

dently so decided, because as Haliburton, C.J., says in his judgment, "the language of the Act plainly evinces the intention of the legislature that the operation of the Act should not be confined to those only who had actually been personally present within the province." He referred to those sections in it which provided for service of a copy of the summons and declaration, if the debtor "be an inhabitant or hath for some time been a resident within the province," and to those which dispensed with such service.

In the statute before us, there is absolutely nothing to indicate any such intention as it is at present amended by 37 Vic. cap. 4, sec. 1, which strikes out the latter part of sec. 5 in which these words appear: "where he has been a resident in this island"—contemplating presumably, cases where the defendant has not been such resident.

The form of summons given by the statute now under review, however, apparently contemplates that the absent debtor was a resident here, as it commands the sheriff to summon:—

"Agent, factor or trustees of \_\_\_\_\_ of the said island, an absent or absconding debtor."

This is a question as to the jurisdiction of the Court. The Act covers every debt, a right to maintain an action for which lies in the courts of this province when the debtor is absent or absconding; but as to the nature of that absence, whether by reason of the debtor's residence abroad, or of his having absented himself from his residence here, it is silent, though when it refers to abscondency it speaks of it "as out of the island."

Forty-eight years ago in construing a similar statute in which some glimmer was visible of an intention to extend its provisions to non-residents as well as those who are "inhabitants or hath for some time had their residence within the island," this Court hesitated to decide that it had jurisdiction over persons who had never been here, or who were only here for a temporary purpose.

We have now to construe an Act in which no reference is made to the residence of the absent debtor, except that given in the form to which I have referred, and which in using the words "of the said island," means, I presume, that the debtor's residence was in this island.

Ordinarily speaking, departure from the country is necessary to constitute a person an absent debtor. It would be