

"Case law for removal of implied Rights.

Davis -v- Lisle; KBD 1936

Two police officers, one in plain clothes and the other in uniform, passed by a lorry causing obstruction in the highway outside a garage. Two men were repairing it. Some minutes later they returned and saw that the lorry had been moved into the garage. They entered the garage to enquire as to the person responsible for the obstruction. When one asked to see the person in charge of the vehicle, the appellant told them to go outside, telling them that they could not be there without a search warrant. One of the police was in the act of producing his warrant card, when the appellant rushed at him and struck him. He was convicted of assaulting and obstructing a police officer in the execution of his duty.

Held: Both convictions were quashed. A permission given to enter private property may be revoked, making the visitor a trespasser. The act of producing his warrant card was an assertion by the officer of a right to remain on the premises, which right he did not have. Therefore he could not be acting in the execution of his duty.

Goddard J held that although the officers, in entering the premises, were not trespassers, they became so as soon as they were told to leave and claimed a right to stay. From that time they were acting other than in the execution of their duty.

Court: KBD

Date: 01-Jan-1936

Judges: Lord Hewart CJ, Goddard J

References: [1936] 2 KB 434,

Cited By:

**Wayne Fullard, Ryan Roalfe, Regina (on the application of) -v- Woking Magistrates' Court, Admn, Cited, (Bailii, [2005] EWHC 2922 (Admin))
Blench -v- Director of Public Prosecutions, Admin, Cited, (Bailii, [2004] EWHC 2717 (Admin))"**