

No 19.

accrue to them by James Morison's having been a bastard: That grants of this nature, which do not hurt any third party, and where nothing is given away but what would accrue to the Crown, ought to be liberally interpreted: That though the estate in question had not been established in the person of James Morison; yet as James Morison was legitimated, so far as that his agnates could succeed to him, they were also entitled to take any estate which belonged to his successors. Further, That by a particular clause in the grant of legitimation, James Morison was made capable *ad omnimodos actus legitimos, in judicio et extra judicium, exercendi, dignitatibus, hereditatibus, terris, &c. gaudendi, sicuti de legitimo thoro procreatus fuisset, legitimum fecimus, &c.* That by this clause he was entitled to succeed and take, and to be succeeded to by his descendents; and John Ramsay, his collateral heir, must, of consequence, be entitled to succeed, and take, as heir to Margaret Morison, the lawful descendent of James.

THE LORDS found, ' That the lands of *Maison-Dieu* were not the estate of James Morison, but the estate of his descendents; and the agnates of the bastard were not, by the letters of legitimation, entitled to succeed thereto; and therefore preferred Mr Gowdie, the King's donatar.'

Act. P. Murray, W. Stewart, Miller, Lockhart. Alt. D. Dalrymple, Advocatus, Ferguson.

Fol. Dic. v. 3. p. 69. Fac. Col. No 79. p. 139.

J. Dalrymple.

* * * This case was appealed :

June 1. 1758.—The House of Lords ORDERED and ADJUDGED, that the several interlocutors complained of be affirmed.

No 20.

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

1784. February 10. ADAM HUNTER against ALEXANDER HUNTER.

ROBERT HUNTER disposed the lands of Polmood to his natural son George, for whom he had obtained letters of legitimation.

The descendents of George terminated in his grand-son Thomas Hunter, who conveyed these lands to Mr Alexander Hunter.

This conveyance Adam Hunter, the descendent of a brother of Robert Hunter, brought under challenge, as executed on death-bed, and on other grounds; when it was *objected* by the defender, That there was no room for agnates in the succession of persons legitimated by the Sovereign, without a special clause to that effect; and of consequence, that the pursuer had in this instance no title to insist in the action, agreeably to the decision in the case of Ramsay *contra* Gowdie, (*supra*), which was affirmed on appeal.

THE LORDS found, ' That the pursuer had not sufficient title to carry on the present process, and absolved.'

Lord Ordinary, Elliock. Act. Crosbie, Honyman. Alt. Lord Advocate Campbell.
Clerk, Menzies.

Craigie.

Fol. Dic. v. 3. p. 69. Fac. Col. No 145. p. 226.