and uniform consuetude is the best advised law, and Quod usus approbavit, &c. For though decisions be good proofs of custom, yet inveterate uncontroverted custom must be better; because, if the thing had not been controverted, decisions thereon had been needless. No. 15.

The Lords sustained the nullity, That the disposition produced by the pursuer, as his title in this process, was not sidescribed; the writ being granted and not sidescribed on the joining of the sheets, after the act of Parliament establishing the custom of sidescribing the joinings.

Act. *Geo. Mackenzie.* Alt. *Arch. Hamilton.* Clerk, *Mackenzie.*

Bruce, v. 1. *No.* 25. *p.* 33.

1724. *December* 16. The EARL of TRAQUAIR *against* JANET GIBSON.

No. 16.
The subscription of a cautioner in a tack by initials was sustained, having the attestation of a notary and witnesses.

The defender had become cautioner in a tack granted by the Earl to Robert Cairns, which she signed only by the initial letters of her name. One notary had wrote her name at length as explanatory of her initials; and two witnesses were adhibited who were inserted in the tack as witnesses to her subscription. She being charged as cautioner, offered the following defences.

1*mo*, That the 80th act of Parliament *in anno* 1579, allowing notaries to subscribe for parties, does require two notaries and four witnesses; but in the present case there is only one notary and two witnesses.

2*do*, That the 21st act of Parliament 1672, concerning the privileges of the Lyon, does regulate the manner of the subscriptions of persons of all degrees, and requires that all persons, under nobility and dignified clergy, subscribe by writing their names at large, or at least the first letter of their christened name and their sirname at full length, whereas here there is only the first letter of the sirname.

3*tio*, The Lords, by their decision 18th June, 1707, Meek against Dunlop, No. 12. p. 16806. rejected an execution because it was signed only by the initials of one of the witnesses.

It was answered to the 1*st*, That the act 1579 concerns only the case where parties do not subscribe at all, but where a party has subscribed by initials, the subscription of a notary is superfluous. To the 2*d*, That the act 1672 does not exclude subscriptions by initials, but only prohibits persons under the degree of nobility, &c. to subscribe by the names of their land estate; and what is there said as to writing the sirname at large is demonstrative, but not exclusive or prohibitory of signing by initials. To the 3*d*, it was answered, That the decision concerning witnesses to an execution, where witnesses who can write their names at large, may and ought to be adhibited, will not apply to the subscriptions of parties to obligations, where the creditor must take the subscription as the debtor can adhibit it.

No. 16. The Lord Grange Ordinary sustained the subscription by initials, unless the defender would consign and improve: To which the Lords adhered, since it was not denied that the mark adhibited to the tack charged on was the suspender's mark.

Act. *Ch. Areskine.* Alt. *Arch. Murray.* Clerk, *Justice.*

Edgar, fl. 131.

*** Lord Kames mentions a case under the same names, as follows:

1723. *February.*—A single writ of the same form with that quarrelled, was sustained as an evidence that the party was in use to subscribe by initials. (See APPENDIX.)

Fol. Dic. v. 2. *fl.* 533.

No. 17. 1729. *July.* THOMSON *against* SHIEL.

A bill was sustained, signed only by the initial letters of the accepter's name, it being proved, That the defunct was in use to sign by initial letters, and that the subscription was like his ordinary subscription, and by the writer of the bill, that he saw him actually sign. (See APPENDIX.)

Fol. Dic. v. 2. *fl.* 534.

No. 18. 1735. *February.* PRINGLE *against* KEILL.

A bill subscribed with initials, by an ignorant country woman, who could not read, nor ever had been in use to write, blank scores being drawn by another hand, which she was made fill up with a pen, was found null; it being pleaded, That this could not be called the person's ordinary subscription, which is what makes a writ effectual, nay, that it could not be called a subscription at all, not being a writing in any proper sense. (See APPENDIX.)

Fol. Dic. v. 2. *fl.* 533.

1739. *February* 27. IRVINE of Neworchard *against* ———.

No. 19. In a process of removing, the defenders proponed an exception to the execution of warning, That it was not duly signed, having only the initial letters of the officer's name. The Court seemed all satisfied, that this was no just objection to the execution of a baron-officer, because persons are not always to be had to undertake that low office who can sign their name at length. (See APPENDIX,)

Fol. Dic. v. 2. *fl.* 534.