



for birds  
for people  
for ever

# LEGAL EAGLE

THE RSPB'S INVESTIGATIONS NEWSLETTER

JANUARY 2005 No 43



Dave Dick (RSPB)

## £5,500 fine for 'Scotland's worst wildlife crime'

**A gamekeeper has been fined £5,500 for what has been described as Scotland's worst wildlife crime. On 25 August, at Selkirk Sheriffs' Court, Stephen Muir, 38, admitted killing sixteen buzzards and a goshawk by laying poisoned baits on a hillside.**

In March, following a report from a member of the public, Lothian and Borders Police visited Barns Estate, Peebles, accompanied by the RSPB. They discovered the remains of 22 buzzards, a goshawk and a heron. Pictured above is PC Mark Rafferty, WCO for Borders, with three of the buzzards. Dave Dick, senior investigations officer for the RSPB in Scotland, said, 'In my 20 years of investigating wildlife crime, this is the largest number of dead birds that I have seen in a single case'.

Muir was fined £2,500 for killing the buzzards and goshawk, £2,500 for placing poisoned baits and £500 for

recklessly endangering people and wildlife by placing poison on a hillside. Passing sentence, Sheriff James Farrell said he had taken into account the fact that Muir was a first offender and had pleaded guilty. The court accepted Muir's plea of not guilty to illegally storing the pesticide, carbofuran.

Muir, who had worked on the Barns Estate for 17 years, was initially charged in connection with the deaths of 25 birds. However, some were too badly decomposed for the cause of their deaths to be ascertained. The estate near Kirkton Manor, Peebleshire, has publicly condemned Muir's actions and suspended him.

The poisoning case was reported on the BBC website, which ran an opinion poll asking 'are the penalties for wildlife crime tough enough?' Of 5,255 respondents, 91% said no and only 9% said yes.



*In this issue:*

**House of Commons committee calls for full-time WCO in every force**

# LEGAL UPDATE



## House of Commons committee calls for full-time WCO in every force

In October, the House of Commons Environmental Audit Committee published its findings on wildlife crime after taking evidence from the RSPB, Defra, police and other agencies. The report highlights the failure of the Government and police to recognise wildlife crime, stating, 'we see this refusal to accept wildlife crime as an issue deserving of committed police resources as especially short-sighted...'

The Home Office's failure to show commitment to fighting wildlife crime is highlighted; the report calls upon the Ministry to 're-engage with wildlife crime' and asks the Government to restate its commitment to tackling the issue.

Among the report's 41 recommendations are calls for:

- the Government (Defra and the Home Office) to improve the recording and investigation of wildlife crime

- all police forces to appoint a full-time wildlife crime officer (WCO)
- Defra to table improved legislation, including amendments to the Wildlife and Countryside Act 1981, a new marine bill and an update to the Control of Trade in Endangered Species (Enforcement) Regulations.

It concludes with the statement, 'We believe that the link between wildlife crime and other serious crimes, the clear and growing involvement of organised crime, and the increased reliance on the internet for illegal trade in protected species, makes the argument for spending time and resources on this area of crime compelling'.



The RSPB calls upon the Government to enact the recommendations in full at the earliest opportunity. This would make a significant difference to many of the problems that face wildlife law enforcement and that are regularly highlighted by WCOs, PAW, the RSPB and others.

To view the report, visit [www.parliament.the-stationery-office.co.uk](http://www.parliament.the-stationery-office.co.uk) (click 'House of Commons' then, 'House of Commons Publications on the Internet' and then 'Select Committee Publications', 'Environmental Audit').

# PROSECUTIONS

## Gamekeeper and employer plead guilty to pesticide offences

On 16 August, at Shrewsbury Crown Court, John Frederick Twist, gamekeeper for the Marrington Shoot near Chirbury in Shropshire, pleaded guilty to two offences contrary to the Food and Environment Protection Act 1985.

A police search, led by West Mercia WCO Robert Fryer and assisted by the RSPB, revealed a number of pesticides, including Cymag and Talunex. These fumigant pesticides emit toxic gases (hydrogen cyanide and phosphine respectively) when in contact with moisture. They were found stored on a shelf in an unmarked wooden shed after Twist had denied storing any pesticides at this location.

The brand of Cymag was no longer approved for use, and both pesticides were stored in unsafe conditions. Fumigants of this nature should be stored in a suitable fire-resistant cabinet, labelled to show the presence of gassing compounds, in an appropriate pesticide store. The shed was unsuitable for pesticide storage and there were no warning signs.

Twist was employed by a shooting syndicate, and enquiries established that no Control of Substances Hazardous to Health (COSHH) assessment had been prepared in relation to pesticides – although this is a legal requirement for employers. It appeared that there had been no system to make sure that pesticides were properly used and stored during Twist's employment.

The approved brand of Cymag, manufactured by Sorex, is currently under revocation; possession of the product after 31 December will be unlawful.

Twist was fined £500 and one of his employers, John Wilde, from Kenley in Shropshire, pleaded guilty to two charges. These related to failing to provide appropriate instruction, training and guidance for pesticide storage, as well as permitting the unsafe storage of Talunex. Wilde received a 12-month conditional discharge and costs of £330. No evidence was offered against the other employer. The Pesticides Safety Directorate and the Health and Safety Executive helped with this enquiry.

# Procurator Fiscal drops Scottish wildlife poisoning case

## Alan Stewart, Tayside Police WCO, reports on a disappointing outcome

'In July, 2002, Tayside Police WCOs submitted a case to the Procurator Fiscal, relating to a number of poisoning and illegal trapping incidents on Edradynate Estate, Aberfeldy, in Perthshire. Three rabbit baits, a dead buzzard and a dead carrion crow had been found on the estate, baited with or killed by either carbofuran or alphachloralose. A game bag and a knife seized during the investigation also showed traces of these pesticides when swabbed.

'This case was called a number of times but, for various reasons, was adjourned by either the defence or the prosecution. By July this year, the case had still not come to trial and was dropped by the procurator fiscal. This is in line with Crown Office policy of dropping cases that have run for some time without a trial having begun.

'Those involved in the case felt a mixture of frustration and infuriation. Edradynate Estate, which is owned by an absentee landlord from Hampshire, has probably the worst record in Scotland for poisoning incidents, going back more than a decade. In 14 separate incidents since 1998, 16 poisoned victims (nine buzzards, a cat, a tawny owl, two sparrowhawks, a common gull, a polecat and a crow) and 12 poisoned baits (rabbits, woodpigeons and a pheasant) have been found, with traces of the pesticides mevinphos, carbofuran and alphachloralose.

'Another case from a different Perthshire estate, which was submitted around the same time and involved three dead buzzards in a crow cage, has had the same catalogue of delays and has also been dropped. Over the last 39 years, despite a range of case law which states that the public interest must be balanced against the interest of the accused, I have seen, time and time again, examples of the interests of wildlife – and, therefore, the overwhelming public interest – being ignored.'

## Disappointment over harrier caution

### A Norfolk man has accepted a caution for shooting a marsh harrier in what the RSPB considers a disappointing outcome to an important case.

On 12 June, Mr Holzer was in a large private field managed for nature conservation near Loddon in Norfolk. He heard a gunshot and saw a marsh harrier fall from the sky. The bird was recovered but died shortly afterwards. Mr Holzer reported the incident to Norfolk Police, and officers quickly arrived on the scene. They arrested two men, who had been shooting pigeons and corvids in an adjacent field, on suspicion of intentionally killing the harrier.

Enquiries carried out by police, assisted by the RSPB, established that only one of the men could have been close enough to shoot the bird. The witness indicated that one man had been in the private field shortly after the incident, possibly trying to recover the shot harrier. However, the suspect denied having shot the bird or having entered the field. The RSPB has received a number of allegations concerning the shooting of marsh harriers in Norfolk and Suffolk, and believes that the evidence in this case offered a good chance of a conviction.

Norfolk Police have a good record for dealing with wildlife crime, so the RSPB was surprised and disappointed at this decision to issue a caution.



There have been a number of allegations of marsh harrier shootings in Norfolk and Suffolk.

Mike Lane (rspb-images.com)

It appears that little consideration was given to the status and conservation importance of marsh harriers – rare birds of prey that are given the highest protection under the Wildlife and Countryside Act and have only about 200 breeding pairs in the UK. We do not believe this was a suitable matter for caution, based on the Wildlife Crime Cautioning Guidelines produced by the Crown Prosecution Service and published by Defra.

Copies of the Wildlife Crime Cautioning Guidelines are available for WCOs from the PAW Secretariat, Zone 1–14, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6EB.

# PROSECUTIONS

RSPB

## RSPB video evidence ruled inadmissible

**A Scottish gamekeeper has been found not guilty of intentionally removing a peregrine chick from a nest at Juniper Crag, near Peebles, of disturbing wild birds on the nest and of having a bag capable of being used to commit the offence, despite video evidence offered by the prosecution.**

On 4 June, the gamekeeper was caught on a film, which, it was alleged, showed him taking a protected bird of prey from its nest and placing it in a bag. After two hours of legal argument, the sheriff ruled that the video footage, taken by RSPB staff, was inadmissible evidence because the RSPB did not have permission to be on the Haystoun Estate, near Peebles, at the time.

While Section 19(2) of the Wildlife and Countryside Act 1981 gives power of entry onto land to a constable who has reasonable cause for suspecting that a person is committing an offence, there are no powers for RSPB officials or members of the public to do likewise.

It is widely accepted that access to open moorland in Scotland for leisure purposes is permitted but, according to this decision, this 'implied consent' does not extend to the investigation of offences. Similar video evidence has been accepted in many previous cases throughout the UK, including Scotland, and the decision on this occasion was very disappointing.

John McLeod, 42, was, however, fined £300. His shotgun and firearms certificates were revoked after police officers found a weapon and ammunition in his unattended Land Rover. The decision to remove the gun certificates is currently being appealed.

The suspect approaches...

...takes a white bag out of his rucksack...

...puts chick in white bag...

... and departs.

## Sissen jailed again!

**Just when we thought the saga was finally over (see Legal Eagle 42), parrot smuggler Harry Sissen hit the headlines once again when he was jailed for 21 months by Northallerton Magistrates, after failing to pay a £150,000 court order.**

In July, Sissen was ordered to sell land to pay a £150,000 confiscation order (the amount by which he was judged to have profited from his illegal activities) or face a further jail sentence. Sissen, of Cornhill Farm, East Cowton, near Northallerton, has already spent eight months behind bars after a court found him guilty in 2000 of smuggling three critically endangered Lear's macaws into the country.

During the two-hour hearing, Sissen repeatedly protested his innocence and insisted that he was not able to pay the amount. 'All I have done is breed a few birds,' he said. 'If I go back to prison, I am going to go on

hunger strike. I am going to get publicity.'

Last April, Newcastle Crown Court ordered that 140 of Sissen's birds, which had been seized by Customs and Excise, should not be returned to him. James Fletcher, the prosecutor, said, 'It is a fact that he has assets available to pay the order. Just because assets are difficult to realise, it doesn't mean that they are not recoverable.'

Announcing the decision, magistrate Muriel Blythman said, 'It is worrying that Mr Sissen has indicated his decision to go on a hunger strike if sent to prison. We also know that he is a man of advancing years who is clearly adamant of his innocence. However, we do not feel that these issues should interfere with the interests of justice.'

As he was led from the court in handcuffs, Sissen, 66, threw a glass of water over James Fletcher, who had prosecuted the case on behalf of HM Customs and Excise.

Sissen threw water over the prosecutor.



# Finch-trapping still rife

**The RSPCA reports a number of successful prosecutions for trapping wild finches to supply the caged bird market. The geographical locations of these cases illustrate how widespread this practice continues to be.**

In Essex, Adnan Icel, of South Crescent, Prittlewell, was given a 120-hour community service order by Southend Magistrates on 5 May 2004 after he was found guilty of being in possession of 10 wild goldfinches. He was also ordered to pay over £1,500 costs. Rob Hance, from Essex Police, assisted in the investigation of this case, which resulted from intelligence supplied by the RSPB.

In the north-east of England, John Dugdale, of Shafto Street, Byers Green, County Durham, and David Dugdale, of Beverley Court, Jarrow, Tyne and Wear, were convicted by South Durham Magistrates on 31 August 2004 of offences involving wild finches. John Dugdale, who has a previous conviction for possession of wild birds, pleaded guilty to four counts of possession of wild birds (two bullfinches, a siskin and a redpoll) and was given a two-year community rehabilitation order.

He was ordered to pay prosecution costs of £500. The magistrates made it clear that he was only saved from a jail sentence by virtue of his last-minute guilty plea.

David Dugdale, who pleaded guilty to possession of a bullfinch, was given a 12-month community rehabilitation order and ordered to pay prosecution costs of £500. The magistrates warned both men that they could expect custodial sentences in the future if they did not mend their ways.

In Blacon, Cheshire, in May 2004, RSPCA officers found a stuffed goldfinch on a limed branch. It was being used to attract wild finches to a seed feeder, which was also limed. At Chester Magistrates Court on 4 October 2004, Hakan Gulcicek pleaded guilty to nine counts of possession of wild birds, taking a wild bird and possession of trapping equipment. He was fined £450 and ordered to pay £485 costs. The birds involved were 13 greenfinches, 14 siskins, 7 goldfinches and a chaffinch.

## Bruce Berry convicted of five offences

**Bruce Berry, media personality and well-known owner of the New Forest Owl Sanctuary, has been given a 240-hour community service order and told to pay £10,000 costs after being found guilty of wildlife offences. Berry, 63, was convicted in September 2004 of five offences involving theft and licensing breaches, after being exposed in an undercover BBC documentary.**

A jury at Southampton Crown Court heard how Berry sold and displayed birds illegally and stole a saker falcon. A BBC investigation last June also revealed mistreatment of birds at his sanctuary in Ringwood, Hampshire. He was given 80 hours' community service for the theft of the saker and another 80, to run consecutively, for selling two marsh harriers – one of which died – without an Article 10 certificate. The court heard that Berry had ordered his staff not to try to find the saker's owner when it was handed in to the sanctuary by a member of the public.

In addition, Berry was given three concurrent sentences of 80 hours' community service, for selling a tawny owl, for displaying tawny owl chicks and for displaying tortoises without Article 10 certificates. When sentencing,

Judge David Griffiths said, 'Persons like yourself, who are directors of an owl sanctuary, must realise that ignoring these regulations for profit or convenience will be taken seriously by the courts.'

Berry was cleared of releasing barn owl chicks into the wild and of using false documents to obtain licences. The New Forest Owl Sanctuary closed in July 2003 before re-opening under new ownership.

Days after the screening of the television documentary, 'Inside Out', which made allegations about the sanctuary's management, Berry's home and the sanctuary were raided by police. Berry was arrested, and resigned from running the sanctuary. When police raided the site accompanied by a vet, they discovered three tawny owl chicks, which had been handed to the sanctuary just weeks earlier, in a public aviary. This meant that they stood little chance of being successfully released into the wild.

Chris Packham, presenter of the 'Inside Out' programme, said, 'As a bird lover, I was sickened by some of the secret filming. This is supposed to be a sanctuary, a safe haven, but we know that they have killed healthy birds'.



Capercaillie by P Newman (rspb-images.com)

## Falcons still under the keepers' thumbs?

Peregrines breeding on managed grouse moors in Yorkshire are much less likely to be successful than those breeding elsewhere. That is the stark conclusion of a paper published in the September 2004 issue of the journal *British Birds*\*.

The authors analysed 1978–2002 peregrine breeding data from the Yorkshire Dales, where the overall number of breeding peregrines has risen from a single pair in 1978 to a maximum of 15 pairs in 1993. However, there is a large variation in the success of these pairs; evidence shows that nest sites away from grouse moors produce, on average, 1.39 more young each year than sites on moorland managed for red grouse.

No natural reasons have been found for such marked differences, and these findings strongly suggest that illegal persecution associated with grouse-shooting continues to depress the peregrine population in this area.

\*Court I R, Irving P V, Carter I (2004) *Status and productivity of peregrines in the Yorkshire Dales between 1978 and 2002*. *British Birds* vol 97pp 456–463.

## Nature Conservation (Scotland) Act enacted

The new wide-ranging wildlife protection powers contained in the Nature Conservation (Scotland) Act 2004 were officially brought into force on 1 October 2004.

The measures – which include three-year prison sentences for those involved in badger baiting and further protection for rare breeding birds such as capercaillie and white-tailed eagles – will strengthen the protection given to Scotland's natural heritage.

Allan Wilson, Deputy Minister for the Environment said, 'The new Act gives the police, the fiscal service and the courts new opportunities to work together to protect Scotland's most vulnerable birds, plants and animals, and to tackle other threats to the natural environment. Conserving the rich diversity of the natural world around us is important to us all. The improved wildlife protection which comes into force today is part of Scotland's wider contribution to global conservation efforts'. Please see *Legal Eagle* 42 for full details of the changes.

## Mixed news for golden eagles

The Scottish golden eagle population is relatively stable at about 420 pairs. Despite this, there are many gaps in distribution and breeding success – notably in areas where moorland is managed for red grouse shooting. These gaps are attributed to persecution.

A recent paper in the journal *Biological Conservation*\* predicts how the Scottish golden eagle population would fare 30 years into the future, with and without persecution. Information on the species' age structure, annual survival rates and productivity were considered alongside 20 years of poisoning data. In those regions most affected, fledgling production was reduced by an estimated 20% and annual adult mortality through persecution was estimated at 3–5%. Pre-adult survival was an important factor, as immature eagles tend to be killed when they move to suitable areas where adults have already been removed by persecution.

Calculations showed that the golden eagle population was very vulnerable to decline. The only



Golden eagle by Peter Cairns (rspb-images.com)

explanation for its current stability is the buffering effect of the reduced breeding age of eagles in the areas most severely affected by persecution. A persecution-free estimate predicted that the population would expand and reach the imposed upper limit of 500 occupied territories.

This paper uses scientifically rigorous methods to show that the termination of persecution should be the top priority for golden eagle conservation in Scotland.

\*Whitfield D P, Fielding A H, McLeod D R A, Haworth P F (2004) *Modelling the effects of persecution on the population dynamics of golden eagles in Scotland*. *Biological Conservation* 119: 319–333

# Specialist prosecutors to target wildlife crime

Elish Angiolini QC, Scotland's solicitor general, has announced that a national network of specialist prosecutors has been set up across the country to help bring wildlife criminals to justice. In the announcement, made on 29 September during a wildlife conference at the Scottish Police College at Tulliallan, Fife, she said that the protection of Scotland's natural heritage depended on education, crime prevention and enforcement.

Alan Stewart, wildlife and environment officer for Tayside Police, said, 'Wildlife crimes seldom come before a court and, when they do, they are hard to prove. Experience in these cases is hard to obtain and I can think of no better way to hone the skills of police wildlife crime officers and procurators fiscal'.

## Breeding season round-up

RSPB staff helped protect several key species during the 2004 breeding season. Golden orioles successfully raised young at the RSPB's Lakenheath nature reserve after protection measures – including Cyphermark DNA forensic marking – were introduced. Montagu's harriers also had a good season, with at least 16 juveniles produced nationally, including two at RSPB Frampton Marsh nature reserve, where the *Aren't birds brilliant!* public viewing scheme attracted thousands of visitors. With increased protection, black-tailed godwits successfully hatched two broods in Lancashire for the first time in many years.

The Peak Nestwatch Scheme reached its fourth year in Derbyshire, with six goshawk chicks raised from five nesting attempts, three peregrine chicks from four attempts and five raven chicks from two attempts. Supported by the RSPB's Operation Artemis, the Forest of Bowland hen harriers in Lancashire had a good season, raising 28 young from 10 nesting attempts. This was the only English location with breeding hen harriers.

Nationally, little terns were less successful, due to food shortages and poor weather. Egg collectors targeted one colony in Norfolk, taking eggs from 15 nests and leaving a 'smiley face' in the shingle for the wardens. Finally, RSPB Nene Washes nature reserve in Cambridgeshire produced its first successfully wild-bred corncrake chicks from a reintroduction programme designed to re-establish the species in England.

Cyphermark DNA forensic marking has improved the fortunes of golden orioles.



## Free the force to fight crime

Scottish forces have been ordered to carry out a major review of their tasks in a bid to free up 250 officers over the next three years.

The Association of Chief Police Officers in Scotland (ACPOS) is considering whether civilian staff could become wildlife officers, responsible for liaising with agencies such as the RSPB and the Scottish Society for the Prevention of Cruelty to Animals (SSPCA) on wildlife crime, educating schoolchildren and community groups and training park rangers.

The RSPB believes that experienced, fully trained WCOs are more important than ever, as it is becoming increasingly difficult to secure convictions for wildlife offences. WCOs should not only be involved in liaison and training but, increasingly, in front line enforcement. This will require all the current resources and more, especially as the Scottish Parliament and all its political parties have increased the powers of the police courts to deal with wildlife crime.

## Wiltshire Police repeat water vole success

**Mark Barret, Wiltshire Police WCO, describes his force's second successful prosecution for damage to water vole habitat.**

**A building firm was prosecuted for damaging water vole habitat.**



Steve Knell (rspb-images.com)

'On 15 September, at Kennet Magistrates' Court in Devizes, Richard Dewey, of the building firm Dewey & Dewey, pleaded guilty to an offence of damaging and destroying water vole habitat, contrary to section 9(4) of the Wildlife & Countryside Act 1981. He was fined £3,000 and ordered to pay £360 costs.

'The offence occurred in September 2003 at the Swan Meadow development site in Pewsey, Wiltshire. The site is next to a small stream that contained a thriving population of water voles. Kennet District Council planning office gave permission for the building of nine houses, subject to a number of conditions. One of these was that a protective fence was erected five metres from the bank, to protect the water vole burrows along the Hurley Stream water course.

'During early September, members of the public witnessed a digger regrading the stream's banks for almost its entire length, over several days. No fence was erected and no buffer zone established.

'Local WCO, PC Chris Mead, was informed and immediately began enquiries. He found out that Dewey & Dewey was responsible for the damage. The director, Richard Dewey, declined to be interviewed – and also to identify the employees who carried out the work.

'PC Mead was able to identify the employees himself and, having interviewed them, he submitted a file to the Crown Prosecution Service. It resulted in Wiltshire Constabulary's second successful prosecution for this offence. This prosecution would not have come about without PC Mead's work or the support of English Nature and local residents.'

## Farmer dredges up maximum fines

**A farmer from Cold Ash, Thatcham, in Berkshire was ordered to pay more than £11,000 on 2 September after being found guilty at Reading Magistrates' Court of illegally dredging the historically important and ecologically sensitive River Kennet.**

Semaj Bovingdon, of Broad View Farm, was fined £5,000 for dredging gravel without the Environment Agency (EA)'s consent and £2,500 for wilfully disturbing a river bed containing spawn or spawning fish. These were the maximum fines for both offences. Costs of £3,511.74 were awarded to the EA.

The offences came to light on 5 August 2003, when John Harding, a voluntary water bailiff at the Holybrook Fishery in Theale, Berkshire, spotted a digging machine

working in the river adjacent to Arrow Head Drive, near Theale. It had a bucket, about four feet wide, which was dragging gravel from the river and depositing it on the bank. Mr Harding watched the machine working for around 20 minutes and then contacted the EA.

EA officers visited the site later that day and found the digging machine – operated by Mr Bovingdon – excavating the riverbed further upstream. In all, around 100 metres of the river had been dredged.

In court, Benjamin McFarland, EA conservation officer, explained the impact of Mr Bovingdon's actions on the River Kennet's delicate ecology: 'The Kennet is one of the UK's nationally important chalk rivers, which are renowned for the quality of their water and their diverse range

of rare and endangered species. The gravel that Mr Bovingdon removed was forming 'riffles' – shallow areas where water flows quickly. Three species of fish found in this stretch of the Kennet – the barbel, chub and dace – rely on this habitat for spawning. When it was removed in August, the gravel would have contained their eggs and, possibly, some early hatchlings. Thousands of fish may have been lost as a result. This will reduce the numbers of predators that feed on them, the kingfisher being just one example'.

Dennis Welling, EA enforcement officer, said, 'We are extremely pleased that the courts have imposed the maximum possible fines for these offences, which can only be described as ecological vandalism'.

## Alien crayfish man walks free

**A man charged with releasing North American signal crayfish into the wild at Drumtochty Estate, near Auchenblae, between 1 December 2002 and 30 April 2003, has walked free from Stonehaven Sheriffs' Court.**

The signal crayfish is listed on Part 1 of Schedule 9 of the Wildlife and Countryside Act 1981. Section 14 of the Act makes it an offence to release such species into the wild. Sheriff Patrick Davies agreed with the defence's argument that the crayfish were not released into the wild, but into the Drumtochty Estate ponds. The accused admitted releasing around 120 crayfish into the Drumtochty ponds, which are stocked with trout. He claimed he had done this to provide food for the fish and control weeds, as well as to deter herons, otters and mink from eating the fish.

The court heard from freshwater biologist Peter Collen, an expert on crayfish, who said that the introduced crayfish would definitely have escaped. The sheriff held that the evidence of Mr Collen alone was not enough, and acquitted the man for lack of evidence.

Signal crayfish can have a severe impact on freshwater ecosystems, as they eat freshwater insects,

beetles, frogs and the eggs and young of fish. The nearby River North Esk salmon population would suffer if any crayfish did indeed escape from the ponds. The species has also been implicated in the decline of the native white-clawed crayfish in England, through transmission of a fungus known as 'crayfish plague'.

Scottish Natural Heritage tried to eradicate the crayfish from the ponds with a pesticide. Grampian Police have promised to investigate, and to prosecute anyone found releasing non-native species into the wild, despite the disappointing outcome of this case.

Signal crayfish an unwelcome addition to Scotland.



Mike Lane (rspb-images.com)

## Badger dog ban

**Three men have been disqualified from keeping dogs for life after pleading guilty in September to interfering with a badger sett. They were also ordered to pay £1,000 each, and their dogs were confiscated.**

Wayne Robert Hitchcock Senior, 45, Wayne Robert Hitchcock Junior, 21 – both from Norwich Street in Derby – and Ian William Hartley, 29, of Thurlow Court, Oakwood, Derby, were sentenced at Derby Magistrates' Court after admitting to the charge at an earlier hearing.

A youth also pleaded guilty to offences under the Protection of Badgers Act 1992 at Derby Youth Court and was given a three-month referral order and a five-year disqualification from keeping a dog.

In April 2003, a member of the public gave police a tip-off about some men who were digging at a sett at Cloves Hill in Derbyshire. Derbyshire Police followed them back to their car, where they recovered two terrier-type dogs. Both were injured – one seriously. The dogs had transmitters on their collars and the men had locator devices.

The successful prosecution was the result of co-operation between the Badger Group, police and the RSPCA.



A search of Fowell's house revealed photographs of his bull terriers fighting with badgers.

## Jail for Merseyside badger baiter

**Leslie Fowell, 34, of St Paul's Road, Rock Ferry, Merseyside, was jailed for 12 weeks at Wirral Magistrates' Court on 28 September for eight offences contrary to the Protection of Badgers Act 1992. Merseyside WCO Andy McWilliam outlines the case.**

'Fowell was arrested in March, following an incident at Poulton Hall in Merseyside. During a search of his house, police seized a videotape and some still photographs that showed Fowell's Staffordshire bull terrier fighting with badgers.

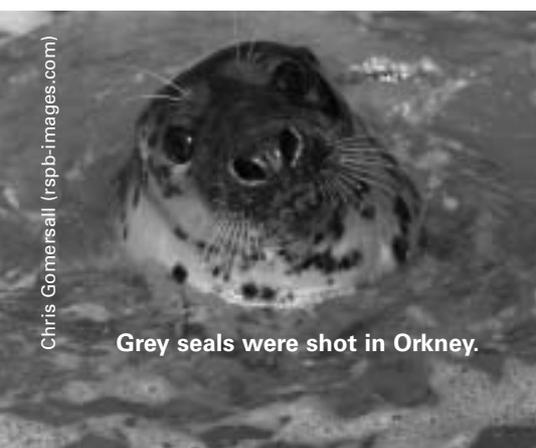
'The tape contained twelve separate clips featuring Fowell's dog. Five showed it fighting badgers with other dogs. The footage, of prolonged and savage attacks,

displayed dates between October and December 2003 – within the six-month time limit for prosecutions under the Act.

'Fowell pleaded guilty to four offences of wilfully injuring a badger and four offences of cruelly treating a badger. He was sentenced to 12 weeks on each count, to run concurrently. He was also sentenced to seven days for possessing an offensive weapon, and banned from

keeping dogs for two years. He pleaded guilty to trespassing in pursuit of rabbits at Poulton Hall, but no separate penalty was imposed.

'Fowell is the eleventh person to receive a custodial sentence for a wildlife-related crime on Merseyside since November 2001. These were offences of extreme cruelty, and this prison sentence should warn others that this behaviour will not be tolerated.'



Grey seals were shot in Orkney.

## Orkney seal slaughter

Twelve seals, 10 of them heavily pregnant, were found shot through the head in September on a beach at Bruwick, South Ronaldsay in Orkney. Detective Constable Bob Petrie, from Kirkwall CID, who was quoted in the Sunday Herald, said that the seals had been shot with a high-powered rifle. He confirmed that police were following up reports that someone was seen firing from a vehicle in the area. This is the latest in a long history of attacks on grey seals in the area – none of which has resulted in prosecution.

# INTERNATIONAL

## Bird smuggling at the new EU border

Hungarian border police have thwarted an attempt to smuggle some unusual birds across the border between Serbia and Hungary. On 28 September, they observed two people crossing the border with four sacks. They gave the sacks to another man before returning to Serbia.

The recipient was stopped and searched, and the bags were found to contain four large birds. On examination by National Park staff, these proved to be two secretary birds (birds of prey) and two kori bustards. Both are CITES Appendix II birds of Afro-tropical origin and are rare in captivity in Europe.

The 21 year-old man was arrested and now faces prosecution. It was estimated that he would have received some 400 euros for smuggling the birds, and Serbian police are trying to identify the men who supplied them. This incident illustrates that there is a market for unusual species in the EU – and that it is important to maintain strict border controls along its enlarged boundaries.



The smuggled kori bustard and (inset) secretary bird.



Joan on her last day in the investigations office.

## Farewell to Joan

After almost 10 years as investigations officer with the RSPB, Joan Childs has moved on to start a new job as site manager of RSPB Rye Meads nature reserve in Hertfordshire. This wetland reserve has a new flagship visitor centre and a large team of staff and volunteers. This is a new role for Joan but, with her breadth of conservation and wildlife knowledge, it is one in which we are sure she will succeed.

As editor of *Legal Eagle* for many years and the lead investigator in a number of cases during her time with the investigations department, Joan will be sadly missed. She was also seconded to the Bat Conservation Trust (BCT), where she wrote a report that exposed the building trade as the major perpetrator of bat offences. After the report was published, the police launched Operation Bat to prevent and investigate bat crime, in partnership with the BCT and Statutory Nature Conservation Agencies.

# Wildlife Enforcer of the Year

This year's winner of the WWF-sponsored Wildlife Enforcer of the Year award was WCO Phil Briggs of Strathclyde Police. He was presented with the award and the customary panda by Chief Constable Richard Brunstrom at the Police and Customs Wildlife Enforcement Conference held at Tulliallan Police Training College on 8–10 October.

Phil has led a number of successful operations involving finch-trapping, the sale of endangered species and the persecution of birds of prey. He has taken every opportunity to publicise wildlife and environmental issues – to his colleagues and to the public.

Two other awards were presented at the conference. Lance Cruse, HMCE Felixstowe, and Craig Fellowes, Warwickshire Police WCO, received a special award for their outstanding contribution to combating wildlife crime in 2003 and 2004 respectively.

Winners of the RSPB conference quiz were WCOs Andy McWilliam and Steve Harris from Merseyside, Pete Charleston from North Wales and Kenn Gullick from Gwent, with a little help from CCW staff.



Guy Shorrocks (RSPB)

WCO Phil Briggs is this year's Wildlife Enforcer of the Year.

## Write to be read

We welcome contributions to *Legal Eagle*. Please let us know about wildlife crime initiatives, news, events and prosecutions in your force. Send your articles to the Editor, The RSPB, Investigations Section, The Lodge, Sandy, Bedfordshire SG19 2DL, by e-mail to [graham.elliott@rspb.org.uk](mailto:graham.elliott@rspb.org.uk) or by fax to 01767 691052. The views expressed in *Legal Eagle* are not necessarily those of the RSPB. Please help us keep the WCO mailing list up to date by letting us know of any changes.



The RSPB is the UK charity working to secure a healthy environment for birds and wildlife, helping to create a better world for us all. We belong to BirdLife International, the global partnership of bird conservation organisations.

### The RSPB

UK Headquarters, The Lodge, Sandy, Bedfordshire SG19 2DL.

Tel: 01767 680551

Northern Ireland Headquarters, Belvoir Park Forest, Belfast BT8 7QT.

Tel: 028 9049 1547

Scotland Headquarters, 25 Ravelston Terrace, Edinburgh EH4 3TP.

Tel: 0131 311 6500

Wales Headquarters, Sutherland House, Castlebridge,

Cowbridge Road East, Cardiff CF11 9AB. Tel: 029 2035 3000