3 Atk. 203, a posthumous child born after the next rent-day since the death of the father, was held entitled under the Statute to the intermediate profits of lands settled as well as the lands themselves, and, everybody being estopped from saying that the child was not born in its father's life-time, an uncle, it was said, would be treated as bailiff or receiver for an after-born son. Lord Hardwicke thought it material to observe also, that all skilful conveyancers had considered that the Statute carried the intermediate profits as well as the estate, for before that Statute and Reeve v. Long *infra* they always inserted a limitation to preserve contingent remainders to posthumous children, but since the Statute they have omitted it, see Robinson v. Robinson, 2 Ves. 231. But, under the old law, where a posthumous child took by descent and so divested the estate from the presumed heir, he took only from the time of his birth; see the judgment of Lord Chief Justice De Grey in Goodtitle v. Newman, 3 Wils. 526; and the right of such presumptive heir to the profits between the death of the ancestor and the birth of the posthumous heir extended to all rents, which accrued in the interval, whether actually received or not, and whether in respect of fee simple or entailed estates, Richards v. Richards, 29 L. J. Chan. 836. And this is still the law as to the posthumous heirs of the intestate other than his children.

The occasion of this Statute was the case of Reeve v. Long, 1 Salk. 228; S. C. 4 Mod. 282; 3 Lev. 408; Carth. 309, in which the House of Lords reversed the judgments of the C. P. and K. B. against the opinion of all the judges, who blamed the judge before whom the cause was tried for permitting so clear and certain a rule of law, as was involved in it, to be found specially. The case, as adjudged below, was that if A., tenant for life, remainder to his own eldest son in tail-male, remainder over, died before issue born, but leaving his wife *enceinte* or pregnant, and a son was afterwards born, this son could not take the land by virtue of the remainder, because he was not born when the particular estate determined, and so upon the death of A. the ultimate remainder over vested, and could not be defeated by the birth of the after-born son. Serjeant Williams remarks in his note (7) to Purefoy v. Rogers, 2 Wms. Saund. 387, that "it is observable that the Statute is confined to *marriage or other settlement;* by which the legislature not only meant by implication to affirm the decision of the House of Lords, but also to establish that the same principle should govern the case when the limitation was by deed or other settlement. And if taken literally, the Statute does not apply to the case of a posthumous son entitled to a remainder upon the death of a stranger; though there is no doubt that the operation of the Statute must be extended to all such children, whether they are the children of the person upon whose death the remainder takes place, or of some other person." It is queried in a note to the report of Reeve v. Long in Salkeld whether the Statute extends to a devise; but a devise to an infant *en ventre sa mere* is good by the opinion of Treby and Powell, in 1 Salk. 229; Wallis v. Hodson, 2 Atk. 115.[3] Since the Statute

[3] Pratt v. Flamer, 5 H. & J. 10. And see Schapiro v. Howard, 113 Md. 371; Schlens v. Wilkens, 89 Md. 529. An infant *en ventre sa mere* is to be deemed *in esse for* the purpose of taking a remainder or any other estate or interest which is for his benefit. Crisfield v. Storr, 36 Md. 129.