service of any further proceedings on the plaintiff was dispensed with, and the residuary legatee was appointed to represent the estate of the testator in the cause. In 1884 the application for an inquiry as to the domicile of the testator was renewed against the residuary legatee, without notice to the plaintiff. Bacon, V.-C., granted the inquiry; the residuary legatee appealed, and it was held by the Court of Appeal, affirming Bacon, V.-C., that the decree of the Probate Court was not conclusive *in rem* as to domicile, because it did not appear that the decree was necessarily based on the finding as to domicile, and further, that the finding as to domicile was not binding as between the daughter and the residuary legatee, the latter not being a party to the probate proceedings, and that as the residuary legatee was not bound by the executors litigating the question of domicile unnecessarily, so the daughter was not bound by the finding as against the residuary legatee, since estoppel must be mutual. It was also held that notice to the executor was unnecessary, and the Court refused to hear counsel on his behalf. Bowen, L.J., in giving judgment, says: "It is admitted to be the law of Chili that the will of a domiciled Chilian dying in England would be valid in Chili if executed in conformity with English law. The Court of Probate was therefore not in any way obliged in order to arrive at its judgment *in rem*, to adjudicate between the two domiciles. . . . Whatever be the exact limits of the rule as to the effect of judgments *in rem*, we think accordingly that the adjudication as to domicile does not, and cannot conclude any but the parties to the suit, their privies and those whose interests they represented, to the extent which they lawfully did represent such interests in such a suit." As to how far the executors could properly represent the residuary legatee in the probate suit, he says: "It is manifest that for many purposes the executors do represent such a legatee. But Adelinda (the daughter) and her husband are not seeking to impeach the title of the executors, the validity of the will, or the interest of the legatee under the will. Their contention is that by the law of Chili the testator could only dispose in favour of a residuary legatee of a portion of his property, and that the residue remained out of the testator's power of testamentary disposition. . . . We are of opinion that as to such a claim executors would not in a probate suit be the representatives of the residuary legatee to bind such a legatee by any issue which might be raised incidentally on a question of domicile, nor *legitimi contradictores* on his behalf in such a suit on such a point, within the meaning of the civil law or the law of this country. The scope of the probate suit is to establish that the will was executed in conformity with the law of the country of domicile, wherever that country was."

JUDGMENT BY DEFAULT—APPEAL.

In *Vint* v. *Hudspeth*, 29 Chy. D. 322, the Court of Appeal, although not denying its jurisdiction to hear an appeal from a judgment pronounced in the absence of the plaintiff, nevertheless directed the appeal to stand over until the appellant could apply to the judge who tried the cause to rehear the action.

NE EXEAT REGNO—TRUSTEE NOT IN DEFAULT.

The point of practice involved in *Colverson* v. *Bloomfield*, 29 Chy. D. 341, is of some importance. An order was made that a trustee within seven days after service of the order should pay to the plaintiff a sum found due to him by the Chief Clerk's certificate. The trustee could not be found to be served with the order, and the plaintiff then applied for a writ of *ne exeat* on the ground that the trustee was about to go out of the jurisdiction, but the Court of Appeal, affirming Chitty, J., held, that the trustee not being in de-