

# The Yardstick

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*BWMA gratefully records the Patronage of the late The Hon. Mrs Gwyneth Dunwoody, MP and 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, Beryl Cook, OBE*

## *Business as usual*

Just when we thought we could all go home, the metric menace has returned with a vengeance. The announcement by John Denham MP, reported in *Yardstick 36*, that he "... would like to see an end to this kind of prosecution [against imperial traders]" has turned out to be fallacious; either he said it, but did not mean it, or someone else said it, and attributed it to him without authority. Either way, enforcement of metric regulations is to continue. A report of BWMA's meeting with National Weights and Measures Laboratory is inside.

Meanwhile, although the EC's suspension of ban on supplementary indications is secure for 2010, reading between the lines of the relevant EC report suggests that the derogation may not be permanent, and that the Commission may wish to revisit to this matter in 2029. An explanation of our suspicions will be in *Yardstick 38*.

\* \* \*

## Annual General Meeting & Conference

To be held on Saturday 9 May 2009 (AGM 11.0am, Conference 2.0pm) at the Victory Services Club, 63 Seymour Street, London W2 2HF, near Marble Arch. We are delighted to be joined by John Midgley of the Campaign Against Political Correctness. CAPC says of Political Correctness: "It is a form of censorship and tries to bully people into conforming with a certain point of view which usually defies common sense. It is only actually pushed by a few people and it is very difficult to find many people who agree with it".

\* \* \*

Members interested in undertaking the role of Press Officer are invited to write to the 11 Greensleeves Avenue address. David Delaney continues to perform the role in an informal capacity.

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", 11 Greensleeves Avenue, Broadstone, Dorset BH18 8BJ

## **BWMA meeting with NWML, 20 January 2009**

**On 20 January 2009, BWMA Director John Gardner visited the National Weights and Measures Laboratory in Teddington, Middlesex, to meet chief executive Peter Mason, assistant director Lynnette Falk, and Paul Cole.**

NWML is an executive agency of the Department for Innovation, Universities and Skills. According to its website, NWML's aim is to, "... *provide the legal metrology infrastructure necessary to facilitate fair competition, support innovation, promote international trade and protect consumers, health and the environment*".

The purpose of the meeting was to discuss the 18 October 2008 announcement by Innovation Secretary John Denham MP that, in relation to the metric regulations, "It is hard to see how it is in the public interest, or in the interests of consumers, to prosecute small traders who have committed what are essentially minor offences. I would like to see an end to this kind of prosecution, which is why I have asked for new guidance to be introduced".

John Gardner noted that in 2008, there appeared to have been a political shift concerning the desirability of compulsory metrication, as illustrated by the Denham statement in the UK, and various statements by the EC.

However, Peter Mason said that the John Denham quote was not an accurate representation of UK government policy. Mr Mason would not elaborate on how Mr Denham's quote came about, but said that there was no plan to repeal or suspend enforcement of metric regulations.

Mr Mason said that the government had achieved its objectives: that a single system of units was used; and that supplementary information was allowed for people who do not use the metric system. Mr Mason said the EU's repeal of the 2010 ban on supplementary indications was "by no means a sure thing", and it would be surprising, in the eyes of the EC, for the UK to depart from other terms of the Directive, such as by selling loose goods in pounds and ounces, when amendments had been finalised.

Mr Mason said that the government wanted proportionality in enforcement, possibly by making a distinction between a trader selling in lb/oz on principle (e.g. Devers), and a business (e.g. Allied Carpets) selling to obtain market share by "unfair means". John Gardner said that such a distinction would be difficult; so long as imperial weighing and pricing was accurate, it could not be unfair by definition.

Mr Mason also said that differing unit pricing meant lack of comparison between goods. Effectively, if one half of a market priced in pounds, and the other half in kilos, the consumer would be excluded from 50% of the market [BWMA comment: if 50% of consumers are excluded, then so must be 50% of traders. Unless traders actually want to deprive

themselves of market share, they will establish a common unit through the market mechanism].

Mr Mason noted the position of the Conservative Party (to legalise pounds and ounces), but was of the view that they were not on firm ground legally; if elected, they may have to modify their position to remain within the terms of the EC directive.

Lynnette Falk said that stability had been achieved in that the vast majority of traders were now compliant with the regulations. However, a point made by John Gardner was that, whereas cases brought to date involved weighing offences (because of the use of imperial scales), and therefore dealt with by magistrates' courts, the declining number of imperial machines meant that future cases are more likely to involve unit pricing for which jury trials can be chosen.

John Gardner posed the question: do the government and local authorities want trial by jury, and what would be the consequences if a trader was acquitted? Mr Mason did not have an answer for this particular point. John Gardner pointed out that even Hackney Council backed out of a jury trial for Janet Devers, suggesting that councils would reach a point where they would be obliged to choose between risking jury trial and declining to not enforce the law; if the latter the law would fall into disrepute. Therefore, there was a need to restore certainty in the marketplace.

BWMA's view was that weights and measures inspectors should be concerned with inaccuracy and short measure, and that the best solution was to declare a moratorium on enforcement. A precedent for a moratorium existed in Canada, where prosecutions have been suspended since 1984. John Gardner listed the legal grounds for such a moratorium, as applied to the UK, including: the discrediting of the notion of constitutional acts, of which ECA 1972 was said by Lord Justice Laws to be one; and the failure of the House of Lords Appeals Committee to refer the Laws ruling to the House of Lords.

Peter Mason said that he and his team were avid readers of *The Yardstick*, and wanted to maintain contact with BWMA.

## **Two updates on USA**

### **1) Email correspondence between a member of the US Metric Association and the US government's National Institute of Standards and Technology (published on the internet, February 2009)**

Dear Ken

Some members of the US Metric Association e-mail forum want to begin an intensive campaign to persuade members of Congress to support the NIST draft Amendment to the FPLA [to introduce compulsory metric labelling in the USA, under the euphemism of "voluntary metric-only labelling"]. I expressed my opinion that NIST is not likely to push the Amendment until

the new Secretary of Commerce is confirmed. Assuming that that is true, how soon after confirmation does NIST (and the Department of Commerce) hope to submit the Amendment to Congress?

Sincerely, etc

## Reply from Ken Butcher, NIST Metric Program, Gaithersburg

You are correct in your understanding of the situation. Any proposal to amend laws can only come out of Commerce at the highest levels which means we have to wait until a new Secretary of Commerce is confirmed and then wait for a new NIST Director to be appointed and confirmed. After that we have to wait for the agency to request proposed legislative action which will not occur in the foreseeable future for any number of reasons, not the least of which is that NIST will receive about \$500 million under the stimulus law signed this week and the new Director and everyone else will be scrambling to get that money spent.

NIST also lost its General Counsel last month and that position is vacant. The GC has to review and approve all proposed legislation so we are essentially going to have to start all over again to justify the proposed legislation. Also, the Food Marketing Institute continues to maintain their opposition to the proposed FPLA amendment and they said at a meeting last fall that they would not reconsider. I doubt that Congress will consider or adopt the proposed amendment to FPLA until FMI changes its position.

The USMA and its members are free to communicate their views on metric but, given the change in administration and knowing that we will have to go through a long review and approval process up the chain of command, I cannot give you any assurances of if or when the FPLA proposed amendment might be introduced. Sorry that I cannot provide a more positive outlook, but the economy and other issues of national importance are dominating Congress's attention as well as that of the Executive Branch.

## 2) Arizona: highway I-19 losing kilometre signs (*The Sahuarita Sun*, 6 March 2009)

After nearly three decades of complaints from confused motorists, the Interstate 19 kilometer markers will soon be pulled out of the ground for good. The state transportation board on Tuesday approved \$1.5 million to replace the signs on the entire 100-kilometer — or 63-mile — stretch of I-19 from Nogales to Tucson. The funding is part of the federal stimulus package, which provides \$521 million to the state for roads and bridges.

The kilometer signs were placed in 1980 as part of a federal experiment with metric conversion, and over the years proved about as popular as the metric system itself. I-19 is the only U.S. interstate marked in metric. The Arizona Department of Transportation eventually placed mile markers along I-19 in 1998, but set them at a 90-degree angle to the highway so motorists couldn't easily see them and be confused by the extra markings. Those signs now will be turned so north- and south-bound motorists can see them. The big freeway signs listing distances also will switch over as part of the

project, which will undergo a federal review in the next four months and then must be put out for bid.

The interstate starts at the U.S.-Mexico border and is part of the Canamex corridor intended to link Mexico, the U.S. and Canada along a trade route. For years, traffic engineers have heard from drivers and others who are confused by the metric signs, ADOT Tucson District Engineer Greg Gentsch said.

## Tony Bennett of Active Resistance to Metrication writes to Cheshire Police, 6 September 2008

Dear D.I. Gammage (attn. W.P.C. Kate Burns)

I write to confirm my telephone conversation with P.C. Kate Burns on Thursday morning last (4 September 2008). These were the key points of my conversation:

1. Metric distances on road AND footpath signs are illegal under Traffic Signs Regulations and General Directions S.I. 3113 of 2002. Schedule 7 applies - I referred W.P.C. Burns to the exact pages.

2. It is not a criminal offence to erect a distance sign in metric, but it is unauthorised. No council or other body is allowed to erect a metric distance sign.

3. I referred W.P.C. Burns to the Traffic Signs Policy Unit of the Department for Transport in order to get authoritative advice. I was worried by two things she said. In the *Crewe Chronicle*; she was quoted as saying: "This is criminal damage". And she then told me she was going to check with the Council first.

My concern is that she is going first to the very authority which appears to have misled the Sandbach Partnership into erecting illegal metric distances in the first place. Surely she should get advice from the Secretary of State for Transport, and surely she should not pronounce 'this is criminal damage' without checking whether there is legal authority for amending an illegal sign?

4. Two years ago, very publicly on the BBC 'Question Time' programme, then Secretary of State for Transport Alistair Darling announced that the government had completely abandoned any plans to allow metric units to be displayed on British road signs (apart from bridge height and road width signs where metric units may be permitted as an optional extra). I have the transcript of that programme and can e-mail it to you if you wish.

5. The Department for Transport recently wrote to *every local authority in England and Wales* reminding them that *metric distances are not permitted on public roads and footpaths* nor, for that matter, on private roads to which the public has access, e.g. airports.

6. It is a defence to an allegation of removing or obliterating a sign on the highway if the sign is 'unlawfully placed on the highway': Section 131(b), Highways Act 1980. Clearly, a sign with an illegal, unauthorised metric sign is not 'lawfully placed on the highway'.

7. The Sandbach Partnership have publicly admitted that they did not take legal advice before going ahead with erecting metric distances.

8. In a raft of recent surveys, the general public have overwhelmingly, by margins of 9 to 1, indicated that they do not want to see metric units on our road signs. There was a highly publicised survey by the AA only last month which said exactly the same thing. You can get the reference by Googling 'AA' 'survey' 'metric' 'roads'.

9. Police forces in a number of authorities have spent tens of thousands of pounds, including legal fees, trying to establish that it is a crime to interfere with an illegal metric distance on a road sign. I have been arrested six times to date. Their only success was in 2002 when Maidstone Crown Court sentenced me to an

Absolute Discharge with no order for costs. This followed an earlier hearing in the Magistrates Court. This case alone cost Kent Police well over £10,000. Other charges were withdrawn on legal advice.

10. I told W.P.C. Burns that barristers had advised both Lee Valley Park, Hertfordshire and Crawley Borough Council that metric signs were illegal. In each case, this followed one of our actions similar to that in Sandbach on 29 August. Many authorities have voluntarily removed signs in metres and kilometres and changed them to miles and yards after we contacted them. I can supply you with a list on request.

11. I confirm that it was me that corrected the illegal metric distance sign in Sandbach on Friday 29 August. According to the Traffic Signs Regulations, the distances should have been erected as '1/4 mile' to the Council Offices and '1 1/2 miles' to the railway station. I am the Secretary of Active Resistance to Metrication and you can learn more about our work at our website: [www.activeresistance.org.uk](http://www.activeresistance.org.uk)

12. I supply these facts in order to assist you in making a sensible decision as to whether to pursue this matter any further.

#### DATA PROTECTION ACT

Was the telephone call from myself to W.P.C. Kate Burns recorded? If so, please send me a CD or tape of the call. My postal address is below.

Sincerely

Tony Bennett M.A.

Secretary, Active Resistance to Metrication

## Annual General Meeting & Conference Saturday 9 May 2009

Victory Services Club, 63 Seymour Street, London  
W2 2HF

Tel: 020 7616 8305

(off Edgware Road, just north of Marble Arch)

### AGM 10.30 for 11.0am - free to members

The following nominations have been proposed and seconded: Chairman Michael Plumbe, Director John Gardner, Hon Treasurer, Membership Secretary & Deputy-Chairman Lee Consterdine. Committee Members: Derek Norman, Fabian Olins, William Peters, Peter Rogers, Robert Stevens, John Strange.

### Conference 1.30 for 2.0pm - £5 admission on door

Guest speaker **John Midgley**, co-Founder of the Campaign Against Political Correctness ([www.capc.co.uk](http://www.capc.co.uk)).

Also, BWMA member **Stuart Delvin** is speaking on his discovery of documents at the National Archive, such as the item published in Yardstick 36. Further contributions by Vivian Linacre, BWMA's Founder and President, and John Gardner, Director.

### Minutes of the thirteenth Annual General Meeting, held on 17 May 2008 at the Victory Services Club, London

1. The CHAIRMAN, Michael Plumbe, welcomed members to the meeting.
2. APOLOGIES - A number of Apologies were noted.
3. MINUTES of the Annual General Meeting held on 19 May 2007, having been circulated, were taken as read and Approved nem. con. There were no matters arising.
4. DIRECTOR'S REPORT - John Gardner outlined the work and achievements of the year. His Report was Accepted nem.

con. A vote of thanks to Mr Gardner was recorded with acclaim.

5. HON. TREASURER'S REPORT - Lee Consterdine submitted Accounts for the year to 31 March 2008 showing:

	£
Balances 1/04/2007	9,879
Income for year	8,923
	-----
Subtotal	18,802
Expenses for year	7,866
	-----
Balance 31/03/2008	10,936
	=====

It was Resolved that these Accounts be Approved and Accepted. A vote of thanks to Mr Consterdine was recorded.

### 6. ELECTION OF OFFICERS AND COMMITTEE

It was Resolved nem. con. that the following be elected:

Chairman: Michael Plumbe

Officers: John Gardner (Director), Lee Consterdine (Hon. Treasurer)

Committee: Derek Norman, Fabian Olins, William Peters, Bruce Robertson, Peter Rogers, Pamela Shaw-Hesketh, Robert Stevens, John Strange. The Chairman noted that Prof. Antony Flew and Philip Pitt wished to stand down now. A vote of thanks for their long involvement with the Association was recorded. Vivian Linacre also noted the sad and sudden death of Simon Hooton during the year.

7. HON. AUDITOR - Bill Featherstone's re-appointment was Approved nem. con. with thanks for his work.

8. MINUTES SECRETARY - A vote of thanks to Sheila Eustace for taking committee minutes was recorded.

### From the Archives: "An American takes off his hat to British coinage", from the BWMA annual report of 1909:

An American gentleman has given us a call to "make a confession", to the effect that he had often vilified British coinage as being inferior to the decimal coinage of the United States, but he finds this was done "in ignorance". "Previous to the last two weeks", he remarked, "I had had no experience of handling British money, of spending it at the stores, of paying hotel bills, railway fares, tips, etc, but now, even with only two weeks experience, I want to tell you right here, that I take off my hat to British coinage".

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

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**Director:** John Gardner

**Chairman:** Michael Plumbe

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