

proved, were wholly unfounded, because the original tortious conversion of the claimant's property cannot be made any less tortious by the institution of a suit setting up an unfounded claim. That the loss of the money by the fraud of the Clerk is a loss that can in no sense relieve the original wrongdoer from liability; and the idea that the claimants are in any way responsible or compellable on any principle of justice to bear the loss so occasioned is untenable. That this age-long controversy falls to be settled in the year when we are celebrating a hundred years of peace with our neighbours, seems auspicious and it is to be hoped that though long delayed, justice may at last be done.

WAY OF NECESSITY, HOW ACQUIRED AND HOW LOST.

When we speak of a way of necessity we mean a private way, or an easement over the land of a different person from he who claims the right of way. It is a well recognized principle in law that a man cannot have an easement or right of way over his own land, which is separate and independent from the ownership of the land itself.

Blackstone, in speaking of this kind of an easement,¹ says:—

“A fourth species of incorporeal hereditaments is that of ways; or the right of going over another man's ground. I speak not here of the King's highways, which lead from town to town; nor yet of common ways, leading from a village into the fields; but of private ways, in which a particular man may have an interest and a right; though another be owner of the soil. This may be granted on a special permission; as when the owner of the land grants to another the liberty of passing over his grounds to go to church, to market, or the like; in which case the gift or grant is particular, and confined to the grantee alone; it dies with the person; and, if the grantee leaves the country, he cannot assign over his right to any other; nor can he justify taking another person in his company. A way may be also by prescription; as if all the inhabitants of such a ham-