

A DIGEST
OF
THE NOVA SCOTIA REPORTS,
1889-1903.

INCLUDING VOLS. XXI. TO XXXIV.

ABANDONMENT.

Of appeal.]—See **APPEAL**, 36.

To underwriters.]—See **INSURANCE**, 14.

ABATEMENT.

Of action.]—See **TRESPASS**, 1.

Of legacies.]—See **WILL**, 25.

**ABSENT OR ABSCONDING
DEBTOR.**

1. A summons for agent may not issue after judgment entered.

Cawsey v. Elliot, 22/163.

2. The proper course is to proceed under O. 43, by garnishee process.

Dempster v. Elliot, 22/443.

3. Summons for agent—Appeal.]—As to whether an appeal may be taken from the order of a Judge, discharging a person summoned as agent, after having made answer to the satisfaction of the Judge. Preliminary objection taken, but not decided, the appeal being dismissed on other grounds. See O. 46, R. 18.

Banks v. Mackintosh, 27/480.

4. Summons for agent—Discharge of agent.]—Where a summons for agent issues and the agent admits having assets in his hands, he cannot be discharged until after the plaintiff has obtained judgment. An order discharging him, "except as to the goods and chattels mentioned in the declaration filed," is bad, as that is the only behalf in which he was before the Court, likewise an allowance of costs in the same order.

Daniel v. D'Homme, 21/341.

5. Summons to agent—Attacher's rights depend on those of debtor.]—An attacher's right to recover money out of the hands of an agent is, as against the agent, the same as that of the principal.

R. B. M. had assigned his expectation of a legacy to J.C.M., for the sum of \$600. Later, he suffered judgment to pass against him, at the suit of J. C. M., for the debt. The legacy having fallen in, and being in the hands of J. C. M., as executor of the deviser, R. B. M. gave him a receipt for the amount, and J.C.M. credited it on the judgment.

The plaintiff having summoned him as agent having monies payable to R.B.M. in his hands, contending that J.C.M. had released his security in respect to the assignment of the legacy, by becoming a party to the composition and release con-