



The Credit's frozen now and only navigable by snowmobiles and skis when ice is safe but the river was the topic of a five year court battle between Canoe Ontario and Norval farmer Julian Reed, only settled this summer.

## Now Canoe Ontario claims it won five year court case

*'Canoeists have won a river'*

According to Canoe Ontario, the Supreme Court of Ontario ruling which prohibits them from portaging on private land surrounding public (navigable) waterways without consent, is really a victory.

"The canoeists have won a river," Canoe Ontario maintains in a recent press release, because the decision has settled the lengthy argument on the public right to paddle the Credit River through private land.

The five year controversy which was initiated by Canoe Ontario member James Greenacre after he had a confrontation with Norval farmer and former Halton MPP Julian Reed about canoeists' rights on the Credit which flows through

the Reed farm.

"They (Canoe Ontario) tried to turn a privilege into a right," Reed declared after the decision was handed down. "I never bothered canoeists until the confrontation," he said acknowledging, however, that some of them would leave garbage on his property, let their dogs chase his cattle and even peer into his home.

"We didn't have any problems with the majority of the people," Reed said however.

The court case was initiated in 1984, but was not heard until April 20, 1989. The court set out to determine a ruling on three issues.

The first issue concerned the

right of canoeists to canoe along the part of the river which passes through the Reeds' property, and secondly, if the water was navigable, did the canoeists have the right to demand removal of barriers along the river.

After considering historical data, and law applicable to the Reed case, Judge David Doherty found that the part of the river in question is navigable and that Reed could not erect a fence across it. However, he also added that it did not prevent the Reeds from erecting structures designed to keep their cattle on course when crossing the river. "A well-marked fence with an appropriate gate or gates seems a possibility," Doherty said in summary.

Despite the concessions to Reed, Canoe Ontario maintains canoeists have been successful in the major purpose for which the litigation was launched: that this section of the river has been declared navigable. The non-profit organization sees the definition of navigable by the court as a strong support for canoeing interests in the province.

The Court stated:

"If the waterway serves, or is capable of serving, a legitimate public interest in that it is, or can be, regularly and profitably used by the public for some socially beneficial activity, then, assuming the waterway runs from one point of public access to another point of public access, it must be regarded as navigable and as within the public domain."

But as far as the Reeds were concerned, the major and most important issue dealt with canoeists' rights to trespass on private property for a portage around some obstacle.

"We were happy with Doherty's no right to egress from the river decision," said Reed in an earlier interview, adding that they would have been happier if the judge had declared the river non-navigable.

"We were happy enough not to appeal because our interests were reasonably protected," said Reed. He also said that the sad part of the case is that the good will has been lost.

"I want five years to cool off. This case cost my family a lot of money, pain, and anxiety," said Reed.



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