Wood v North British Railway

Creation of public rights of way – need for public place end points · https://scotways.com/ken/wood-v-north-british-railway/

Case Report: (1899) 2F.1

Facts: A cabman had dropped his fare at Waverley station and was hailed by a man who wished to place his box in the cab. Two railway constables refused to let him do so and when the cabman disputed this they took him into custody.

Decision: The lower court held that the police were entitled to take the cabman into custody because the station was a private place. He had become a trespasser and at common law they were entitled to remove him by force if necessary. The cabman appeal on the grounds that a man did not become a trespasser by refusing to leave private property, but the appeal court disagreed. Lord Traynor commented: “The notion often expressed that there is no trespass in the law of Scotland, and that if a man is, contrary to the desire of the proprietor, on private property he cannot be removed, is a loose and inaccurate one.”

Comment: Waverley station is much used by the public but is shut in the middle of the night, and is not a public place in the sense of a terminus for a right of way. As far as access rights under the Law Reform (Scotland) Act 2003 are concerned byelaws relating to the station will have precedence over such rights, and in practice will probably affect access.