inability, so as to lessen the loss that might fall on the plaintiff.

Thus the servant is, as a rule, entitled to the wages during illness, and if sued, can set up illness as an excuse for performance. Here again arises a distinction that might occur to most people, namely, whether if the illness is caused by the servant's imprudence or misconduct, the same consequence follows. This very point was decided in *R.* v. *Raschin*, 38 L. T. (N. S.) 38. The plaintiff was a merchant's clerk engaged at a salary of £120 a year. He became unwell on 30th of July, and obtained permission to be absent from work till 6th August following. He remained away, and was under medical treatment and unable to return till the first week in September, when he tendered his services, which were declined. The employer had meanwhile, on 20th August, given him notice terminating the employment from that date. He claimed wages from 1st August to 20th September, during the absence; but the employer declined, on the ground that the clerk had by his own misconduct (which was proved at the trial) rendered himself incapable of performing his duties. The plaintiff being nonsuited, leave was given to enter a verdict for the plaintiff, and after argument, the court held the plaintiff to be entitled. Cleasby, B., said that the question was, whether or not illness was such an excuse as to disentitle him to recover wages during his absence from the employment in consequence of it. *Prima facie* illness is to be attributed to the act of God, and the court is not justified in going back for any length of time and entering into an investigation as to what may have been the cause of it. The effect of disability from illness is not to be extended. The illness which rendered the plaintiff unable to perform his duties for a time came upon him unexpectedly, and the court cannot go back to first causes and into the question of how it arose. The maxim, *causa proxima non remota spectatur*, is applicable. As to how precisely the disease arose there may be different opinions and the greatest uncertainty. It was merely a misfortune which could not have been foreseen at the time the contract was made, and the servant was entitled to wages.

The case of *Carr* v. *Hadrill*, 39 J. P. 246, may also be referred to as confirming the previous cases. A biscuit baker had been employed on the terms of a week's notice. One day he sent word that he was ill and unable to attend, and on inquiry this was found to be correct. After an absence of five weeks he returned, when the master refused to allow him to resume work. No notice had been given by the master to quit the service. The Court of Queen's Bench held that the contract was not discharged by the servant's absence from illness, and being still a servant, was entitled to his wages, and to return to work till he got a week's notice to leave.

The same doctrine was fully confirmed in the case of *Poussard* v. *Spiers*, 1 Q. B. D. 410. The plaintiff agreed to sing and play in a female part in a new opera at a weekly salary of £11 for three months. The first performance was to be on the 28th November. She attended several early rehearsals, but the final rehearsal had not arrived when the plaintiff was taken ill. She continued unwell and unable to attend the rehearsals for the first performance on 28th November, so that another artist had to be engaged temporarily. On the 4th December, the plaintiff was well enough to perform and tendered her services, but these were declined. The question of importance was whether the employer was entitled to rescind the contract when it was discovered that the plaintiff was so ill as to endanger the success of the opera. And the court held that as the inability to attend the first performance went to the root of the matter, it entitled the employer to rescind the contract.

The recent case of *Patten* v. *Wood*, was scarcely needed in order to ascertain the law bearing on these matters, but as the magistrate made a mistake, it obviously requires to be borne in mind how the law stands. The appellant, a plumber, had taken as apprentice the respondent, and the deed covenanted that he should pay the apprentice, after a certain date, 14s. a week. During that year, the apprentice had a tumor in his right hand, and it required him to go to a hospital to be treated, and he became an in-patient for a fortnight and underwent an operation. For