

Miss Kirsty Williams A.M.
National Assembly For Wales
Cardiff Bay
Cardiff
CF99 1NA

Our Ref: PEB/Ch/canoes/01/09.
Tuesday, 6th January, 2009.

Dear Miss Williams,

I write on behalf of the Crickhowell & District Angling Society which owns / rents / leases approximately 9 miles of the River Usk and its tributaries. Most of our members are resident in your constituency.

We have read the minutes of the meeting of the WAG Petitions Committee on 4th December 2008, which gave the Petitioners, Welsh Canoeing Association, a full hearing. We are aware that the task of the Petitions Committee is to listen to petitions and not to make any judgement as a court, enquiry or tribunal would do. For this reason we, and others, feel that it is high time that our strongly-held opposing views are put to you, and the Petitioners evidence tested. This is not the first time the Petitioners have appeared before your Committee.

We realise that, regardless of the rights and wrongs of this issue, it is a political issue. This is why we are writing to you. The Petitioners have clearly decided that neither the well-established and relatively simple existing laws of the land, nor the voluntary access agreements, are sufficient for their purposes and no doubt their decision must be an ideological one. This is why they seek to rubbish the existing law and the existing voluntary agreements.

Without dealing in detail with the Petitioners statement (which in places is incomprehensible) we would like to comment on the various general themes raised by them as follows:

- 1) 'Governing Body'. The Petitioners claim to be the 'National Governing Body' of their sport. The term usually denotes a body given powers to control its business or profession e.g. The Governing Body of the Church in Wales, The British Medical Association, The Welsh Rugby Union, The Football Association, The MCC, The Bar Council, The Law Society etc. The term is

not appropriate for a simple voluntary association whose only sanction is to expel members and who cannot bind a dissentient minority. The Petitioners have arrogated the phrase to their Association presumably to give a false impression of authority. We trust that WAG is not taken in by the use of this phrase.

- 2) 'Lack of Clarity' of existing law. The existing law, which the Petitioners find so obscure and burdensome, is not intended to work in the interests of trespassers. The concept of trespass is quite simple, quite natural, and easy to understand. Most householders understand it instinctively without the benefit of any legal advice. There are specific crimes connected with trespass in special circumstances e.g. armed trespass, trespass on dams and weirs and theft but no-one is claiming that canoe trespass on ordinary inland waters is a crime. It is surprising therefore that all the complaints about the existing law are coming from the wrongdoers and not the injured parties who, on the whole, and because of the cost of going to law and the specific nature of the remedies provided by the law, do not complain. In the Derwent case of 1991 the House of Lords did clarify the law relating to the acquisition of rights of navigation stating that a waterway is not a highway as generally understood. The problem of trespass and a multiplicity of riparian and rights owners can be solved with a bit of goodwill (and no ideology) on both sides as has been, and still is being, demonstrated on several Welsh rivers. On the Upper Usk for example the access agreement originally entered into with the Petitioners in 1984 worked well for the Petitioners. Not once were canoe clubs or individuals refused conditional but free permission for 22 years during the fishing close season, all for the cost of a postage stamp. The quoted responses of EAW and Wye Navigation Authority to this problem on the Afon Glaslyn and Upper Wye are, as would be expected, an accurate statement of the present law in so far as they are quoted.
- 3) History. Most of most Welsh rivers are too tumbling and rough to have allowed any form of navigation other than for private fisheries with nets (now an illegal means of fishing except by special license). Boats were simply not strong enough. The history of canoeing / kayaking on Welsh rivers really starts with the invention and development of strong fibreglass and plastics after the 1960s. This, combined with the great increase in leisure time, car ownership, and the fashion for personal health and outdoor pursuits to give us the present situation. Isaak Walton in the Compleat Angler written in the 17th century recorded the beginning of the leisured pursuit of fishing as opposed to commercial fishing. The evidence of the trouble and expense undertaken in the construction of canals parallel to many (mostly but not all east flowing) Welsh rivers demonstrates that there was no navigation or right of navigation on those rivers in the 18th century for the reason that navigation was not then feasible on those rivers. Navigation was even less feasible on all other Welsh rivers. We doubt if those who drafted the Magna Carta or Llewellyn the Great envisaged the coming of canoes or kayaks, or indeed unlimited leisure time.
- 4) Statistics. It is enough to say that we are sceptical of the figures given. No references are given. In the case of game-fishing licences, we have noticed that with the reduction in numbers of Environment Agency Enforcement Officers (river bailiffs) in recent years that the number of people who laugh in your face if you ask them for their game-fishing licence has greatly increased. We do not doubt that an accurate figure for issue can be given but this figure is

just the tip of the iceberg. As far as the canoe / kayak numbers given are concerned we wonder how these have been collected except on the Treweryn. Even where access agreements are in force, it is impossible to calculate the numbers actually canoeing as there is no central record. Even if there were, there would still be an appreciable number of canoeists who enjoy, and are determined on, beating the system anyway. It would be wrong to assume that all who canoe / kayak, do so completely voluntarily. There are large numbers of groups of school age children and service recruits who pass down the river under instruction and under some sort of order of their teachers or officers. Certainly the shouting of these 'leaders' is quite a noticeable and disturbing feature of their passage.

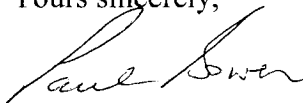
- 5) 'Polarised view against access for canoeists'. This is the same view as the view of the mugged viewing the mugger and is inevitable when one person seeks to take away (even by 'stealth' as is boasted) from another something that he treasures and has paid for. It is wrong to think that all anglers are on the river to kill fish and for no other reason. In the hectic modern world where even the countryside is intensively farmed the river is a ribbon of peace and soothing by itself for the anglers and the majority of tourists who come to rural Wales for passive enjoyment. How much the tourists appreciate the sight of *pristine rivers and lakes is difficult to say but this view of Wales is certainly one fostered by the Welsh Tourist Board and many individual tourism businesses.* 'Get away from it all' doesn't ring true when confronted by a river full of less than quiet canoeists / kayakers and their brightly coloured craft and their accompanying cars and buses blocking narrow country roads. This peacefulness is something that tourists and anglers in Wales actually expect to see in Wild Wales and to pay for directly or indirectly. Conservationists have not yet said much in this debate but anyone who knows the rivers of Wales will have seen the formations of water birds flushed from long stretches of river valleys by groups of canoeists coming downstream over many miles. Birds are the most obvious symptom of the disturbance but, of course, everything from human residents to wild animals and river life are disturbed. It is another example of the noisier form of life ever driving out the quieter as no quiet place is left unvisited.

We also wonder whether Welsh farmers are yet aware of the fact the Petitioners seek a right of access to and over all inland waters in Wales. Even though this must seriously be a negotiating position, nevertheless, we intend to alert the farming unions to the Petition. Every Welsh farm is likely to contain some form of 'inland water' either within or on their boundary. As Wales is predominantly a stock rearing area many of these inland waters are fenced across to prevent straying. Even the CROW Act 2000 (Schedule 2) bans interfering with fences to enclose livestock without reasonable excuse. Is canoeing to be a reasonable excuse?

To conclude, we would say that although the right to roam under the CROW Act 2000 – the exemplar put forward- is generally reckoned to have been a success, this is because it enshrined in the law the de facto access that had been enjoyed over common land at least for many years previously, and because it affected only land extensively farmed. There is no doubt though that the CROW Act did take away from the farming community generally, and without compensation, something of actual

value, namely the ability to refuse access to CROW Act land. The farming community were the losers on that occasion but we are all the losers when what belongs to everybody belongs to nobody. Isaak Walton quoted a 'wise' friend who said 'that which is everybody's business is nobody's business'. It appears from the Petition that statutory access is sought on behalf of all water-based sports, and indeed the public generally. Add to these the possible arrival of beavers and their camp-followers and the use of the rivers as a convenient rubbish tip and we have the prospect of a multiplicity of competing interests incompatible with each other. The water environment is simply too fragile and constrained to sustain them all without anarchy. It is a feature of the current interest in the rural environment that ownership or occupation of it is ignored and scarcely mentioned, yet it is the owners or occupiers who bear the restrictions imposed by designations such as SSSI or SAC. It seems that this omission is deliberate in pursuit of an end, where the countryside and its owners and occupiers are collectivised in pursuit of a Brave New World. Nobody has told the angry Snowdonia farmer who, like any countryman, has been brought up to respect his neighbours' boundaries instinctively, that the canoeists, gorge walkers etc are part of that Brave New World and which his government are promoting and funding in the interests of the urban population and their so-called Breathing Spaces. Their Breathing Space is our fishing rights and land, and their activities greatly affect all our members.

Yours sincerely,



Paul E. Bowen.

Chairman.

On behalf of Crickhowell & District Angling Society.