

mière opinion est enseignée par Pothier, *Aliud Traditionis symbolicæ si instrumentum emptionis rei tradatur*—Pothier, *Pandect.* vol. III. p. 109, No. 45. *Et Corvinus est du même avis*" (1).

In the opinion also of M. Troplong, wherever there is evidence of a voluntary abandonment of the thing sold, and of some act on the part of the purchaser which demonstrates his intention to take and to hold the thing sold, *Animo Domini*, there is evidence of tradition, because such are the elements of tradition. "La tradition se compose de trois élémens, 1mo. L'abandonnement volontaire de la chose par le propriétaire. 2do. L'appréhension de cette chose par l'acquéreur. 3o. L'intention de ce dernier de se l'approprier (2)." Now if the question of an efficient tradition is to be tested by this criterion, it will be found upon reference to the Record, that there is evidence to prove the voluntary abandonment of the lots sold by Heth Baldwin, upon the face of the deeds to Pyke and to the Appellant as already stated: and the intention of the appellant to take and to hold the lots sold to him, *Animo Domini*, is proved by his act of enregistrement, which both in England and in France, has been held to be equivalent to actual entry and to have even a retro-active effect, so as to perfect the title enregistered from the day of its date; if the enregistrement is effected within the period prescribed by law, which was the case in the present instance.

In *Mallery vs. Jennings* which was decided in Westminster Hall, in the Court of Common Pleas, and will be found in Coke's *Institutes*, vol. 2, p. 674:—One Sewster was seized of certain lands in fee and acknowledged a recognizance to Turner, whose executrix brought a *Scire Facias* upon this recognizance bearing date the 9th November, Anno 41 Elizabeth, against Sewster and alledged him to be seized of the said lands on the day of the said recognizance, which fact was traversed by the other party, and the truth of

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(1) *Enarrat sur les Codes*, lib. 7, tit. 32, p. 528.

(2) *Troplong de la vente*, vol. 1, p. 424, No. 276.