sons, they are not inheritable, not because of the attainder, but because they were born abroad, and therefore by the act of the 4th of the King aliens. And after answers put in, counsel were heard Friday last, and yesterday and this day, (which two last days I was in the Outer-House,) and the Lords, I am told, (unanimously except Dun) dismissed the claim, because it was Sir William's attainder alone that made them aliens, and had he not been attainted, they would in terms of that act have been natural subjects and inheritable. 6th December adhere, and refuse a bill without answers.—20th November 1751.

The Captain presented another bill, saying that his brother's two sons would not have been inheritable to the estate though he had not been attainted, because they entered into the French King's service, and were therefore aliens by the act 4*to* Geo. II.; but admitted that the peace was concluded before either of them was born, which took them out of the purview of that part of the act; 2dly, For that by the same act, the children born abroad, whose fathers are subject to the pains of treason or felony in case of their return, and by the act 9*no* Geo. II. the entering into foreign service, or enlisting men in it without licence, is made felony, and that Sir William Gordon had both entered himself and enlisted others in the French service. Some of us thought it plain that the act 4*to* Geo. II. meant only where the father's returning without licence was made treason or felony, whereas the other was felony whether he returned or not. However we appointed the petition to be answered;—and on answers refused it;—when it was also observed, that the clause respected only things made felony before the date of the act 4*to* Geo. II.—18th February 1752.

No. 40. 1750, Nov. 7. SCOTT, *Supplicant.*

YESTERDAY we refused to record in the register of tailzies, a tailzie wherein the petitioner was substitute, till he bring some evidence that the heirs before him have failed.

No. 41. 1751, July 19. JOHN CARR of Cavers *against* GEORGE CARR of Nisbet.

THIS was a process at the instance of Cavers, as heir of entail, against his uncle, the son of a second marriage of his grandfather, and who was executor, or otherwise represented, for relieving him and the entailed estate of two large debts of the maker of the entail, which affected the estate, and which he alleged ought to have been paid by the grandfather out of the maker's personal estate, which the maker also left him by a separate deed different from the entail; to which debts the grandfather acquired right in the name of a trustee, and afterwards made them over to the creditors of his second son, who afterwards succeeded to the entailed estate, for security and payment of the debts contracted by his sons, and whereof those creditors afterwards recovered payment out of the entailed estate in consequence of a sale of it, for the sale of which an act of Parliament had been obtained. We unanimously found, 4th June, that there was no foundation for the action, and assoilzied, and this day adhered. I keep the papers, chiefly for the many new questions argued in the answers by Mr Craigie to the reclaiming bill, but which were several of them first mentioned by the Bench at giving the first interlocutor;—particularly, though the heir of line and executor are bound to relieve the heir of