

regarded generally, and as far as this general opinion could create a *status*, it has been that of illegitimacy; and, no doubt, under circumstances which it is easy to suppose, such fact would be of importance. The certificate of baptism of the Plaintiff, in this case, does not establish his illegitimacy. It is somewhat peculiar. Dated the 2nd April, 1813, it is in these words:

“ Nous, Curé de Québec, avons baptisé Jean, né dans le Haut  
 “ Canada, âgé de huit ans, et dont les parents légitimes nous sont  
 “ inconnus.

“ Louise Aylwin            et            Louis Delamarre  
       “ Godmother.                        ‘ Godfather.’

“ William Connolly, }  
 “ Henry Connolly, } Witnesses.”

The father, it is strange to say, was one of the witnesses to this ceremony. It is fair to presume that the priest was informed by the father that the boy was legitimate; but the names of the parents were not given; and to make the mystery still more complete, it was falsely stated that he was born in Upper Canada.

The priest did not know where he was born—did not know who his legitimate parents were. But Mr. Connolly did, and both have been disclosed to this court; and this very certificate establishes, so far as a certificate can establish any thing conclusively, that the Plaintiff was not illegitimate. This argument, therefore, and the objection that this action should have been brought to establish the Plaintiff's legitimacy, or, at least, that such a prayer should have been in the conclusions, are, in the opinion of the court, wholly unfounded.

The technical objection taken that all the children, issue of the marriage of Connolly and the Cree woman, should have joined in this action is clearly untenable. They may have perfectly good reasons for not bringing such an action, and besides they may not choose to do so; but it cannot for a moment be seriously contended that the Plaintiff has not the right to recover his share of the community in the possession of the Defendant, if such community exists.

This case might be disposed of upon a well known principle of law and of morality, and it is this, that where a doubt exists as to the legality of a marriage, Courts of justice are bound to decide in favor of the alleged marriage. All law, all morality, require and sanction this view, even of a doubtful case. In this instance, however, no such doubts exist.

Very little remains for the Court to remark in regard to this branch of the case, but to declare that according to the