

Babineau, and from Charles Babineau to the before mentioned Francois Bourbon dit Cognan, and from Francois Bourbon dit Cognan to Edward Marcotte, and from the latter to Princee. The actual possession of thirty years is clearly proved, and Respondent contends that the documentary evidence is sufficient to connect the possession for the purposes of prescription. At all events, the maxim *in pari casu melior est conditio possidentis* can be invoked in favor of Princee. In the next place, there is no proof whatever that Joseph Harnois was the lawful son of Eustache Harnois. Vondenvelden took care to prove that there was no *extrait baptistaire* of Joseph Harnois, which alone raises the presumption that he was not born of parents in lawful wedlock and has adduced no evidence whatever to negative such presumption.

The judgment of the Honorable Edward Short, rendered in the Circuit Court on 14th September, 1858, is in the following terms:

"The Court having heard the parties by their respective Counsel, seen and examined the pleadings, evidence and proceedings of record in this cause, and deliberated thereon, rejects the Defendant's pleas of prescription, as unfounded, but considering that Plaintiff has failed to prove Joseph Harnois to be the son and heir of the late Eustache Harnois as alleged in his declaration, and that Defendant has proved that the land in question in this cause, formed no part of the estate and succession of the said late Eustache Harnois, he having alienated the same prior to his decease, doth dismiss the action of Plaintiff in this behalf, with costs distracts to Defendant's Attorneys, Messrs. Sanborn & Brooks."

Respondent is satisfied that the Court here will confirm the judgment so rendered, for the reasons therein mentioned, as well as upon other grounds hercinbefore urged.

Dated 1st December, 1858.

SANBORN & BROOKS,  
Attorneys for Respondent.