

THIS IS THE LAW

By: Robert E. Lee
(For the N. C. Bar Association)
TWICE PAID

John Jones through inadvertence or mistake has mailed Tom Taylor two checks in payment of the same merchandise. Taylor has cashed both checks. Does Jones have any legal remedy?

Yes. Jones may recover a judgment against Taylor for the overpayment.

If one pays to another money under a mistake of fact, it may be recovered. The recipient would be unjustly enriched if he were allowed to keep it.

The funds from the second check does not belong to Taylor but does belong to Jones.

The Supreme Court of North Carolina in 1965, quoting from an earlier case of this State, stated: "It is as inequitable for the one to receive and retain the double payment as it is wrong that the other who has twice paid his money should lose it and be without remedy. The inequality will be corrected and the balance adjusted by the defendant's refunding what he has received and improperly diverted to his own use."

There are two persons in a city with the same name. Adams owes one of these persons for services rendered. Through a mistake, the secretary of Adams mails a check to the address of the one to whom nothing is owing. The check is cashed by the recipient. May Adams recover the amount of the check from him?

Yes. The equitable doctrines of our courts will permit a recovery of either money or property received by one to whom it does not belong. Not to do so would constitute an unjust enrichment of the recipient at the expense of the party who made delivery under a mistake.

As a general rule, it is no defense to an action for the recovery of payment made under mistake of fact that the recipient has spent the money.

NOTICE OF SALE IN THE SUPERIOR COURT BEFORE THE CLERK NORTH CAROLINA YANCEY COUNTY ELIZA TIPTON McCURRY and HUSBAND, A. V. McCURRY, PETITIONERS

vs.

RUETTA TIPTON AMMONS and
HUSBAND, WOODSON AMMONS,
RESPONDENTS

Under and by virtue of an Order of the Superior Court of Yancey County in the above entitled special proceeding the undersigned Commissioner, will at 10 o'clock A. M., January 11, 1968, at the courthouse door in Burnsville, North Carolina, offer for sale for cash to the highest bidder the following described tract or parcel of land in Jacks Creek Township, Yancey County, North Carolina, adjoining the lands of John Letterman and others and described as follows:

BEGINNING on a balm, Oliver Bryants and D. W. Tipton's corner then with Oliver Bryant's line to Wilburn Burleson's line; then with Burleson's line to the top of the mountain to a white oak, J. C. Robinson's corner, then with main top of the mountain and J. C. Robinson's line to a white oak; Wesley Deyton's corner at top of the mountain; thence down and with Deyton's line to a hornbeam, Fred Bryant's corner, then with Fred Bryant's line to a Birch, Henry Estep's corner; thence with Estep's line to a Sourwood; then down and with Estep's line to John Letterman's corner; thence with said Letterman's line to a white oak; thence down and with Letterman's line to a locust; then with Letterman's line to a rock on a ridge; then with Letterman's line to the BEGINNING containing 50 acres, more or less.

EXCEPTING however, the minerals, mining rights, and privileges of a portion of said land.

The successful bidder at said sale will be required to deposit 10% of the first \$1,000.00, a amount of said bid and 5% of the remaining amount of said bid.

This December 19, 1967.
Bill Atkins, Commissioner
Dec. 28, Jan. 4

Joyous New Year

ADMINISTRATORS NOTICE NORTH CAROLINA YANCEY COUNTY

Having qualified as Administrator of the Estate of Edd Wilson, deceased, late of Yancey County, this is to notify all persons having claims against the Decedent to exhibit the same to the undersigned Administrator at his home at RFD 5, Box 204, Burnsville, N. C., on or before the 21st day of June, 1968, or this notice will be pleaded in bar of their recovery.

All persons owing the Estate will please make immediate payment.

This December 21st, 1967.

John Robert Wilson, Administrator of the Estate of Edd Wilson, Deceased.
Dec. 21, 28, Jan. 4, 11

ADMINISTRATRIX NOTICE NORTH CAROLINA YANCEY COUNTY

Having qualified as Administratrix of the Estate of Nellie Vance Angel, deceased, late of Yancey County, this is to notify all persons having claims against the Decedent to exhibit the same to the undersigned Administratrix at her home at Burnsville, N. C., on or before the 7th day of June, 1968, or this notice will be pleaded in bar of their recovery.

All persons owing the Estate will please make immediate payment.

This 7th day of Dec. 1967.

Miss Shelby Angel, Administratrix of the Estate of Nellie Vance Angel, Deceased.

ADMINISTRATRIX NOTICE NORTH CAROLINA YANCEY COUNTY

Having qualified as Administratrix of the Estate of Bill Gilley, deceased, late of Yancey County, this is to notify all persons having claims against the Decedent to exhibit the same to her home at Newdale, N. C., on or before the 14th day of June, 1968, or this notice will be pleaded in bar of their recovery.

All persons owing the Estate will please make immediate payment.

This December 14, 1967.

Hazel Gilley, Administratrix of the Estate of Bill Gilley, Deceased.
Dec. 14, 21, 28, Jan. 4

ADMINISTRATRIX NOTICE NORTH CAROLINA YANCEY COUNTY

Having qualified as Administratrix of the Estate of Ralph T. Proffitt, deceased, late of Yancey County, this is to notify all persons having claims against the Decedent to exhibit the same to the undersigned Administratrix at her home at Rt. 3, Burnsville, N. C., on or before the 21st day of June, 1968, or this notice will be pleaded in bar of their recovery.

All persons owing the Estate will please make immediate payment.

This December 21st, 1967.

Juanita W. Proffitt, Administratrix of the Estate of Ralph T. Proffitt, Deceased.
Dec. 21, 28, Jan. 4, 11

EXECUTOR'S NOTICE NORTH CAROLINA YANCEY COUNTY

Having qualified as Executor of the Estate of John Edward Edge, deceased, late of Yancey County, this is to notify all persons having claims against the Decedent to exhibit the same to the undersigned Executor at his home at Rt. 5, Burnsville, N. C., on or before the 14th day of June, 1968, or this notice will be pleaded in bar of their recovery.

All persons owing the Estate will please make immediate payment.

This December 14, 1967.

Lewis E. Edge, Executor of the Estate of John Edward Edge, Deceased.
Dec. 14, 21, 28, Jan. 4

EXECUTOR'S NOTICE NORTH CAROLINA YANCEY COUNTY

Having qualified as Executor of the Estate of Thomas Edmund Woody, deceased, late of Yancey County, this is to notify all persons having claims against the Decedent to exhibit the same to the undersigned Executor at his home at Rt. 1, Burnsville, N. C., on or before the 21st day of June, 1968, or this notice will be pleaded in bar of their recovery.

All persons owing the Estate will please make immediate payment.

This December 21, 1967.

Joe Woody, Executor of the Estate of Thomas Edmund Woody, Deceased.
Dec. 21, 28, Jan. 4, 11



1968

Happy New Year

In great sincerity, we express appreciation for many friendly associations. May your New Year be bright and cheerful.

Young Auto Sales



Season's

Greetings 1968

Time is relentless, yet it is ever kind to old friendships and always promising new joy and happiness. Best of luck to one and all.

POLLARD'S DRUG STORE
Burnsville, N. C.