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Bird Egg Collections: Report of a one-day seminar at Tring Museum, 15 February 1990

R. Sutcliffe

Glasgow Museum and Art Gallery, Kelvingrove, Glasgow G3 8AG

Introduction

This paper is a summary of the proceedings of the one-day seminar organised by the Biology Curator's Group and held at Tring Museum on 15th February 1990. The Seminar was arranged with the principal aim of trying to clarify some of the 'grey areas' of the current legislation relating to bird egg collections, with special reference to the position of museums. The morning session examined egg thefts, the laws relating to eggs and the curation and use of collections. The afternoon session consisted of an open discussion forum, followed by a tour of Tring's egg collections.

Egg Thefts

The morning session started with some case-histories of egg-thefts. Clem Fisher spoke about an egg theft by two youths at Liverpool Museum in 1977. In this case, suspicions had been aroused when the youths visited a museum in Southport and the alert curator had been able to take their photographs. These were then circulated to other museums in the area. They later visited Liverpool and after asking to see the egg collections were subsequently caught with schedule 1 eggs in their pockets; the police were then called in.

Steve Garland related how the egg collections at Sheffield Museum were regularly shown to members of the public. Precautions were taken (the drawers were always taken to another room and people were never left unattended); however photography was permitted and coats and bags were allowed into the room. The theft was not noticed until the RSPB visited regarding a prosecution. Photographs were found in the collection of an egg thief, which appeared to be of a museum's collection. It was then realised that three Golden eagle eggs had been removed and substituted by painted goose eggs. The thief had visited the museum, taken photographs of the eggs and come back a second time to photograph the same eggs, after explaining that the film had not come out. It was during the second visit that the eggs had been switched. One conclusion from this particular case is that all eggs should be kept turned over so that set marks cannot be seen and therefore copied.

Derek Whiteley told of a more recent case from Sheffield about a man who was prosecuted for having a collection containing 1302 eggs, two bats and bits of birds. The museum was approached by the police who were keen that

the collection should not be destroyed, and asked to accept the collection. The collection is an excellent one, well preserved with good local data collected in the mid 1980s. It could not be obtained by 'normal' means. The museum eventually agreed to accept the egg collection and the two bats and obtained a licence from DOE. The pieces of birds were destroyed. The collector is very knowledgeable and has since visited the museum to give additional information about the collection.

History of Egg Collecting

Peter Robinson, the RSPB's Senior Investigations Officer, gave his views about the history and legal aspects of bird egg collections. He explained how egg collecting was an 'English' problem, tending to be concentrated in ex-colonial countries; especially in Victorian times, when it was almost a science, was legal and socially acceptable. Data with eggs was normally valid, reliable and often meticulous. Collecting used to be common in the USA, but it has almost entirely died out there as a result of sensible wildlife laws in force for about 100 years. There is now little justification in collecting as most research work can be done by photography, measuring etc. Limited collecting may still be necessary (under licence) as we may not be able to foresee the future uses of the collections (e.g. shell thinning).

The RSPB know of 500-600 present-day collectors, most of whom were discovered during the 1970s and 1980s, by seizure of notebooks etc. Although most of these people are known, it does not mean that egg-collecting is decreasing. Organisations like the YOC may have reduced it, but there is a natural tendency for youngsters to collect eggs.

Collectors come from all ages and backgrounds (even policemen!). It tends to be a male-dominated problem. There are very few dealers today. Scotland was less accessible in the last century, so dealers such as Dunbar Brothers supplied many eggs to English collectors. There are still a few dealers and there is still a lot of exchanging going on (which under the law is a sale). In a recent case a collection of 26,000 eggs were discovered at Dartford, Kent, including South African eggs. These had been exchanged with a collector in Zambia; the World Wide Fund for Nature funded an investigation and he was subsequently prosecuted.

Most egg collectors have acute, but limited knowledge. They can find nests but often don't know bird calls etc. They often have a bias for 'strange' clutches, or abnormally coloured eggs. The police used to find it difficult to detect eggs which were hidden in thermos flasks, spare tyres etc. Some cars are specially modified to hold eggs. Dummy eggs are often put into a nest, so that it is not obvious that the real eggs have been taken. Data cards are very important (to mount a prosecution) and for this reason collectors often keep them separately from the eggs.

Two successful prosecutions were described: in Sheffield a Mark Whittaker was found with a collection and some photographs of a collection from a well-kept museum. He claimed the eggs had been his grandfather's. It was in fact a 'Whittaker Collection', but the eggs turned out to have been stolen from Sheffield Museum.

The Passmore Edwards Museum had a visitor who wanted to see a Guillemot egg. He then returned and took it. Later, similar events happened elsewhere. The Royal Scottish Museum, Gilbert White Museum and Inverness Museum were all tricked into sending eggs by Red Star to London. Then out of the blue, the RSPB got to see a letter sent to Madrid from somebody requesting a Black Vulture's egg for study. Nobody had heard of the person concerned. They got a description of the person who had collected the Gilbert White Museum's eggs and then 'staked-out' the address on the letter for three days. They also went through the Red Star receipts for the other eggs. All were signed 'PHT' but used different names, (of actual people). The police got a theft case and a search warrant and found the eggs, with RSPB assistance and advice. The thief received a 6 month sentence. He had been an egg collector as a child and had renewed his interest.

The rarer the bird is, the more likely it is for its eggs to be taken. Birds of prey, Divers, Dotterel, Red-backed Shrike, Little Ringed Plover are most at risk. The Kentish Plover is down to only a few breeding pairs in Britain. Egg collecting may finish it off!

Bird Eggs and the Law

In Britain, legislation concerning birds started in 1869 with the Sea birds Bird Protection Act. The Protection of Birds Act 1880, sought to protect wild birds (but not eggs) listed on a schedule. About 1887 it was decided to protect the eggs as well on a local basis, which became unenforceable.

In 1954 the Protection of Birds Act gave total protection to all wild birds and their eggs (except pests) and prohibited sale and exchange. The possession of eggs was not controlled. The penalties were pretty small - £25 for a serious offence, £5 for a lesser offence, although serious offenders could be imprisoned for up to three months. Search warrants were available for police officers to use where specially protected species were involved or the sale of specimens were suspected. The wilful Disturbance of Specially Protected Birds offence came in via the Protection of Birds Act, 1967 (an amending act).

In 1981 the Wildlife and Countryside Act was passed. This current legislation came into effect from September 1982. It prohibited the taking and sale and exchange of wild bird's eggs and extended the issuing of warrants. It is not only an offence to take, but also to be in possession of bird eggs. It controls the possession of wild birds eggs, however, it lets a possessor off the hook if he can show the eggs were taken before September 1982.

Part 1, sub-section 2(a) of the Act states:"...if any person has in his possession or control - any live or dead wild bird or any part of, or anything derived from, such a bird ... he shall be guilty of an offence". This acts retrospectively for birds, but not for eggs, as you cannot tell with certainty when an egg was taken. The draft for the Act included registration of egg collections, but this was probably taken out of the final Act, due to the amount of work required for the initial registration of collections. There are provisions for licences to be granted (eg for the sale of eggs), but with provisos

that they are for scientific or educational purposes. In Northern Ireland, the Act was implemented by the 1985 Wildlife Order which does require registration of collections in Northern Ireland. The UK Government may currently contravene the EEC 1979 Wild Bird Directive, by not having a register,

Under the 1897 Police Property Act, if the police in the course of their duties come across 'property', they have the right to seize it and return it to its rightful owner. It is up to the person it has been seized from, to take action to get it back. It is arguable that the "State is the rightful owner" of eggs etc. (eg. NHM, RMS, NMW). The courts have so far upheld this. If an egg thief is convicted, other things involved can be confiscated, such as cars or other equipment. 'Possession' is an on-going offence. The onus is on the possessor to show an egg has been legally obtained.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Import and Export Act 1972 prohibit the import into the UK of certain species, except under licence. Animal Health Controls include hatching eggs.

The 1985 Endangered Species Import and Export (Enforcement) Regulations and the EEC Regulation 3626/82 prohibit the public display of anything on the Schedules (Museums are exempt). It is a little understood and under-publicised regulation.

How do the regulations effect Museums? If ANY person has a bird or egg in his possession it is up to him to prove he has it legally (this has been tested several times in the High Court). For example in c.1983 a 'breeder' of birds of prey was found to have four Goshawk eggs which could not be accounted for through his breeding records. They proved to be German, not Finnish as was claimed. The resulting birds were marked by the DOE and went to a dealer. He was caught with the birds and couldn't prove he had them legally. The High Court ruled that "Yes, that is what the Act said". It is therefore up to the person having a collection to come up with the data.

Section 6 of the Wildlife & Countryside Act relates to the sale of eggs. You cannot sell wild birds' eggs without a licence. It is also an offence to publish an advert which suggests a person buys or sells eggs. Section 18 of the Act states that it is an offence to attempt to commit an offence and it is an offence to have equipment to commit an offence. Gamekeepers and taxidermists must prove a specimen was taken legally. Commercial taxidermists must be registered and keep records.

If an egg collection is offered to a museum; are you able to satisfy yourself that if you were challenged over them, that the eggs were legally obtained? Where some future proof might be needed that no eggs have been added to any collection since it was acquired, it might be advisable to record any data etc and lodge it with a solicitor. The person concerned has then done everything within his power. It cannot remove the possibility of future prosecution - this was a point at the centre of a big High Court appeal (Kirkland v Robinson). What it may do is show that you acted in good faith (mitigation), and lessen any penalty a court might impose. You can then go to

the DOE to say that the eggs are in your possession and ask for a licence to cover the collection. (The RSPB/RSPCA both have blanket cover to possess collections in prosecutions). A licence from DOE does not remove the possibility of prosecution in the case of a collection of unknown history. The ideal situation is to register all collections with the DOE. The DOE are however probably not the best people to run a registration scheme. Museums would probably be the best people to do it (with a grant from the DOE/EEC) as a one-off exercise, in conjunction with the RSPB.

Curation of egg Collections

Bob McGowan described how bird eggs are kept in the Royal Museum of Scotland in Edinburgh. The eggs are stored in glass-topped or acetate-topped boxes (i.e. dust-free) containing foam (not necessarily a good idea) or cotton wool. Stickers on each box indicate the area of origin (e.g. S=Scotland). The eggs are kept in an air-conditioned room at 58% RH. The detailed recording sheets used by the RMS were described and it was pointed out that any treatment done to the eggs (e.g. for mould) should be carefully noted, as this may affect future analyses. Although a lot of work has already been done on the collection, it will take about another 12 years to finish curating it!

Uses of Egg Collections

Michael Walters (Tring Museum) described the various uses of eggs using the Tring collections; a paper based on his talk will be published separately.

Discussion Session

The afternoon session of the seminar consisted of a discussion open to all present. It was recorded on tape and the main points are summarised here:

The Department of the Environment's Views

It had been hoped that a representation from the Department of the Environment would have been present at the meeting. Unfortunately nobody was available. Instead a letter from F O'Laughlin was read out from them giving their "informal views". It was not to be taken as a binding or authoritative interpretation of the law, as that is a matter for the courts. The letter stated:

"Section 1 of the Wildlife & Countryside Act 1981 makes it an offence for any person to take an egg of a wild bird in his possession or control unless he can show it was not taken in contravention of the Act or had been legally sold whether to him or another person under a licence issued by the Department. In any prosecution the onus is on the possessor of the egg to be able to show that it had been taken or sold otherwise than in contravention of the Act.

The possession of an egg collected prior to 1981 is legal whatever its origin. The 1981 Act applies only to the eggs of species which are normally resident in or are visitors to Great Britain in the wild state. Museums should therefore be able to show that eggs of British birds

collected after 1981 are held lawfully. If they are unable to do so, it is open to them to apply to the Department for a licence to legitimise the keeping of their specimens.

The display for commercial purposes of the eggs of species which are subject to control under EC Regulation 3626/82 which implements within the EC the Convention on International Trade in Endangered species requires an exemption from the Department. However we have issued a general exemption (GEX19) which authorises the display of all such specimens by any museum. All museums can take advantage of this exemption without the need to apply individually.

An exemption under EC Regulation 3626/82 is also required to sell or to offer, transport or keep for sale any egg of a controlled species. The sale or advertising of eggs of British species which are not covered by EC regulations requires a licence under the 1981 Wildlife & Countryside Act. No general exemption or licence has been issued for the sale of eggs. An individual application to the Department must be made by a museum wishing to sell specimens. All applications are considered on their merits, but the Department's normal policy is to allow the sale of eggs only to another reputable museum or Scientific Institution.

Should museums wish to buy eggs they should ensure that the vendor has a valid exemption licence to sell otherwise the vendor will be committing an offence. A licence is not required to give a collection of eggs to a museum without charge; but any museum willing to accept eggs offered to them this way should make sure that the eggs are accompanied by evidence to show that they were not collected in contravention of the 1981 Act. The Department cannot offer definite advice on the form this evidence should take, but it could include detailed records showing when and where each specimen was collected, or a sworn affidavit that the eggs were collected prior to 1981 or acquired legally since then.

A licence under the 1981 Act is required to destroy eggs of British species.

There is no statutory requirement to register egg collections. I am not aware of any proposals to introduce such a system nor of any other proposals which would be likely to affect the keeping of egg collections."

The reference to a licence being required to destroy eggs was presumably referring to eggs in a nest in the wild, rather than to museum specimens (eg game rearers destroying peregrine eggs). Peter Robinson did not believe any court in the land would take it as referring to the destruction of a 'shoe-box' collection in a museum situation. It does however still require clarification.

Acquisition of Egg Collections

Everybody agreed that 'Shoe-box Collections' were a big problem. There is no thoroughly satisfactory answer. It is necessary to satisfy the law that the

collections were legally acquired. This may be relatively easy when the collection is being given by old Mrs Bloggs, who found them in her attic, but difficult with a well documented collection from somebody in his 30s! It is vital that such collections are taken out of public circulation as they may encourage others to collect. Peter Robinson suggested that we should all jump on shoe box collections which have no data! It was agreed that specimens with data should not be destroyed and that many specimens without data may be useful for other purposes.

If it is not possible to prove a collection was legally taken you can apply to the DOE for a licence to legitimise the collection. Peter Robinson suggested that we should not ask for such exemptions for any old shoe-box collection. The DOE might start giving out lots of licences without considering the merits and that would undermine the whole point of licensing.

Should museums be actively collecting birds eggs? Steve Garland gave the example of how a nest in Sheffield was being observed and the birds deserted it. A licence was applied for and granted allowing the eggs to be collected and deposited in the museum.

Jan Dawes asked who is collecting legally today and made the point that we do need *current* egg collections. Andrew Kitchener said that the NCC have been doing some work on Choughs on Islay. A licence was applied for to collect eggs which were then passed on to the Royal Museum of Scotland. Bob MacGowan suggested that museums should get in touch with the Institute of Terrestrial Ecology. They look at carcasses and eggs for pesticide analyses etc. Museums should offer to get the eggs properly blown for them. The museum could then keep the eggs and ITE would still have the contents for analysis. We don't know what might be wanted in 20-30 years time. If we are not careful there will be major gaps in our collections.

Alan Knox pointed out the situation of the Collared Dove which only colonised Britain in the early 1950s. The National collection has only 1 clutch of British eggs and 1 skin. We have nothing to show what has happened to the species in evolutionary terms, colonising an island! Perhaps we need to continue sampling on a more systematic basis than was done in the past.

Licences were issued in the 1960s and 1970s under the 1954 Act to collect eggs. Unfortunately massive fiddling and falsification of records took place and other eggs were taken. The Home Office decided they couldn't trust 'these people' and the government have not entertained licences for collecting eggs. The scientific community feel that egg collecting gets you into areas of great concern and lowers your credibility and so nobody wants to know! It was agreed that the stigma has attached to nest/egg research as a result of the activities of illegal collectors, and that this situation might improve if the collectors could be controlled.

Registration of Birds Eggs

Any voluntary registration scheme would not be legally binding, but any person who is holding a collection legally would be likely to come forward and register. A person holding a collection illegally would be unlikely to register. If

that person then appeared in court it could be pointed out that there is a well-publicised voluntary registration scheme and this person has chosen not to register. It would then be up to the court to decide why the person didn't register. As well as having direct conservation benefits, a national registration scheme would be useful to researchers, NCC etc, if detailed enough.

Peter Robinson suggested that the DOE would not be the best people to set up such a scheme. The ringing of captive passerine species required a registration scheme under section 7 of the 1981 Wildlife & Countryside Act. The DOE made the British Bird Keepers the registered operators of the ringing scheme. If a ringed bird is the subject of an investigation, they generally refuse to give the information required, as they do not want their members persecuted by the RSPB or RSPCA. The DOE might ask the Jourdain Society to run a registration scheme for eggs! It would be necessary to register individual eggs rather than just collections, so that it would be obvious if any new eggs had been added.

How should we go about setting up a scheme? Initially we might be talking of the salary of one person for one year to set up the scheme nationally, but each individual museum would probably need additional curatorial help on top of that to get the work done. Museums would need to register that they have an egg collection, but large museums would then have say 5-10 years to come up with a catalogue. Smaller museums with for example less than 15,000 eggs would have to do it sooner. It is a big job for the curators. It is essentially an audit but extra resources are needed to carry it out. It must be remembered that the scheme would not be aimed at putting unnecessary restrictions on museums, but to catch illegal collectors. It will be necessary to look for resources to get the necessary work done; Extra funds would need to be found specifically for the documentation of egg collections.

The basic problem is the bad legislation. The government should be encouraged to set the legislation right. The RSPB would like it to be illegal for anyone outside a museum or similar institution to hold an egg collection.

Richard Sutcliffe pointed out that Lloyd Kiff in USA is compiling a World Inventory of birds eggs. He is looking for the number of clutches of each species (with data) in each museum. Museums which had not yet responded still had time to do so. Steve Garland mentioned the idea of a "Bird Egg Amnesty". There are probably a large number of people with bird egg collections, who don't really want them, and would be happy to get rid of them, but who are unable to prove their legality. At present if somebody comes to a museum with a collection, what can they do? The museum cannot accept them legally, and so either they are dumped by the person or are kept in circulation. In other cases people leave their eggs at museums and never come back for them.

Mike Bishop gave the example of a large writing cabinet in an auction at Plymouth, where the auctioneer had bought the cabinet in good faith, but the drawers had been locked. When they were unlocked they were found to contain a large egg collection. The auctioneer managed to get a DOE licence to sell the cabinet plus the eggs. The details were circulated around museums

throughout the UK, but in the end the owner decided to keep them and gave them to his son.

Steve Garland was concerned about the wording of the licence, which said "it would be available for purchase by museums or other scientific establishments". It was felt this was too vague a description. He had suggested to the DOE that when Museum Registration was completed throughout the country that should be the criteria they should base it on, but it should possibly be even tighter than that, and depend on the presence or absence of a biological curator. Peter Robinson suggested that the right way for the DOE to do it is to tell the vendor to find a buyer who meets the requirements and that the DOE will then give a licence. They should licence the advert for sale, which should read, "For sale for educational or scientific purposes; an egg collection". Having hooked a buyer through the advertisement, the DOE should then consider granting a licence for the sale.

Peter Robinson pointed out one danger with licences. If he had a bird of prey and registers it with the DOE, it does not make it legal, it just identifies that it is present. If somebody later shows that it was acquired illegally, he is not prevented from being prosecuted just because the fact the bird is registered. The same thing applies to eggs. The fact you have a licence cannot take away the liability to be prosecuted later for possession.

Very basic registration would be relatively easy to achieve (ie do you have an egg collection or not?) and would give some credibility. In the case of a lot of small collections, good colour photographs would establish that you have collections at that time. Any scheme must be tied in with a lot of publicity and taken to a wider community.

If there was a bird egg amnesty many museums might be swamped with unwanted eggs. Should there be a central egg repository? They would probably need to be channelled to particular museums. Otherwise they would end up in museums which have no biological curator and who don't want them. There would be extra expense for museums who did accept such eggs in providing specialised housing for them. It was suggested that there would be no point in the amnesty if it simply meant changing illegal holding of collections from private hands to public institutions. There would need to be pressure put on the DOE or legislation passed to give museums some sort of immunity from prosecution for holding these collections. Peter Robinson stated that it was better to get small collections out of circulation, by bringing them to your local museum and getting the DOE to grant licences to accept these eggs under this particular situation (a one-off exercise).

Jumping on eggs with no data was suggested, but what would people's reaction be if they later discovered you had jumped on Grandpa's egg collection? Many people are probably scared to death, thinking they have illegal collections; an amnesty would let them give them away.

Display and Interpretation

David Glue said that the function of a museum is to collect, hold, display and educate. He felt that so long as labels are written properly, then we

should display eggs. There are some aspects of bird biology which cannot be done properly without showing eggs. There is an important distinction between displaying eggs in context rather than just as an object. Unfortunately the public don't always see it that way! Peter Robinson made the point that an ICCP resolution was approved at a meeting in Greece in c.1968 which agreed that it was no longer necessary to use eggs and skins in the educational context in this day and age when so many photographic aids were available.

Andrew Welsh (who runs an Environmental Interpretation Centre) deals with young children. Photographs are all well and good, but an actual egg will be remembered by a child whereas a photograph will not. Eggs should be available to educate people - "If you hadn't taken this egg it would have been a bird". Some of the people who are now most fanatical about stopping egg collecting, started off by collecting eggs themselves. They then realised and thought about what they were doing and now try to prevent collecting. We must educate youngsters about what an egg is and what they will develop into and change the whole way of looking at things.

Alan Knox commented that many of today's ornithologists started out as 'egggers', collecting anything from one or two to even a few hundred eggs. Collecting is part of the learning process and in most cases has done very little harm. Today's youngsters are encouraged to collect sea shells, bits of plants etc., whilst learning about the environment. These are going to be the next generation of conservationists.

Steve Woolfall drew attention to a recent article about a biology teacher who discovered his pupils were egg collecting and managed to steer them into nest recording instead. Ann Hollowell suggested that the appeal of recording nests may be more useful than looking at what eggs look like (the ecological rather than the oological approach). Derek Whiteley admitted that we have all hidden our eggs away because that is what conservationists have been telling us to do for the last 20 years. Joan Round felt that hiding eggs away is actually doing harm. We should put them on display with the relevant information and highlight extinctions etc.

Security

Ken Joycey asked if there was a mechanism for keeping an eye on those people who have already been convicted for egg thefts. The RSPB no longer issue black lists. The list was getting very long, there were severe legal problems (eg. the Data Protection Act) and people would be lulled into a false sense of security. Repeat offenders are common. If you think someone is acting suspiciously act on it! Thieves are very clever. When the 'Red Star' thief phoned one museum to ask them to lend eggs, he gave the name and address of Shell. The museum phoned Shell back and discovered the person existed (but had left 3 months earlier). It turned out he had lost his credit card! The egg thief had later used it to establish a false identity.