Walford v David

Case Report: 1989 SLT 876

The facts: The Crown Estate had provided a grant to use the sea for a fish farm. It was alleged that floating fish farm cages interfered with the public's navigation rights.

Decision: The court said that the Crown Estate was entitled to make a grant to allow fish farming provided that this activity did not amount to a material interference with the public's right of navigation. The fact that the use is a nuisance or inconvenience is not enough to constitute a material interference. However, if the exercise of the private right makes the public right impossible, then the public right of navigation prevails.

Comment: In this case the fish farm cages could be avoided easily by exercising normal navigational care and they were therefore not a material interference.