

compel those who had been found entitled as next of kin to refund. It appeared that the plaintiff knew of the prior grant, and of the proceedings in the Chancery Division, and had in 1894 made an application to be allowed to prefer a claim in that action as a first cousin of the intestate, which had been refused, and the applicant took no further steps until the present action was commenced. Under these circumstances, and it also appearing that the plaintiff knew, at the time of the pendency of the former action, of the facts on which her claim in the present proceeding was based. Barnes, J., without deciding whether the matter was strictly *res judicata*, was of opinion, that the plaintiff had been guilty of such laches and acquiescence that she could not now be allowed to open up the administration proceedings with a view to recovering the property which had been distributed thereunder, and as the only object of the present action, though in form to revoke the previous grant of letters of administration, and obtain a grant in the plaintiff's own favour, was to assist her to do that which the Court was of opinion could not be done, the action must fail, and it was accordingly dismissed with costs.

HUSBAND AND WIFE—DESERTION—REFUSAL OF HUSBAND TO DISCHARGE SERVANT WITH WHOM HE HAD COMMITTED ADULTERY.

Koch v. Koch (1899) P. 221, although a divorce case, may nevertheless be usefully noted, inasmuch as it was held therein by Barnes, J., that where a wife leaves her husband's house because of his having committed adultery with a servant in his employment, and refuses to return, though requested so to do, by her husband, because of his refusal to discharge such servant, such conduct on the part of the husband constitutes "desertion" by the husband within the meaning of the Divorce Acts and entitles the wife to a divorce.

MARRIED WOMAN—PROBATE OF WILL OF MARRIED WOMAN—WILL IN EXECUTION OF POWER—LIMITATION OF GRANT.

In the goods of Trefond (1899) P. 247. A married woman domiciled in France, and having a power of appointment under an English settlement, executed a will which was sufficient as an exercise of the power of appointment, but invalid as a will of her property not covered by the appointment, because not executed as required by French law. The appointee applied for administration