

No. XXXI.

SUPREME COURT
PROCESS.An Act to effectuate the service of Process
issuing from the Supreme Court in its
Equitable Jurisdiction. [9th October, 1849.]

Preamble.

Supreme Court in
its Equitable Juris-
diction in suits con-
cerning lands &c.
empowered to direct
process to be served
in parts not within
the jurisdiction of
the said Court.

WHEREAS great inconvenience and delays of justice arise from the defect of jurisdiction in Courts of Equity in the Colony of New South Wales to effectuate the service of their process in such parts as are not within their jurisdiction. Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That after the passing of this Act it shall be lawful for the Supreme Court in its Equitable Jurisdiction in any suit instituted in the said Court concerning lands or hereditaments situate in the Colony or concerning any charge, lien, judgment or incumbrance thereon or concerning any money vested in any Government or public stock or public shares in public or joint stock companies or concerns in the said Colony or concerning the interest, dividends or produce thereof upon special motion in open Court on behalf of the complainant in such suit founded upon affidavit and such other documents as may be applicable for the purpose of ascertaining the residence of defendants in such suit or parties sought to be served and the particulars material to identify them and their residence and also specifying the means whereby such service may be authenticated and especially where there are any officers civil or military appointed or serving under the Government of the said Colony residing at or near the place of the alleged residence of the said defendants or parties to order that service of any subpoena and of all subsequent process thereupon upon any defendant in such suit then residing out of the jurisdiction of the said Court in such parts in which he shall so reside and be so served or in case the said Court shall deem fit upon the receiver, steward, agent or other person receiving or remitting the rents of the premises or the dividends and profits of the said stock or concerns hereinbefore mentioned if any the subject or in part the subject matter of the suit returnable at such time as the Court shall direct shall be deemed good service on every such defendant or party and afterwards upon an affidavit of such service had to order an appearance to be entered for such defendant or party in such manner and at such times as the Court shall direct and that thereupon it shall be lawful for such Court and the plaintiff to proceed upon such appearance entered or such service so made as aforesaid as fully and effectually as if such appearance had been duly entered by a defendant residing or such service had been duly made within the jurisdiction of the said Court.

When Court satisfied
that process cannot
be served or that
defendant cannot be
found or secretes
himself Court may
order such substitu-
tion of such service
as it may think rea-
sonable.

A copy of the prayer
of the bill to be
served with subpoena
under this Act and

2. And be it enacted That when it shall appear upon affidavit to the satisfaction of the said Court that any defendant in any such suit cannot by reasonable diligence be served with the subpoena to appear and answer or that upon inquiry at his last or usual place of abode he could not be found so as to be served with such process and that there is just ground for believing that such defendant secretes or withdraws himself so as to avoid being served with the process of such Court then it shall be lawful for the said Court to order such substitution of such service of the subpoena to appear and answer as the said Court shall think reasonable.

3. Provided always and be it enacted That along with such subpoena served as aforesaid under any such order a copy of the prayer of the complainant's bill shall be served upon every such defendant and

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and provided also that no decree shall be made absolute in the said Court without the special order of such Court made upon a special motion for that purpose Provided further that nothing in this Act shall be held to make it compulsory upon the complainant in any suit to serve or bring before such Court any party or person further or otherwise than such complainant is now by law or the practice of such Court required to do.
