Officers of State v Smith

Case Report: (1846) 8 D 711; affirmed (1849) 6 Bell 487

The Facts: Smith had erected a wall, which encroached on the seashore. The local inhabitants had become accustomed to using the seashore for recreation and it had also been used for a military review. They raised the issue of restricted access to the shore with the local council.

Decision: The Officers of State in Scotland obtained an interdict against Smith on the basis that the public had a right of access along the foreshore, and this was confirmed on appeal. The public's right was said to include passage, 'or of mere enjoyment and healthful exercise'.

See also:

Darrie v Drummond (Part 2.2)
Duncan v Lees (Part 2.2)
Lauder v MacColl (Part 2.2)
Oswald v Lawrie (Part 2.2)