The Right to Travel a River and to Portage

When travelling by canoe in Ontario, eventually it will be required to portage around obstacles, and you may wonder whether it is permitted. As a rule of thumb, on public land, and specifically including the Provincial and National Parks; you are free to proceed. On private land, ask for permission.

The Ontario Public Lands Act (March 31, 1997), Chapter P43, Item 65(4) defines the Public's right to portage:

"Where public lands over which a portage has existed or exists have been heretofore or are hereafter sold or otherwise disposed of..., any person traveling on waters connected by the portage has the right to pass over and along the portage with the person's effects without the permission of or a payment to the owner of the lands, and any person who obstructs, hinders, delays or interferes with the exercise of such right of passage is guilty of an offence..."

There have been 3 significant cases argued in the Ontario Courts concerning the right to portage, and the definitions of a navigable waterway. These are presented below.

Ontario Supreme Court Ruling on the Reed Dam of the Credit River, at Norval The right to portage on land immediately adjacent to the dam at Norval Ontario was denied because prior to construction no route had previously existed. Instead, paddlers must portage around the privately owned Reed property.

Ruling on Hosaic Creek, in eastern Ontario, as being a navigable waterway

Ruling on Bronte Creek, west of Toronto, as being a navigable waterway There are many references to other legal cases, including some in the United States.

This content was originally compiled and prepared by Erhard Kraus, formerly Chair of the Wilderness Canoe Association's Environmental Committee.

Many thanks to Jim Greenacre for providing the ugly details of the Credit River case, and to Richard Culpeper for making proper legal search documents available.