

The Yardstick

Journal of the British Weights and Measures Association

Number 24

ISSN 1361-7435

June 2005

Patrons

Lord Monson

Vice-Admiral Sir Louis Le Bailly, KBE, CB
The Hon. Mrs Gwyneth Dunwoody, MP
Sir Patrick Moore, CBE

Honorary Members

Peter Alliss, CBE
Clive Anderson
Trevor Bailey, CBE
Michael Barry, OBE
Christopher Booker
Ian Botham, OBE
Max Bygraves, OBE
Beryl Cook, OBE
Jilly Cooper, CBE
Professor Richard Demarco, OBE
Roy Faiers
Sir Ranulph Fiennes, OBE
Edward Fox, CBE
Dick Francis, CBE
George MacDonald Fraser, OBE
Sandy Gall, CBE
Candida Lycett Green
Simon Heffer
Peter Hitchens
Jools Holland
Prof. Richard Holmes, CBE
Richard Ingrams
Dr James Le Fanu
Jonathan Lynn
Dr Richard Mabey
Christopher Martin-Jenkins
Robin Page
Lord Phillips of Sudbury, OBE
R W F Poole, MBE
Sir Tim Rice
Andrew Roberts
J K Rowling, OBE
Quinlan Terry, CBE
F S Trueman, OBE
Keith Waterhouse, CBE
Sir Rowland Whitehead, Bt
Antony Worrall Thompson

BWMA gratefully records the Patronage of the late Lord Shore 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, David Shepherd, MBE

Confidence in Metric Ruling Crumbling

Following the launch of the campaign against parking fines before conviction (see last issue of *The Yardstick*, November 2004), refusals to pay parking fines have now been made in thirty separate local authorities.

These challenges are based on the ruling of Lord Justice Laws (LJL) that there are two types of Act: "constitutional" and "ordinary". The former overrides the latter *unless* the latter amends or refers to the former *explicitly*. Thus, says LJL, the "constitutional" 1972 European Communities Act requiring the use of metric units overrides the later Weights and Measures Act 1985 that allows pounds and ounces.

If Lord Justice Laws is right, it follows that the Bill of Rights 1689, forbidding fines and forfeitures "before conviction" and identified by him as a "constitutional" Act, overrides the Road Traffic Acts of 1991 and 1994 that seek to remove the courts from the parking fine appeal system. Under LJL's ruling, the Road Traffic Acts can only amend the Bill of Rights if they actually refer to it in their text. They do not.

The problem for the government is that it cannot have it both ways: either LJL is right and the government is faced with repaying millions of pounds in illegally obtained parking fines; or the February 2002 ruling is wrongly decided in which case Steve Thoburn is innocent and lb/oz are lawful. Disassociation from the LJL ruling has already begun, and is illustrated by recent advice issued by the Parliament and Constitutional Centre. We reproduce this on page 2.

* * *

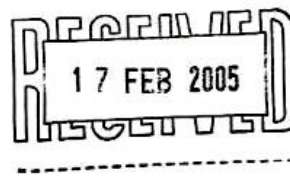
After ten years of a steady annual subscription rate of £10, inflation has caught up with us. At the AGM on 23 April, it was proposed and accepted that, from 1 July 2005, the subscription will rise to £12. Please also note our new Dorset address.

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, from all manner of businesses and the general public. BWMA is financed by member subscriptions and donations. Membership is £12 per year. Cheques or postal orders payable to "BWMA", 44 Greensleeves Avenue, Broadstone, Dorset BH18 8BJ



FILENOTE
ENQ 2005/2/20PCC
15 February 2005



Bill of Rights 1689

A constituent has contacted you in relation to the Bill of Rights and parking offences. He has argued that the Bill of Rights is fundamental constitutional law and therefore overrides the Road Traffic Act 1991, which allows spot fines without convictions. The Bill of Rights forbids fines before convictions.

I enclose Library Standard Note no 293 on the constitutional status of the Bill of Rights. Although a number of judges have commented on the possible development of a new series of acts which have 'constitutional status', at present under the doctrine of parliamentary sovereignty no single act is protected from repeal by a subsequent act of parliament. In fact, a number of sections of the Bill of Rights have already been repealed, as set out in the Standard Note.

Your constituent makes reference to comments from Justice Laws. This is a reference to the *Thoburn v Sunderland City Council* case in 2002, involving the so-called metric martyrs, and is described in pp100-101 of *Constitutional Reform in the UK* by Professor Dawn Oliver. I have enclosed a copy of this extract in a copy of this note sent by internal mail. The opinion of Justice Laws is not universally accepted amongst judges or legislators.

The practical effect for your constituent would be that he is unlikely to succeed in a challenge to Reading Council over parking fines.

Parliament and Constitution Centre

The above advice was sent by the Parliament and Constitutional Centre to BWMA member Alan Lott's MP following Mr Lott's enquiry about the apparent illegality of parking fines before conviction. The Filenote is dismissive of Lord Justice Laws' judgement, referring to it as though it was given as part of an academic lecture. It says that Lord Justice Laws' ruling on Constitutional Acts is "opinion" that is "...not universally accepted amongst judges or legislators". The Filenote suggests that the Divisional Court's ruling has no "practical effect" in law.

While this Filenote is not a legal document, it represents the "establishment" viewpoint. Until this year, Lord Justice Laws' ruling was beneficial to the government because it enabled the government to comply with EC metric Directives without passing a new Act of Parliament. The government could rely on the earlier European Communities Act 1972 as a "constitutional" Act,

regardless of what had been legislated for subsequently.

BWMA has written to the Minister of Consumer Affairs and every Trading Standards Authority regarding the Parliament and Constitution Centre's advice, calling for an immediate suspension of metric enforcement. Enquiries are also under way to identify the judges and legislators who oppose Lord Justice Laws' ruling.

* * *

Tom Wise MEP, UKIP, is to chase the European Commission for the legal text that makes non-metric "supplementary indications" illegal from 1 January 2010. BWMA has asked the EC to quote the relevant text from Directive 80/181 on four occasions but Commission officials have been unable to produce it. To be continued...

Metric Resistance Update

Birmingham: BWMA's Director joined green-grocer Ian Pedley for a meeting with West Midlands trading standards officers (TSOs) on 17 February 2005 regarding a "notice of intent" advising Mr Pedley to convert to metric scales. The Director explained BWMA's three objections: metric conversion undermines consumer protection; legal uncertainties surround the Lord Justice Laws judgement; and various means exist by which West Midlands TSOs can decline to enforce metric regulations *lawfully*. Mr Pedley presented a petition signed by over 500 customers who want him to retain his lb/oz scales. The Chief Inspector of Weights and Measures said that they would liaise with their co-ordinating body LACORS regarding the points raised before deciding on any course of action.

Leeds: In November 2004, Mr Lee Bowman of The Handyman's Stores in Yeadon received a notice from West Yorkshire Trading Standards Service directing him to change his dial display weighing scale to metric within 28 days. Mr Bowman responded by adding metric indications using a red felt tip pen. After TSOs indicated that this was not acceptable, BWMA wrote to West Yorkshire Trading Standards, drawing their attention to a garage in Scarborough which, in 1995, had gallon petrol pumps with dial indications, not dissimilar to Mr Bowman's scale. The local TSOs, together with the National Weights and Measures Laboratory and the Department of Trade and Industry, then took the view that changing the pumps was not necessary; only the dial need be amended or adapted. BWMA has suggested Mr Bowman's case is a comparable one and that, short of being inaccurate, there is no need to change or adjust the weighing machine itself. Only the dial needs to be supplemented to show corresponding metric indications. This Mr Bowman has done with markings that are clear, correctly placed and visible to the consumer. TSOs have yet to respond.

Torbay Council: in November 2004, BWMA submitted a ten-page complaint against Torbay Trading Standards following its refusal over six months to provide its statutory authority for striking and damaging the weighing machine of fruiterer Dennis Webb. Mr Webb has supplied BWMA with the following statement:

"My name is Dennis Webb. I am the proprietor of Valley Fruit. In the third week of March 2003, I was tending my shop at the above address. During one of these days, a gentleman entered the shop who introduced

himself as a trading standards officer. I recognised this gentleman as Mr James who had entered my shop previously. Mr James said I could not use my pound scale. He was referring to the "Lion Sovereign" scale that I had on my counter. He took from a black bag he had with him an implement such as a metal punch, and a hammer. He placed the sharp end of the punch over an opening on the weighing machine, and used the hammer to drive the punch in. This action was done with a certain amount of physical force, and cannot be said to be part of the normal maintenance or adjustment of the machine. After this act, Mr James placed the hammer and punch back in his bag and left the shop. He did not leave anything in writing. When I next tried to use the machine, it did not work. The electrics came on, but the weighing mechanism did not register. This is in contrast to immediately before the action, when the weighing mechanism registered correctly and fully. I recall that the trading standards officer said, "I'm putting it out of action because you should not be using it", or words to that effect. I do not know the exact date of the incident but I can place the date approximately because I subsequently rented a new weighing machine to replace the one broken, and the receipt shows the date 19/3/03. I also had to borrow a scale from a neighbour while waiting for this to arrive. I have been a fruiterer for about five years. I have not known an incident like this before, either to myself or to any of the traders that I know. I was very surprised at the act that took place".

Following BWMA's complaint, Torbay Council indicated that the TSO was intending to obliterate the crown stamp, a symbolic action that is not supposed to affect the functioning of the machine. Torbay Council offered Mr Webb £100 compensation. BWMA does not consider this amount remotely satisfactory and is taking the matter up with the Local Government Ombudsman.

* * *

BWMA has distributed copies of its *Guide to the LACORS Metrication Concordat* among one hundred Chambers of Commerce, numerous independent traders and two hundred Local Authorities Trading Standards departments. It remains imperative that BWMA makes contact with traders still using imperial machines. Members are again requested to search out imperial traders and put us in touch. If BWMA can intercept TSOs before they start proceedings there is a good chance they can be dissuaded. Market traders particularly need protection.

TRIBUTE AND OBITUARY TO DAVE STEPHENS – AN ENGLISH PATRIOT

by Derek Norman, Committee Member, BWMA

It is with deep regret that BWMA reports that Dave Stephens, a great English patriot, passed away on Friday 15 April 2005, a day after his sixtieth birthday. We extend our sincere condolences to his wife Mandy, two sons, brother, three grandchildren and the rest of his family and friends. How could we, who only knew Dave for a few fleeting years, and who deeply grieve for the loss of a national hero, comprehend the despair, grief, sorrow and intense sense of loss felt by his family and friends?

Dave Stephens became the first “Metric Martyr” when he ignored an Infringement Notice issued by Southend Council on 6 January 2000 for selling meat and sausages in his butcher’s shop at Leigh-on-Sea, Essex, in pounds and ounces rather than in kilograms. Dave became an activist in the campaign to oppose compulsory metrication and received national media coverage when he smashed a set of metric scales outside the Houses of Parliament during a mass demonstration against the persecution of traders selling goods in British weights and measures. In an event organised by Dave’s Campaign Manager, Graham Williamson, in co-operation with the Customary Measures Society, Dave celebrated “1,827 Not Out” at The Cricketers public house in Hornchurch on 6

January 2005, to mark five years defying the compulsory metrication legislation at his shop “Meat at Mandy’s”. Graham announced at this event that Dave would be standing in the upcoming General Election as an Independent Candidate for the Hornchurch Parliamentary Constituency.

Mandy confirmed to us that Dave was a wonderful husband, father and grandfather and would fight indefatigably against unfairness and injustice. He was determined to get social justice for the old, disabled and infirm and was always on the ‘phone trying help people regarding their allowances or payment of Council Tax. Dave Stephens would not tolerate the bureaucratic madness of EU Directives forced on small traders by autocratic “jobsworths” in the local Trading Standards Department.

BWMA salutes a genuine English patriot and freedom-fighter. His memory will live in the hearts and minds of all true democrats. God rest his Soul.

PS. Mandy Stephens has declared that she will follow in Dave’s footsteps and continue to sell meat products in pounds and ounces. We must all give her our unstinting support.

IMPERIAL CLUB

Fishmonger Peter Halstead of Codicote in Hertfordshire has turned his shop Gemini Fish into a “club” to circumvent the metric regulations. He says: “If someone new comes in, we explain we are selling only in pounds and ounces and that, if they want to be served, they have to join our imperial club”. Mr Halstead believes that forming a club places his shop beyond the reach of metric enforcement. The rules are that members must put at least one penny in a charity box, which gives them life membership, and write their name and address in a membership book.

Trading Standards officers have visited Mr Halstead’s club but have not so far taken any action. Mr Halstead’s idea has historical precedent; for instance, the setting up of private clubs was undertaken by liquor stores in “dry” American states up until the 1970s to avoid laws prohibiting the sale of alcohol. Indeed, even the House of Commons bar sold spirits by the gill, long after it had been made illegal in pubs.

CUSTOMARY MEASURES SOCIETY

In January 2005, the CMS launched its report “*Weights and Measures: Britain’s Way Ahead*”, as a response and rebuttal of a report by the UK Metric Association calling for Britain’s complete metric conversion. Copies of “*Weights and Measures: Brit-*

ain’s Way Ahead” (55 pages) are available for £4 (cheques payable to Tony Bennett) from Tony Bennett, 66 Chippingfield, Harlow, Essex CM17 0DJ. Price includes postage.

Please note our new address

(this replaces the PO Box)

**BWMA, ~~11 Greensleeves Ave,~~
~~Broadstone, Dorset BH18 8BJ~~**

☎ ~~020 8922 0089~~ (ansa machine)

Website: www.bwmaOnline.com

Hon President: Vivian Linacre

Director: John Gardner

Chairman: Michael Plumbe

Press Officer: David Delaney

☎ 01544 267197

Hon. Treasurer: Lee Consterdine

11 Greensleeves Avenue,
Broadstone, Dorset BH18 8BJ

Editor: Robert Stevens