Crown Estate Commissioners v Fairlie Yacht Slip Ltd.

Navigation rights · https://scotways.com/ken/crown-estate-commissioners-v-fairlie-yacht-slip-ltd/

Case Report: 1979 SC 156

This case considered the issue of incidental rights to the right of navigation.

The defenders were a firm of boat builders. They had fixed moorings on the seabed for the use of yachts and other vessels. The pursuers sought a declarator that only the Crown could give permission for such fixtures. They also sought an interdict against the fixing of further moorings at Fairlie Bay (in Ayrshire). The defenders argued that the Crown's rights were subject to public rights of navigation, and the fixing of moorings was incidental to that right.

Decision: The court said that the right of navigation was primarily a right of passage. It held that (1) that the fixing of moorings on the seabed was not in the course of exercising public rights of navigation. The right is not ancillary to the public right of navigation in tidal waters. (2) That permission for such fixtures lay exclusively with the Crown. (3) This did not prevent the Crown from permitting others to lay such moorings.