

we find that after the *reprise d'instance* so made and after an inscription on the Roll *de droit* for hearing *en droit* the Plaintiffs, *par reprise*, moved the Court on the 20th June 1836 for leave to amend the Declaration by inserting in the 17th line of the first page after the word "Christie" the following words, "*and is the offspring of the adulterous intercourse and cohabitation of the said late Gabriel Christie with one Rachel Plenderleath, whilst he, the said Gabriel Christie, was joined in matrimony with the said Sarah Christie his wife,*" which motion was allowed. New pleas were afterwards filed; they are in fact, but a repetition of the Pleas previously on record, and issue having been joined thereon, the parties were heard *en droit* on the pleadings on the 12th October 1838, and the cause remained *en délibéré* under a Cur. adv. vult, until the 10th day of October 1839: Judgment was then pronounced, whereby the Court "maintained the defense au fonds " *en droit* and dismissed the action of the said Plaintiffs, *par reprise d'instance*, with costs."

From that judgment the present appeal has been instituted, the appellants contending that the action ought not to have been so dismissed, for, first, by the Law of France as established in Canada a "*Bâtard adulterin*" such as the Respondent is alledged to be, was incapable of receiving under the will of his Father any legacy or bequest beyond a moderate alimentary allowance, such as that which Gabriel Christie gave to the Respondent independently of the bequest that is impugned. Secondly, that the law of France established in this country, is that by which the present case is to be governed, and although the Statute 14, Geo. III, had the effect of extending the power of devisors, it however in no wise added to the capacity of *devisees* and that the Statute 41 Geo. III, ch. 4, being a new and direct law was, and is therefore incapable of affecting the will of Gabriel Christie who died before that Law was enacted. Thirdly, that the bequest in question made by Gabriel Christie, in favor of the Respondent, his illegitimate child, and a "*Bâtard adulterin*" was therefore null and void, and that he Napier Christie Burton, the legitimate child of