

Moreover, it is only for the sake of the principle that we have drawn the distinction between the title which establishes the right of *banalité* itself in favor of the Seigneur, and the title which shows that some particular person is the Seigneur rather than another; for, in the case in question, the Seminary is not reduced to the necessity of founding its claim on its possession. The possession is alleged, because without it the Seminary could not maintain the action of complaint; but the possession alleged is a possession accompanied by a *title*. This title is that which we have taken pains to establish in the two first paragraphs of this opinion.

Fleming contests it! But he is not entitled to do this, and in doing it he founds an exception on the right of a third party. The decision of Pothier is against him, that author expresses himself in these terms, at No. 83 of the Treatise before cited: "with regard to the rights which possession confers, and which are common to all possessors, the *principal is that of being provisionally considered proprietors of the thing of which they are in possession, until it is legally claimed by him who is really the proprietor of it, or who has a right to claim it; and even after it has been so claimed, until he who has claimed it has proved his right.*"

"The possessor, be he who he may, being reputed the proprietor of the thing he possesses, until it be legally taken from him, ought in the mean time to receive the profits, and to enjoy all the rights, either