PRACTICE—DISCOVERY—ACTION BY AGENT—PRINCIPAL RESIDENT ABROAD—STAYING ACTION TILL DISCOVERY MADE.

Willis v. *Baddeley* (1892), 2 Q.B. 324, is another case on the practice relating to discovery. The action was brought by an agent in his own name, his principal being resident abroad. The Court of Appeal (Lord Esher, M.R., and Bowen and Smith, L.JJ.) held that the defendant was entitled to the same discovery as if the action had been brought by the principal in his own name, and that he was entitled to have the action stayed until such discovery was made. Lord Esher says: "Where it is made known to the court that there is a foreign principal residing abroad who is the real plaintiff in the action and is only suing through his agent here, and that the agent was dealt with by the other side as agent and not as principal, then, in order to prevent palpable injustice, the court, by reason of its inherent jurisdiction, will insist that the real plaintiff shall do all that he ought to do for the purposes of justice as if his name were on the record." This language is somewhat guarded, and would seem confined to cases where the plaintiff has been dealt with as agent. The Ontario Rules relating to discovery seem much wider, and extend to all cases where an action is brought or defended for the benefit of another. See Ont. Rules 488 and 510. Here, as in England, there may be some difficulty in making an order directly against the beneficiary; but here, as there, the result would be obtained by making the order against the party to the record and staying his proceedings, or striking out his defence unless he procured the beneficiary to comply with it.

DOMICIL.

Goulder v. *Goulder* (1892), P. 240, is a divorce action in which a question of domicil is raised which is of general interest. Both husband and wife were born in France, of parents who were born in England, but resident in France. The marriage took place in England in 1877, but the husband and wife subsequently resided in France. On coming of age the husband made a declaration that he intended to retain his English domicil, and it appeared that both he and his father intended to return to England as soon as they had made enough money to maintain them. In 1885 the husband deserted his wife, and went to New Zealand and the Australian colonies, where he led an unsettled life. It was held by Lopes, L.J., that both parties had an English domicil at the commencement of the proceedings, and the court had therefore jurisdiction.

WILL—REVOCATION—REVIVAL OF REVOKED WILL BY REFERENCE.

In *Paton* v. *Ormerod* (1892), P. 247, a testatrix made, in 1877, a will settling part of a fund to which she was entitled on one of her daughters. By a will made in 1881, which revoked all former wills, she made the following recital: "Whereas I have also settled one undivided moiety of the residue of the said third part of £100,000, to which I am entitled under the will of my said brother, in favour of my said daughter, E. J. Paton." In fact, there was no other settlement of the fund in question in favour of this daughter except by the will of 1877, and the question was whether this part of the will of 1877 was incorporated in