

rows had since been otherwise decided in England in *Bunny v. Hopkinson*, 27 Beav. 565 (see 18 Gr., p. 522). In *Gummerson v. Banting Spragge, C.*, discussed the question whether the equity was one which could only be raised by a defendant against a plaintiff seeking the aid of a Court of Equity as a condition of granting the plaintiff relief, or whether it is one which a party can enforce as plaintiff, and he then came to the conclusion that it was an equity which might be enforced by a party as plaintiff against the legal owner. He, however, in that case hesitated to declare that the claim constituted a lien on the land itself: see p. 521. In affirming the right of a party to come into Court as plaintiff to be compensated for improvements made in such circumstances he quotes with approval a dictum of Story, J., in *Bright v. Boyd*, 2 Story 605. "This is the clear result of the Roman law, and it has the most persuasive equity; and, I may add, common sense and justice for its foundation."

In *McLaren v. Fraser*, 18 Gr. 567, Strong, V.-C., declared persons who had improved land under a mistaken belief that they were the absolute owners, entitled to a charge on the land therefor, not apparently being troubled with the difficulty which *Spragge, C.*, had on that point: see also *Carroll v. Robertson*, 15 Gr. 173; *Pegley v. Woods*, 14 Gr. 47; *Biehn v. Biehn*, 18 Gr. 497; *Morley v. Matthews*, 14 Gr. 551.

Such being the law with regard to improvements made on the land of another under a mistake of title, it is somewhat difficult to see why the same rule should not be equally applicable to improvements made in similar circumstances on chattels. May we not say with Mr. Justice Story, "This is the clear result of the Roman law, and it has the most persuasive equity and common sense and justice in its favour"?

In a very recent case in England it has been determined by the Court of Appeal that the equitable lien of a vendor for his purchase money applies to a sale of chattels: *Re Stucley, Stucley v. Kekewich* (1906) 1 Ch. 67, which seems to shew that there is no inherent reason why the rules of equity in the matter of improvement to land made under a mistake of title should not also apply to similar improvements made in chattels.