

predecessors in title of the plaintiff and defendants had in 1883 made an arrangement whereby the defendants' predecessor in title acquired the right of way in question. At that time the defendants' premises were used as a private house and the way was used for obtaining access from the stables of the house to a highway—on the defendants acquiring the premises they were used in connection with the business of a hotel carried on by the defendants, and the way was used for the passage of motor vehicles of guests, and the house on the premises was used for the accommodation of drivers. The plaintiff claimed that this was increasing the burden on the servient tenement, and he claimed an injunction to restrain the user of the way otherwise or to any greater extent than it was used in 1883. Joyce, J., who tried the action held that the right of way was unrestricted, and was not confined to the purposes for which it was required when the grant was made. The Court of Appeal (Cozens-Hardy, M.R. and Farwell, and Hamilton, L.JJ.), affirmed this decision, but inasmuch as it appeared that the defendants had altered and widened the gateway to the way as it had existed in 1883, the Court of Appeal varied the judgment by restraining the defendants from exercising the right of way except through a gate in the position of that which stood on the premises when the way was granted.

MONEY PAID UNDER MISTAKE OF FACT—PRINCIPAL AND AGENT—
SEQUESTRATOR — RECOVERY OF MONEY PAID BY MISTAKE —
MONEY HAD AND RECEIVED—LIABILITY OF PAYEE FOR MONEY
PAID BY MISTAKE.

Baylis v. Bishop of London (1913) 1 Ch. 127. In this case the plaintiff sued to recover money paid by mistake in the following circumstances. A clergyman of the Church of England having become bankrupt, the bishop appointed a sequestrator of his benefice, and the sequestrator demanded and received from the plaintiff sums of moneys as title rent charge in respect of property of which the plaintiffs had been, but had ceased to be lessees, and the plaintiffs in forgetfulness of the fact paid the money demanded, which was duly applied by the sequestrator in payment of the curate in charge and other outgoings and the balance was handed by him to the trustee in bankruptcy. Neville, J., held, (1912) 2 Ch. 318 (noted ante vol. 48, p. 539), that the bishop was liable to refund and the Court of Appeal (Cozens-Hardy, M.R., and Farwell, and Hamilton, L.JJ.) have affirmed his decision.