

THE GLOUCESTERSHIRE POACHER

1734 - 1862

In 1755 Richard Burn, D.C.L. completed The Justice of the Peace and Parish Officer, a comprehensive summary of eighteenth century law written for the guidance of those officials and so popular that it ran into many editions. The nineteenth edition, published in 1800, devotes more than a hundred pages to the Game Laws and it is significant that Dr Burn felt it necessary to justify these most unpopular laws.

He first expounded the maxim that as those wild creatures classified as game move from place to place, from one person's property to another's, they cannot belong to any particular landowner: therefore they must belong to the king and the king can grant the right to hunt and kill them to whomsoever he pleases. Burn then gave three reasons for the Game Laws: first, the preservation of the species; secondly, "the recreation and amusement of persons of quality"; thirdly, "to prevent persons of inferior rank from squandering that time which their station in life requireth to be more profitably spent." Law abiding people of all classes considered it no crime to break the Game Laws. A parson, Thomas Woodward of Kempley, in 1762 was fined £5 because he "did keep and use a certain Dog called a Greyhound to kill and destroy the Game." Most of the men involved in the notorious Berkeley poaching affray in 1816 were respectable young farmers and an attorney administered the illegal oath of secrecy they took before setting out. One of the poachers in the Lasborough affray in 1835 is described in the gaol register as "Gentleman." The records show that poaching was not confined to the poor labourer in search of meat for his pot: yeomen and artisans poached for sport and excitement, while, in addition, professional poachers took game to sell in the towns or sent it to London. Meanwhile the mass of the common people sympathised with the poacher and eulogised his exploits in folk-lore and song.

The most obvious reason for the unpopularity of the Game Laws is that they protected the interests of only a small privileged minority - the wealthy landowners - and it was they who, as members of both Houses of Parliament, made the laws and who, as magistrates, administered them. If the Reverend Charles Coxwell of Ablington was typical, parsons who were magistrates consulted the local landowners before sentencing a poacher.

From 1670 to 1831, the only people allowed to kill game, even on their own land, or even to have it in their possession or to keep guns, dogs or snares for taking it were persons who owned land or held it in their wife's right to the annual value

of £100 or more; holders of a lease on land of the annual value of £150 for life or a period of ninety-nine years or more; the son and heir apparent of an Esquire or person of higher degree; the owner of a forest, park, chase, or warren; the registered gamekeeper to a lord or lady of a manor.

Among the records studied for this survey were eighteen documents concerning poaching from the papers of Giles Gardner, J.P. dating from 1738 to 1754, and consisting of information laid and warrants issued to arrest or search the premises of suspected poachers or to levy fines by distress, and fifteen returns made by magistrates to the Clerk of the Peace notifying summary convictions for offences against the Game Laws between 1760 and 1781.

In these two series of documents 39 poachers are named and the occupations of 30 given. Only 10 of them could be classed as labourers; 5 were clothworkers, 10 artisans of various kinds, 3 were yeomen. One was a parson and one "called himself a gamekeeper" at Nonsuch, Wilts. Most of the poachers were after hares or rabbits, though 5 were accused of shooting pigeons. Pheasants are not mentioned in these documents and partridges only once. Of 25 poachers mentioned before 1755, eleven had guns and it is surprising to find three labourers possessing guns at this early date.

Drafts of returns made by the Clerk of the Peace to the Home Secretary between 1817 and 1862 of the number of convictions for offences against the Game Laws show that the Cotswolds were the principal centre of poaching, almost all the poachers before 1843 being sent to the Houses of Correction at Northleach or Horsley. By 1843, however, either poaching had increased in the Forest of Dean or - and possibly more likely - the Forest poachers were being caught. The poaching of deer had gone on from time immemorial in the Forest but is not reviewed in this article as the crime and the laws relating to it are very different. By 1817 the poaching of pheasants had become common, though hares or rabbits were still the poachers' usual prey. Poachers were most active in winter about two-thirds of all offences being committed from October to March, though poachers were also quite busy in June.

The table at the end of this article shows the number of convictions for offences against the Game Laws given in the returns made by the Clerk of the Peace. There is no record of any returns from 1830 to 1843, the period when poaching appears to have been most prevalent in Gloucestershire. To fill this gap partially the Calendars of Prisoners in the Penitentiary and Houses of Correction have been searched for the years 1832 and 1835. The returns made by the Clerk of the Peace are not entirely

trustworthy and may well be an understatement, for until 1848 Justices were not compelled to notify him of summary convictions.

Nationwide, towards the end of the eighteenth century and in the first four decades of the nineteenth there was a great increase not only in the number of poaching offences but in the violence with which they were associated, and the increased severity of the Game Laws was no deterrent to either. There were reasons for this. Enclosures of land and the growing affluence of landowners encouraged them to preserve such game as pheasants in increasingly large numbers. The Industrial Revolution resulted in a great increase in the number of wealthy industrialists and merchants who, not owning land, were unable to obtain game legally but could afford to pay handsomely for any procured by illegal methods. Improved roads and coach services enabled poached game to be more easily conveyed to London and other cities. It is significant that the Northleach area on the coach route to London was the principal centre of poaching in Gloucestershire. The economic depression after the Napoleonic Wars brought unemployment or near-starvation wages to the labouring classes both industrial and agricultural, and the growing opportunity to alleviate their distress by poaching proved too great a temptation for many. Poachers were operating in gangs and were often armed with guns or bludgeons.

In his charge to the Grand Jury at Gloucestershire Lent Assizes, 1835, Mr. Justice Coleridge called poaching "the characteristic crime of this as of other counties, though I am gratified to perceive the crime is not so bad in this as in other counties to which my attention has been called." He added, "I do not presume to question the policy of the Game Laws, but I wish to observe that there is a great temptation held out by those gentlemen preserving a large quantity of game, as well as by those ready to purchase it for their tables - a temptation so strong to labouring men, you can hardly expect that the law will not be violated."

About 1786 the magistrates in Gloucestershire and elsewhere embarked on a policy of closing down some of the many alehouses, suppressing village feasts and revels and generally discouraging the rude sports and pastimes of the poorer class. The government encouraged this policy by the publication in 1787 of His Majesty's Proclamation for the Encouragement of Piety and Virtue, and for Preventing and Punishing of Vice, Profaneness and Immorality. Though these sports and revels were often disorderly and generally associated with drunkenness and licentiousness, they provided an outlet for high spirits and their suppression may have encouraged the more adventurous to turn to poaching as an alternative outlet.

Landowners countered the increasing depredations of poachers by employing large numbers of under-keepers and using man-traps and spring-guns. To what extent these were used in Gloucestershire it is impossible to say. Man-traps were probably in common use. Powell Snell was "reluctantly" using them to protect the deer at Guiting Grange in 1795, and the Rev. W.G. Maxwell was using them in Harbour Wood, Twynning, in 1834 when James Print and Samuel Fowler were sentenced to three months imprisonment for stealing one. Spring-guns were used by Lord Ducie and probably by Colonel Berkeley about 1815. They were declared illegal in 1827.

On November 28th, 1815, Thomas Till was killed by a spring-gun on Lord Ducie's estate. His death was deeply resented by many young men of the district. Led by John Allen, a young man of Moreton, very popular because of his great strength and prowess as an athlete, they planned a protest raid on the game preserves of the district on the night of 18th January, 1816, the day of National Thanksgiving for the end of the Napoleonic Wars. More than twenty, mostly respectable farmers, met at Allen's house and swore an oath of secrecy administered by William Broadribb, a local attorney. With blackened faces and chalked hats they set off, the farmers carrying guns, the labourers sticks. At Catgrove, on the Berkeley estate, they met about ten keepers armed only with sticks and a fight began. The exact truth of what happened will never be known, but shots were fired - the first probably by accident - and gamekeeper William Ingram was killed and six of his companions injured. When the poachers made off one was heard to say "Now Tom Till's debt is paid."

Colonel Berkeley organised a force of constables and retainers who, assisted by Mr. Vickery of Bow Street, with considerable violence and illegality rounded up twelve of the poachers; others fled the country. Allen was arrested at his home by Colonel Berkeley who, armed with a heavy cudgel, struck him twice to the ground. When William Greenaway, Allen's servant, remonstrated, Colonel Berkeley felled him too. Greenaway, terrified and offered rewards by Colonel Berkeley, turned King's Evidence and was chief witness at Gloucester Assizes when eleven of the poachers were sentenced to death for the murder of William Ingram. Allen and John Penny - who, according to Greenaway, had fired the fatal shot - were hanged, the other nine were transported for life. William Broadribb, the attorney, was transported for seven years for administering an illegal oath. At his trial he said that Greenaway had given false evidence and had confessed to him that he had fired the shot that killed the keeper.

One of the earliest and most tragic poaching affrays occurred

at Sherborne in 1798. On the night of 2nd October, John Ayliffe, a notorious poacher from Northleach set out with two companions for Sherborne Park. There they were discovered by William Jewell and two more under-keepers. The poachers were unarmed but Jewell and his companions carried clubs and, furthermore, had been drinking. They saw the poachers near the park wall, one in the road, two in a field of stubble. They first attacked the man in the road, breaking one of his legs and the kneecap on the other. The other two poachers came to assist their companion; one suffered a broken arm and fractured ribs, the other a broken thigh. Inflamed by rage and drink, the keepers then beat all three poachers as they lay on the ground, killing two and leaving the other with little hope of recovery. Two of the keepers fled the country. Jewell was arrested on a charge of murder, found guilty at Gloucester Assizes and hanged on March 18th, 1799.

The most interesting affray was at Turkdean in 1827 for at the subsequent trial the evidence showed the character of the poachers, their methods of work, and the reluctance of juries to record a verdict of Guilty when poachers engaged in a fatal encounter were charged with murder. The words from 'The Lincolnshire Poacher' spring inevitably to mind: "For we can whistle and fight my boys, and jump up anywhere."

On the night of 26th November, 1827, Jacob and Job Perry set off to poach with Richard Whithorne and William Smith of Hawling. They had a terrier with them and carried three nets and nine short poles, rather thicker than a man's thumb. These were for setting up the nets but could be used in a fight. Those that Whithorne carried had been specially fitted with an iron socket and spike. They had already taken four hares when they reached a wheatfield on the slope of a hill at Turkdean. At the foot of the hill was a covert to which Jacob Perry and Smith took the dog, hoping to start some hares which would run up the hill to where Job Perry and Whithorne were setting the nets. The keepers were out that night: Robert Cook of Hazleton, head-keeper to Harry Waller, Esq., with Edmund Strong of Turkdean, Robert Rounce who lodged at Northleach, and George and Stephen Curtis, were crouching under the wall by the covert. As Jacob Perry and Smith came through the covert to the wall of the wheatfield they spotted the keepers and ran back, the keepers in pursuit. Cook caught one who surrendered quietly and stood still; the other offered more resistance but eventually surrendered too. The evidence at the trial was, naturally, conflicting but it appears that Perry was roughly handled and called out that his arm was being broken. One of the keepers told the man ill-treating Perry to desist as he had surrendered. Perry hallooed for help and the keeper told him he would "cut his bloody brains out" if

he shouted again. Evidence, denied by the keepers, suggested that they were eager for a fight and shouted to the poachers, "Tell the rest of them to come on." The poachers on the top of the hill heard the hallooes. Job Perry stayed where he was with the hares, but Whithorne, armed with one of his lethal poles, ran to assist his mates. Fighting broke out and the poachers won; the five keepers were all badly beaten up and left lying on the ground as the poachers left for home, Whithorne boasting, "We have let them know we are damned good boys." Early next morning Whithorne and Jacob Perry took the hares into Cheltenham to sell - possibly to a tailor named Gibberson. On their way back they called at The King's Arms in Prestbury where the ostler heard them speaking of game and Perry thumped his fist on the table and said "he shouldn't be satisfied till he had had another good fight."

Meanwhile the keepers made their way to Hazleton. Strong appeared to be the most badly injured and had to be supported by two others. Rounce made his way alone. Their wounds were attended to by a surgeon at about one in the morning. Rounce, despite three severe wounds in the head, walked back to his lodgings in Northleach. The surgeon saw him next day but Rounce was very irritable and would not submit to proper examination. His condition deteriorated and he died on 16th December, twenty days after the affray. The four poachers were arrested on a charge of murder and appear to have been genuinely sorry about Rounce's death. Jacob Perry immediately confessed to his part in the affair though warned not to do so. Job Perry turned King's Evidence. For the defence it was stated that the keepers had not apprised the poachers of their authority and had exceeded the proper bounds of it by ill-treating the poachers whom they arrested, and that inefficient medical attention had been a contributory cause of Rounce's death. The trial took eleven hours and the jury took two hours to reach a verdict. The prosecutor for the crown had warned them that "with the Game Laws, however unpopular, they had nothing to do." Nevertheless they returned a verdict of Not Guilty for all three poachers. The verdict was received with great surprise by everyone, including the accused who, said the Judge, had had "a most extraordinary escape."

The jury showed similar reluctance at the trial of Benjamin Robbins for the murder of William Creed, assistant gamekeeper at Kingscote and Newington Bagpath on the night of 25th February, 1831. Creed and his brother Thomas attempted to arrest Robbins and another poacher at Barne Hill Covert. Thomas was struck so heavily with the butt of a gun that the stock broke and he was struck again several times as he lay on the ground. When he rose he found his brother lying insensible. He got him to his

feet and though he collapsed twice made him walk seventy to a hundred yards. He then dragged him for another twenty before going for help. A horse was obtained and William Creed was taken to a house where, several hours later, he was attended by a surgeon. A week later a physician was called in and Creed was trepanned but he died on 16th March. A charge of Wilful Murder was made against Robbins and an unknown person. At the Assizes the jury returned a verdict of Manslaughter but as it was not a unanimous decision they were sent back for further deliberations after which a verdict of Not Guilty was recorded. Robbins was then tried for being on enclosed ground in the night, armed with a gun, and having violently assaulted Thomas Creed while in the lawful discharge of his duty. He was found guilty and sentenced to transportation for seven years.

One of the last affrays took place at Lasborough on 6th February, 1835. That morning William Evans, gamekeeper to the Hon. A. Moreton, received information that poachers were in Boldown Wood. He went to investigate and was joined by six others when he heard gunfire in Gorse Cover (Goss Covert?), a preserve for pheasants. His party were unarmed except one carrying a stick. In the road by the covert they saw several men. Evans approached and seized one of them who struggled with him. A shout was given and more poachers emerged from the covert, at least six of them carrying guns. The keeper's party, outnumbered by twenty-two to seven, deserted Evans who was knocked to the ground several times by sticks and stones and eventually rendered unconscious and badly wounded in the temple by the muzzle of a gun jabbed at him by one of the poachers, who, by strange coincidence bore the same name - William Evans. The poachers then made off leaving the keeper lying in a pool of blood.

Sixteen of the poachers were rounded up and stood trial at the next Assizes: William Evans the poacher for maliciously wounding William Evans the gamekeeper, the others for maliciously aiding and abetting him. Evans, a wood-sawyer, and ten others came from Sherston, Wiltshire, six miles south of Lasborough, and one came from Luckington, near Sherston. They included a gardener, a blacksmith, eight labourers and one described as a plumber and recruit from the 95th Regiment. Also in the party were James Cole of Rodborough and George Bowyer, labourer, of Iron Acton. They were a tough crowd; four of them had been in gaol before, two for trespass, two for assault. The behaviour of five of them when in gaol awaiting trial was described as "Bad", and of six others as "Indifferent". With them were Samuel Monks, aged twenty-two, a grocer of Stapleton, and Charles Milsome, aged twenty-four, described as "Gentleman" of Stapleton. Their behaviour in gaol was "Orderly". All but one of the prisoners were found guilty and sentenced to death but reprieved. William Evans and James

Cole were transported for life. Four - Michael Morris, James Neale, Henry Gomm and Richard Bishop - were transported for fourteen years, and five - Nathaniel and Abraham Evans, James Rice, James Isles, and William Berry - for seven years. The other four were imprisoned for a year.

There was an exceptionally long calendar at that Assizes and, of 167 accused for trial, 31 were charged with offences either against or connected with the Game Laws. James Joy, Samuel Tocknell and Edward Jordan were severally convicted for poaching at Withington, Bisley and Berkeley respectively, and transported for seven years. Five poachers were sentenced to a year's imprisonment, one to nine months, two to six months.

It was in the period 1790 to 1840 that the war between preservers and poachers of game was at its height. In Gloucestershire the war was probably not as widespread as in some other counties of southern England. Nevertheless it had its casualties. Ten lives were lost - three on the gallows and seven killed in action. The number of wounded will never be known and it has not been possible in this session to count all the prisoners of war, but at least twenty-nine were transported and a few more poachers fled the country; the number gaoled must run well into four figures.

<u>Return</u>	<u>Year</u>	<u>Summarily Convicted</u>	<u>Indicted</u>	<u>Total</u>
Gaol	1807	Confined in Houses of Correction		
Calendars	1808	for offences against Game Laws.		23
"	1809	Does not include those who paid		
"	1810	fines.		
Q/CR 10/2	1814	20	-	20
"	1815	17	-	17
"	1816	23	-	23 *
"	1817	4	13	17
"	1818	8	2	10
"	1819	10	5	15
Q/CR 10/3	1820	15	4	19
"	1821	24	3	27
"	1822	29	-	29
"	1823	27	8	35
"	1824	11	2	13
"	1825	17	3	20
"	1826	20	2	22
Q/CR 10/4	1827	22	-	22
"	1828	29	6	35
"	1829	28	4	32
"	1830	30	-	30 **
Gaol	1832	-	-	46
Calendars				
"	1835	Includes 15 persons convicted of assaults arising from Game Laws, 11 of whom were transported.		89
Q/CR 10/5	1843			77
Q/CR 10/9	1857			49
"	1858			42
"	1859			45
"	1860			43
"	1861			44
"	1862			63

* Q/CR 10/1 states that the number of people confined in the Houses of Correction from 17/5/1816 to 12/3/1817 was 37.

** Gaol Calendars show that 7 persons were confined in the Penitentiary and 59 in the Houses of Correction in 1830 for offences under the Game Laws - a total of 66.

Sources:

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- Glos. R.O. Q/CR 10/1-9 Parliamentary Returns of Convictions under Game Laws. (1817-1863)
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