to the English cases holding a contrary doctrine.

We have already cited the case of *Chatfield* v. *Paxton*, the opinion of Chief Justice De-Grey in *Furmen* v. *Arundel*, 2 W. Black., and of Lord Mansfield in *Bize* v. *Dickason*. 1 T. R. 285. It has been argued, with considerable force and plausibility, that Lord Ellenborough did not regard the rule laid down by him in *Bilbie* v. *Lumley*, *ante*, as of universal application; and *Parrott* v. *Parrott*, 14 East, 422, is cited to support the argument. In that case Mrs. Terrill had executed a deed appointing the disposition of certain property; but afterward, having made her will, referring to that deed, had cut off her name and seal from the deed, saying that the object of it was fully accomplished in her will. Lord Ellenborough, in delivering judgment, said: "Mrs. Terrill mistook either the contents of her will, which would be a mistake of fact, or its legal operation, which would be a mistake in law; and, in either case we think the mistake annulled the cancellation. And," he added, "that it being clearly established that a mistake in point of fact may destroy the effect of a cancellation, it seems difficult, upon principle, to say that a mistake in point of law should not have the same operation." Lord Ellenborough also refused to extend the doctrine to executory contracts, and held that a mistake of law was a defense to an action on a mere promise. *Herbert* v. *Campion*, 1 Camp. 134; see also, *Rogers* v. *Maylor*, Park. Ins. 163; *Christian* v. *Coimbe*, 2 Esp. 489. This doctrine is irreconcilable with that announced in *Stevens* v. *Lynch*, 12 East, 38. The case of *Ancher* v. *The Bank of England*, 2 Dougl. 637, is sometimes cited as an authority on this side. Nothing was said in the case about mistake, though there evidently was a mistake of law, and the decision must have proceeded mainly on the ground that it could be relieved against.

In *Lansdown* v. *Lansdown*, Moseley, 364, Lord Chancellor King is reported as saying that the maxim of the law *ignorantia juris non excusat* was in regard to the public; that ignorance cannot be pleaded in excuse of crimes, but did not hold in civil cases. The accuracy of this report has been doubted, but it has never been impeached, and Chief Justice Marshall in *Hunt* v. *Rousmaniere*, 1 Pet. U. S. said of it, "that, as a case in which relief has been granted on a mistake in law, it cannot be entirely disregarded."

The case of *Brigham* v. *Brigham*, 1 Ves. Sen. 126, and Bell's Supp. 79, is an important case on this side. The plaintiff had purchased an estate which already belonged to him, under a mistake of law, and the court ordered the defendant to refund the money, holding that "there was a plain mistake, such as the court was warranted to relieve against." In *Pusey* v. *Desbouvrie*, 3 P. Wms. 315, a daughter made her election to accept a legacy in lieu of her orphanage part in the estate, under the custom of London or otherwise. It appeared, very clearly, that she did this under a mistake as to her legal rights, and Lord Chancellor Talbot said it seemed hard that a young woman should suffer for her ignorance of the law, or of the custom of London, or that the other side should take advantage of that ignorance, and ruled accordingly.

In *M'Carthy* v. *Decaix*, 2 Russ. and Myl. 614, where a husband had renounced all claim to his deceased wife's property, on the supposition that he had been legally divorced from her, and therefore not liable for her debts, Lord Chancellor Brougham said, "If a man does an act under ignorance, the removal of which might have made him come to a different determination, there is an end of the matter. What he has done, was done in ignorance of law, possibly of fact, but, in a case of this kind, that would be one and the same thing." The same learned judge in *Cliflin* v. *Cockburn*, 3 Myl. and Keen. 76, remarked, speaking of the distinction between error of law and error of fact: "The distinction is somewhat more easy to lay down in general terms than to follow out in particular cases, even as regards the application of the rule, admitting it to be a correct one, and I think I could, without much difficulty, put cases in which a court of justice, but especially a court of equity, would find it an extremely hard matter to hold by the rule and refuse to relieve against an error of law." And the master of rolls, Sir John Leach, in a later case, *Cockerell* v. *Cholmeley*, 1 Younge and Coll. 418, said that "no man can be held by any act of his to confirm a title, unless he was fully aware at the time, not only of the fact upon which the defect of title depends, but of the consequences in point of law; and here there is no proof that the defendant at the time of the acts referred to was aware of the law on the subject." We have already quoted the remark of the same judge in *Naylor* v. *Winch*. The principle that relief may be afforded in cases of mere mistakes of law is recognized, also, in the following cases: *Willan* v. *Willan*, 16 Ves. 72; *Onions* v. *Tyrer*, 1 P. Wms. 345; *Turner* v. *Turner*, 2 Rep. in Ch. 154; *Evans* v. *Llewellyn*, 2 Bro. Ch. 150; *Edwards* v. *McLeary*, Coop. 307.

From this cursory examination, it is evident that the question cannot be regarded as settled by the English authorities. While the preponderance of such authorities seems to be against relieving mistakes of law, it will be discovered that many of them did not necessarily involve the question, and were either in fact decided, or might have been decided, upon other grounds. We believe that the true principle to be deduced from the cases *pro* and *con.*, and one which strongly commends itself to our notions of right and justice, is that laid down by Lord Mansfield in *Bize* v. *Dickason*, 1 T. R. 285, namely: that if a man has actually paid what the law would not have compelled him to pay, but what in equity and conscience he ought, he cannot recover it back. But when money is paid under a mistake,