

ASSERTED PUBLIC RIGHTS OF NAVIGATION
Alphabetical register of English and Welsh rivers
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Why Assert a PRN?

There has been wild talk about the need for a set piece battle in the High Court. This can not happen. Any action opposing our rights would have to involve the Attorney General with a potential costs liability in excess of £500 000 for a case they could not win because all the arguments against us have already been settled in our favour by the High Court or the House of Lords. We know as a matter of fact that there was a public right of navigation on all rivers between 1297 and 1472 because King Edward IV and his Parliament told us so in the 1472 Act for Wears & Fishgarths. Neither the statute of Magna Carta nor the 1472 Act created the PRN. They both affirmed the existence of a PRN on all rivers in Common Law. The civil contract of Magna Carta in 1211 (clause 33) affirmed that the PRN pre-dated both pieces of legislation. Since 1211 is only 22 years after the start of legal memory, and the PRN existed under the Justinian Code in Roman times, and there is no evidence of any change in the Common Law on PRNs between 1189 and 1211, it is almost certain that the PRN on all rivers has existed since time immemorial. This is not the same as establishing a PRN by immemorial user which is impossible because a PRN is not dependant on usage, since it can not be extinguished by lack of use, but is a right attached to a physical object, the river which can be shown to exist as a matter of fact by simply looking at it. It is a matter of historical fact to be found in the Patent Rolls that throughout the Medieval period the PRN on all classes of flowing water existed and was enforced by all the Kings of England. An analysis of one volume of the Patent Rolls can be found at http://andybiddulph.co.uk/ESW/Files/Medieval_Navigation_Laws.pdf

That the PRN on rivers, has already been decided by the House of Lords “I have referred to these cases drawn from different systems of law, to support the existence of a rule, which is really one of the common law of nations, resting ultimately upon facts and needs, not confined to any one place or time, that the use of a river, according to its natural quality or capacity, for downstream floating is recognised by law,” Lord Wilberforce [*Wills Trustees v Cairngorm Canoeing and Sailing School Ltd.* 1976] The case originally arose in Scottish law but the words, “common law of nations,” and, “not confined to any one place or time,” show that this is a general principle of law not just a peculiarly Scottish law. Lord Wilberforce also said the existence of a PRN on any watercourse was determined by the natural and visible capacity for use. This in slightly different words was part of the final judgement.

The only question is could this PRN have been extinguished on a particular watercourse? Following Mr Justice Lightman's [*Rowland v EA*] judgement and method this can be answered as a matter of fact by examining the public record. If the PRN has been extinguished by legislation or the exercise of statutory powers then it no longer exists. If the public record shows no such legislation or exercise of statutory powers then the PRN still exists. There are no points of law for a court to decide.

My court action was merely a device to force Fish Legal to show their hand instead of hiding behind vague nonsense about the law. They did not even have a pair of twos. This had to be done once and once only. No one else has to go to court. The fact that the commentaries and law text books continue to quote the Woolrych doctrine, that there is no general right to navigate on inland waters, is without legal force.

1. Entries in commentaries and text books are not legislation or the exercise of statutory powers so may not extinguish a PRN.
2. The Woolrych doctrine is based on a series of errors pointed out by Rev Dr Caffyn, so is

without authority.

3. The Woolrych doctrine was contrary to the legislation in force (1472 Act for Wears & Fishgarths) when it was first stated in 1830 so can have no basis in law unless we reject the sovereignty of Parliament, which our MPs might object to.

So why do we not just paddle? We could but there are a number of advantages in using a legal notice to assert the fact of a PRN first. (Note that you do not need to have any special legal authority to assert a fact, anyone can do it.)

1. The legal notice asserting the PRN forces those opposed to canoeing to face the fact that there is nothing lawful they can do about it. This usually comes as a shock because of the fairy stories the Angling Trust has been feeding them for decades.
2. It shows that we have taken reasonable steps to ascertain the legality of our actions before performing them.
3. It is documentary evidence that the watercourse is a public place, so all the public order legislation applies if the police need to be called to any incident.
4. It removes the defence and justification that they are protecting their property against trespass since there can be no trespass where the public have a right to be and they have failed to demonstrate we do not have the right.
5. Building up a nation register of where our rights have been asserted will eventually produce the tipping point in the general perception of our rights that millions of unrecorded bankside confrontations could never do.
6. Persistent failure and helplessness will sap the morale and prestige of the die-hards in those organisations which are opposing our rights and provide a window of opportunity for more moderate and reasonable people to take over.

By the way, there is no legal basis for fishermen having any say, whatsoever, about navigation.

Fish Legal can produce no legislation or case law to support their claim that fishing rights give the right to control navigation. It is, therefore, an unsupported assertion, that is something they have made up for themselves. If any fisherman or fisheries organisation tells you you can not canoe, ask them to show you the legislation or case law that gives them the right to say that. Letters from the riparian owner only give fishermen the right to control the riparian owner's own private right of navigation. They would still have to prove that the PRN had been extinguished so that the private right of navigation was the only right of navigation.

A PRN is the superior right. It is an easement over all other rights on the river including the *profit a prendre* of fishing rights.

Legend

Beneath the details of the organisation or person, in square brackets is the status of the assertion.

Accepted means that the organisation or person accepts the PRN exists.

Default means that the organisation or person has failed to show legislation or exercise of statutory powers that may have extinguished the PRN. So, it exists as a matter of fact until they do.

Disputed used as a qualifier for a default assertion means that the organisation or person, having failed to show legislation or exercise of statutory powers that may have extinguished the PRN, is nevertheless still presenting some spurious argument.

The information presented below is provided by the persons who asserted the PRN and although reasonable efforts have been made to check the accuracy no liability is accepted for any errors or omissions. Anyone wishing to challenge the information presented may do so by writing to navigation_rights@btconnect.com

River/ section	Organisation or person/status	Links to documentation.
Aire and tributaries, source to Ouse	Keighley Angling Club [Default]	Notice
Conwy Entire catchment	Conwy Valley Fisheries & Conservation Association and Betws y Coed Anglers Club [Default]	Notice Notice
Dee Llangollen	Llangollen Maelor Angling and the British Outdoor Professionals Association [Default]	Notice Follow up letter
Lake Bala to the sea	Welsh Dee Fishing Ltd and at Fish Legal's request Midland Flyfishers Ltd [Default]	Notice Correspondence
Derwent (Derbyshire) Ladybower Reservoir to Trent	Chatsworth Estates [Default]	Notice Correspondence
Ladybower Reservoir to Trent	Haddon Estates [Default]	Notice Correspondence
Dove Beresford Lane to Thorpe (Dovedale)	The National Trust [Default] Current version of guide on andybiddulph.co.uk	Notice
Coton in the Clay and Tutbury	The Duchy of Lancaster [Default, Disputed]	Notice Dispute correspondence No further correspondence
Tutbury to Trent	Burton Mutual Angling Association [Default]	Notice
Dwryd Entire catchment	Dwryd Anglers Ltd [Default]	Notice
Dyfi Entire catchment	New Dovey Fishery Association [Default]	Notice Correspondence

Glaslyn Entire catchment	Glaslyn Angling Association [Default]	Notice
Gwyfrai Entire catchment	Seiont, Gwyfrai & Llyfni Anglers Society [Default]	Notice
Llyfni Entire catchment	Seiont, Gwyrfai & Llyfni Anglers Society [Default]	Notice
Mawddach Entire catchment	Dolgellau Angling Association [Default]	Notice
	Prince Albert Angling Society [Default]	Notice Correspondence
Ogmore Entire catchment	Ogmore Angling Association [Default]	Notice
Prysor Entire catchment	Prysor Angling Association [Default]	Notice
Seiont Entire catchment	Seiont, Gwyrfai & Llyfni Anglers Society [Default]	Notice
Tawe Entire catchment	Tawe & Tributaries Angling Association [Default]	Notice
Teifi Entire catchment	Teifi Trout Association [Default]	Notice
Teme Entire catchment	Severn Rivers Trust [Default]	Notice
Tryweryn Entire catchment	Canoe Wales	Notice
Tywi Entire catchment	Camarthen Fishermans Federation [Default]	Notice
	Camarthenshire Rivers Trust [Default]	Notice
Usk Entire catchment	Wye and Usk Foundation [Default]	Notice Correspondence
	Monmouthshire County Council [Default]	Notice Correspondence
	Crickhowell and District Angling Society [Default]	Notice Correspondence
Wales All flowing water	Welsh Government [Default]	Notice
Winion Entire catchment	Dolgellau Angling Association [Default]	Notice Correspondence
Wye (Wales) Entire catchment	Wye and Usk Foundation [Default]	Notice Correspondence

