

held that though not technically bound as a party by the judgment in the former action, yet that the plaintiff and his wife, having had full knowledge of the judgment, and having accepted the benefit of it, the plaintiff was nevertheless estopped by conduct from now calling it in question. The learned judge conceded that the order appointing a representative of a class only binds the members of the class whose interests are identical with that of the representative, and does not bind the interest of any member of the class, who has a distinct and independent right, from that of the other members of the class.

SETTLEMENT—CONSTRUCTION—"NEXT OF KIN IN BLOOD"—"INTRSTATE."

*In re Gray, Akers v. Scars*, (1896) 2 Ch. 802, was a summary application for the purpose of construing a marriage settlement, which in a certain event provided that certain chattel property comprised therein should "go and belong to the next of kin in blood of the said (wife) at her decease, in the manner directed by the Statute of distribution of intestates' effects, as if she had died intestate and unmarried." And by the same settlement it was provided that the fund now in question, in case there should be no issue of the marriage, should be held upon trust "for the person and persons who shall be next of kin in blood to the said (wife) at the time of her decease, in case she had so died intestate and unmarried." There was no issue of the marriage, and at the time of the wife's decease she had one brother of the whole blood living—several living nephews and nieces, children of deceased brothers and sisters of the whole blood—brothers and sisters of the half blood, and—living nephews and nieces of a deceased sister of the half blood. North, J., held that the words "in case she had so died intestate and unmarried," imported that the next of kin were to be ascertained for the purpose of the distribution, according to the Statute of Distributions, and that the nephews and nieces, as well as the brothers and sisters, were therefore entitled to participate in the fund.