

VAGRANCY REPORT: IT NEVER RAINS BUT IT POURS

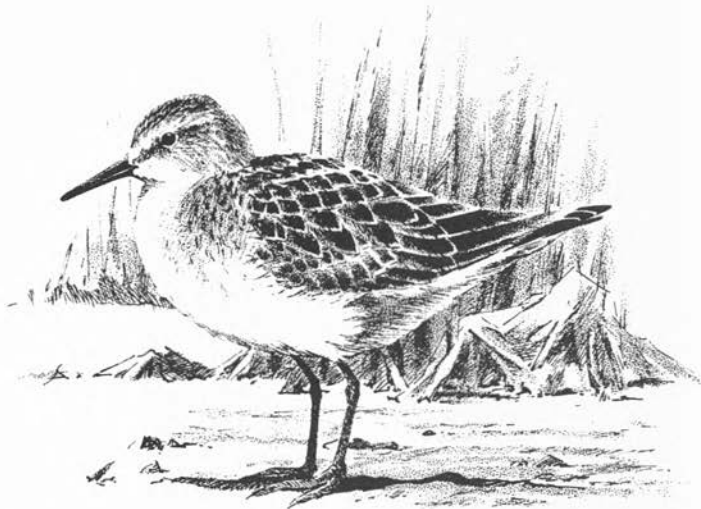
by Simon Perkins

Had Saturday the twelfth been a typical August day, Plum Island would have been mobbed with throngs of sunseekers, and a certain discriminating birder might have been elsewhere. But precisely because the day was wet and gray, he was birding the island, confident in the knowledge that he could do so in relative solitude and that the birds, by necessity, would be going about their business, rain or no rain. So, while scanning a rain-soaked flock of Snowy Egrets at the salt pannes, Richard Forster paused on an individual that appeared slightly different and within moments had identified the bird as a Little Egret—the first ever reported in the United States and only the fifth in North America.

So often when numbers of birders converge on one rarity, suspense from the potential for further discoveries builds like a storm cloud; and on the weekend immediately following the egret discovery, the reports of two new sightings rumbled through the assembled crowds. Midday the following Saturday, August 19, 1989, a team of boating birders in search of the egret flushed two Fulvous Whistling-Ducks from one of the many small salt pools on the Parker River refuge marsh.

A few Fulvous Whistling-Ducks occur with irregular frequency in Massachusetts, and their rare appearances here fail to form any discernible pattern. Curiously, however, the species was unrecorded prior to 1962. Their breeding range in the United States is limited to the southern portions of Florida, Louisiana, Texas, and Arizona. But being inveterate wanderers, whistling-ducks occur regularly in the warmer months all along the Gulf Coast and have appeared at least once in virtually all of the lower forty-eight states. The Plum Island whistling-ducks represented the ornithological precipitation that frequently falls whenever hordes of birders are set loose within a relatively small area. Then lightning struck again.

That evening another birding team left the Little Egret at the south end of Plum Island and, upon arriving at the salt pannes near the north end of the refuge, discovered a **Little Stint**, another Eurasian vagrant nearly as rare as the egret. This diminutive sandpiper provided the fifth acceptable sighting for the species in the state. Remarkably, that total also approaches half of all the records in North America outside Alaska! As a breeding species Little Stint ranges across the tundra from Sweden to eastern Siberia. Given this broad longitudinal range, a determination of the direction of origin for a western Atlantic vagrant stint is difficult. Seemingly, they could arrive on our coast with equal effort either by flying across the continent from Siberia or across the Atlantic from Scandinavia. Current wisdom tends to favor the first scenario.



Little Stint

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All American stints—the small sandpipers we call "peeps"—are strikingly similar in appearance. And sorting out a rare and equally similar vagrant stint is no walk in the park!

Identifications must be made on the basis of a combination of characters and then with utmost care. Under good viewing conditions, most August sandpipers can be aged either as adults (more than a year old) or juveniles (hatched earlier the same summer) by the degree of feather abrasion. Wing feathers of adults, especially tertials and upperwing coverts, look frayed and faded, while those of young birds appear crisp and bright. The Plum Island bird was an adult in heavily worn breeding plumage. Brown fringes and blackish centers on most of the back feathers, scapulars, upperwing coverts, and tertials combined to produce a decidedly brown appearance on the upperparts. This effect is distinctly different from that produced by the grayer dorsal feathers of adult Semipalmated Sandpipers. The bird also showed two faint, pale streaks down the length of the back, more widely separated forward and nearly converging aft. These few plumage characters in combination with an overall stubby appearance, a short, finely tipped bill, and black legs provided the bases for this identification.

SIMON PERKINS, the "Voice of Audubon," majored in biology in college and at present works as field ornithologist and tour leader for Massachusetts Audubon Society. Raised on Nantucket, Simon has been a birder since childhood and has traveled, birded, and led tours to destinations in Europe, Asia, Africa, Central and South America, and arctic Canada. He is an accomplished photographer whose historical photos of an immature Cox's Sandpiper appeared first in *Bird Observer* and later in *British Birds* and on the cover of *American Birds*.

A CONVERSATION WITH TOM FRENCH: PART I

by Alden G. Clayton

Dr. Thomas W. French is an Assistant Director of the Massachusetts Division of Fisheries and Wildlife (MDFW). The following is an edited transcript of a conversation between Tom French and Alden Clayton that took place on August 23, 1989.

Clayton: You are well known to Massachusetts birders—and now I'm sure to a wider audience of TV viewers—as a result of your work with Peregrines in Boston and Springfield and the Bald Eagle reintroduction program at Quabbin. What may not be as well known are some of your other responsibilities for endangered species in Massachusetts. Perhaps we could start with the overall responsibilities of the Massachusetts Division of Fisheries and Wildlife itself. How would you describe these?

French: Any state fish and wildlife agency is supposed to be in charge of comprehensive wildlife management, managing all of the wildlife resources of the state. Of course, traditionally or historically, fish and wildlife agencies have been game oriented. That should no longer be the case in any state. Our limitations are primarily financial. The funding source for the game section of the agency is license fees; it's user's fees—hunting, fishing, and trapping license fees, almost completely. They generate about four million dollars a year. The nongame section of the agency covers everything from endangered species to backyard songbirds, a resource for which there is no logical activity to tax or to charge, so it has been funded with a voluntary state income tax checkoff. We generate somewhere around \$300,000 a year to protect and manage a heck of a lot more species than the game section has to deal with. Fortunately, most of them are fairly common. We really don't have to do anything for backyard songbirds. So that is why we put most of our energy and our priority into rare species; they are the ones that need the most help. They are the ones that, if we don't do something for them, we may lose them. The MDFW is charged with protecting and managing all wildlife resources, and our goal is to preserve the entire breadth and diversity of wildlife that we have right now and, in fact, restore some of what we've lost, if we can.

Clayton: Many people wonder how the Massachusetts Division of Fisheries and Wildlife relates to the U. S. Fish and Wildlife Service. To what extent do their missions and programs overlap, and to what extent are they independent?

French: The federal agency is particularly involved with migratory species. Waterfowl are an important aspect there—all the geese and ducks—and the hunting seasons that relate to migratory waterfowl. They establish a "window" in which the states can make some minor adjustments as the annual hunting season and bag limits are set. Regarding nongame species, their main

interest is in federally listed endangered and threatened species. So Bald Eagles and Peregrine Falcons and other things like, as of last week, the American burying beetle are federally endangered species. We also have two endangered plants in the state [small whorled pogonia (*Isotria medeoloides*), an orchid, and sandplain gerardia (*Agalinus acuta*)]. The National Marine Fisheries Service is in charge of the marine animals, like the whales and sea turtles. They are the marine counterpart of the U. S. Fish and Wildlife Service. The Endangered Species Act allows the states to enter into cooperative agreements with our federal counterparts, and we have done that for plants and for animals. We basically then work together toward the same goal.

Clayton: Are there other organizations at the state or national level that the MDFW has a working relationship with?

French: Oh, absolutely. There's no way in the world that we alone could ever do what is required to protect our wildlife. Terns are a good example. The Massachusetts Audubon Society is very much involved, The Trustees of Reservations, the Lloyd Center for Environmental Studies, and loads of individuals. Without that kind of help, we'd never be able to do enough. So, we solicit an awful lot of volunteers and cooperators.

Clayton: I believe there is a good deal of support these days among the general public for the idea of protecting endangered species, but most people would be hard pressed for a precise definition of an "endangered species." Could you tell us about the programs in Massachusetts, including the process for reaching agreement on individual species that may be endangered?

French: The list itself has three levels of rarity that are officially recognized. One is "endangered," and frankly there are not many species that are listed as endangered. The next level is "threatened," and the third level is called "species of special concern." There is tremendous support by the public for endangered species protection. In general, people like the sound of it; they like the idea; they like it in theory. When you are talking about Bald Eagles, it's downright unpatriotic not to support efforts to bring Bald Eagles back. The Peregrine Falcon is a glamour species—people love it. But we have a very hard time transferring that enthusiasm to a grass. It doesn't look like much. It's not spectacular in appearance. It's not a colorful orchid. Or to invertebrates like insects. Or to timber rattlesnakes, which are on our state list as endangered. And people downright oppose us sometimes when we try to protect timber rattlesnakes. The public is changing its attitude about wildlife generally, but there are still very strong biases.

Clayton: Are there situations where some agencies of the government or some other organization disagree about an endangered list?

French: We recognize anything that is listed federally and sometimes a species that might not seem to be endangered in this state. Roseate Tern is an example. There are nearly two thousand nesting pairs—that's the lion's share

for North America—right here in Massachusetts. But it is federally endangered. We therefore still do recognize the Roseate Tern as endangered. We might recognize a species like Blanding's turtle as being rare in this state, whereas in the Middle West, it is not rare. On the state level there is a greater potential for disagreement. We have a citizen's advisory group called the Nongame Advisory Committee. It was established by the law that allowed us to get money from the volunteer income-tax checkoff. This committee has seven members and seven associate members. They are all citizens, and none of them are agency employees. They represent a diversity of interests and have devoted a great deal of personal time and mental energy to helping the program. They review the list of "endangered, threatened, and special concern" species every year. We also send out proposed changes to about 150 knowledgeable people around the state for their comments. That doesn't mean they all agree, but it's not supposed to be a closed decision. We want to solicit input internally and externally. Before a listing status can actually be changed, it has to go to a public hearing and then has to be voted on by the MDFW's regulatory board, another seven citizens. A final decision is reached, but it could be changed in a future year by the same process.

Clayton: The relationship between public support and political action is well known. Do you have any suggestions for birders, and nature lovers generally, on how they can help you and other dedicated professionals accomplish your goals for wildlife conservation?

French: Well, of course the thing that comes right to my mind is the Endangered Species Bill—Senate Bill 1801. It's almost embarrassing that we have put so much energy and money into managing and protecting endangered species, and there is not even a law in Massachusetts that says it is illegal to kill species listed as endangered here. Most are protected in a roundabout way under other laws. Unfortunately, the penalties are embarrassingly low for these violations—usually only twenty dollars. As an example, we had a timber rattlesnake killed and, believe it or not, cooked and eaten on August 17, on Mount Tom. The person was reported anonymously. An officer investigated and eventually found out who did it and actually retrieved the animal—what was left of it, the head, the skin, and the tail. But the fine, if he is found guilty, is probably going to be twenty dollars, which is not even as much as a traffic violation. In another recent case our officers did a seizure. They worked with federal agents and did three plainclothes entries into a store that was selling federally endangered species parts. After a search warrant was obtained from a judge, the officers went in and seized these items: four sea turtle shells, a tiger skull, a leopard skull, and a crocodile skull. From the state's point of view there is a twenty-dollar citation for each offense. So twenty times six or seven or eight, or whatever the number of items was, is peanuts when each individual turtle shell was selling for between four hundred and six hundred dollars.

However, the federal government takes it far more seriously. The federal Endangered Species Act allows for fines up to forty thousand dollars for an individual and two years in jail. That sort of a fine and penalty might be given to someone caught shooting eagles and selling their feathers. We need very much to have a deterrent for wildlife violations generally, not just endangered species. All of our wildlife laws are antiquated. Without that deterrent, we're going to have poachers and crooks taking advantage of these weak laws and penalties. The other thing we need is some mechanism to protect our highest priority upland sites. We have a very good Wetland Protection Act. We have absolutely zero that protects our upland habitats, even if the site has a very high priority species on it. It is a very thorny issue, though, because private landowner rights are very strongly cherished. It must be approached in such a way that it's reasonable. In some cases it may require compensating a person financially for not being allowed to carry on certain kinds of activities on a piece of property, the protection of which is in the public good.

Clayton: Is there any legislation that has been proposed?

French: The Endangered Species Bill will cover protection of rare species' upland habitat as well. It would be used only in important cases. It also provides an appeal process. It sets up a review process, whereby if there is a high priority site and development is proposed, the proposal must be reviewed, as is done under the Wetland Protection Act. The bill allows for setting "orders of condition" that must be followed.

Clayton: There was a good deal of support when the bill was first proposed, but it has languished in the legislature. So what can ordinary citizens do? Keep reminding their representatives, for example?

French: Absolutely. One of the things that was done just recently is this. Most people would go to meet their senator or representative in his or her office. But Jim Berry and a number of friends from Ipswich, Essex, and Gloucester invited Bob Buell, their state senator, over to Jim's house and had an evening meeting with him. They questioned him about the Endangered Species Bill. Buell is a person who, in my understanding, was indifferent about the bill. But because of the amount of interest shown by the people at the meeting, he agreed to support it. So, a letter is great; a meeting is better; and grabbing the guy by the shoulder and shaking him a few times is probably even better—whatever it takes to get his attention! (Continued in the December issue of *Bird Observer*.)

ALDEN CLAYTON describes himself as "continuously awed by the wonders of the natural world and deeply concerned about its preservation." He and wife Nancy are enthusiastic birders who have particularly enjoyed watching the Boston and Springfield Peregrines at their skyscraper eyries.

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