sharpe, would be unnecessary. Amendment 38A covers both alcohol and milk. By persuading the Government to accept it, we will have ensured clear and overt reassurance of the preservation of the pint and the pinta. This assurance, and the knowledge that this measure will endure and not be reversed by a Commons majority, are important. We will not support the amendment from the noble Lord, Lord Sharpe, safe in the knowledge that we have rewritten the Bill effectively and avoided any reverse or any ping-pong.

Lord Leong (Labour) for the government

My Lords, I thank the noble Lord, Lord Sharpe, for tabling Amendment 38 - and manuscript Amendment 38ZA, tabled this morning - and for reminding the House of the importance of the pint measure for certain alcoholic beverages. Although the noble Lord degrouped Amendment 38, the Government's view is that this amendment and the two similar amendments tabled by the noble Lord, Lord Fox, should be debated together. I will therefore make my substantive contribution on the entire subject now.

I reiterate that the Government have absolutely no plans to change the rules around the use of the pint measurement. With the weather finally improving, it is very much my hope that pubs up and down the country will be full of customers enjoying

pints of refreshing beer or cider. While it remains our view that an amendment to the Bill is not strictly necessary, because of the advocacy of the noble Lord, Lord Sharpe, the Government have reflected and agree that a provision in this area would offer reassurance to this important sector.

I am grateful to the noble Lord for bringing this amendment back and recognise his efforts to improve on it through today's manuscript amendment. However, doing so at such a late stage is not the way to develop effective legislation, particularly in a complex area such as metrology. We have always been clear that we are committed to the continued use of the British pint and that regulations made using powers in this Bill would continue to preserve it.

Although the noble Lord's amendments are well intentioned, they are lacking in a few key areas. First, the effect of the amendment is not sufficient in scope to truly protect the pint. It is focused on preventing powers under the Bill being used to amend the Weights and Measures Act 1985 to remove the pint as a measurement, but it does not prevent the powers in the Bill being used more generally to make that change. While the Government are clear that there will be no change to the measurement of a pint, to truly protect it, the Government believe that a more expansive view should be taken, as in the amendment from the noble Lord, Lord Fox.

On the difference in terminology, with the noble Lord, Lord Sharpe, referring to sale and marketing but the noble Lord, Lord Fox, mentioning marketing alone, the Government's view is that Amendment 38 would in practice have a narrow application and therefore be less helpful in achieving the very aim of the noble Lord by safeguarding the pint.

The noble Lord, Lord Sharpe, is right that his amendment is consistent with the language used in the Weights and Measures Act 1985. However, the Bill makes a number of changes to that legislation, which I will come to shortly, and uses the term "marketing" throughout. It is a defined term that means making available on the market, which is more expansive than sale or trade, and may include, for example, making available without charge.

There is an important link between the amendment from the noble Lord, Lord Sharpe, and a later government amendment, **Amendment 46**, which was debated last week and which will repeal Schedule 1 to the Weights and Measures Act

and remove the Henry VIII power that would have allowed secondary legislation to amend or remove other provisions of that Act, including Section 8(2)(d). We will have therefore already achieved the intention to prevent the repeal or amendment of that section.

Overall, the Government believe that while the noble Lord, Lord Sharpe, has been right to pursue this issue, his amendments do not quite do enough to achieve the objective of ensuring that no regulations could ever be used to restrict the use of the pint - for example, banning the sale of pints in pubs. The amendment from the noble Lord, Lord Fox, would prevent such restrictions and better protect the pint we all cherish. For these reasons, in spite of the late manuscript amendment to improve the drafting of the lead amendment in this group, the Government will instead support Amendments 38A and 38B from the noble Lord, Lord Fox, which we will formally debate in the next group.

The pint is deeply ingrained in British culture, as mentioned by the noble Lord, Lord Sharpe, and closely tied to another national institution - the pub. Both are essential aspects of our heritage. For visitors, enjoying a pint in a traditional pub is a key part of experiencing our culture and heritage. Beyond being just a pint, the pint holds symbolic values in our language and social interaction. As the noble Lord mentioned earlier, the phrases, “Fancy a pint?”, “Let’s go for a pint” or “I could murder a pint” reflect its everyday significance. Even when praising customers, we often say, “They’re the kind of person you can have a pint with” or “I’d like to buy them a pint”. My noble friend the Chief Whip has received many accolades for his work with National Pubwatch and the Campaign for Real Ale, and he is a defender of pubs and pints. The pint is safe with us.

I once again note the contribution made by the noble Lord, Lord Sharpe, and thank him for raising this issue. Indeed, I may well express my thanks by buying him a pint later, as I will definitely need one myself. With that offer, and in the knowledge that the alternative amendments will provide stronger protections for the pint than those he has proposed, I ask the noble Lord not to press his amendments.

Lord Sharpe of Epsom

My Lords, I congratulate both noble Lords on what were semantic masterpieces. The simple fact is that the amendment I have tabled transposes the language of the Weights and Measures Act 1985

in a very similar way to that of the noble Lord, Lord Fox. It does include the pint of milk. By the way, when the noble Lord said that milk runs through his veins, I am pretty sure I heard somebody behind me saying that it is certainly not blood.

This is a complex area, and I do not believe that these amendments are sufficient to save the pint. The simple fact of the matter is that sales and marketing are not the same thing. They may often appear in the same job title; that does not give them equal weight, or indeed equal measure. I am not satisfied with the answer. I would like to test the opinion of the House.

Ayes 174, Noes 207.

BWMA letter to Lord Leong, copied to Lord Fox, 7 March 2025

Our Association would like to make a suggestion regarding Lord Fox’s Amendment 38A to the above Bill. As the law regarding the pint stands, anomalies exist: while draught beer and cider may be served by the pint, soft drinks may not. Thus, publicans sell their half and full-pint glasses of Pepsi, etc. as “284ml” or “568ml”.

Shandy (half alcohol and half lemonade) is a grey area; to our knowledge, this has never been legally tested, and most hostellers err on the side of caution by selling pints as 568ml, rather than risk a visit from trading standards authorities.

With regards to milk, there is a similar disconnect; shops and supermarkets use containers sized one, two and four pints, but which the law recognises only as 568ml, 1,136ml, and 2,272ml, because the containers are non-returnable.

We think it is high time that these anomalies be removed by extending the pint measure to (a) all drinks served draught and (b) to milk in non-returnable containers, and well as returnable. The latter of these two changes would not impinge on milk producers using the 500ml or litre, since it would apply only to 568ml, etc. containers.

Turning to the wording of the amendment, we would suggest something along the lines of adding “or soft drinks” to (a), and the deletion of the words “in returnable containers” in (b); thus:

The Secretary of State may not make regulations under this section to prevent or restrict the use of the pint in the marketing of -

(a) draught beer, cider or soft drinks, or

(b) milk ~~in returnable containers~~

These changes will ensure that the law reflects language and perception as practised by customers, and remove from pubs and retailers an unnecessary and technical criminal offence. We hope that you will consider this change, and look forward to your comments. Yours sincerely, etc.

Reply, from Justin Madders MP, Minister for Employment Rights, Competition and Markets, 20 March 2025

Thank you for your correspondence of 7 March to Lord Leong, regarding the Product Regulation and Metrology Bill and the pint measure. I am replying as Minister for Employment Rights, Competition and Markets.

This Government has repeatedly stated our commitment to the pint for the sale of draught beer, draught cider and milk in returnable containers and that we will not use the powers in the Bill to change its permitted uses or size.

The amendments put forward by Lord Fox, and supported by the Government, ensure a future government could not use the powers in the Bill to change the uses or size of the pint in this way.

We will consider the points you have raised on soft drinks and milk in non-returnable containers as part of any future review of metrology legislation once this Bill has received Royal Assent.

BWMA comment: The two uses of the pint being discussed are the same ones granted an exemption from European Directive 80/181 in 1979 as a concession to wider metrication. Despite Brexit, the Lords and Commons are still incapable of moving beyond the narrow confines that were laid down over 45 years ago, even to the extent of accepting BWMA's very modest proposal.

While the preservation of the draught pint of beer and cider keeps the imperial system alive in the public mind, it also serves as the Establishment's chief propaganda tool, whereby they can claim to have saved the pint, British tradition, etc. while doing the precise opposite.

The pint remains unlawful for alcohol sold in cans or bottles, hence the "568ml" indication. The pint cannot be used for any soft-drink, whether draught, bottled or canned. And the pint cannot be used legally for milk sold in card and plastic cartons, which account for the vast majority of retail milk sales. As suggested in *Yardsticks* 79 and 85, milk producers may in time seek to undercut each other by switching to 500 ml containers.

Amendment 46 and the removal of Section 1

During the Lords' debate, Lord Leong referred to his Amendment 46, which is as follows:

Amendment 46

"In the Weights and Measures Act 1985 omit sections 1, 8(1)(a) and 25 and Schedule 1".

This amendment removes Section 1 from the Weights and Measures Act 1985 (W&M 1985), including subsection (1) which gave imperial and metric units equal status in law:

"The yard or the metre shall be the unit of measurement of length and the pound or the kilogram shall be the unit of measurement of mass by reference to which any measurement of length or mass shall be made in the United Kingdom".

Given that Britain has been operating a metric legal regime for over 25 years, readers may be surprised to learn that Section 1(1) is still on the statue books.

In 1994, the Conservative government applied metrication in the following way; instead of amending Section 1(1) with new legislation (which would have required Parliamentary debate), the government left Section 1(1) in place, but inserted new subsection (6) *to contradict it*:

"Subsection (1) above shall not have effect so as to authorise the use in the specified circumstances of (a) the yard as a measurement of length, or (b) the pound as a measurement of mass".

This amendment was achieved by way of a statutory instrument [no. 1994/2867] passed under the European Communities Act 1972 (ECA 1972); and it was this method that prompted the legal challenge by Steven Thoburn (*Thoburn v Sunderland City Council*), leading ultimately to Lord Justice Laws' infamous ruling in February 2002 that ECA 1972 was a "constitutional Act". ECA 1972's newly declared constitutional status protected its statutory instrument from implied repeal by the later Weights and Measures Act 1985, that it was seeking to change.

Now, thirty-one years later, the government feels safe to return to the scene of the crime, to remove Section 1, altogether.

“Constitutional Acts” rejected by Supreme Court

The government’s removal of Section 1 (see previous page) is doubly significant, because it follows the Supreme Court’s renouncing of “constitutional acts” in February 2023.

In 2020, the Northern Ireland Protocol required that Northern Ireland remain aligned with European Union rules relating to goods. This was part of the arrangements for Britain’s withdrawal from the EU which treated Northern Ireland differently from Great Britain.

In 2021, James Allister KC, North Antrim MP and leader of Traditional Unionist Voice, sought a judicial review due to concerns that the Protocol affected Northern Ireland’s place within the United Kingdom. There were several grounds to his judicial review, the first one of which was that the EU Withdrawal Agreement Act 2020 (which incorporated the NI Protocol into UK law) *could not impliedly repeal* the “same footing” requirement in the Act of Union 1800, because Acts of Union were *constitutional acts*.

Article VI from the Act of Union 1800 is as follows:

That it be the sixth article of union, that his Majesty’s subjects of Great Britain and Ireland shall, from and after the first day of January, one thousand eight hundred and one, be entitled to the same privileges, and be on the same footing as to encouragements and bounties on the like articles, being the growth, produce, or manufacture of either country respectively, and generally in respect of trade and navigation in all ports and places in the united kingdom and its dependencies; and that in all treaties made by his Majesty, his heirs, and successors, with any foreign power, his Majesty’s subjects of Ireland shall have same the privileges, and be on the same footing as his Majesty’s subjects of Great Britain.

Mr Allister’s legal challenge commenced in Northern Ireland’s High Court in 2021; then went to the Court of Appeal in early 2022; and finally the Supreme Court in late 2022. On 8 February 2023, the Supreme Court delivered its judgement, which summarised Mr Allister’s appeal as follows:

On the hearing of this appeal, the appellants submitted that the Acts of Union were constitutional statutes so that the rights in the trade limb of article VI of His Majesty’s subjects of Northern Ireland being on the

same footing in respect of trade as His Majesty’s subjects of Great Britain, could not be subject to repeal or to subjugation, modification, or suspension absent express or specific words in a later statute.

In support of that submission, the appellants relied on a line of authorities starting with *Thoburn v Sunderland City Council* for the proposition that whilst ordinary statutes may be impliedly repealed, constitutional statutes may not.

At para 63 of *Thoburn*, Lord Justice Laws suggested that the repeal of a constitutional statute or the abrogation of a fundamental right could only be effected by a later statute by: “*express words in the later statute, or by words so specific that the inference of an actual determination to effect the result contended for was irresistible.*”

The appellants submitted that the Acts of Union are constitutional Acts and that the rights to equal footing as to trade were fundamental rights so that there was no scope for implied repeal and by analogy there was no scope for implied subjugation, modification, or suspension.

The Supreme Court went onto reject Mr Allister’s submission.

Observations on the judgement were made by Colin Murray, Professor of Law at the University of Newcastle, in an essay entitled *Maybe we Like the Misery: The Culmination of the Northern Ireland Protocol Litigation*.¹ The following are excerpts, with our added emphasis:

Prof. Murray writes: The Supreme Court responded with the deadest of dead bats... Lord Stephens, Northern Ireland’s judge on the Court, issued a judgment [which] can be reduced to the following statement:

“The debate as to whether article VI created fundamental rights in relation to trade, whether the Acts of Union are statutes of a constitutional character, whether the 2018 and 2020 Acts are also statutes of a constitutional character, and as to the correct interpretative approach when considering such statutes or any fundamental rights, is academic”.

¹ Available to read in full at eulawanalysis.blogspot.com

Prof. Murray continues: This is none-too-subtle code for the Court actively avoiding engaging in such debates in these circumstances. Whereas the lower court judgments contain important analysis of just what we should make of Northern Ireland's legal order after Brexit, Lord Stephen's wraps up the issue of the conflict between constitutional statutes remarkably quickly:

"... the interpretative presumption that Parliament does not intend to violate fundamental rights cannot override the clearly expressed will of Parliament. Furthermore, the suspension, subjugation, or modification of rights contained in an earlier statute may be effected by express words in a later statute. The most fundamental rule of UK constitutional law is that Parliament, or more precisely the Crown in Parliament, is sovereign and that legislation enacted by Parliament is supreme".

Prof. Murray: Thus, for as long as the Protocol applies, the will of Parliament is that Article VI of the Act of Union should operate in a modified way. This amounts to a rolling back, even if not fully discussed, of the potential of the "constitutional statutes" doctrine as articulated in cases like *Thoburn*. There is no need for Parliament to expressly acknowledge that its new legislation will affect constitutionally significant statutes, and it is able to do so in the most general of terms, provided that the impact is clear.

BWMA note: this is similar to the Metric Martyrs defence in 2001; although the Weights and Measures Act 1985 (W&M 1985) did not expressly refer to the European Communities Act 1972 (ECA 1972), it was express in its *intent* to preserve the pound and yard.

Prof. Murray continues: Lord Stephens concludes that,

"the subjugation of article VI is not complete but rather article VI is modified in part. Furthermore, the subjugation is not for all time as the Protocol is not final or rigid so that those parts which are modified are in effect suspended".

Again, similar to Metric Martyrs; W&M 1985 was not said to repeal ECA 1972, but to render its secondary regulations inoperable, in so far as there was a conflict.

Prof. Murray continues: But make no mistake that the Court is saying that this outcome was not, in short, the malign work of some foreign power, but

the result of an Agreement willingly concluded by the UK Government and ratified by Westminster. The input of Parliament into the process was all important in this account.

And again, Metric Martyrs did not deal with a contest between UK and EU law, but between two sets of UK law, ECA 1972 and W&M 1985, the latter of which, like the former, was ratified by Westminster.

Prof. Murray concludes: The *Allister* litigation was therefore tilting at windmills, with the Supreme Court never going to conclude that the Act of Union was somehow substantively entrenched, in the face of the working of parliamentary sovereignty within the UK constitution.

BWMA comment

During the "Metric Martyrs" appeal, Lord Justice Laws had before him two Acts of Parliament; the European Communities Act 1972, which claimed to be able to change future Acts and through which the metrication regulations were passed; and the later Weights and Measures Act 1985, that sought to give imperial and metric equal status. Which of the two to apply?

Lord Justice Laws' claim that ECA 1972 was a constitutional Act gave it purported power to **deny the 1985 Act's application**. Lord Justice Laws said that a later Act could only protect itself from a constitutional Act if it made *direct reference* to the constitutional Act, or its fundamental rights.

The Supreme Court in 2023 declared the opposite: no Act, constitutional or not, can take precedence over a later Act. To again quote its ruling, "*the interpretative presumption that Parliament does not intend to violate fundamental rights cannot override the clearly expressed will of Parliament*".

Therefore, Section 1(6), inserted into the Weights and Measures Act 1985 by the Conservative government in 1994, using the *vires* of ECA 1972, had no effect; and Section 1(1) has been the law all these years – just as we have always said.

So, it's convenient that Lord Leong and the government are now seeking to eliminate Section 1.

BWMA wrote to Lord Leong on 18 April 2025, asking him to "provide the reason for these deletions, so we understand the government's thinking and intention", but received no reply.

We wrote again on 5 June, and still received no reply.

Ten suspicious events surrounding the “Metric Martyrs” appeal hearing

Long-term readers will be aware of the irregularities in *Thoburn v Sunderland City Council*, but a summary is always useful.

(i) Prosecuting counsel for Sunderland City Council Eleanor Sharpston QC argued in the Appeal hearing (20-22 November 2001) that entrenchment (as opposed to mere incorporation) of EU law had made ECA 1972 a constitutional act. When defence barrister Michael Shrimpton responded that constitutional acts did not exist in British constitutional law, Lord Justice Laws cut him short by saying, “We are not in year one of law school”.

(ii) Yet, in his judgment, delivered on 18 February 2002, Lord Justice Laws said constitutional acts *did* exist, not due to Britain’s membership of the EU, as argued by Eleanor Sharpston, but to the development of Britain’s Common Law. This was Lord Justice Laws’ own proposition which he came to after the court hearing had concluded, thus depriving counsel of making submissions on it (see *Yardstick* 73).

(iii) On 11 December 2001, three weeks after the hearing, and still two months before judgement on 18 February 2002, Lord Justice Laws wrote to Mr Shrimpton and Ms Sharpston seeking views on an ancillary point relating to supplementary indications, on which they would “consider whether to convene a further hearing”. Lord Justice Laws did not, however, seek views or consider a further hearing on his proposition of constitutional acts, despite this being fundamental to his judgement.

(iv) The three-month wait for the judgment was an unusually long time.

(v) Lord Justice Laws claimed the delay in delivering the judgment was due to his request for submissions relating to supplementary indications (we don’t believe him; the delay was due to him developing his idea of constitutional acts).

(vi) Lord Justice Laws refused to publish a transcript of the court hearing, despite requests.

(vii) One of the authorities cited in Lord Justice Laws’ judgement was *Witham* 1997, in which he himself presided; in that judgement, the then Justice Laws wrote that there was “no hierarchy of rights such that any one of them is more entrenched by the law than any other”, contradicting what he would say in *Thoburn* (*Yardstick* 78).

(viii) Despite the surprising nature of his judgement, and his citing of authorities not heard in court, Lord Justice Laws refused leave to appeal (*Yardstick* 73).

(ix) Lord Justice Laws did, however, certify a single question of public importance (whether ECA 1972, or any part thereof, was capable of being impliedly repealed). On 15 July 2002, the House of Lords Appeals Committee blocked the application, telling Michael Shrimpton that they did not consider that it would “give rise to points capable of reasonable argument” (*Yardstick* 63).

(x) This blocking of the appeal was despite the release into the public domain, one month previously, of the June 1971 *Confidential Note* by Law Officers advising the then government that legislation implementing Community law could not be protected from implied repeal, exactly as Michael Shrimpton had argued (*Yardstick* 64).

Any one of the above events need not raise concern, perhaps even several; *but not all ten*. In 2018, BWMA made a complaint to MI5 citing the suspicious events; the complaint was brushed off (*Yardstick* 70).

For now, there’s not much BWMA can do, other than to maintain a record of events in the hope that a future government will open confidential files and start an investigation. Questions include: who was Lord Justice Laws talking to in the twelve weeks between the appeal hearing and the judgement; and what was happening behind the scenes in the period leading up to the House of Lords Appeals Committee hearing.

The Enduring Magic of the Mile: A Distance with Global Appeal

Commonwealth Games website, 6 February 2025

Glasgow 2026 will see the return of the Mile to a major championships athletics programme. It is a distance that captures the imagination like few others in the sporting world. Its unique history, spectacular performances, and iconic races have made it one of the most revered events in athletics; a symbol of athletic excellence.

Amongst the many unforgettable moments in athletics history, the 'Miracle Mile' at the 1954 Commonwealth Games in Vancouver, Canada, is one that has become a defining moment in the sport's history.

England's Roger Bannister and John Landy of Australia - at that time, the only two men in the world to have broken the four-minute barrier - faced off in a stunning display of athleticism. This race, coming just months after Bannister became the first man in history to run a sub-four-minute mile, captured the imagination of fans worldwide and is often regarded as one of the most thrilling and iconic events in Commonwealth sporting history.

The Miracle Mile cemented its place in folklore not just for the dramatic rivalry but also for what it represented - the absolute peak of middle-distance running. Today, the magic of that moment still resonates, as the Mile remains an event that showcases the very best of human endurance and spirit.

Despite its roots in athletics history, the Mile is far from a relic of the past. It continues to be a popular and respected event and has seen a resurgence in recent years, with athletes across the globe competing in high-profile mile races. Notably, the World Athletics Road Mile Championships, which debuted in 2023, marked an exciting new chapter for this iconic race.

As the only non-metric event officially recognised by World Athletics for world records and rankings, the Mile remains a distance that athletes around the world still vie for one of the sport's most historic achievements - the sub-four-minute mile.

But the beauty of the Mile is that it's a comparable distance for runners, joggers and sports

fans across the world. Much the same as "how fast can you run 100m", the Mile is an everyday metric that millions of people track themselves against every day. Its inclusion in major competitions, such as Glasgow 2026, brings the sports fan one step closer to their heroes.

The reintroduction of a discipline referred to as the 'Commonwealth Mile' into the Games programme was the brainchild of World Athletics President Sebastian Coe. Agreed for Victoria 2026 before the event's cancellation, World Athletics and the Commonwealth Games Federation (CGF) have included the race in the programme for Glasgow 2026.

Talking about the innovative idea, President Coe said, "The One Mile is the quintessential Commonwealth athletics event whose return to the Games in Glasgow 2026 I very much welcome. The Mile is easy to understand; it is four laps of the track and remains a standard everyday measurement across the Commonwealth.

"From 1930 through to 1966, the Mile was the blue riband event of each Games. The event's place in international sports lore was secured when Sir Roger Bannister broke the four minutes barrier in May 1954. Ever since, the world has enjoyed The Miracle Mile, The Golden Mile, The Dream Mile ... and countless other similarly dubbed races over the distance.

"The magic of the Mile continues to resonate with sports fans. A ticket to watch its Commonwealth final will be one of the must-have seats in Glasgow next year".

Athletes from the Commonwealth nations have consistently showcased their prowess in the Mile. Notable performers include Scotland's Josh Kerr and Laura Muir, Australia's Cameron Myers and Jess Hull, and Kenya's Faith Kipyegon, who holds the Mile world record.

Kerr, the current British national Mile record holder, set an impressive time of 3:45.34 at the 2024 Diamond League in Eugene, Oregon, breaking the long-standing record of Steve Cram (3:46.32) set in 1985.

Laura Muir, another British standout, also made history in 2023 by breaking the South African Zola Budd's 1985 Mile record with a time of 4:15.24 at the Diamond League meet in Monaco.

Faith Kipyegon, a name synonymous with distance running excellence, etched her name in history by setting the Mile world record of 4:07.64 on July 21, 2023, also in Monaco.

The performances of these athletes highlight the Mile's continued relevance in modern athletics, with records being broken and new stars rising to take their place in the Mile's storied tradition.

While the Mile's legacy is rich in history, it continues to be held in high esteem by athletes and fans alike, especially across the Commonwealth. John Walker, the 1976 Olympic 1500m champion and former Mile world record holder from New Zealand, has often spoken of the Mile's importance to the sport. Walker recently explained its importance to World Athletics, "The Mile is the biggest event in running. It is revered in New Zealand as we have had Jack Lovelock, Peter Snell, and myself. So, when I ran the world record, the first below 3:50, it made huge headlines".

Steve Cram, former Mile world record holder and coach to Laura Muir, reflected on the simplicity and appeal of the event to World Athletics: "The Mile is easy to understand. It is four laps, and it takes four minutes, or it did until Roger Bannister broke that barrier. The impact of what Roger did had a resonance, and it was that iconic moment that has allowed the Mile to live, breathe and stay relevant".

With Glasgow 2026 a bridge to the future for a Commonwealth Games that is economically sustainable but also innovative in its thinking, the reintroduction of the Commonwealth Mile seems poised to play a key role in this fresh direction.

Glasgow 2026, with its smaller footprint across the city, will be a cauldron of sport - drama, joy and world-class sporting action but in more accessible and intimate atmosphere. And the Commonwealth Mile is one standout event that is set to be one of the hottest tickets in town.

As the sport evolves and the next generation of athletes rise to challenge its limits, one thing remains certain: the Mile will always hold a special place in the hearts of fans and athletes alike. Whether on the track or the road, the Mile is more than just a race - it's a symbol of speed, endurance, and the timeless pursuit of greatness.

www.glasgow2026.com

Australian radio, March 2025

Our Australian colleague Paul Gilbert appeared on *The Morning Mix*, hosted by Sydney radio station 2RRR, to make the case for imperial measurements. During the discussion with host Natalie de Silver, Paul said that imperial units had served Australia well for nearly 200 years, and were used to build the Opera House and Sydney Harbour Bridge. Paul argued there was no reason why both imperial and metric could not co-exist in Australia, and cited the Canadian Official Languages Act that gave the English and French languages equal status. Paul said imperial represented another way of thinking, and are not just a tool but a culture that enriches Australian society.

Metric-only cat food company Marro

Our colleague Robin Cook has been writing to cat food firms regarding the absence of imperial units on their website order forms; on 25 February 2025, he wrote to Marro, via Facebook:

Robin: I tried to order your cat meat, but I could not type my cat's weight in pounds. She weighs 5lbs and your site only accepts KG. I weigh my cat by holding her when I'm standing on the scales and then note the difference. I weigh 13 stone and 4 lbs, or 186 lbs. Please, could you accept pounds on your ordering process?

Marro: Thanks for reaching out! At the moment, our site only accepts kg, but totally understand how that would be very helpful to add in future! In the meantime, you can convert pounds to kg on Google. If my calculations are correct, 5 lbs is around 2.3 kg - I hope that helps! I will pass this feedback along to our tech team, we really appreciate your insights! Let me know if you need any help, and give your cat some extra fuss from us! We are excited for them to join the Marro family. Meow for now, Tasha.

Robin: The conversion doesn't help, I'm afraid. I would only state my cat's weight in pounds (I have two cats). Choice should be given so not to alienate the many people who weigh their cats in pounds. The vets are quite a nuisance for weighing in KG only. They should tell you in pounds as well. Miaow from Robin!

Marro: Thank you for sharing your feedback - I really appreciate it! I completely understand how having the option to enter weight in pounds would make things easier, and I'll pass this to our tech team to look into for the future. Thanks again for taking the time to share your thoughts. Miaow back to you and your cats! Tasha.

From the Archives: two articles from BWMA's Annual Report of 1907

Sir David Gill, President of the British Association for the Advancement of Science, which held its annual Meeting in August, at Leicester, took for the text of his Presidential Address the words "Science is Measurement". After pointing out that whether it be the numbers, masses, and distances of the stars, the atoms, or the electrons, or their relative motions, the scientific investigator is a measurer, a weigher, or a counter. The learned gentleman then referred to the unit by which this measuring is done. Known by the name of "metre", it was originally designed to be a natural standard to replace the arbitrary "yard". It was intended to be exactly one-ten-millioneth part of the earth's quadrant, and was at first accepted as such. More careful and accurate measurement of the quadrant, however, showed that the metre was not this length. So, the metre became as arbitrary as the yard and, according to Sir David's definition, the metre cannot be scientifically described otherwise than as:

"A piece of metal whose length at 0° C at the epoch A.D. 1906 is equal to 1,553,164 times the wave-length of the red line of the spectrum of cadmium when the latter is observed in dry air at the temperature of 15° C. of the normal hydrogen-scale at a pressure of 760mm of mercury at 0° C".

Delightfully "simple" and "easy to verify with unchanging (?) nature", isn't it?

[**Separate article on later page**] When next you hear any of those honest but deluded persons, of whom there are still a few left, talking about the metre being a "scientific measure", a "natural constant", the "only measure capable of verification with unchanging nature", and so on, draw their attention to page 14 of this report, where will be found a definition of the metre as given by Sir David Gill, Ex-Astronomer Royal of the Cape. Apropos of that definition we may draw attention to the following letter which appeared in the daily papers of September 10th. It is a fine example of the light-hearted way the Pro-meterists have of suggesting alterations in our standard measures:

Sir, Now that the holidays are over, it is to be hoped some move will be made to educate the public on the question of the metric system, so that in the next session of Parliament the Bill to make the system compulsory may fare better than it did last March. Sir David Gill, at the Leicester meeting of the British Association, showed how necessary it was for scientific purposes to have measuring instruments of extreme accuracy, and to have the standard comparable with some natural constant - in this case, the wave-length of light. The number of such wave-lengths to a metre (1,553,164) is, however, not a very easy number to memorise, but if we took the round 1,000,000 as a base, and upon that standard length built up the beautiful system of correlation and decimalism, we should have simplicity combined with scientific accuracy. Hoping that some abler pen than mine will take up the matter,

I am, Sir, your obedient servant, METERITE, Marple, Cheshire, Sept. 7th.

We can all well agree with "Meterite" in the hope that something will be done to educate the public on the question of Weights and Measures Reform, but what will the Decimal Association say of this proposal to alter the length of their sacred metre?

BWMA gratefully records the Patronage of the late The Hon. Mrs Gwyneth Dunwoody MP, Lord Shore, Vice-Admiral Sir Louis Le Bailly KBE, Lord Monson, and Sir Patrick Moore CBE
And the Honorary Membership of the late John Aspinall, Nirad C Chaudhuri CBE, Jennifer Paterson CBE, Leo McKern AO, Norris McWhirter CBE, Fred Dibnah MBE, Sir Julian Hodge KStG, KStJ, Bernard Levin CBE, Dr Charles H Sisson CH, DLitt, Fritz Spiegl, F S Trueman OBE, Sir Rowland Whitehead Bt, George MacDonald Fraser OBE, Beryl Cook OBE, John Michell, David Shepherd MBE, Keith Waterhouse CBE, Dick Francis CBE, Prof. Antony Flew, Trevor Bailey CBE, Prof. Richard Holmes CBE, Michael Barry OBE, Max Bygraves OBE, Christopher Martin-Jenkins MBE, Candida Lycett Green, Roy Faiers, RWF Poole, MBE, Christopher Booker, Sir Roger Scruton, Peter Alliss CBE, Jonathan Myles-Lea, Robin Page, Dr Evadne Hinge, Lord Field of Birkenhead

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