Colquhoun’s Trustees v Orr Ewing & Co

Case Report: (1877) 4R344; reversed by the House of Lords (1877) 4R (HL) 116

The facts: In this case the piers of a railway bridge were built on a riverbed. It was claimed that they interfered with the public’s right of navigation.

Decision: The court said that the piers did not interfere with the public’s right of navigation.

Comment: The Crown owns the bed of public rivers in the same way that it owns the bed of the sea. The court looked at the question of what is a ‘public river’. Until the late eighteenth century, the criterion for a public river was whether or not it was navigable. A navigable river was treated in the same way as the sea. However, this case changed the test. A public river became a river that was tidal.