

Bishops shall subscribe by their Christian names, or the initial letters thereof, with their surnames. No 305.

THE LORDS found the presumption, that Riddle was in use to subscribe by two initial letters, was not elided by production of the other bond ; but allowed the petitioner to prove that Riddle was in use to subscribe by notaries, at or about the time of granting the bond to Bulman.

Act. *Ja. Boswell & H. Dalrymple sen.*

Alt. *Ja. Graham sen. & Ja. Colwill.*

Clerk, Justice.

Fol. Dic. v. 2. p. 129. Edgar, p. 57.

DIVISION XIV.

Presumptions arising from lapse of time.

1628. February 29.

RUTHVEN against CLERK.

No 306.

THERE was a legacy of 600 merks left to William Ruthven *in anno* 1611, who was then in the eastern seas, and failing of him to Isabel his sister. Forrester, executor confirmed to Isabel his wife, pursued Clerk, in whose hands the money was, for the bygone annualrents thereof, and principal sum also. *Alleged*, The libel could not be sustained, because he had not libelled that William was dead, failing of whom only the sister was substitute, so that unless he offered to prove that the said William was dead, he could have no right as executor to his wife. THE LORDS sustained the libel, in respect there was no other appearance but he was dead, having been so long absent, and no word of him all that time, the pursuer finding caution to warrant the defender at all hands ; for it would have exhausted the whole sum to have led probation of his death, besides that it could very hardly be proved.

Fol. Dic. v. 2. p. 163. Spottiswood, (SUMMONS & LIBEL.) p. 319.

* * * Durie's report of this case is No 8. p. 482. *voce* ANNUALRENT, and Auchinleck's, No 3. p. 8048. *voce* LEGACY.

1636. March 17.

WIER against ARNOT.

No 307.

ONE Wier being made assignee by ———, in and to an obligation of monies, which the said obligation bore the cedent to have lent out to James Dal-

A tutor assigned a bond granted to himself, but