

FOREIGN JUDGMENT—COLONIAL JUDGMENT AGAINST DEFENDANT
BORN IN COLONY—"SUBJECT" OF COLONY—DEFENDANT NOT
DOMICILED OR RESIDENT IN COLONY WHEN JUDGMENT RECOV-
ERED—ENFORCING FOREIGN JUDGMENT.

Gavin v. Gibson (1913) 2 K.B. 379. This was an action on a judgment recovered in the Colony of Victoria, Australia. The defendant was born in that colony, but was not resident or domiciled there when the judgment was recovered against him. The defendant was personally served with the writ in England, and had an agent in Victoria whom he instructed to defend the action, and instruct solicitors, but no appearance was entered and the action was not defended, and judgment was recovered by default. It was contended that the case was within the first of the cases mentioned by Fry, J., in *Rousillon v. Rousillon*, 14 Ch. D., at p. 371 in which the Court holds foreign judgment to be binding on a defendant, *e.g.*, "where he is a subject of the foreign country in which the judgment has been obtained," because, as was contended, the defendant was a "subject" of the Colony of Victoria. But Atkin, J., who tried the case, came to the conclusion that there is no such thing as a subject of a colony—that a subject of the British Crown involves a personal tie to the King, and that the subject's nationality is the British Empire and not confined to any particular locality in the Empire, the Crown being one and indivisible, and that a British subject's nationality, therefore, cannot be limited to any part of the Dominions of the Crown. The jurisdiction of the Colonial Court, he held to be territorial, and, therefore, the defendant not being within its jurisdiction, and not having submitted to its jurisdiction, the judgment was therefore not conclusive on him in an English Court.