Ayr Harbour Trustees v Oswald

Rights of way – land owned by statutory undertakers or the Crown · https://scotways.com/ken/ayr-harbour-trustees-v-oswald/

Case Report: (1883) 10 R (HL) 85

Key points: Compulsory purchase - statutory body - power of statutory body to restrict use of land acquired for statutory purposes - public rights where use thus restricted.

The Facts: Ayr Harbour Trustees were established by Act of Parliament with statutory powers to acquire land and carry out their functions. They compulsorily acquired some of Oswald's land and sought to limit the amount of compensation by undertaking not to use the land so as to injuriously affect Oswald's remaining land. Oswald objected.

Decision: Any contract which is made by a statutory body that would prevent it from exercising its statutory powers is void. The Trustees did not have the power to agree not to use harbour roads and wharves on land acquired specifically for harbour works.

Comments: This case was analysed by the House of Lords in British Transport v Westmoreland County Council. The English Judges held that the grant of the right was incompatible with the carrying out of the Trustees' function (thus reconciling it with English precedents). Lord Keith thought that the Trustees could not bind themselves in such a way as to prevent them from using the land for the statutory purposes which provided the sole justification for acquiring the land.