

plative order of religious persons, which would not come within the legal definition of a "charity."

SETTLEMENT—CONSTRUCTION—ILLEGITIMATE CHILD—MARRIAGE  
WITH DECEASED SISTER'S HUSBAND.

*Ebborn v. Fowler* (1909) 1 Ch. 578 was an action for the construction of a settlement, made by a mother as to one-third of a fund in question upon trust to pay the dividends "unto Elizabeth Kinder (her daughter) wife of John Kinder during her life for her sole and separate use independently of the said John Kinder or any future husband . . . and after her death . . . in trust for the child or children of the said Elizabeth Kinder," etc. Elizabeth had, shortly before the date of the settlement, gone through the form of marriage with her deceased sister's husband, by whom she left one child of whom she was enceinte at the date of the settlement. The question was whether this child, a son and the plaintiff in the action, was entitled to take under the settlement, being illegitimate. Joyce, J., following *In re Shaw* (1894) 2 Ch. 573, held that he was not entitled to take; but the Court of Appeal (Cozens-Hardy, M.R. and Moulton and Buckley, L.JJ.) overruled *In re Shaw* and held that he was entitled on the ground that it was apparent on the face of the deed that the settlor intended to treat the children of her daughter Elizabeth whether by John Kinder or not, as persons entitled to the benefit of the trust, and that the plaintiff was in law a person in esse at the date of the settlement, and was entitled to stand on the same footing as if he had been actually born at the date of the settlement.

MARRIAGE SETTLEMENT—COVENANT TO SETTLE AFTER ACQUIRED  
PROPERTY—GIFT FROM HUSBAND.

*In re Ellis, Ellis v. Ellis* (1909) 1 Ch. 618. The question for decision was whether a gift by husband to wife comes within the scope of a covenant in their marriage settlement by the wife to settle after acquired property. It was argued on the part of the wife, that such gifts were not within the covenant. Eady, J., came to the conclusion that there is no general rule of construction of covenants in marriage settlements to settle after acquired property, that a gift by the husband to the wife during coverture is to be excluded from such covenant, he therefore held that the gift in question was bound by the wife's covenant.