

because the vital principle of the plant was derived from A.'s pumpkin, therefore the whole crop also belonged to A.? Possibly A. might be entitled to reclaim the value of the seeds, but he was not entitled to more. But he considered that the matter had been set at rest by the legislation of Justinian. For just as within a seed there resides the potentiality of, under certain circumstances (namely, when the requisite amount of care and attention is devoted to it), developing into a plant bearing in course of time its own particular crop, so there resides in a block of marble the potentiality of, under certain circumstances (namely, again, when the requisite amount of care and attention is devoted to it), being transformed into a bust or statue; so also in a mass of potter's clay the potentiality of being transformed into a magnificent vase; in a piece of canvas the potentiality of being transformed into a beautiful and valuable painting. Now, Justinian had specially decreed that in the cases here mentioned the statue should not belong to the owner of the marble, but to the sculptor who had devoted his time and labour to it. Similarly, the vase belonged to the potter and the picture to the painter. The rule, therefore, is that when an article of comparatively small value belonging to one person had, by the care and contrivance of another, been transformed into an article of considerable value, the finished article should belong to the latter, though the former might be entitled to the value of the rough material. The same rule applies when one in good faith brings out the eggs belonging to another, in an incubator, or in any other way. The question, after all, was therefore not at all one of parentage. For if parentage came into consideration, and the chickens accrued to the owner of the hen who laid the eggs, then if a person buys eggs and has them hatched, by virtue of parentage the chicks would belong to the person who sold the eggs, which is absurd. If it was a case of *Black Hen v. White Hen*, possibly Black Hen might, with some show of justice in the case just put, lay claim to the parentage of the chicks; but this was an action not between the hens, but between the owner of the rough material out of which the chickens had been developed, and the person through whose care and attention in maintaining his hatching hen the development had taken place; the hen being a mere machine employed by him, just as an incubator would have been. Clearly, therefore, the plaintiff had no right to lay claim to the young fowls of which his own client was now in possession. His client would have been willing to pay the value of the eggs, which, however, the plaintiff had not claimed. He therefore prayed that the appeal might be dismissed with costs. After hearing Mr. A.'s counsel in reply, the court dismissed the appeal as prayed. And inasmuch as in a similar case Besoldus arrives at a similar conclusion, it is possible that something may be said in favour of the view of the case taken by the court.—*Cape Law Journal*.