

## ENGLISH CASES.

EDITORIAL REVIEW OF CURRENT ENGLISH  
DECISIONS.

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**DEVISE—PERPETUITY—REMOTENESS—CONTINGENT REMAINDER—CHILD EN  
VENTRE SA MERE DEEMED TO BE IN ESSE.**

*In re Wilmer, Moore v. Wingfield* (1903) 2 Ch. 411, the decision of Buckley, J. (1903) 1 Ch. 874 (noted ante p. 517) has been affirmed by the Court of Appeal (Williams, Romer, and Stirling, L.JJ.) and the law may now be said to be settled, so far as the Court of Appeal can settle it, that for the purpose of the rule against perpetuities a child en ventre sa mere at a testator's death, is, when born, to be presumed to have been in esse at the testator's death, and this presumption is not one which can be rejected if it is for the child's interest, but is invariable and must prevail no matter whether it is for the child's benefit or not. In the present case it would have been for the child's benefit that he should not be presumed to have been in esse at the testator's death, as in that case certain limitations in the will would have been void for remoteness, which would have resulted to the benefit of the child, but that fact is held not to affect the presumption.

**ADMINISTRATION—ANNUITIES IN POSSESSION—ANNUITIES IN REMAINDER—  
POWER TO MORTGAGE CORPUS TO RAISE ANNUITIES—DEFICIENT ESTATE—  
APPORTIONMENT—HOTCHPOT.**

*In re Metcalf, Metcalf v. Blencowe* (1903) 2 Ch. 424, raised what Farwell, J., calls a curious point. A testator by his will gave an annuity to his wife for her life of £400, and subject thereto he gave an annuity of £50 to his son and £450 to a Mrs. Southgate for life with remainder to her children, and power was given to the trustees of the will to raise the annuities by mortgage of his real estate in case the income was insufficient. For five years after the testator's death the three annuities presently payable were paid partly out of income and partly out of money raised by mortgage. It was then found that the estate was deficient and henceforth only the annuity of the widow was paid until October, 1902. She died in 1903. Mrs. Southgate having also died the annuitants entitled in remainder contended that the moneys paid