

in that case there was no question of a license to enter upon lands. In *Kerrison v. Smith* (1897), 2 Q. B., *Wood v. Leadbitter* is distinguished. In that case the plaintiff and defendant agreed orally that defendant should let his wall to plaintiff, for bill-posting at £2 10s. a year, plaintiff to erect a hoarding, on which the bills were to be posted. Plaintiff erected the hoarding, posted bills, and made several payments. Defendants gave notice to plaintiff that the hoarding must be removed, and nearly a month later defendant took it down. In an action to recover damages for breach of contract, held, that, although the permission to post bills was a license, and therefore, not being by deed, was revocable, the action was maintainable for breach of contract, and therefore plaintiff was wrongly nonsuited.

In distinguishing that case from *Wood v. Leadbitter*, Collins, J., points out "The contract did not relate to the possession or enjoyment of the land or any right over it, but only to the use of it under very stringent regulations, the defendants retaining themselves complete possession of and all rights over it." And the Court was of opinion that the *Wood v. Leadbitter* case was not applicable to the case of such a contract as was disclosed in the case before them.

The present case is very much stronger in favour of the defendants, I think than *Wood v. Leadbitter*. Here, on the finding of the trial Judge, the defendants acted *bona fide* in the interests of their society, and not out of any ill-will towards the plaintiff, and returned the price of the ticket, when the plaintiff was ejected. It could not be successfully contended that the officer having authority for that purpose would not have had the right to eject plaintiff under the circumstances in which he was ejected. In other words, the act was lawful, and the plaintiff had no right of action against the Hamilton Jockey Club, even had the defendants acted maliciously. An act lawful in itself, is not converted by a malicious or bad motive into an unlawful act, so as to make a doer of the act liable to a civil action. *Allen v. Flood* [1898] A. C. 1. In Pollock on Torts, 9th ed., p. 332, it is said: "It would seem to follow that it cannot be an actionable conspiracy for two or more persons, by lawful means, to induce another, or others, to do what they are by law, free to do or to abstain from doing what they are not bound by law to do; and this opinion has been distinctly expressed in