



NABO News

The Magazine of the National Association of Boat Owners

Issue 4—July 2013



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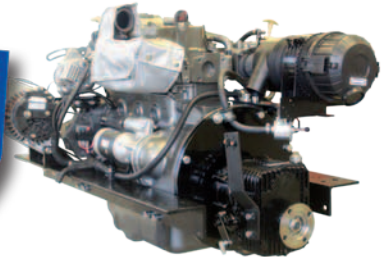
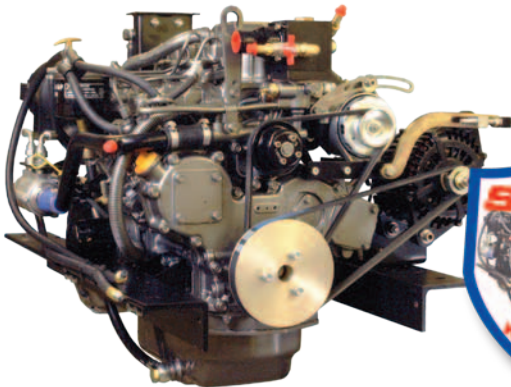
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NABO News

The magazine of the National Association of Boat Owners

Issue 4 July 2013

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Contributions

Articles, letters, cartoons and photos are most welcome. Images and photos in JPEG format please.

Contributions to nabonews@nabo.org.uk

Next NABO News Copy Date

Please email or post your contributions by 14th September 2013



Front Cover Photo Competition

This month's cover is from member Alan Fincher. His boat, ex-BW ice breaker, 1936 middle Northwich *Sickle* is photographed with sister boat *Tycho* at the Historic Boat Event at Alvecote last August.

NABO Calendar 2013

Council Meetings in 2013:
Saturday 7th September, Saturday 12th October,
AGM Saturday 16th November

Council meetings are normally at the Waggon and Horses, Church St., Oldbury, West Midlands, B69 3AD. Remember that members are welcome to attend meetings—just let the Secretary or Chairman know in advance (contact details overleaf).

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No place for no return

Editor **Peter Fellows** takes it to the max. (14 days a year apparently)

In my younger days, we regularly loaded up with friends and beers and set off from Calcutt, mooring at the visitor moorings in Weedon for a Saturday evening meal together at the restaurant there, returning on Sunday. On a recent trip down the Grand Union, we saw a CRT sign at Cosgrove saying: 'Maximum stay—14 days per calendar year'. What is this about? Presumably, local boaters might want to regularly visit this attractive village—are they supposed to moor here overnight for a maximum of fourteen times per year? Or can they moor once each year for a fortnight—or some other combination of visits? It is not clear.

Whatever interpretation, who will monitor this and what are the penalties if someone moors fifteen times a year? How are shared ownership boaters supposed to know if another owner has moored there previously? Are hire-boats included? The whole thing starts to become surreal... and totally unnecessary.

If CRT staff are the enforcement officers, couldn't they be better employed doing something more useful—enforcing the 14-day rule? Or is it volunteers? If so, have they been fully briefed that they could be cross-examined when they appear as witnesses in court?

I don't know if these restrictions are the Regional Waterway Manager's idea to deal with a specific local problem, or whether it is now a CRT policy, as there appear to have been no public statements by CRT on its introduction.

The whole purpose of boating (to me at least) is unrestricted enjoyment of the waterways—provided of course that I am considerate to other boaters and do not abuse visitor moorings—as the vast majority

of boaters do. Why shouldn't I revisit a place as many times as I wish? This 'no-return' rule is bonkers and should be rejected. These things have a habit of becoming custom and practice; having been trialled in one location, they become adopted throughout the system. If you see similar signs that offend your sense of justice and freedom to cruise, please send me a photo.

The other thing I noticed on our return to the GU since we were based here, is much larger numbers of liveaboard boaters that now line the route. A journey that took four hours, fifteen years ago took five hours because of the need to pass moored boats on tickover every few hundred yards and either side of almost every bridge. This creates a difficult situation for CRT: how to enable boaters to make reasonable headway and calculate their cruising times while, at the same time, dealing with the legitimate aspirations of more and more people to choose a cheaper way of life afloat. There are of course no easy answers, but CRT has made a start and should be applauded for increasing the enforcement of continuous cruising rules. To me, even-handed enforcement, and not the imposition of these new no-return rules, is the key to dealing with non-compliant boaters. Different aspects of the mooring debate feature in detail in this issue; the K&A mooring plan and loss of moorings to commercial interests, overstaying charges for visitor moorings in the South East, the introduction of RMPs and a London enquiry into moorings. As always, I welcome members' views on all of this. In the meantime, enjoy this issue and a summer out and about on the water.





Legal eagles

Chairman **David Fletcher** renews his call to protect boaters' rights

Last month I mentioned the concern felt by NABO Council about the legality of some of CRT's proposals on the Southern Grand Union. Since then a NABO team has met our legal advisors and reviewed the issues again. The advice to us is that nothing has changed and the Counsel's written opinion from 2005 and 2009 is as valid today as it was at the time of writing. NABO has consistently used this content in guidance and opinion to BW/CRT in the various consultations and correspondence in which we have engaged over the years, most recently for the SE mooring review. It is a cause of frustration to me and Council that we have been unable to get clarity from CRT on several legal issues and all we get from them is the 1962 Act 'as they think fit'. In recent years a few brave boaters have taken on BW: Nigel Moore for example, and we can see that BW has been found legally fallible in that case at some considerable cost. I do not imply that CRT has no powers to enforce the 1995 Act, indeed NABO has always called for its application and regretted the dearth of cases. This is both because of the obvious need and the lack of case interpretation for all parties to understand.

It is the 'add on' features, either in Terms and Conditions or the mooring proposals, which are controversial to us. CRT lawyers should not have the sole view on these matters. Our Counsel is just as expensive as CRT's and they have a different view on some issues. It is most unlikely that NABO will ever take CRT to court; we do not have the resources

or the status to do so. We have to find other ways, but it is clear that normal correspondence and doing the 'right thing' in consultations simply does not work. I think we have to be a little, how shall I put it, irksome? It is a great shame that we have reached this point on boater rights, when there is so much to support in the fledgling CRT and members are working hard to do this. But boater rights are at stake.

A big "thank you" to Andy Colyer

Turning to internal matters, I have to tell you that Andy Colyer has resigned from the Council due to work and family commitments. He will remain as Southern Secretary, looking after key issues on the K&A. Andy has served on Council for many years and we are very grateful for his wise input and support for the Association. In recent times, he attended many of the MSSL meetings and his knowledge of the waterways and the personalities contributed significantly to making the progress that it did. Thank you Andy.

The aged member

It gives me great pleasure to congratulate Philip Ogden, a member since 1992 and active in various roles, who has recently celebrated his centenary. He is currently our Assistant for the Disabled and he maintains an interest in the canals, living on the north end of the Grand Union. He still gets afloat from time to time. Please join me in wishing him well.

Membership matters

Since April when subscription rates

were increased, membership renewals have become problematic. Our Treasurer warned us from experience of previous increases that this would be a difficult period, and he was right, because members are failing to amend standing orders and attempting renewals at the old rate. Both Melanie and I have spent many hours trying to stay on top of this. We used a new mailing system to email members to remind them, and my thanks to those who have responded. But we have a long way to go. Please, please read the notes elsewhere in this issue, and if they apply to you, DO SOMETHING ABOUT IT.

Having experimented with membership mails, I want to restart NABO bulletins to all members. This is not intended to compete with NABO News, but rather to tell members what Association officers are doing for you. There will be no essays on policy, just one-liners on

this and that. If we don't have your email address, then you will not get it, and there are 250 members in this group. Are you one of them?

A good NAG

I attended another CRT Navigation Advisory Group meeting this week. There were five hours of constructive discussion and work on navigation issues, with experienced boaters giving input to listening CRT staff. Discussions included boater safety issues, HS1 and 2 impacts and progress, strong-stream warnings, out of hours phone numbers and responses, and of course pump-outs. It is really good to have a dedicated venue where boaters can spend time on navigation issues and make a contribution to the running of the system. I approve.

Val and I will be moving our boat from the east end of the T&M to the Shroppie during the summer. I hope to see many of you on the water.

Potential trading craft on this busy visitor mooring?

Photo: Peter Fellows
Story: Page 12



NABO Council, 8th June

Fly on the Wall

Observes proceedings at the last Council meeting.



In June, I flew in as everyone gave their thanks to Andy Colyer for his many years' work on the Council and were pleased he is continuing as Southern Rep.

Much of the meeting was spent discussing CRT proposals, some of which NABO supports and some it doesn't. The focus this time was on enforcement of over-staying (yes please!). Although as someone pointed out: 'persistent over-stayers are unlikely to listen to young 12-stone CRT enforcement officers who might end up in the cut—what we need is 19-stone ex-policemen to effectively deal with some of these non-compliers.'

Someone else had heard of a boater who wanted to pay CRT £100 in advance so that he could overstay for four days on a visitor mooring, but there is no mechanism to do this—you have to break the rules first and then be fined (sorry, pay a

'service charge'). However, you can now cross CRT's palm with silver by buying a Roving Mooring Permit—basically a permit to avoid being harassed—but you can't have one if you've been bona fide cruising; they are only available to those who have broken the rules. There does seem to be something illogical about CRT getting boaters to pay for something it doesn't want them to do.

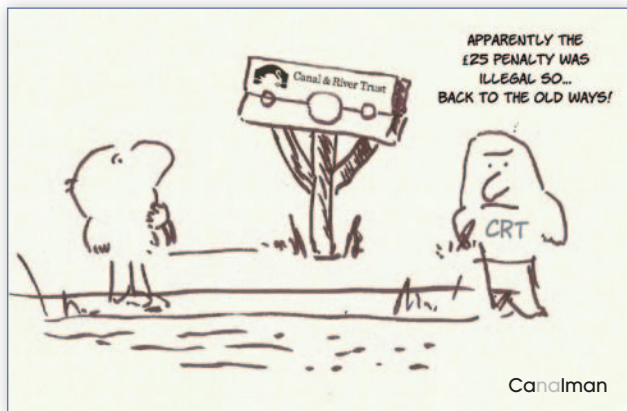
Other topics were the new 'no return' rules and plans for commercial operators to take visitor moorings at Upton on Severn and on the K&A (no thanks!).

The two newest members had a meeting with CRT's Sally Ash, which was useful and something they would like to repeat. They had made the point that NABO is not entirely negative towards CRT and basically wants the same thing—better waterways for boaters—and is willing to engage with CRT and assist where it can (as shown by the huge amount of work put into responding to consultations, most recently on the South East visitor moorings).

Council members were pleased that User Groups have been reinstated to run alongside the new 'surgeries' being adopted by some CRT Local Partnerships.

This was the last meeting before summer cruising and Council members were eager to get afloat, so everything was done and dusted an hour earlier than usual, leaving Fly to pick through the lunchtime sandwich crumbs.

So byebye until September and happy boating.



Members' details on the website

Following the appeal in NABO News, there has been a steady flow of members updating their data. Thank you to those who have done so. But we have a long way to go, so please sign in and update your information if you have not done it recently.

In May, we sent an email to all members with our new web-based system. Did you get it? More than 200 members did not, either because we have no email address for them or it is no longer valid. We want to use email more often to manage the Association and we can only do this effectively if our database is up-to-date.

We recognise that some people do not wish to communicate in this way, but for those who do please take advantage of this method. If you get a membership renewal, this shows the email address we hold for you. Please use this as a prompt to update it if it is incorrect.

To do this, you need to 'sign in' on the website. The system is secure and you can only see your own data. Only admin staff and Council members can see members' data as is needed to operate the Association. You need to register in order to be able to login. If you have not done this before, the best thing is to email the webmaster at web@nabo.org.uk to get it organised.

If you are unsure of login details and you think that your email is registered with us, you can go to the members section and click on 'log in/out' and 'forgot login'. Your user name is on the mailing label for NABO News. When you have your username and password you can log in by clicking on the 'Members menu' choice. There is an FAQ in the 'Visitors' section with more details.

Finally, a few members have asked if we can take their names off postal deliveries of NABO News. If you wish us to do this, please let the Administrator, Melanie, know. At the moment we have to do this manually, which may be feasible for a few people. The file size is typically 4MB so we are not able to email it as a method of circulation. However, all members can get the latest NABO News by logging on and downloading it.

My thanks to all of you who have taken the time to email.

NABO Subscriptions - we need help!

As you know we have increased the subscriptions from 1st April. The revised rates are £25 for full membership, £5 for additional family members, £20 for associate members. The renewals since April have not all been going well, with many payments made at the old rate, despite the renewal reminders. This is a serious situation for the Association as we now have the additional work to chase up the revised payments.

When renewal is due, you will be sent a reminder a few weeks before. Please take action and respond to this to make sure that your renewal is trouble-free. If you have a standing order then it will need to be revised or changed. We can send you a form on request. When you have done this please let our Administrator, Melanie, know how you have updated the standing order so that her records are up to date. If you set up a new standing order, please use your membership number as a reference so that payments can be identified from the bank statements. If you joined or paid through PayPal and set up recurring payments, these will also require amendment.

Also, if you are using the NABO Santander account, please take the opportunity to change to the NABO Barclays account (sort code 20-37-13). Santander is very unfriendly in its documentation, making it hard to identify payments. We would very much like to stop dealing with them in the near future.

If you do not know when your renewal is due, you can find out by logging in on the website and looking at your details. Melanie is in the process of adding renewal information, working on the soonest first. Your renewal notice includes some of the data we hold. Please take the time to add any updates to your personal details or correct any errors while you are logged in. If you prefer, you can also let us know by email, post, text etc.

Managing the membership details is a significant task at the moment, so please let us know if you would like to help. We would like to build a small team around this task to support what Melanie is doing in administration. Thank you for your help. If you need any further details or guidance, please ask.

News update

Here are some developments that have taken place over the last couple of months in news items reported by NABO News.

Legal Notice

As readers may recall from the last issue, NABO has now obtained answers to a series of questions put to our legal advisers. NABO News will publish both the questions and the responses in the next issue.

Carbon Monoxide Deaths

Following the article in the March issue on the dangers of carbon monoxide (CO), the Marine Accident Investigation Branch (MAIB) report concluded that the deaths of a mother and her 10-year old daughter, aboard the motor cruiser Arniston on Lake Windermere at Easter, were caused by CO poisoning. The initial MAIB findings are that exhaust fumes spread from the engine bay into the cabin when an improvised exhaust and silencer became detached from a 'suitcase' style portable petrol generator. Portable generators are intended for use in the open air and their use on boats, particularly in enclosed spaces or below decks, greatly increases the risk of CO poisoning and fire.

Work on any boat engine exhaust system should only be carried out by qualified technicians using approved parts suitable for marine use. A note from the BSS reinforces this message: 'In our experience, the main sources of CO on a boat are engine exhaust fumes and combustion gases from solid fuel stoves. Other domestic appliances like gas fridges that are faulty or badly maintained, can also produce the toxic gas. Our belt and braces advice is to fit a CO alarm that meets BS EN 50291; these are best suited for boats.'

See the latest BSS advice for boaters on [boatsafe-tyscheme.org/stay-safe/carbon-monoxide](#).

HS2

CRT will examine the impact that HS2 will have on its derelict as well as navigable waterways: Heather Clarke, the Trust's Head of Planning, will help so that the impacts on all affected waterways are addressed in a holistic way, because

HS2 Ltd. prefers to deal with a single body rather than lots of objectors.

The chairman of the IWA Restoration Committee, Vaughan Welch, will liaise with the Trust to discuss a co-ordinated approach to the HS2 consultations. HS2 Ltd. will pay technical costs for engineering, but not planning, as it suits HS2 to pay the Trust's engineers to come up with solutions.

Meetings

London Waterway Partnership Annual Meeting

On 3rd July, at 10 Regents Wharf, All Saints Street, London, N1 9RL between 6-7pm. The meeting will explain what the Partnership has achieved in development of the draft Strategic Plan for the next ten years. There will be opportunity to discuss developments with Partnership members from 7-8pm. Places are limited so email katy.gavan@canalrivertrust.org.uk to reserve a place.

CRT Annual Public Meeting

At the National Waterways Museum, Ellesmere Port, on Tuesday 9th July, starting at 10:30am. Afternoon workshops (each workshop will run twice so you can attend up to two) will be held on maintenance, restoration, volunteering, wildlife, arts and guided local.

There will also be guided tours of the museum, demonstrations of environmental and educational activities and opportunities to contribute to the '20th Century Voices' project and record your stories of the waterways. Places are limited so reserve your place at crtannualmeeting.eventbrite.co.uk

CRT National Boat Check

The Trust's annual national boat survey monitored over 31,000 boats and revealed that 96.1% hold up-to-date licences. It is the second year running that licence evasion is below 4% (compared to evasion at over 10% five years ago). During 2012-13, the enforcement team removed 72 boats from the network because owners had failed to obtain a licence or were in breach of other terms and conditions of their licence.

Photo competition

CRT has launched a photo competition to inspire more people to visit the waterways. It's free to enter and the best photo will win a state of the art iPhone 5. Upload your photo from a camera or phone to the CRT website at www.canalrivertrust.org.uk/photography-competition before 31st August, where you can also view and comment on the entries. The photos will be judged by Harry Arnold in September.



Duck's Day Out by Laura Hampson

NABO meets with Sally Ash

Council Members **Mike Rodd** and **Mark Tizard** talk to CRT's Head of Boating

There was no agenda at the meeting on 7th June. There are many areas where NABO supports CRT, such as on the Boat Safety Committees and Navigation Advisory Groups, and we agree that all boats should move every 14 days. We will, however, continue to challenge CRT in the areas where we disagree.

SE Mooring Consultation:

There was a robust discussion regarding NABO's position on the recent consultation. Following the final report from CRT, Sally Ash confirmed

that plans are well advanced for the introduction of the new rules. Signs will go up at the initial eight hotspots, detailing the new mooring limits, the introduction of the 'no return' rules and the £25 deterrent charges. Reports from members in May indicated that there is no problem with mooring at any of the hotspot visitor mooring areas at the moment; indeed there are fewer boaters at some moorings than is normal for the time of year. NABO remains opposed to the 'no return' principle as documented elsewhere. After the meeting we agreed that we should continue to have regular meetings and that NABO would welcome the opportunity to contribute in any areas where CRT invites our input.

Work to repair the partially collapsed wall at Buckland Lock (12) on the Aylesbury Arm of the GU Canal started in April with the aim of ensuring that the canal is open for the August Bank Holiday weekend.

Opened in 1839, the Aylesbury Arm is six miles long with 16 locks.



Photo: CRT

News

Kingswood Junction guillotine lock repaired (again)

After refurbishment in December 2012, vandals again damaged the iconic guillotine lock on the Stratford-upon-Avon Canal, a Grade II* listed structure and scheduled ancient monument, leaving CRT's conservation team to repair it a second time, at a cost of £2,500. The lock was officially unveiled at the end of April by canal enthusiast and actor Timothy West. The £200,000 restoration takes the lock off the English Heritage 'At Risk' register and was in part funded by players of the People's Postcode Lottery. The refurbishment required skilled heritage engineers who used traditional methods to carry out repairs to the brickwork and sandstone in the chamber walls. Repairs were also made to the non-operational timber lock gates and cast iron lock gate fittings. The local community had the opportunity to walk down into the empty chamber to view the work taking place.

Right—Guillotine before work started
Below—Finished guillotine

Photos: CRT



National Waterway Collection to be digitised

CRT has started work on a £50,000 project to digitise and enable public access to the National Waterway Collection, including over 20,000 archive images. It will be available for the public to search online during autumn 2013. In 2014, people will be able to buy copies of online images.

Loss of moorings to commercial activities

NABO Council has become increasingly aware of a number of key visitor moorings being withdrawn, often without any consultation with users, and made available for commercial purposes. We have been alerted to a planning application on the K&A to change a visitor mooring to a permanent trade mooring near the middle of Bradford-upon-Avon and have officially expressed our opposition. Although NABO supports the increased use of waterways for appropriate commercial activities, we strongly object to this proposed change of use. The loss at Bradford will further exacerbate the already acute shortage of visitor moorings in the area, thereby denying mooring space to both private boaters and holidaymakers

on the large number of hire boats that operate on the K&A. Bradford is an extremely popular 'honey-pot' site that attracts a large number of visitors—a major source of revenue for this historically important town.

We are aware of the work being done by CRT's K&A Waterways Partnership with support by Wiltshire Council to increase the availability of visitor moorings over the western end of the waterway. It is clear that the loss of this mooring would be in direct conflict with those efforts. From a safety point of view, we are also concerned that the mooring is close to Bradford Lock—one of the most frequently used locks on this waterway that often has long queues of boats

New trip boat for the Cromford

Friends of Cromford Canal have recently bought the 70-foot butty, *Birdswood*, to operate as a trip boat along the northern section of the canal from Leewood Pumphouse to Cromford Wharf. Mike Harrison, writing in *The Portal*, outlined the history of the boat. Originally named *Ross*, built by Yarwoods in 1938 for the LMS Railway, who owned the canal at that time and used it as a day boat on the BCN. Following nationalisation in 1948, all LMS boats passed into the ownership of BR, which continued day-boat operations on the BCN until 1954. They were then taken over by BW and between 1955-57 they were converted to long-distance operations by the addition of a cabin. They were renamed after railway stations or rail features and became known as 'station boats'. *Birdswood* appears to be named after a rail flyover in Cheshire. It was used for coal traffic between Stoke and Middlewich and from Manchester to Wolverhampton, paired with ex-FMC motors. In 1974 Bill and Jackie Young converted it to a horse-drawn trip boat on the Caldon Canal at Froghall. Roger Fuller at Stone undertook extensive steelwork repairs and installed an engine and hydraulic drive, retaining the traditional horseboat stern, continuing as a trip boat at Froghall until 2010. At the time of writing, FCC are working on *Birdswood's* new signwriting. Members have removed the diesel engine and installed an electric motor and batteries, which are necessary to meet the requirements

waiting to enter. Locating the business close to the lock would aggravate the problem of finding mooring spaces for boats waiting to use it. For all these reasons, we strongly suggest that this is not an appropriate position for a permanent trade mooring. If you are aware of other visitor moorings being reallocated, please let us know and we will take up the matter with the appropriate responsible body.

Editor's note: *The loss of visitor moorings to a commercial trip boat operation at Upton on Severn has recently been vetoed by the Town Council but there are also problems with other moorings at the historic wharf in Bradford-on-Avon.*

Cross Stitch It

"Cross Stitch It" is a specialist custom and bespoke designer who can create cross stitch charts of anything NABO members wish: their boat, favourite sayings and mottos, or motifs as required. She can be contacted at www.crossstitchit.com.



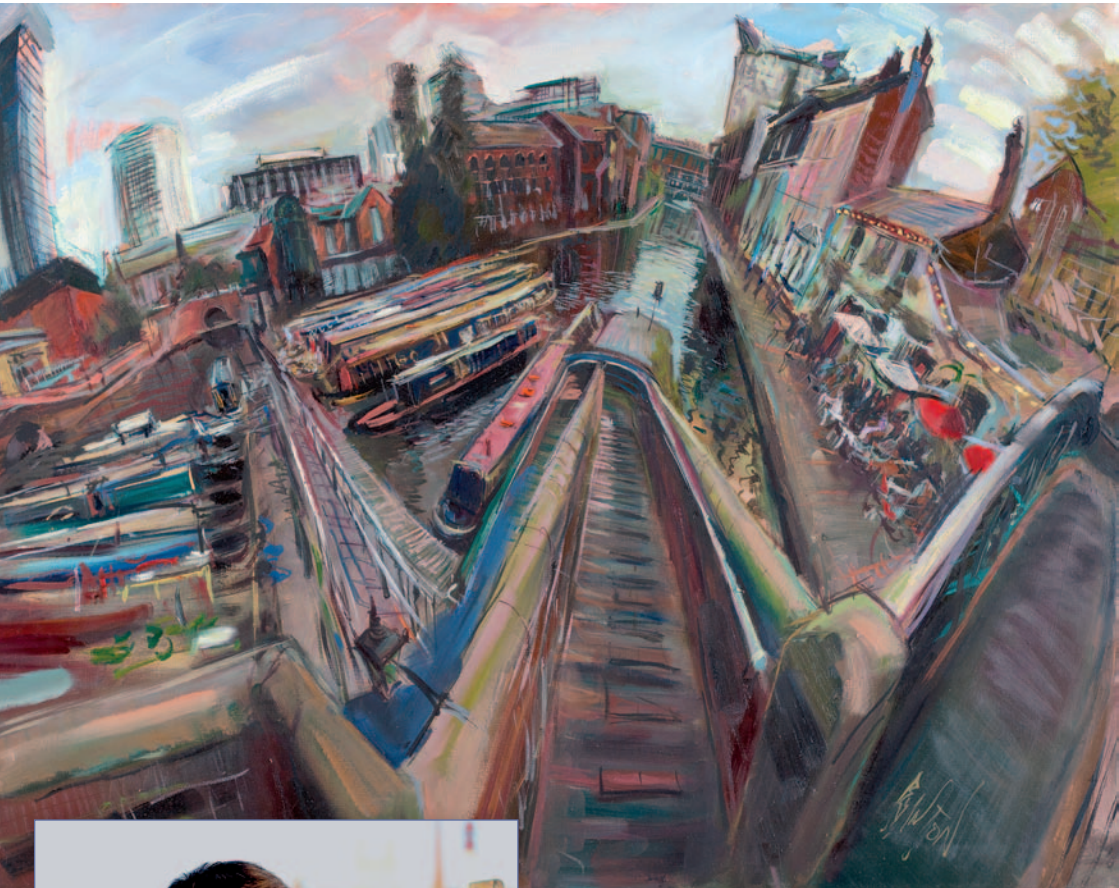
of Derbyshire Wildlife Trust and Derbyshire County Council, since the canal at Cromford is an SSSI that is owned by the Council.

www.cromfordcanal.org.uk

Leewood Pumphouse open days : 7th July, 3-4th August and 25-26th August.



Photo: Mike Harrison, FCC



Artist donates to CRT

Acclaimed artist, Rob Pointon, embarked on a year-long painting project, 'Year of the Boat', touring canals and rivers on a narrowboat and donating a percentage of the sales of his work to CRT. All of his painting is done on location, which brings vibrancy to the paintings and reflects his experience of the scene being depicted. More of Rob's paintings can be seen on his website; www.robpointon.co.uk

Shown above: One of Rob's paintings of Gas Street Basin

Artist Photo: CRT

London enquiry into moorings

NABO has responded to the GLA's enquiry into waterway moorings, being led by Green Party Assembly Member and boater Jenny Jones.

London Secretary, Simon Robbins, said: 'Jenny has proved her consistent commitment to the betterment of London Waterways, not just the interests of boaters but also the wider community, and was instrumental in forming The London Waterways Commission. It is reassuring when such an enquiry is being led by someone with direct knowledge of the waterways. We thank Jenny for the steps she is taking to highlight this in the GLA group and hopefully with the Mayor.'

NABO's submission highlighted the diversity of mooring arrangements, key differences between the two Thames navigation authorities (the EA and PLA) and CRT, and included the following observations:

- EA and PLA take a generally neutral and essentially regulatory role over moorings, but do not often have the rights or any direct financial interest to significantly influence the overall supply of moorings.
- In contrast, CRT has almost total control over mooring management and development and in addition usually has direct financial and commercial interests, as they are usually the riparian owner as well as the regulatory body. There is often a feeling from boaters of conflict of interests. Based on my experience, it is fair to say that unless CRT sees a commercial gain that is not in conflict with other commercial interests, new moorings are not in general encouraged or permitted.

We also outlined NABO's ongoing concerns about proposed new 'rules' for visiting boats and continuous cruisers and questioned:

- The legality and efficacy or not of CRT adopting a new system of penalty charges for boats that have been deemed to overstay on visitor moorings.
- The legality and efficacy or not of CRT imposing new rules on how often a navigating boat can return to a visitor mooring and how that location is lawfully defined; the proposed rule would again be subject to penalty charges for alleged breaches.
- The legality of the proposed Roving Mooring

Permit, which appears to amount to CRT accepting payments from boaters to temporarily waive statutory rules and the associated threat of enforcement action for not, as CRT define it, complying with the proposed rules above and others.

We again highlighted aspects that, for many years, NABO and others have said should be the priority, which have been consistently ignored by BW's and now CRT's boating team:

- An increase in the overall number of visitor moorings.
- An increase in support facilities, in particular refuse, water and sewage points.
- A programme of bankside dredging to make more locations where visiting boats can berth.
- Application of local solutions in genuine partnership with stakeholders rather than heavy handed attempts to change national policy.

In summary we said:

We believe that CRT is obsessed with pursuing controversial and uncertain powers while failing to adopt non-controversial solutions. We can only conclude that this obsession is motivated either by incompetence or an agenda to increase revenues from boaters—perhaps a bit of both.

We have long-standing concerns about Transport for London's support for towpath improvement for cyclists and the consistent failure to take account of the impact of this work on other canal users. NABO has complained for many years that some of these works adversely affect the shortage of visitor moorings. This is because previously soft surfaces, where boaters could put in pins to moor temporarily, are now hard surfaces. This means that there are fewer, more heavily-used places where it is possible to moor; in effect squeezing demand into a smaller space. NABO has long advocated that if these works are to go ahead, consideration must be given to including mooring rings so that boaters are not effectively excluded from mooring along extended stretches of towpath; places where they have previously moored without contention.

Crunchy!

Canoes and Canal Boats

A potentially dangerous mixture? **Mike Rodd** investigates

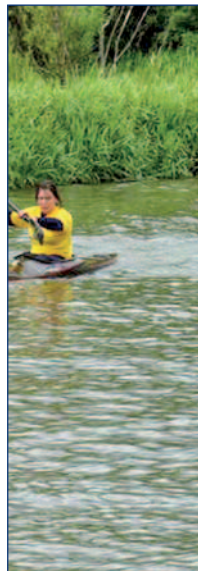
It is evident to most boaters that there has been a rapid increase in recent years in the number of canoes, kayaks and other small unpowered craft on the canals and navigable rivers. This can only be welcomed as it helps to bring the wonders of our waterways to a wider (and often substantially younger!) audience. However, boaters are reporting some very scary incidents with these unpowered and often extremely fragile and expensive craft. Recently, for instance, as we approached the very low, narrow Ashford Tunnel on the Mon & Brec canal in our narrowboat, we saw two canoes with a mix of adults and kids moored up right next to the entrance. From the helm, I assumed that they were in the process of either launching their boats or removing them; there was no sign of lights or the outlines of approaching boats within the tunnel itself. However, just as we were about to enter the tunnel, my wife, who was sitting in bow of our boat, heard voices coming from the depths of the tunnel although she still could see no sign of craft in there. She asked the woman in the first canoe if there were any other boats: "Yes, three others." came the casual reply!

I managed to do an emergency stop, reverse, and find a place to hold back. Eventually, without any lights showing, three canoes with three kids in each came slowly trundling out. There was an adult in the last boat, but the light he held was pointing away from us, and the canoes had been too low in the water to present any outline when viewed

from six feet up in a canal boat! The forward light on the first boat had been extinguished when the first two canoes exited safely before we arrived. Had we not heard the shouting, we could have killed several of the children in their charge. This sent me off to check what unpowered boaters are advised to do when on the waterways.

The CRT booklet, 'The Waterways Code', includes the following advice:

- Make sure your craft is suitable for the waterway you are using and that you are competent to use it.
- Larger craft need deeper water and room to manoeuvre so move to the side of the channel where the helmsman can see you.
- Contact the local waterway office or visit CRT's website to check its safety regulations.
- If you are permitted to use a tunnel, carry a light and whistle to warn other craft of your presence. Travel through in groups of at least three.
- (Note: The situation regarding canal tunnels is that CRT has three classes of tunnels. Canoes are prohibited from using Class 1 tunnels, may use Class 2 tunnels subject to specific regulations, and have



unrestricted used of Class 3 tunnels.)

- Wear a life jacket or buoyancy aid while afloat.
- Locks, weirs and sluices are dangerous. Don't stay aboard your craft in a filling or emptying lock. Carry it around, or if it is too heavy, use lines to keep control.

My own observation is that the recognised clubs and training organisations who are active on our waterways normally do a great job in making sure that their members/trainees are aware of the fact that our 20 tons of steel are both difficult to stop and awkward to manoeuvre. But even then things can go wrong: A few years ago, a very small boy in a canoe, who (like his friends in the group of canoes) was hanging onto the side of the canal when we started to go past them. He suddenly lost his grip as his boat started being pulled out towards ours. The boy froze with fear, and it was only by my throwing our boat into reverse and my wife gently pushing the boy's boat back

towards the side, that we avoided a potentially serious incident.

So, I would suggest that boaters in powered vessels:

- Always keep a sharp look out for unpowered boats, slow down to tick-over and put someone on the front, armed with a boat hook and a life ring.
- Make sure all of those in unpowered boats, including any supervisors on the bank, are aware of your presence, using a long blast on your horn if needed to attract their attention.
- Keep a sharp lookout behind you. For instance, on the K&A right now, with ongoing preparations for the Devizes to Westminster Race, some of those beautiful, sleek boats with potential (or current) Olympians propelling them, may well flash by you in seconds from behind, often on both sides simultaneously!
- NEVER share a lock with an unpowered boat, unless under the supervision of a lock keeper.

Narrow boat Vox Stellarum amongst canoes on the Grand Union
Photo: Gillie Rhodes



Hints for Single-Handers

As a boater who regularly cruises without the help of a crew, **Tony Jones** offers some tips from his experience.

From CRT's Boaters' Update, January 2013.

Tony Jones has lived aboard his narrowboat 'The Watchman' for eight years.

He is the author of 'The Liveboard Guide: Living Afloat on the Inland Waterways', Adlard Coles Nautical, 2012.

The centre rope is your best friend when boating alone



Ladders are a relatively recent addition to the historic structures of locks and were introduced as a safety escape feature, rather than as an aid to boating. Although many single-handers find the ladders useful, some consider them unnecessary, preferring instead to haul their boats in and out of the lock using ropes. This bow-hauling method works fine in most cases, although those locks with bridges at their entrance or exit can prove problematic. For boaters with the necessary co-ordination, one answer is to stand atop the bridge and nimbly flick the rope beneath before catching the end at the other side. For those of us lacking the skills, using the lock ladder is arguably a more efficient method, so long as one is conscious of the ever present slip-hazard.

One of the greatest dangers when negotiating a lock alone comes in the form of friendly help. Despite the best intentions, enthusiastic assistance from inexperienced or distracted windlass wielders can create problems and things can go wrong surprisingly quickly. Don't be afraid to decline help as most boaters will understand that everyone has their own way of doing things. Explain that you have a 'system' and that it is hard to break the habit. Of course, if you are sharing a lock with

another boat then it is everyone's responsibility to stay alert to danger. By all means enjoy the company while you can, but keep a watchful eye on proceedings to ensure everyone stays safe and stays afloat.

A centre rope is your greatest friend when boating alone. Ensure the end of the rope is within reach of your position at the tiller ready for when you need to step off. In most situations one can use the centre rope alone to moor to the bank while preparing a lock before using a bow rope to haul the boat in when the lock is ready. Use the centre rope again to maintain a good position in the lock, taking in or letting out slack when necessary. Be especially careful when locking down as boats can easily be hung up if a rope is tied to a bollard. It also helps to have a centre rope on each side of the boat if possible as this avoids the need to flick the rope over chimneys and other roof clutter when the need arises.

Lift bridges and swing bridges rely on the use of long ropes, convenient landing points and accurate boat manoeuvring, often supplemented with a ration of agility and climbing skill. They should always be approached slowly and methodically and it is useful to practice the process when you have a crew to step in with help should motorists become impatient. Be aware that some electrically-operated bridges have a timer to delay over-frequent usage or a locking period to prohibit use at peak road traffic times. It is often asked why most swing bridges leave single-handed skippers on the other



side of the cut from their moored boat. It is in fact a historical feature left over from the time when boats were pulled by horses; an open bridge on the towpath side would ensnare the rope between horse and boat. It could be argued that bridges should be renovated to accommodate our modern engine-driven boating needs but the heritage of our waterways should perhaps not be discarded so readily. I find the anomalies and ambiguity to be a rather endearing feature and hope that the heritage of our inland waterways is preserved as closely as possible; even if the resulting tricky swing bridges make me curse occasionally.



Negotiating a swing bridge—using the boathook to catch the stern rope as the boat drifts past.

Heritage thief nailed by K&A Trust

by **Mike "Poirot" Rodd**, our intrepid investigative NABO Council member

Late last year, the listed Aldermaston Wharf Cottage housing the K&A Trust's café and shop was closed for restoration and as a result the contracted commercial caterers moved on. CRT's Heritage Advisor, David Viner, discovered that a 1917 Great Western Railway cast iron boundary marker had also somehow 'moved on'. GWR owned the canal for nearly a century and their distinctive cast-iron boundary markers were used to mark the border of their land. Enter the K&A Trust's own Inspector Clouseau (aka NABO Council member, Mike Rodd), who discovered that the marker had been sold on eBay – and the bright thief had illustrated his offer with a lovely picture, easily identifiable as having

been taken in the café garden! The innocent purchaser, a collector of historic artefacts, was mortified when contacted and with much embarrassment immediately returned the marker. Sadly, he is still awaiting reimbursement by the thief. Wayne Sangwell 44, was convicted of the theft at Reading Magistrates' Court in June and ordered to pay a fine of £110 plus £270 costs. At the time of the theft Mr Sangwell was contracted by the K&A Trust to run their café and shop at the cottage. The K&A Trust is very happy that the police pursued this case and hopefully it will make anyone think twice about following suit.

English Heritage has set up the Alliance to Reduce Crime against Heritage (ARCH) – www.english-heritage.org.uk

A look at the past through NABO News

ReWind 15 Years

NABO News in 1998

Tony Haynes continues his look back to NABO News of that year



Issue 4 May

Break-ins: Although securely moored in a marina, the NN Editor, Wendy Hook's boat was broken into. Only alcohol was taken. However it was not Mr Finch. He was in a Northamptonshire police cell at the time.

Depth: Whilst some boating organisations have said they will settle for a minimum depth of 1.1 metres (3ft 7ins) NABO does not think this is deep enough.

High Intensity User Licence: From 1st August BW plans a 'high intensity user licence' to replace the existing continuous cruising licence (sic). The cost? The same as a hire-boat licence at 2.5 times the normal annual cruising licence.

BW has tarred everybody with the same brush. "We feel that the majority are being seen

by law abiding customers as flouting the rules without penalty, causing mooring congestion and clogging popular mooring sites."

G&S Proposals: A new swing bridge is planned to allow the South West by-pass to cross the G&S at Two Mile Bend.

BW wants to charge £50 per operation of the sea lock at Sharpness.

The Wider Option: NABO points out that by creating a wide-beam Leam/Avon route, by building wide-beam boat lifts at Foxton

and Watford Gap, by widening the Northampton Arm and by reopening the upper Little Ouse and Waveney, the existing five areas of wide-beam boating could be linked nationally. "It would be a shame for the momentum of the waterways movement to be allowed to peter out as the restoration phase comes to its inevitable end. We need a new goal. The national wide network can be that goal."

Issue 5 June

High Intensity User Licence: BW states that this would be applied to everyone who spends more than 30 weeks a year away from their home mooring. NABO complain that this is charging by usage. After presenting the ideas to IWAAC, BW has put the idea on hold pending a proper review. NABO points out that this is yet another example of a half-baked idea from Watford being allowed out without proper user consultation.

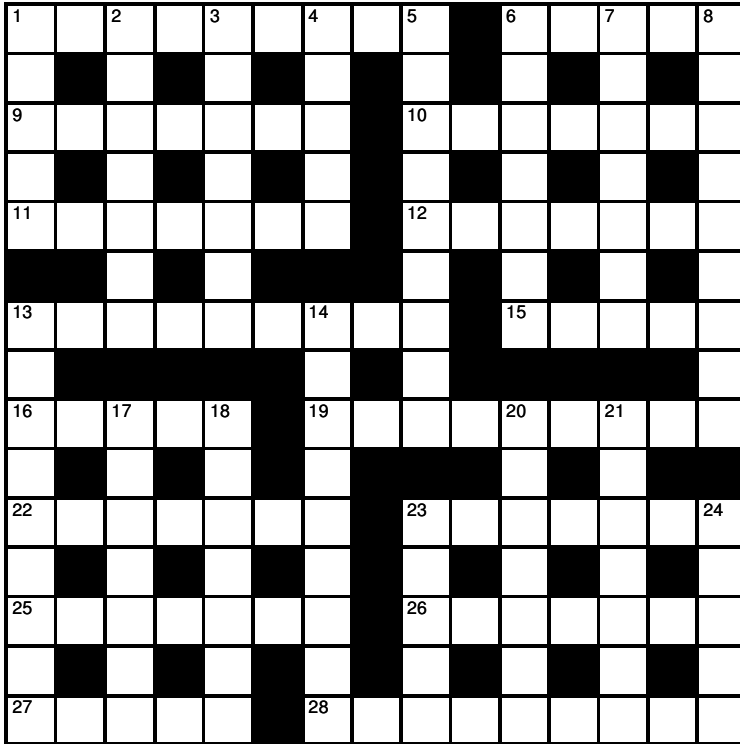
S&SY Shrinkage: BW is proposing a waterway that is shallower than its lock chills! A commercial operator is suing BW for failing to adequately maintain the waterway. BW sought an order to frustrate the legal action. A public enquiry is the next likely phase.

Winding Hole Moorings: A member has counted over 25 boats moored in winding holes. The majority is on official moorings!

Anonymous Opinions: A member bemoans ropes hanging from tiller pins, side-fenders being left to dangle and 'Bucky' cans, mops and poles in the wrong positions. "What has happened to tradition?" he asks.

NABO News Crossword N° 12

By Canaldrifter



I name this boat ...

Have you spotted a boat name that made you smile? Here's one from Helen Hutt (spotted on the River Wey?)

Answers to Crossword

Across: 1 Windlass, 5 Agapes, 10 Derby, 11 Oiltanker, 12 Re-handled, 13 Draft, 14 Maroon, 16 Sinking, 19 Bedford, 21 Coolly, 23 Rough, 25 Sluiceway, 27 Engineers, 28 Naval, 29 Nudist, 30 Idolised.

Down: 1 Waders, 2 North, 3 Laying on of hands, 4 Swollen, 6 Grand Union Canal, 7 Pukka, 8 Strategy, 9 Slides, 15 Aid, 17 Ill, 18 Aberdeen, 20 Dashes, 21 Cruised, 22 Cycled, 24 Urged, 26 Waves.

Across

- 1 Stag ended badly in tunnel (9)
- 2 In this you can always find a waterway (5)
- 9 A Leeds and Liverpool bend through silt (7)
- 10 Efficient when it's damn icy around (7)
- 11 Southern flight where no dredging is needed? (7)
- 12 North eastern pop star making himself at home! (7)
- 13 Landed heroes sat around (3,6)
- 15 Worry about gnats flying about (5)
- 16 My pet runs around lock when low (5)
- 19 Waders sat around in that direction (9)
- 22 Used to fell tree towards the canal? (4,3)
- 23 Ties a cutting in a ship (7)
- 25 Reject cruise around ring due to engine part (7)
- 26 Unfortunate smear about the Leeds and Liverpool less of an issue (7)
- 27 Does badly with an old penny when treated (5)
- 28 Ruined chewed hat found in the stern? (9)

Down

- 1 Splinter from a boat's hard standing? (5)
- 2 Badly poured mint ale causes sickness? (7)
- 3 Instruments measure thaws around five (7)
- 4 Depth silly about right (5)
- 5 Threatens to finish with tempers? (9)
- 6 Can a staircase lock be partly a rummy experience? (7)
- 7 Desensitising a union crooner? (7)
- 8 Cloak gets tangled on the flight? (4-5)
- 13 Elf fished badly on Yorkshire canal! (9)
- 14 Seize power and miss the bollard? (9)
- 17 Parcels carried on passenger boats? (7)
- 18 Decay rises around high tension when sailed (7)
- 20 Rope and twisted hat on the rampage (7)
- 21 Curl around the circuit when allowed (7)
- 23 Issue about the girl (5)
- 24 Isaac's Mum in helicopter role with artificial horizon (5)

Opening a can of worms?

Mark Tizard considers the implications of Roving Mooring Permits

Recently CRT has been holding discussions with a small group of boaters regarding the introduction of Roving Mooring Permits (RMPs), principally in the Uxbridge area of the Grand Union. We believe that this is causing confusion and dissent among some boaters in the area and members have contacted NABO to understand the implications. As yet CRT has indicated that negotiations are ongoing with the identified boaters, they are waiting for the recent continuous cruisers survey to be completed before specific details are finalised. It is difficult to comment fully until the proposals are in the public domain, but NABO has been asked:

- Why are RMPs only available to those that CRT considers do not comply with their current interpretation of the continuous cruising requirements?
- Given the extreme shortage of moorings in urban areas, why aren't these available to any continuous cruiser who wants one?
- At the suggested £50 per foot, this is a substantial saving on recent towpath mooring auctions. Is this fair if it is only offered to a small selection of continuous cruisers in the area?
- Will this involve any towpath areas being only



available for mooring by RMP holders? ■ CRT has suggested that the take-up may only be 25-35 boaters in the initial scheme. This subject has been discussed for the last six years and we reprint below an article published in NABO News in 2009—we are not aware that any of the content has changed.

Legal background (simplified)

When BW came into being, it was given the power to keep a register of vessels allowed on its waters and levy navigation fees. In 1971, it was given the powers to remove vessels that did not have 'relevant consent', through Section 8 of the 1971 Act. This process has become a verb in the BW vocabulary: 'to section eight'. If the boat is the owner's home this is more likely to involve the courts.

In 1995, BW's powers to grant or refuse 'relevant consent' was defined more closely in Section 17 of a new Act of Parliament. One almost needs Boolean logic to sort out the double negatives but, in effect, if a vessel complies with all three of the following conditions then BW must give it relevant consent:

(a) It has to have third party insurance.

(b) It has to comply with constructional safety standards (currently BSS).

(c) Its owner promises 'bona fide' to conform with a certain mooring pattern.

The latter gives two options; either will suffice:

- (i) The boat will have legal permanent mooring.
- (ii) The boat will be navigated continuously without stopping anywhere for over a fortnight.

This is in plain English but the actual wording of the statute leaves some scope for interpretation, presumably, when it matters, by a Court of Law.

Consequences for Roving Mooring Permits

We believe that a vessel with a Roving Mooring Permit falls into the gap between these two categories. An unreserved towpath mooring would overstretch the legal definition of a permanent mooring in clause (i). If accepted, it could open

a huge loophole for other boaters arguing they too are not 'continuous cruisers' having to conform with clause (ii), especially if plans go ahead for a surcharge.

If boats with a roving mooring permit were deemed to comply with clause (ii) it would relax the requirement to navigate, which BW has interpreted in its Continuous Cruising Guidelines as a 'progressive journey'.

We feel that BW cannot use two different interpretations of Statute Law according to whether a fee has been paid or not. We predict that BW will have difficulty defending its position in a Court if it tries to use Section 17 of the 1995 Act to justify 'section eighting' someone who frequents public moorings in an area covered by a Roving Mooring Permit without having one.

So, not only do boaters disapprove of legalising 'bridge hopping', fearing it won't make casual moorings any more available, but they also fear that Roving Mooring Permits will open up a huge can of malignant worms, something BW and the waterways community could well do without.

Stuart Sampson



Restored Stour Barge

Stour barges, or lighters, featured in many of John Constable's most famous paintings, and the restored barge may have been on the river during his time and has been named in his honour. The £120,000 restoration was possible with a grant from the Heritage Lottery Fund and the River Stour Trust. The relaunch ceremony was hosted by Griff Rees-Jones and the lighter will be used as a trip boat at Dedham Vale

www.riverstourtrust.org

Photo: River Stour Trust, Painting: Courtesy constable.org



Nigel Moore v BWB

Extracts from the Lords of Appeal judgement

The essentials of the case reviewed by **Geoffrey Rogerson**

Numbers refer to paragraphs in the judgement

Words in bold by Geoffrey

The full judgement can be found at <http://www.baillii.org/ew/cases/EWHC/Ch/2012/182.html>

Nigel Moore lived on, and had 'care of,' a number of house-boats occupied as homes and permanently moored on the banks of a tidal part of the Grand Union Canal (GUC). British Waterways Board (BWB), now CRT, wanted to stop him doing so. BWB wanted to use section 8 of the 1983 BW Act, which permitted it to remove craft that were moored 'without lawful authority'. BWB said that Mr Moore had no lawful authority. Mr Moore's claim was that, as the riparian owner, he had a right to moor his boat. That right was rejected by the Court of Appeal, but it may raise a more fundamental issue: what does 'without lawful authority' mean?

Extracts from the judgement

4 BWB is the statutory navigational authority for the Grand Union Canal (GUC). It derives its powers from British Waterways Acts passed between 1971 and 1995. Purporting to act as such statutory authority for the management of the GUC, BWB served notices on the claimant on 21 July 2007. The notices, which stated that they were given pursuant to s.8 of the 1983 Act, demanded the removal of his vessels within 28 days on the ground that they were moored in the GUC "without lawful authority."

13. Statutory bodies equipped with powers and rights (and subject to duties) continue to expand without replacing all the private and public rights and remedies for wrongs available under the common law. If the claimant's contention that he has

unmodified common law mooring rights is correct, the notices are invalid: he does not need permission from BWB, as statutory authority, to do what the common law permits him to do.

[Justice Hildyard's] ruling illegitimised, at a stroke, every bankside mooring in the UK inland waterways

22. First, the finding of the judge that riparian ownership gives no right to moor a pleasure boat for longer than needed to step on or off board is a denial of any mooring rights whatsoever attaching to riparian land and is contrary to centuries of established case law and practice. Riparian rights allow all uses of the water that do not affect others. The judge's ruling illegitimised, at a stroke, every bankside mooring in the UK inland waterways, even though not in breach of any BWB regulation on mooring.

23. Secondly, the judge wrongly construed s.8 of the 1983 Act as authorising seizure or expulsion from the waterways of any vessel otherwise entitled to be on those waterways, even though not in breach of any **legislation** or regulation. That was contrary to common sense and in violation of the common law. It also ignored the practical reality of 'home moorings' in a particular location and a **reasonable user dependent** on a prescribed place of public access or on the discretionary

consent of the relevant landowner.

34. I agree that one would expect BWB to have a general statutory power to manage the mooring of vessels on the GUC and that its permission to moor on the GUC would normally be required. However, special features of this dispute make it necessary to inquire into not only what rights the claimant could establish as a matter of private law or public law, but also whether his actions amount to the commission of an actionable wrong, either at common law or under statute, which would entitle the BWB to require the removal of the vessels on the ground that they were unlawfully moored on the GUC.

England... ..is a country where everything is permitted except what is expressly forbidden.

38. I am alerted to the possibility that the claimant was not committing any wrong by a pithy observation of Sir Robert Megarry V.-C. in Metropolitan Police Commissioner [1979] 1 Ch 344 at 357C:- “England, it may be said, is not a country where everything is forbidden except what is expressly permitted: it is a country where everything is permitted except what is expressly forbidden.”

39. During the course of oral argument in this court it emerged that the multiplicity of issues generated by this dispute and the paper mountain of materials googled by Mr Moore had overshadowed the significance of that basic, if not totally accurate, maxim of English Law supportive of Mr Moore: what is not prohibited is permitted. That

notion was at the core of the first element of AV Dicey’s classic statement of the Rule of Law in 1885 (see Introduction to the Study of the Law of the Constitution, 8th Edition at p. 183), accentuating the need in law enforcement to prove distinct breaches of established law. The notion also survives Lord Bingham’s re-formulation in The Rule of Law (2010), emphasising the accessibility of law and the need for it to be, so far as possible, intelligible, clear and predictable, so that the citizen knows when his actions would be unlawful. Those ‘rule of law’ considerations apply to the power of BWB to require the claimant to remove vessels from the GUC, because its exercise depends on whether the vessels are moored unlawfully.

41. In the light of what BWB accepted at trial I am unable to identify what unlawful act the claimant was committing that entitled BWB to serve a notice under s.8. During the hearing of the appeal Mr Stoner QC accepted that BWB has not alleged that the claimant has obstructed the public right of navigation by other members of the public. Nor has he committed any wrong to the riparian owners, as it was agreed, for the purposes of the action, that he has the rights of riparian owner in possession or occupation of the canal bank at the point of the moorings. Nor has he committed any wrong as regards the canal bed of the GUC with the tidal element, since the BWB makes no claim in this action to any title to or right to possession of it. BWB simply relied on its statutory powers, but Mr Stoner QC was unable to point to any power entitling BWB to require the removal of vessels when no private or public wrong was committed.

42. In brief, BWB has no statutory

power to compel removal of vessels from this stretch of the GUC when no wrong is committed by the mooring of the vessels alongside the bank possessed or occupied by the claimant. Although the common law does not recognise a positive riparian right to moor alongside the bank permanently, the absence of that right does not necessarily connote the commission of a wrong and the presence of an unlawful mooring. If what the claimant was doing was not a legal wrong, he was entitled to do it. If he was entitled to do it, he was not doing it ‘without lawful authority’ within s.8, because the law allows him to do what it did not prohibit at common law or by statute.

43. At the end of all the arguments running to hundreds of paragraphs in the claimant’s skeleton submissions, the question for decision by this court is this: what wrong, if any, was the claimant committing by mooring his vessel to a part of the

canal bank, which has been treated as belonging to him, so that the barge remains stationary in the water flowing over the canal bed, which has been treated as not belonging to BWB? If no wrong, such as **obstruction** to the public right of navigation or to rights of access enjoyed by other users of the canal or trespass to the canal bed or the canal bank, was committed by the appellant, he was and is acting lawfully and BWB had no powers, statutory or otherwise, to require him to remove his vessels.

44. In this appeal the position simply is that, on the agreed facts about the bed and the banks of the GUC at the relevant point, BWB had no power under s.8 to require the claimant to remove vessels the mooring of which was lawful, as their presence was not unlawful: BWB is unable to support its notices on the basis that the mooring of vessels by the claimant was ‘without lawful authority’ within s.8.

Illegal Thoughts

Simon Robbins expresses NABO’s views of CRT and the law

We get the impression that more than a few people question why NABO, some would say obstinately, stands all but alone among the established waterways organisations by still opposing a number of issues concerning licence terms and conditions and enforcement issues proposed by CRT. As reported in the last NABO News, we are taking further legal advice on a number of matters. Following our Council meeting in May, we reviewed the matter and felt we should re-state our view.

The matter is in essence really simple: we don’t deny that when it

comes to enforcement issues, CRT has a huge problem and needs a different approach to that which has been tried in the past. Where we remain concerned is that the apparent imperative to do something is leading CRT down a path of pursuing new rules and regulations that are not sustainable, and which risk being ripped up sometime in the future because they are legally unsound. Of course, it is ultimately for a Court to determine legality, if and when such a sanction is implemented and also in turn challenged, but the history of this issue also cannot be swept aside by denial of the facts.

However you dress it up, the fact is that proposals for overstaying charges and other penalties are in reality intended as fines and deterrents. Many of the measures now being implemented following the recent paper to Trustees and the CRT Council contain the same fundamental elements of enacting financial penalties for certain behaviour. This represents a fundamental change to the rules of boating on CRT waters if it goes ahead... and it seems that the CRT Trustees and Officers are indeed determined to go ahead.

In the late 1980s, BW clearly did not think that its existing powers, under the 1962 Transport Act, could be used to extend its authority to this extent.

In the late 1980s, BW clearly did not think that its existing powers, under the 1962 Transport Act, could be used to extend its authority to this extent. So it launched the Waterways Bill to seek new powers. Parliament spent many months sifting through the evidence for and against and then declined to grant the additional powers. What has changed legally since that time? We say nothing.

A similar story can be told about imposing more specific requirements for continuous cruising. 'Continuous Cruising' is of course not a term that is mentioned in the 1995 Act, but it is what we have come to call the right enshrined in the Act that does not require a boater to have a home mooring, providing you move every two weeks or more frequently. Parliament expressly left the definitions very loose because it

heard copious evidence about how any more prescriptive formula could not be applied fairly, consistently or effectively. The fundamental issue then is the same as it is now.

This was twenty years ago, so isn't it time to move on? Well we still say no. The Waterways Acts are not just there to empower BW and its successor, CRT, but among other things, they are also to protect boaters' rights to navigate and moor for reasonable periods in the course of doing so.

Many boaters on the internet forums and some national waterways organisations, whose members include boaters, support CRT making these moves and say: "It won't affect me—I play by the rules". We think that is wishful thinking. Although we accept parking charges as a reality of modern life, the fact is that all these schemes are specified by primary and secondary legislation, to ensure that they are administered clearly and fairly. By and large, charges are not cumulative. Despite all that, things do not always happen as they should and the law and a raft of regulations offer transparent appeal mechanisms to give motorists redress when appropriate. These rights are invoked hundreds of times a day to successfully appeal unfair or incorrectly issued fines and charges. By the same token any overstaying and other fines introduced by CRT will likewise have an error rate and sooner or later these matters will, if implemented, be challenged.

Apart from the fundamental concerns about the overall legality of some of what is being proposed, we are also determined to ensure that NABO members, when potentially faced with such errors in the future, as will inevitably happen when CRT makes mistakes, have access to robust advice on ways to challenge such charges.

Visitor Moorings in the South East

NABO's response to CRT's report on the public consultations summarised by **Mark Tizard**

The facts

700 signed and online petition against the proposals

More than 50% of the 360 boaters responded to the consultation were negative towards the proposals

NABO and RBOA representing 6,000 boaters responded negatively.

CART stated they had a "green light to proceed"

CRT has confirmed that it was taken aback by the strength of boaters opinions: for example 700+ signed an online petition spread virally against the proposals—not the principle of consulting as implied by CRT. 360 boaters wrote feedback in response to the CRT email, of which more than 50% was negative. In addition both NABO and RBOA, representing many thousands of members, wrote detailed feedback that again rejected specific aspects of the proposals. CRT decided to focus on the minority that gave positive feedback as the green light to proceed.

In the report, CRT states: *"Many people felt that we should have provided specific evidence of there being a need for a site-by-site review of stay times. We were 'caught on the back foot' in this respect because our assumption had been that with the growth in boating over the past 20 years, it wasn't unreasonable to revisit stay times and rules as part of our legitimate navigation authority function."*

NABO acknowledges that it is entirely reasonable for CRT as a navigation authority to review stay times and rules. This would have more credence if it was coupled, for example, with a review as to whether the current provision of visitor moorings was sufficient for the increasing number of visiting boats. With an increase licence holders it is obvious that additional visitor moorings are needed. Where this is a challenge due to location then dredging more bankside to enable a longer stay is strongly recommended.

For a consultation process to be credible and to engage the goodwill extended to CRT it is reasonable to expect CRT to have provided some evidence to support current usage to justify the need for change. This consultation lacked legitimacy as no evidence was produced to validate the need for change in any of the moorings referred to. It would have been easy for patrol officers to have sampled the trial sites and validated that overstaying was a real issue. Recent increased CRT activity to manage overstaying has had a noticeable effect in many areas.

"Lots of doubt was cast on our future ability to monitor visitor moorings effectively, so creating new rules would be a waste of time. Our answer to this is that the rules, as they stand, cannot be meaningfully enforced because they do not tell you how frequently you can return."

NABO's opinion is that CRT cannot just invent new rules if it finds that the existing legislation does not enable it to introduce a new policy. There is no specific power for the introduction of the right of 'no return' and we know that BW was refused these powers in the build-up to the 1995 Act.

There are many circumstances where returning in less than a month is reasonable, for instance: share boaters and those who cruise locally from their home mooring will be disadvantaged by inflexible no-return rules. Why should a boater be constrained from his chosen navigation pattern?

However where boaters return to the same moorings with the intent



of avoiding a home mooring, who are clearly not 'bona fide navigating', CRT can use this as evidence in a prosecution, but only as part of their evidence showing a pattern of wider behaviour. We appreciate that this is time-consuming, but are concerned that blanket rules are disproportionate and will adversely affect the majority of boaters whose boating patterns are legitimate.

With regard to the introduction of a £25 'service charge': *"We genuinely believe that a clear deterrent in the form of an extended stay charge makes sense."* It would appear that CRT accepts that £25 is not a service charge but a penalty fine. NABO does not believe that CRT has the legal authority to levy a fine. NABO's own legal advisers have confirmed that *"It is a general principle of law that public authorities require express statutory authority to levy charges. Section 43(3) of the 1962 Act provides a power to demand charges for BW's services but this is not the same thing as the power to fine."* (Blackstone Chambers).

NABO members attended both workshops and noted that there were two common areas of agreement that were acknowledged at the time by all the CRT representatives present together with Trustee John Dodswell.

- 1 The maximum number of days allowed should be per 28-day period and not per calendar month.
- 2 Without exception the eight working groups that discussed the eight pilot visitor moorings saw no need for any change to the 'maximum stay' rules during the winter months.

NABO acknowledges that current CRT systems cannot process data on a 28-day system. However we were surprised when subsequently consulted, that CRT had decided in principle that seasonality of the pro-

posals was to be dropped and the new rules are to be introduced on a year-round basis. We are pleased that CRT has, as a result of pressure, agreed to relax the new restrictions out of season.

The following questions have still to be answered satisfactorily:

- How will a boater know that he is about to be charged?
- What form will the evidence of overstaying take?
- What is the appeal process?
- How would a boater who has lent his boat to a family member for a brief holiday be able to discover if he is about to contravene any of the 'no-return' or overstaying rules? Is CRT going to publish a number for the boating community to be able to call and check?

NABO is not convinced that volunteers should be used for enforcement purposes when it involves levying fines with the potential legal consequences that may ensue.

In conclusion, NABO believes:

The consultation was flawed in principle in that no effort was made to provide any evidence of overstaying in the eight pilot areas concerned—hardly a major exercise.

The current emphasis on overstaying has resulted in many more boat movements. Recent NABO observations have shown that this has resulted in greater availability of the visitor moorings included in this scheme.

We believe that the 'no-return' rule and the deterrent charge are outside CRT's legal ability to enforce and we shall be taking further legal advice specifically on this. We also believe that once introduced, the no-return rule and deterrent fine could be extended throughout the canal system as a means of controlling lawful navigation and boating activity and should be resisted.

A summary of NABO's policies on SE moorings:

- It is reasonable for CRT to review stay times and rules.
- CRT cannot invent new rules if existing legislation does not enable a new policy.
- NABO does not believe that CRT has the legal authority to levy a fine.
- NABO is not convinced that volunteers should be used for enforcement purposes.
- The consultation was flawed in principle.
- The 'no-return' rule and the deterrent charge are outside CRT's legal ability to enforce.
- They should be resisted as a means of controlling lawful boating activity.

K&A Mooring Plan

NABO's Comments on the local mooring strategy

Mike Rodd reviews the Waterway Partnership's recommendations

Based on recommendations from its Local Mooring Sub-group, the K&A Waterway Partnership has submitted proposals for consideration by the CRT Navigation Advisory Group supporting the introduction of a pilot voluntary agreement between CRT and boaters in the area between Bath and Devizes. Their report states: *These proposals do not seek to interpret the definition of 'continuous cruising' but do seek to establish fair and equitable sharing of the canal within the area and to enable all users to opt into an agreement that will support this guiding principle. Licence holders who do not opt in would knowingly be bound by standard licensing obligations within this area.'*

NABO Council has been following these developments with interest and welcomed the work when the sub-group was established, as it involved most key stakeholders and representative groups. The section targeted by this work covers stretches of the K&A where there are too many boats and too few moorings. However, we have always been concerned about the lack of facts and are concerned that complaints may be driven by hire-boat companies, rather than by boat owners.

NABO is also aware that there are boaters with continuous cruiser licences who have been reportedly abusing the existing rules, but it is also aware that most boaters stay within these rules. We are concerned that existing rules are not being fully and fairly enforced.

Council is also unhappy about the proposal that 'all boats (except hire/hotel boats) are limited to an accrued maximum stay at each visitor moor-

ing section of four days per calendar month.' For many boaters with a local mooring, who make regular use of their boat, this is unacceptable. Further, NABO also believes that proposals to implement such limits, especially charging boaters for over-staying, are also open to challenge.

We broadly support the principles outlined in the local guidance; specifically that boats will move every 14 days. However NABO does not support a specific minimum distance that should be travelled during a licence year; this should be determined by the Courts. We note that there is some guidance in the CRT policy to issue a licence without a home mooring for remote waterways such as the Mon & Brec or Lee & Lancaster, and we are content with this at the present time. However, we do not accept the principle of certain 'boaters signing up to things'—the only things they sign up to are their licence terms and conditions. We also welcome the rejection of community moorings (previously called 'Roving Mooring Permits'). We have consistently opposed the introduction of such permits and are advised that their introduction will require a change to the 1995 BW Act.

NABO is surprised that the report does not call for an urgent investigation by CRT into the provision of additional residential and visitor moorings. It is evident that this is the real problem, along with the lack of enforcement over many years. Council is thus unconvinced by many of the recommendations made in the submission. The situation on the western end of the K&A is special to the area and the proposals should not be adopted elsewhere.

Letters to the Editor

Opinions expressed here are independent of NABO policy and statements made have not been verified as true.

The unknown dangers of boating

We saw this sign on the Llangollen Canal, near Trevor, and thought you might like to print it!

Susan Chadwick



Bugged about bio-diesel?

Touch wood, we have generally enjoyed many thousands of miles of trouble-free boating, on our own boat since 1995, and on hire-boats or friends' boats since the 1960s or earlier. We try to avoid problems by heeding advice in NABO News and other useful sources, although we enjoy basic membership of River & Canal Rescue 'just in case'. Nevertheless, we wonder how best to combat the recent threat of diesel-bug, stemming from the addition of a proportion of bio-fuel to ordinary diesel, apparently under an EU directive (no doubt the unintended consequences of well-meaning decisions by remote bureaucracy). This fuel, known as FAME, absorbs condensation or other sources of water, which can lead to black mould in normally clean red diesel, and this can clog fuel-lines or filters or injectors, as we understand it. One can of course check the look of fuel in the system at the primary or secondary filter, hopefully finding it

clean, but prevention is better than cure. Bought additives (which need to be used carefully) can guard against some effects of condensation etc., but not necessarily diesel bug caused by bio-fuel. Fortunately, near the western end of the Kennet & Avon Canal, we have an excellent local boatyard, run by boaters (and canal-restorers), who aim to supply clean, affordable diesel. So we can set off each Spring with a tank-full of good fuel, but what can we do on the rest of the system when our tank is low? We have tried asking other canal-side suppliers whether their fuel is free of bio-fuel. Some do not seem to understand what we mean, (e.g. "We sell anti-condensation additive which you put in yourself"). One knowledgeable and honest supplier (on the Oxford Canal) answered, "No, it is hard to get and most people only look at the price". (Actually, many suppliers do not exhibit a price, not even on a chalkboard; and if you ask what it is, you realise why!). Naturally, we have talked about this with other boaters (including some at the NABO AGM in 2012). Once we were told of a local marina on the Leicester section which had a bio-free supply for a while, but it was not open when we were there. Elsewhere, we were told that even if a supplier sought bio-free fuel, no-one could be sure what was in the delivery tanker's previous load, so cast-iron guarantees were unlikely. So what now? Are we worrying unnecessarily, or are we right to be careful? Seeing the results of diesel bug in contaminated fuel pumped out for screening suggests that there is at least a risk of real trouble. So what do other concerned boaters do? Does any trade association list sources of bio-free fuel? It could be to their advantage to publicise them. Do any boaters' groups compile such a list (on the lines of the Aylesbury Canal Society's useful launderette list)? If not, should we perhaps volunteer to co-ordinate a list of suppliers who try to offer bio-free diesel, based on information from NABO members and other boaters? We await your responses.

John and Marion Pearse

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