

that it could not be reduced upon that nullity ; but if it did exceed the provision in the contract, it was null by the act of Parliament, and no better than other bonds so subscribed.

No. 53.

Gosford. Stair.

* * This case is No. 103. p. 12975. *voce* PROVISION TO HEIRS AND CHILDREN.

1680. *January.*MAXWELL of Kilbain *against* The EARL of NITHSDALE'S TENANTS.

No. 54.

In the case of Homer Maxwell of Kilbain against the Earl of Nithsdale's tenants, the Lords sustained a sasine, the attestation whereof was only the contracted subscription which a notary used to put to any other inferior kind of instrument, such as the intimation of an assignation, or the like ; viz. ita esse attestor signo et subscriptione his meis manualibus.

In another cause, they found a sasine valid, though it was registered with the notary's name blank, et ego vero notarius publicus ; because the party condescended on him, and so filled it up *ex intervallo*, and abode at the truth of it.

Fountainhall, v. 1. p. 123.

1682. *January 17.*DEWAR *against* BETSON of Kilrie.

No. 55.

Found that when the first notary says *de mandato*, the *co-notarius* need not add the words *de mandato* ; and that a deed is valid though the witnesses subscribing thereto were not designed in the body of the writ.

Harcarse, No. 890. p. 253.

1683. *January 3.*JAMES CLARK *against* The LAIRD of BALGOUNIE.

No. 56.

In the action of reduction and improbation pursued at the instance of James Clark against the Laird of Balgounie, of a contract passed betwixt William Carnegie and his children, it was alleged, that the contract was null, as being subscribed by two notaries, who do not acknowledge that the party could write : And it being answered for Balgounie, that he opposed the subscription of the notaries, bearing the instability of the subscriber's hand, and that by reason of his sickness, he could not write ; the Lords refused to sustain the subscriptions of the contract, unless Balgounie would offer to prove, in fortification of the notaries' sub-