

Rejection of English Definition of “Navigable” Waters

- England’s tidal definition made sense due to dominant coastal geography
- United States has vast inland streams that are navigable for hundreds of miles above the influence of the tide
- “A different test must, therefore, be sought to determine the navigability of our rivers, with the consequent rights both to the public and the riparian owner, and such test is found in their navigable capacity. Those rivers are regarded as public navigable rivers in law which are navigable in fact.”
Packer v. Bird, 137 U.S. 661, 667 (1891).