PROPERTY
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Class 1:
Introduction; Two Conceptions of Property
CLASS OUTLINE

• Welcome!
• What is property?
• Two conceptions of property:
  (1) the right to exclude
  (2) a bundle of rights
• Trespass (to land)
• The *ad coelum* rule
• Transaction costs
3 branches of common law:

1. Contracts
2. Torts
3. Property
What is Property?

Types of property:

- Real property
- Personal property (aka “chattels”)
- Intangible property (e.g., intellectual property)
**WHAT IS PROPERTY?**

Who can own property?

- Individuals
- Co-owners (1 or more individuals or some combination of individuals + …)
- Partnerships, corporations
- The public
- The government
**What is Property?**

What do we want to do with property?

- Use it ourselves
- Exclude others from using it
- Transfer it
Why Property?

Incentives
Two Conceptions of Property

1. Essentialism: the right to exclude (Penner)
   - A right *in rem* is a right in a *res*, or thing, that is good against all the world (as opposed to a right *in personam*, which is good against a particular person)
   - The right to exclude is grounded in the interest we have in the right to use

2. Nominalism: A bundle of rights, of which the right to exclude is only one (nonessential) right (Grey)
   - Rejects the res requirement that says property must be a right in a thing
   - Recognizes various forms of ownership as violating a strict right to exclude
THE AD COELUM RULE