

1784. *February 10.* ADAM HUNTER *against* ALEXANDER HUNTER.

BASTARD.

Letters of Legitimation do not entitle agnates to succeed to a Bastard, without a special provision in their favour.

[*Fac. Coll. IX. 226 ; Dict. 1362.*]

HAILES. We see, from the record, that the person with whom the pursuer desires to connect himself was a bastard, and that he was legitimated by the king's letters. It would be singular, indeed, were we to suppose him to have been legitimated by subsequent marriage, because his father, after the legitimation, called him *lawful son*, and because he himself took upon him the character of executor to his father. This would be a short and easy way of establishing a *status*. This is the more singular, when we recollect that the bastard lived so long that, in the common course of things, it may be presumed that there are persons still alive who were acquainted with him, and yet the very remembrance of his mother's name, who is supposed to have been Polmood's wife, is perished.

ESK GROVE. Letters of legitimation are the best evidence of bastardy that can be : and there is no evidence of marriage opposed to this. As to the case of Morrison, I cannot imagine that the Crown had ever the power of making bastards capable of succeeding to the father's relations : this would be not only to favour the bastard, but also to deprive others of their rights. The Crown could never confer on another more than itself had.

BRAXFIELD. There is no evidence of a subsequent marriage. I never entertained a doubt as to the Crown not having a power of enabling bastards to succeed to other people.

On the 10th February 1784, "The Lords found that the pursuer has no sufficient title to carry on the present process ;" adhering to the interlocutor of Lord Elliock.

*Act.* A. Crosbie. *Alt.* Ilay Campbell.

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