1794. *February* 18. GEORGE ROBSON *against* JAMES ROBSON.

No. 52.
A general disponee, not the heir at law, has right to the after acquisitions of the disponer, though the rights to them have been taken in favour of heirs and assignees.

George Robson disponed to George his second son, under burden of provisions to his wife, his eldest son, and other children, the whole property, heritable and moveable, " that should belong to him at his death ;" reserving a power to alter, &c. He afterwards bought an acre of land, and took the right to himself, his heirs and assignees. James, the eldest son, having, upon his father's death, taken infeftment upon it, George, the disponee, brought an action against him to denude ; and

Pleaded : The term " heir" has different meanings, according to the intention of the person by whom it is employed ; Ersk. B. 3. Tit. 8. § 47. If he has already made a general settlement, naming the person who is to succeed to him, and the word " heir" occurs in any after deed, not executed, *eo intuitu* of affecting his succession, it will be presumed to apply to the disponee ; Ersk. Ibid. ; Skene, No. 20. p. 11354. *voce* PRESUMPTION.

Answered : It is true, that when a particular subject is destined to a certain series of heirs, the general expression, " heirs," occurring in any after deed relating to it, or any subject immediately connected with it, will be presumed to apply to the persons formerly called to the succession. But this presumption will not hold, where the after deed relates to a subject totally distinct from those already disponed. In that case the testator, by using the word "heir," will be held in so far to have exercised his power of altering in favour of the heir at law ; 9th December, 1762, Duke of Hamilton against Douglas., No. 40. p. 4358. *voce* FIAR ABSOLUTE, LIMITED.

The Lord Ordinary assoilzied the defender.

Upon advising a reclaiming petition and answers, some Judges thought, that as the subject in question was quite unconnected with those formerly disponed, the heir of line must succeed to it : But a great majority of the Court were of opinion, that it fell to the disponee under the general settlement, as it could not be presumed that his father had any view to his succession, when he took the rights of this small subject to himself, and his heirs and assignees.

The Lords found, that the pursuer " has a right, by his father's settlement, to the acre in question."

Lord Ordinary, *Ankerville.* Act. *Oswald.* Alt. *Montgomery.* Clerk, *Home.*

Fol. Dic. v. 4. *p.* 309. *Fac. Coll. No.* 106. *p.* 236.

1795. *November* 17.

MRS. ELIZABETH CRAWFURD, *against* THOMAS COUTTS.

No. 53.
Whether a disposition on death-bed ex-

The late Colonel Crawfurd, in 1771, executed an entail of his estate of Crawfurdland, in favour of " himself in life-rent, and to the heirs-male lawfully to be