Now, upon the merits, it is contended, that on the first bargain and sale which was executed by Baldwin, there was no tradition to Pyke or to the appellant, nor was there any prise de possession or seizin on their part. That on the contrary upon the second sale by Baldwin to Daniel Ayer, there was an actual prise de possession, and consequently the second sale being perfect, and the first imperfect, the respondent, who is the heir of Daniel Ayer the second purchaser, is by the operation of the Law " *Quoties*" entitled to the lots demanded in preference to the appellant, and the Sheriff's sale having thus been made super Domino, the appellant has no remedy except his action of damages against Baldwin.

The Law Quoties is a provision of the Roman Law, expressed in these words, " Quoties duobus in solidum Prædium Jure distrahitur manifesti Juris est cum cui priori traditum est; in detinendo Dominio esse potiorem"—and there is no doubt that it was introduced into the Law of France, but it appears to have been but partially introduced, and seems to have been confined to the Pays de Droit écrit, and to the districts in which the custom of vet & devet prevailed, and as the custom of Paris was not one of vet and devet, it becomes material to enquire whether the law Quoties was or was not received in the Jurisdiction and Courts of the Vicomté de Paris as a rule of decision by which they were bound.

M. Toullier states that the principle of the Roman Law which required Tradition and Seizin in the case of Sales of immoveable property was adopted in France (whether generally or partially he does not say,) in order to support the want of writings, by rendering every sale of this description a sale of public notoriety, but he forcibly condemns the principle of the Law Quoties as erroneous and unjust.

Les Jurisconsultes Romains sans faire attention aux changemens qui s'étaient opérés dans la nature de la propriété, établirent pour maxime qu'elle ne peut être transférée par de simples conventions, mais seulement par la tradition ; c'était une maxime fondamentale soumise à peu d'exceptions et qui passa dans notre