

# The Yardstick

Journal of the British Weights and Measures Association

Number 33

ISSN 1361-7435

February 2008

## 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, CBE  
Roy Faiers  
Sir Ranulph Fiennes, OBE  
Edward Fox, OBE  
Dick Francis, CBE  
Sandy Gall, CBE  
Candida Lycett Green  
Simon Heffer  
Peter Hitchens  
Jools Holland  
Prof. Richard Holmes, CBE  
Conn and Hal Iggulden  
Richard Ingrams  
Dr James Le Fanu  
Jonathan Lynn  
Dr Richard Mabey  
Christopher Martin-Jenkins  
Alexander McCall Smith, CBE  
Reverend Peter Mullen  
Robin Page  
Andrew Phillips, OBE  
R W F Poole, MBE  
Sir Tim Rice  
Andrew Roberts  
J K Rowling, OBE  
David Shepherd, MBE  
Quinlan Terry, CBE  
Keith Waterhouse, CBE  
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, F S Trueman, OBE, Sir Rowland Whitehead, Bt, George MacDonald Fraser, OBE*

## Trial by Jury

After the European Commission's public relations coup of 2007, presenting the extension of supplementary indications as the end of metrication, the popular perception was created that British weights and measures had been saved, even though, of course, this was not true.

However, the magistrates' hearing of Janet Devers on 18 January 2008 demonstrated that metrication was alive and kicking. Janet Devers is charged by Hackney Council of using imperial weighing machines and labelling, and her claim to trial by jury has opened the matter to legal dispute once again.

Veteran attendees of BWMA annual conferences will recall the warning of Geoffrey Cox in June 2000: "*Do not trust the judges*". Although Steven Thoburn's barrister Michael Shrimpton argued successfully in court that the Weights and Measures Act 1985 allowed the use of British units, Lord Justice Laws contrived the notion of "constitutional Acts" so that metric regulations passed under the European Communities Act 1972 could take precedence over the Weights and Measures Act 1985, thereby contradicting British constitutional law that later Acts take precedence over earlier ones.

Having delivered the government's desired outcome in the Thoburn case, judges abandoned the idea of constitutional Acts when it became apparent that the Bill of Rights Act 1689, which outlaws financial penalties before conviction, would overturn the Road Traffic Act 1991 that sought to remove the need for conviction. Right on cue, Judge Tomlin said in March 2006, "We do not have constitutional Acts, only Acts with constitutional implications".

Janet's choice of trial by jury will mean that guilt or innocence shall at last be judged by a trader's peers, not by the government's judges.

## Annual General Meeting & Conference

Please note the date: Saturday 17 May 2008, to be held at the Victory Services Club, 63 Seymour Street, London W2 2HF, near Marble Arch; further details to follow in Yardstick 34.

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

***Letter from Reinhard Klein, EC Commission Enterprise and Industry Directorate-General, 23 November 2007, replying to BWMA's letter of 23 October 2007 to Günter Verheugen***

Dear Mr Gardner

Vice President Verheugen has asked me to thank you for your letter of 13 October 2007 concerning the review of the units of measurement Directive 80/181/EEC and has asked this service to reply to you.

The Commission's June 2007 Report on the public consultation on the working document relating to Directive 80/181/EEC states that:

"From the side of private persons there were many differing views on the current application of the directive, notably in the United Kingdom. Many are concerned by the non-use of metric units, notably in offers and as the base for unit pricing. The result can lead to unclarity and to potential confusion. Consumers complain that they cannot always compare the price of products in shops easily and that this may be to the advantage of traders and at the expense of shoppers. A number of photos were sent by individuals underlining the lack of market surveillance. However, as it does not concern cross border trade, there is no incentive for the Commission to pursue the UK authorities on this issue. The Commission considers this to be primarily a matter for the Member State authorities to deal with".

This means that, as for any directive, enforcement is a matter for the Member States to deal with. This also concerns the issue of unit pricing.

The views expressed in the public consultation showed a risk of confusion in the case of a change from the current situation as regards the sale of goods sold loose and in bulk. Therefore, in its legislative proposal of 10 September 2007 concerning the adaptation of the Directive the Commission has not foreseen to exclude retailing or unit pricing from the scope of the Directive. Rather, the Commission proposes to indefinitely allow the current practice of simultaneously showing non-predominating supplementary indications next to metric indications wherever this benefits consumers.

According to the directive, a trader may weigh a quantity to be sold loose in imperial units but the trader must be able to indicate the quantity in legal units at the time of the transaction (Art 1a and 2a of Directive 80/181/EC). It is clearly up to the Member State to specify the practical solutions to indicate the quantity in legal units at the time of the transaction (Art 1a and 2a of Dir 80/18 I/EC).

I would therefore encourage you to discuss this matter directly with the UK authorities.

Yours sincerely

Reinhard Klein

Head of Unit, New Approach Industries, Tourism and CSR, Construction and Pressure equipment

***Letter from Reinhard Klein, 11 October 2007, to BWMA member Stuart Delvin***

Dear Mr Delvin,

Vice President Verheugen has asked this service to reply to your e-mail sent to him on 28 September 2007 ... The Commission does not consider it necessary to change the current provisions on the use of pre-2000 weighing instruments in imperial-only units because the Directive does not prohibit the use of such instruments. Article 4 of the Directive says that a Member State may require the use of legal units of measurement for the indicators of measuring instruments and this is an option. The choice is therefore for each Member State to make. It is not the Commission's task to be involved in a Member State's implementation of such a choice.

Yours sincerely

Reinhard Klein

Head of Unit, New Approach Industries, Tourism and CSR, Construction and Pressure equipment

**BWMA note:** In this letter to Stuart Delvin, Mr Klein appears to draw a distinction between pre- and post-2000 weighing equipment. He refers to Article 4, which states:

*"The use of units of measurement which are not or are no longer legal shall be authorized for:*  
*- products and equipment already on the market and/or in service on the date on which this Directive is adopted,*  
*- components and parts of products and of equipment necessary to supplement or replace components or parts of the above products and equipment.*  
*However, the use of legal units of measurement may be required for the indicators of measuring instruments".*

The last part of Article 4 seems at odds with the first sentence; how can the post-2000 requirement to weigh and sell in metric be reconciled with the authorisation of pre-2000 imperial scales? It cannot; an imperial machine, or a dual machine set in imperial mode, is not weighing in metric; therefore, metric cannot be the indication upon which the sale is made. BWMA understands that this conflict will be brought up in the defence of Janet Devers.

***Hackney prosecution of Janet Devers; update***

The previous *Yardstick* referred to the seizure of Colin Hunt's weighing scales; this was incorrect. The scales and pitch belonged to his sister Janet Devers.

On 18 January 2008, Janet appeared at Thames Magistrates Court, 58 Bow Road, London, represented by barrister Nicholas Bowen. Neil Herron and Colin Moran from the Metric Martyrs Defence Fund were

present, as were BWMA committee members John Gardner, Derek Norman and Robert Stevens. Also in attendance were Leigh Thoburn, widow of Steven Thoburn, Colin Hunt and Gerard Batten MEP. Space was limited and some people were left outside. The hearing, scheduled to start at 2.0pm, started at 2.34pm.

There were three magistrates, two female and one male, the latter sitting in the middle. He asked: "Where is Ms Devers?" Janet Devers stood up to give her name. Her barrister Nicolas Bowen said that counts one to ten were covered by the Weights and Measures Act 1985 and its delegated legislation, relating to "selling by other than net weight", that is, by the bowl: Chinese cabbage, sweetcorn, scotch bonnets, oca, and dates. Counts 11, 12 and 13 concerned "not using for trade a unit of measurement not allowed under the Weights and Measures Act 1985". Mr Bowen said that the double negatives were confusing but that, in essence, it meant selling in imperial. Count 11 was imperial pricing, counts 12 and 13 was the use of imperial scales for trade. Mr Bowen said Janet Devers' customers were happy for pounds and ounces to be used, but she also had the facility to weight out in kilos if asked to do so. He turned to Janet Devers for a confirmation of this and she indicated yes.

The magistrate wanted to establish whether the magistrates' court was the correct court for the case i.e. whether it had powers to make a decision. After some discussion, the magistrate said that the court's powers were sufficient, but the case could also be heard at crown court. The magistrate asked Janet Devers to stand again. He observed that she was in some discomfort and asked whether she would like to sit down again. She replied that she would stand. The magistrate asked whether she wanted to be tried that day in the magistrate's court, or by jury at crown court. Janet Devers said she wanted trial by jury.

A date for the trial will be set in due course.

**BWMA is setting up a campaign fund for Janet Devers.** Members who wish to donate should make cheques payable to "BWMA" and write "Janet Devers Appeal" on the reverse. Please send to 11 Greensleeves Avenue, Broadstone, Dorset BH18 8BJ.

**Note:** renewing members who wish to send a single cheque for both renewal and donation for Janet Devers need to state on their renewal form how much they are donating to Janet Devers. If this is not done, additional sums will be regarded as a donation to BWMA itself.

### ***Part of Hackney Council's 67-page dossier, sent to Janet Devers on 12 December 2007 by Legal Officer Pauline Campbell***

"This report arises as a result of programmed inspections conducted at Ridley Road Market, London E8 during September 2007, the aim of the programme being to promote business compliance with the statutory requirements of the Weights and Measures Act 1985 Weights and Measures Act 1963 (Cheese, Fish, Fresh Fruit & Vegetables, Meat & Poultry) Order 1984, Prices Act 1974 and the Price Marking Order 2004.

On Thursday **6<sup>th</sup> September 2007**, Russell Fielding, Senior Trading Standards Officer conducted an inspection of Pitch 141, Ridley Road Market, a business predominantly concerned with the retail sale of fruit and vegetables. During the inspection the owner of the business was present and confirmed herself to be Janet Devers. After completing the inspection Russell Fielding handed Janet Devers a trader guidance pack entitled "Ridley Road Market Traders E8". A copy of the guidance and Russell Fielding's "inspection summary Book" was presented to Janet Devers and a request made that she read and sign the document, notice number 04918. Janet Devers signed the bottom of the notice, indicating that she did not agree with the content of the notice and Russell Fielding provided Janet Devers with a copy. A copy of the "Guidance pack" and "Inspection Summary" is produced in the Statement of witness of Russell Fielding as Exhibits RBF/JD/1 and RBF/JD/2 respectively.

The inspection summary makes reference to the appropriate legislation and provides written detail of the requirement to sell non-countable produce by net weight and provide metric indications and relevant price indications. Further, that countable produce required the price, type of produce, number of items and unit price. A further note was made of the presence of two imperial weighing machines and advice provided that these scales must not be used as weighing only in the imperial measurements of lbs and oz, was not legal for use for trade.

On Wednesday **12<sup>th</sup> September 2007**, Russell Fielding conducted a re-visit and re-inspection of Janet Devers Pitch at 141 Ridley Road Market. Russell Fielding obtained digital images of the Pitch's presentation which confirm that Janet Devers had failed to remedy the non-compliances as outlined in the notice number 04918. The images are produced in the statement of witness of Russell Fielding as Exhibits RF/JD/3 to RF/JD/05 respectively. Further a schedule was completed detailing several of the non-compliances visible, a copy of which is attached as Exhibit RBF/JD/6.

Janet Devers was not present at the stall and a further "inspection summary Book" record, number 04932 was presented to a gentleman who gave his name as Scott Lomax, and a request made that he read the document, sign it and ensure that it was passed to Janet Devers. The Inspection Summary detailed the legislation and contained a note that Janet Devers would be advised of the non-compliances by letter. Scott Lomax signed the notice and Russell Fielding provided him with a Copy. A copy of the "Inspection Summary number 04932" is produced in the

statement of witness of Russell Fielding as Exhibit RBF/JD/7. Further, a second notice was served, Notice number 1205, which detailed two pieces of weighing equipment namely, a Bracknell 130, 32lb x 1/8oz, serial no DS000285/23 and a Lion Sovereign, 22lb x 1/8oz serial no LS15004 non-automatic weighing instruments, and that the crown stamps on both instruments had been obliterated and that the equipment must not be used for trade. The Notice 1205 is produced in the Statement of witness of Russell Fielding as Exhibit RBF/JD/8. A copy of the notice was handed to Scott Lomax, and it was requested that he ensure that it would be passed to Janet Devers.

On Thursday 13<sup>th</sup> September 2007, at approximately 11.35am Audrey Lee, Principal Commercial Standards Officer, covertly from a short distance away from Janet Devers' pitch namely 141, observed the use of the unstamped imperial weighing instruments being used to conduct several transactions. At approximately 11.50am Russell Fielding accompanied by Audrey Lee and two police officers PC 175 Stafford and Pcs0 Hussain visited Pitch 141 Ridley Road Market. Russell Fielding advised Janet Devers that Audrey Lee had witnessed the use of the unstamped weighing instruments for several transactions. Russell Fielding issued notice No 1206 to Janet Devers explaining that the scales, namely a Bracknell 130, 32lb x 1/8oz, serial no DS000285/23 and a Lion Sovereign, 22lb x 1/8oz non-automatic weighing instruments were being seized under the provisions of the Weights & Measures Act 1985. Notice No 1206 was signed by Janet Devers and a copy handed to her. The Notice 1206 is produced in the Statement of witness of Russell Fielding as Exhibit RBF/JD/9, the scales as exhibits RBF/JD/10 and RBF/JD/11, and photographic images of each of the scales as RBF/JD/12 and RBF/JD/13 respectively. Audrey Lee obtained several photographic images of the pitch, its layout and produce. The Statement of witness of Audrey Lee is attached in which the images of the pitch are produced by Audrey Lee as Exhibits AL/1-5.

On Thursday 20 September 2007 a section 83(1) notice, issued in respect of the Weights and Measures Act 1985 including a schedule of the non-compliances noted during re-inspection, was posted by recorded delivery to Janet Devers within 30 days of the date of the commission of the offences, as required under the Act. Further the schedule included alleged offences as required under the Prices Act 1974. The notice was concluded with a request that Janet Devers contact Russell Fielding in order that suitable arrangements could be made whereby Janet Devers could attend at the office address, in order that she be interviewed in accordance with the Police and Criminal Evidence Act 1984 Codes of Practice. A copy of the Section 83 Notice is produced in the Statement of witness of Russell Fielding as Exhibit RBF/JD/14.

The confirmation details of postage of the Section 83 Notice are confirmed in the statement of witness of Joyce Skerrett, the officer who arranged for postage of the documents. The statement of witness of Joyce Skerrett is attached. The Section 83 Notice posted to recorded delivery to Janet Devers home address had required that she contact Russell Fielding in order to arrange for her attendance at an interview to be conducted in accordance with the Police and Criminal Evidence Act 1984 codes of practice. The

Notice stipulated that she should contact Russell Fielding within a period of 7 days. However, to date, no direct communication has been received by Russell Fielding.

### Observations and Recommendations

On Thursday 6<sup>th</sup> September 2007, as part of a continuing programme of inspections conducted at Ridley Road Market the stall of Janet Devers at Pitch Number 141 was visited for the purpose of initial compliance inspection.

The planned inspection programme consisted of initial inspection and re-visits as required, at the pitches and shops along Ridley road Market trading as Greengrocers, Butchers and Fishmongers, with the first of the programmed inspections relating to Greengrocers. Of the programmed 33 inspections to be carried out in respect of known greengrocers, taking account of absences, and those that had ceased trading, 22 individual greengrocers trading from Ridley road where inspected.

In relation to Janet Devers, her approach to initial advice was one of ambivalence. The market stall itself displayed fruit and vegetables with ad-hoc descriptions of the produce, net weight and price, etc. Janet Devers was advised verbally and by means of "Inspection Summary 04918" and was provided with the Ridley Road Guidance Pack for Traders which contained comprehensive guidance to assist greengrocers with the proper labelling of produce in order to comply with relevant legislation.

Janet Devers was re-visited on Wednesday 12<sup>th</sup> September 2007 in order to ascertain if she had acted to rectify the contraventions previously highlighted. Several photographs were obtained of Janet Devers Pitch, providing the basis of the allegations made. Further, a notice number 1205 was issued, containing clear information that the crown stamps on the two imperial weighing instruments had been obliterated and that the equipment must not be used.

On Thursday 13<sup>th</sup> September 2007, the use of the unstamped scales was witnessed by Audrey Lee, prior to, with police support, the seizure of the scales under the provisions of the Weights & Measures Act 1985.

In view of Janet Devers' reticence to either accept, or act on any reasonable advice provided on several occasions including written advice provided by Richard Carr, Senior Trading Standards Officer following his inspection of 17<sup>th</sup> May 2007, coupled with the knowledge that the possession and use of the weighing equipment in question, was illegal and that arguments about metrication appear to have been settled by the courts and pricing by imperial quantities only is no longer legal.

Janet Devers has chosen to ignore clear and consistent advice provided by the Trading Standards Service. By continuing to ignore the advice Janet Devers has sought to gain an unfair commercial advantage over her competitors. Whether pricing by the pound rather than by the kilo or using and weighing in imperial pounds and ounces may make goods seem to be cheaper. This also has the effect of placing traders who comply with the law at a disadvantage and may discourage traders from changing over to, and sticking to the metric system. The result is an unfair and confusing trading environment for residents, businesses and visitors to the borough".

## ***Introduction to Jury Nullification***

The Devers case is generating interest in the power of juries to nullify bad law. Jury nullification occurs when a jury, disagreeing with the judge's instructions concerning what the law is, or whether such law is applicable to the case, or despite its belief that the defendant is guilty, returns a verdict of "Not Guilty". Although a jury's refusal relates only to the case in question, a sequence of such verdicts can have the practical effect of disabling the enforcement of that position on what the law is or how it should be applied.

The first case in England in which a jury nullified a law was that of William Penn and William Mead in 1670 when jurors refused to convict the two Quaker activists charged with unlawful assembly. The judge refused to accept a verdict other than guilty, and ordered the jurors to resume their deliberations without food or drink. When the jurors persisted in their refusal to convict, the court fined them and committed them to prison until the fines were paid. On appeal, the Court of Common Pleas ordered the jurors released, holding that they could not be punished for their verdict.

Jury nullification was introduced into America in 1735 in the trial of John Peter Zenger, printer of *The New York Weekly Journal*, who broke the seditious libel law by repeatedly criticising New York Governor William Cosby. He was clearly guilty of breaking the law, which held that true statements could be libellous. However Zenger's lawyer, addressing himself to the jury, argued that the court's law was outmoded and that falsehood was the principal element that makes a libel. It took the jury minutes to nullify the law and declare Zenger not guilty. Ever since, the truth has been a defence in libel cases.

*John Adams* said of jurors: "It is not only his right but also his duty ... to find the verdict according to his own best understanding, judgment, and conscience, though in direct opposition to the direction of the court".

*Lord Denman (1884)*: "Every jury in the land is tampered with and falsely instructed by the judge when it is told that it must accept as the law that which has been given to them or that they must bring in a certain verdict or that they can decide only on the facts of the case".

*Sean Gabb*: "What makes juries so important is that ... political or vexatious prosecutions, or attempts to enforce unjust laws, become much harder..." ([www.seangabb.co.uk](http://www.seangabb.co.uk)).

*U.S. Chief Justice Harlan F. Stone, 1941-1946*: "If a juror feels that the statute involved in any criminal offence is unfair, or that it infringes upon the defendant's natural God-given unalienable or Constitutional rights, then it is his duty to affirm that the offending statute is really no law at all and that the violation of it is no crime at all, for no one is bound to obey an unjust law. That juror must vote Not Guilty regardless of the pressures or abuses that may be heaped on him by any or all members of the jury with whom he may in good conscience disagree. He is voting on the justice of the law according to his own conscience and convictions and not someone else's. The law itself is on trial quite as much as the case which is to be decided".

*The Democracy Defined Campaign* (8, Rue de la Brasserie, 55700 Olizy, France): "In democratic societies, the trial of a citizen is by fellow citizens who comprise the Jury. Trial is not "trial-by-government", which could never be fair where the government is also one of the contesting parties.

"Prosecutors, judges, police and prison service are employed to enforce governments' laws and should never be asked, nor relied on, to decide impartially whether laws are just, for they must fulfil their task or face the fury of the government, their employer. Judges themselves comprise a branch of government, and they are in the pay of government. For these reasons, government, politicians and the judiciary are not competent to require the conviction or punishment of any person for any offence whatever.

"The Constitutional Common Law Trial by Jury Justice System intentionally takes a person out of the government's hands and places the accused under the protection of his or her equals (the jury) and the Common Law alone. Trial by Jury allows no man or woman to be punished unless the indiscriminately chosen equals of the accused consent to it, following Trial in which Jurors try: the facts of the case, the law, and decide on the admissibility of evidence. Anything less, or different, is not Trial by Jury, but trial by someone else". ([www.democracydefined.org](http://www.democracydefined.org))

## **'THE GENERAL RULE -- A GUIDE TO CUSTOMARY WEIGHTS AND MEASURES'** by Vivian Linacre

*The General Rule*, 208 pages and lavishly illustrated, is the essential compendium of articles, tables and notes to explain the imperial system of customary measures. The author, BWMA President Vivian Linacre, is recognized, both in Britain and internationally, for his knowledge of customary weights and measures.

Whether buying for one's own library or as a present, the recipient of *the General Rule* will find a depth of knowledge combined with readability which makes this book not only outstanding but arguably the definitive publication in this area of weights and measures. It is ideal both for the serious student and those who wish to extend their general knowledge.

Retailing at £12.99, *the General Rule* is available to readers of the Yardstick at the reduced price of £12, post free, from Vivian Linacre at 21 Marshall Place, Perth, PH2 8AG. Published by The Squeeze Press: ISBN 1-978-906069-01-8

*Andrew Roberts*: "...A celebration of human ingenuity and British genius"

*This England*: "Totally absorbing from first page to last ... the first publication that explains the historical and cultural background to the imperial system ... at once entertaining and educational"

*Tim Rice*: "An extremely useful and fascinating book"

## ***BWMA's Freedom of Information request: letter to the British Government, 18 September 2007***

"Dear Sirs

Please could you supply copies of all communications between Department for Business, Enterprise and Regulatory Reform and the European Commission in relation to the EC's recent consultation regarding metrication Directive 80/181. Thank you for your assistance

John Gardner

Director, British Weights & Measures Association"

## ***Reply from the National Weights and Measures Laboratory (NWML) to BWMA, 9 November 2007***

“I am writing to confirm that this Department has now completed its search for the information you requested on 18 September 2007. I should just point out that it was not the Department for Business, Enterprise and Regulatory Reform which communicated with the Commission regarding its consultation on Directive 80/181/EEC. Rather, it was the then Department of Trade and Industry. I have therefore searched the records accordingly.

A copy of the information which can be disclosed is enclosed. [BWMA note: this was the publicly available copy of the formal response by the DTI to the EC consultation,]

The remainder of the information that falls within the terms of your request is exempt from the right of access under the Freedom of Information Act 2000 (FOI Act). It is being withheld as it falls under the exemption in section 27 (1) (b) of the FOI Act which concerns relations between the United Kingdom and any international organisation. In applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosing the information. We recognise that there does exist a legitimate public interest in the issues surrounding the use of supplementary indications and the December 2009 deadline pertaining to their use. However, in deciding whether to release the information you requested the Department has had to take into account certain factors.

The factors the Department considered when deciding where the public interest lay are whether the release of certain information falling within of the scope of your request would be likely to prejudice the effective conduct of the United Kingdom's international relations. It is important that public confidence in the Government decision-making process be maintained. Therefore, where possible, information which would help to achieve this should be released. Against this must be weighed the need to ensure that officials can feel free to engage in a free and open exchange of views, including with international organisations or nay organ of such an organisation, such as the European Commission.

After due consideration we have concluded that the release of such information would not be conducive to open discussion of policy issues and that, on balance, the public interest is not best served by releasing it.

If you have any queries about this letter, please contact me quoting the reference number above. If you are unhappy with the result of your request for infor-

mation, you may request an internal review within two calendar months of the date of this letter. If you wish to request an internal review, please contact me.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision.

Yours sincerely, etc”

## ***BWMA request for internal review of NWML decision, 28 December 2007***

“Thank you for your letter of 9 November 2007. I would like to apply for an internal review of the decision not to disclose correspondence between the UK and EC authorities regarding the recent EC consultation on Directive 80/181.

In support of our request for an internal review, we would point out that section 27(1) (b) of the FOI Act applies to “relations *between* the United Kingdom and any international organisation”. The correspondence that we seek relates to a Directive that is applicable across EU borders and is therefore is a matter in which UK is *part of* the EU.

Consequently, this is not a case of the UK as a separate nation dealing with the EU as another separate body, so exemptions designed to protect the sensitivity of international negotiations do not apply.

Yours sincerely, John Gardner, etc”

*To be continued.*

## ***Metric downsizing: Birds Eye***

Food producer Birds Eye has reduced the weight of frozen food packs with no reduction in price. Birds Eye Garden Peas used to display both metric and imperial (“454g 1lb”); in 2006, however, the imperial indication was dropped, leaving only “454g”; in December 2007, the quantity was downsized to “400g”. Test purchases by BWMA showed that prices remained the same: at Sainsburys, the price charged for metric bags of 400g was £1.06, the same as for bags of 454g the week before. Thus, the price has increased in real terms by 13%. Birds Eye has carried out similar downsizing for their 2lb bags of Garden Peas (907g), reduced to 800g (1lb 12oz). Petits Pois have also been reduced: for instance, bags of 680g (1½lb) have been reduced to 640g but sold at the same price.

Birds Eye said that pea packs were in “...new weights divisible by 80g, to reinforce that peas are a great and easy way to 1 of your 5 a day. Unprecedented weather conditions have resulted in yields from the pea harvest being reduced by up to 40%, which has had significant cost implication. This will be reflected in an increase in price of our peas”.

For the record, a 1 lb bag of frozen peas was found to contain 1,310 peas, whereas a 400g bag contains 1,119 peas; that is 191 fewer peas in a metric bag.

## 30 year rule; disclosure of 1971 memo to Neil Herron

CONFIDENTIAL

Prime Minister

At EPC on 16 June (EPC(71)16<sup>th</sup> meeting) we considered the attached draft of a white paper on metrication and when it should be published. I was asked to tell you of the Committee's conclusions:

- (i) that the draft is generally acceptable;
- (ii) but that a decision on time of publication should be deferred because of the EEC implications.

2) As you will see, the White Paper lays little stress on the implications of joining the EEC. The fact is, however, that when we join, we shall have to accept harmonisation of weights and measures over a period and this will mean some degree of compulsion incompatible with the voluntary metrication line we have been taking. To draw attention to this now could provide both the anti-marketeers and those who are opposed to any change in our traditional weights and measures with a stick with which to try and beat us.

3) Delay in publication may be criticised since as long as as late November we said we hoped to publish the White Paper early in the New Year. But to postpone publication seems the lesser evil.

4) I should be glad to know whether you are in agreement with these views. I shall, of course, be keeping the situation under review and if the balance of advantages on publication seems to be changing will consult you further.

5) I am sending copies of this minute and enclosures to the Chancellor of the Exchequer, the Lord President and to Sir Burke Trend.

John Eden, Minister for Industry, 29<sup>th</sup> June 1971

BWMA would like to hear from a member who would be willing to spend time at the National Archives in Kew, Surrey, digging for other such documents. We will be pleased to reimburse travelling and photocopying expenses.

## South Korean government bans traditional units

The Korean government has legislated against the use of traditional Korean units of measurements such as the li (length), pyeong (area), and geun and don (weight). From 1 July 2007, shops, restaurants and companies that use Korean measurement have faced fines up to 500,000 won (\$545). Seoul said it planned to hold at least 240 different meetings nationwide until September 2007 to inform consumer groups, local merchants and business leaders on the change. The *Korean Times* had this to say (16 July 2007):

“Traditional units for weights and lengths have been banned in South Korea since the start of this month. The

ban is designed to strictly enforce the international standard metric system as people live in a more globalized society. The country introduced the metric system in 1961. However, traditional measurement units have been widely used, making it difficult for the government to outlaw them.

It appears to be quite late for authorities to allow only metric units of mass, length, electrical units and others. Common metric units are the meter and the gram. However, the nation's failure to eliminate the use of traditional units proves how hard it has been to fully introduce the international standards not only in government offices and companies but also in the daily lives of people. This reminds us that old habits die hard. The old saying goes that what's learned in the cradle is carried to the grave.

So, many individuals and businesses complain that they are suffering from confusion and inconvenience over the draconian policy. They have long been accustomed to such units as 'pyeong', 'geun' and 'don'. They often do not know how to measure their houses or apartments without using pyeong. Newspapers now publish their apartment price tables by only using meters, forcing readers to convert metric units into the traditional pyeong (one pyeong equals 3.3058 square meters).

Housing construction companies and real estate agents are having difficulty helping their customers calculate the size of homes and apartments that are for sale or rent. Houses and apartments have so far been measured in sizes such as 18 pyeong, 24 pyeong or 32 pyeong. Therefore, it is difficult for customers to imagine what size apartments with a floor space of 59.5 square meters, 79.3 square meters, or 105.7 square meters actually are. Even some long-term foreign residents familiar with pyeong have become baffled with the metric measurement.

In supermarkets, beef and pork are now sold in grams and kilograms instead of geun. One geun is 600 grams. Jewelers have used don (one don equals 3.75 grams) to measure the weight of gold and silver. Owners and clerks in jewelry shops are busy explaining to customers the new measurements. The customers usually complain: why do we have to give up our traditional units?

The meter and the gram are well known to South Koreans. But the metric units are hard to understand when they are compared with traditional measurements. Policymakers claimed that the use of the metric system would help consumers save about 2.7 trillion won (\$2.9 billion). They “pointed out that traditional units are very difficult to use in measuring the exact mass and length of products, as they have to be calculated down to three or four decimal places.

However, policymakers must remember that the government tried in vain to impose a similar ban on traditional units in 2000 and 2001. In addition, they are under criticism for not making strenuous efforts to publicize the use of metric units in order to get public support. From now on, those violating the ban may face up to 500,000 won (\$540) in fines although first-time violators would be given a warning.

Imperial units such as the yard, foot and pound are called 'human measurements'. Traditional Korean units can be called the same. Is it actually possible and is it really necessary to force such human measurements out of use despite a public backlash? We will have to think about this”.

## **From the Archives: *Theory v Practice*, from BWMA's annual report of July 1908**

From the inception of the metric system down to the present day, there has been continual friction between the theorist and the man of practical application. The scientists who founded the metre in 1793 refused to be guided by Watt; the theorists who were responsible for its re-application in 1840 took no heed of the practical Whitworth, and today the scientist still sets himself up as a metrological pope and endeavours to ban the manufacturer, the trader, and the "man in the street" because they will not, in some cases they cannot, make their practice conform to his theory.

In our last issue we pointed out the general concession of opinion in France as to the usefulness of the quarter-franc piece. To the poorer classes it is handy for shopping purposes, to the storekeeper and the travelling public it strongly appeals by its readiness in giving change, and so on, yet this practical convenience of a nation must be sacrificed at the altar of theory and sentiment if the scientists are to have their way. The opposition which the French scientists are offering to the wishes of the people of that country and the persistency with which they are endeavouring to thrust upon the people a division of the franc which they do not want and will not have is a very effective present-day illustration of what has been continually going on since the Revolution. In countries whose Governments take little or no account of the wishes of the people the metric system has been thrust upon them with as much rigidity as it was possible to impose, whilst in no country where the voice of the people has the opportunity of making itself effectively heard has the metric system been demanded nor has it been possible for the theorists to enforce their impracticable and fallacious doctrines on those countries.

It is only within the last three years that the French people have been allowed to have the useful quarter-franc piece, and then only after the precedent set by Italy. Now that the coin has grown into such popularity the scientist appears to be afraid lest there is a similar demand for binary divisions of weights and measures and is determined to stop this departure from metric rectitude by taking away from the people the practical example of such divisions they now have in their coinage.

We also drew attention in our last issue to the fact that this popular demand for binary coinage had spread beyond the confines of Italy and France, and that Germany was considering the proposal of coining a quarter-mark piece in answer to the continual applications made during the past seven years by the leading Chambers of Commerce and Federations of Manufacturers in that Empire. We now learn that this German demand for binary fractions is not stopping at the quarter-mark, for a Bill is at present before the Reichstag asking, for the third time, for new divisions other than decimal divisions of weights and measures. The Bill embodies the frequently expressed wishes of German traders, particularly retail traders, for binary divisions and is asking for denominations of quarters and eighths of the standard units

There are still a few people in England occupying leading positions, and some newspapers as well, who have not acquainted themselves with the fallacies underlying the metric system, and to these we would respectfully draw the attention of this popular attempt in France and Germany to be freed from decimal tyranny.

---

### **SIMON HOOTON**

We are sadly accustomed to the occasional loss of Honorary Members, whose obituaries are published nationally. The sudden passing of one of our own Committee Members -- and one of the youngest -- came as a much greater shock to us all.

Simon will be sorely missed as a friend and colleague. We have expressed our deepest sympathy to his parents, who were with him at home in Hampshire to the end.

A brilliant scholar and linguist, Simon was compiling a 'Glossary' of units of weights and measures, which he had been researching for many years but which now will never be completed. This was an ambitious work, historically and internationally. Tragically, his family have not yet found the material, neither among his papers nor on his computer; but he did send Vivian Linacre an 'Outline' in late 2006, from which it is intended to produce and possibly publish a Summary in his memory. This will concentrate on the more unusual units that he loved discovering, such as a warp, a wey or a worsted. Perhaps such terms could become known collectively as 'Hootons'!

**BWMA, 11 Greensleeves Ave,  
Broadstone, Dorset BH18 8BJ**  
☎ **020 8922 0089 (ansa machine)**

Website: [www.bwmaOnline.com](http://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

**Production and Distribution:** Robert Stevens