

THE  
MANITOBA LAW JOURNAL.

VOL. II.

OCTOBER, 1885.

No. 10.

*IGNORANTIA LEGIS NEMINEM EXCUSAT.*

**A Rule in Criminal Cases; not in Equity.**

**T**HIS is an undoubted rule of law for application in criminal cases. But in equity we maintain that it is of no more validity than if it read, *Ignorantia facti neminem excusat.*

We are aware of much authority against this statement, and that the text-writers almost unanimously deal with mistake of fact, and mistake of law, as matters requiring separate treatment. For example, Lord Chelmsford in *Midland G. W. Ry. Co., v. Johnson*, 6 H. L. Ca. p. 810, said, "Mistake is undoubtedly one of the grounds for equitable interference and relief; but then it must be a mistake not in matters of law, but a mistake of facts." So also Mr. Pollock, in his work on Contracts says, that as a general rule "Relief is given against mistake of fact, but not against mistake of law,"—(3rd Ed. p. 420); and again at page 424, "While no amount of mere negligence avoids the right to recover back money paid under a mistake of fact, money paid under a mistake of law cannot in any case be recovered."

This proposition is considerably modified in *Broom's Legal Maxims*, 256: "Money paid with full knowledge of the facts, but through ignorance of the law, is not recoverable if there be nothing unconscientious in the retaining of it; and 2nd, money paid in ignorance of the facts is recoverable,