No. 303. null upon this act, as being subscribed only by one witness, was found suppliable by referring the verity of the subscription to the party's oath.

Fountainhall.

*** This case is No. 11. p. 10039. *voce* PENALTY.

1699. *November* 23. GRIERSON and MACKIE *against* SCOTS & HAIR.

No. 304.

In the suspension of a decreet-arbitral by Grierson and Mackie against Scots and Hair, the point was, that the decreet was null, being in a matter of importance, and the submission only subscribed by one notary contrary to the 80th act of Parliament in 1579. Answered, You have homologated the decreet by accepting payment of 1200 merks conform to their discharge of the same. Replied, The discharge *laborat eodem vitio*, and is only signed by one notary. Duplied, The discharge was only null in so far as it exceeded £100 Scots, but was valid being restricted thereto; which being granted, then the acceptance of £100 in part payment of a sum decerned by a decreet-arbitral is as good a homologation as payment and discharging of the whole. The Lords found it a sufficient homologation.

Fountainhall, v. 2. *p.* 69.

1704. *November* 21. KIRKPATRICK *against* FERGUSON.

No. 305.

By act 5, Parl. 1681, it is enacted, "That all writs subscribed by any party, wherein the writer and witnesses are not designed, shall be null, and not suppliable by condescending upon the writer, or the designation of the writer and witnesses." Upon this clause a bond was found null, which wanted the name of the writer, though a most pregnant proof was offered, that a person condescended on wrote the bond, and who was also produced in Court to depone upon the fact.

Fountainhall.

This case is No. 151. p. 12061. *voce* PROCESS.

1707. *July* 15. WALTER ABERCROMBY *against* INNES of Dunkintie.

No. 306.
An error of the christened name of a subscribing

Walter Abercromby, as assignee by his father to a bond due by Innes of Coaldwats, pursues Innes of Dunkintie, as representing his debtor, for payment. The defender alleged that he was discharged by the pursuer's father; and albeit that