PROPERTY
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Class 12(A): Licenses
Class Outline

- Licensees and licensors
- Licenses – tangible and intangible
- License v. contract
Quick Review of Exceptions to the Right to Exclude

- Necessity
- Custom
- Public Policy
  - Antidiscrimination Laws
Wood v. Leadbitter  
(The Doncaster Races, 1844)
Licenses

- Licenses are not property rights, but *waivers* of property rights (permission).
- Licenses tend to be informal (not written) and *in personam*.
- Most licenses are revocable.
- Some licenses are created or backed up by contract (also *in personam*). In such situations, there is a tendency to conflate the license and the contract, especially where irrevocability seems called for.
- Licenses traditionally were not irrevocable because there was no deed. Limited exception for license coupled with a grant (especially of personal property).
- After the fusion of law and equity, licenses are more easily made irrevocable, because of (i) direct enforcement (cf. estoppel, coupling with a grant) or (ii) hypothetical contract remedies.
- There remains a danger of allowing licenses to become a source of idiosyncratic property rights where no such rights were intended.