Denaby and Cadeby Main Collieries Ltd v Anson

Case Report: [1911] 1KB 171

This was an English case, but was quoted with approval in the Fairlie Yacht case above.

The appellants claimed that mooring their coal hulk in Portland Harbour was an incident of the public right of navigation. However, the court decided that the mooring of the vessel was not an incident of the right of navigation as it had been moored for the purpose of carrying on the business of selling coal to vessels using the harbour.

Lord Justice Fletcher Moulton said:
“The public have no doubt the free use of the water for the purpose of navigation, and this includes the exercise of all rights ancillary thereto, but that means ancillary to that navigation, i.e. to the navigation of the ship navigated. They have, for instance the right of waiting in a place till the wind or the weather, or probably also the season, permits them to leave it, or until they have obtained a cargo or have completed repairs. ....But all this is in the exercise of the rights of navigation of the ship itself.”