

MISTAKE—Continued.

acts or entered into contracts under a mistake or ignorance of a material fact ; and this power is not confined to cases where a fact has been studiously suppressed or concealed by one of the parties, but embraces many cases of innocent ignorance and mistake on both sides. *Wood vs. Patterson*, 335.

2. But if the mistake is the result of the party's own carelessness or inattention, the court will not interfere in his behalf, its policy being to grant relief to the vigilant, and to put all parties upon the exercise of a reasonable degree of diligence. *Ib.*
3. If the fact be unknown to the parties, or each has equal or adequate means of information in regard to it, and the parties have acted with good faith, equity will not interfere. *Ib.*
4. In this case an injunction was granted upon the averment in the bill, that defendant offered to compromise a balance appearing to be due the complainant by certain accounts rendered, by the payment of a certain sum, and that in the addition of these accounts there was an error of \$1,000. The answer denied this allegation by averring, that defendant's offer was made without any reference to the stated balance, but with reference to the details and items of the account, and to the grounds of the defendant's claims against complainant. **HELD—**
That equity of the bill is sworn away by this answer, and the injunction must be dissolved. *Ib.*
5. If parties come to a settlement upon terms mutually agreed upon, and error or mistake occur in the settlement, a court of equity will rectify it and make it conform to the intention of the parties. *Gill vs. Claggett*, 470.
6. Equity will, upon sufficient parol proof, reform a contract or settlement in writing upon the ground of mistake, and then enforce its executions as thus reformed, though the answer denies the mistake, but strong proof must be adduced to overrule the answer denying the mistake. *Ib.*

See SPECIFIC PERFORMANCE, 5, 6.

MORE OR LESS.

1. A party contracted to purchase for a gross sum, a tract of land containing one hundred acres, "be the same more or less." **HELD—**
That these words so far qualified the representation of quantity as to preclude either party from any just claim to relief on account of deficiency or surplus, unless it be of such a character as to induce the belief of fraud or mistake. *Smallwood vs. Hatton*, 95.

MORTGAGE, MORTGAGOR AND MORTGAGEE.

See SUBSTITUTION, 1.

LIMITATIONS, 3, 4.

SALES BY TRUSTEES, 3.

CONSTRUCTION OF ACTS AND STATUTES, 10, 11.

JUDGMENTS, 3.

INFANCY, INFANTS, 5, 6.

MOTION TO BRING MONEY INTO COURT.

See PRACTICE IN CHANCERY, 1, 2.