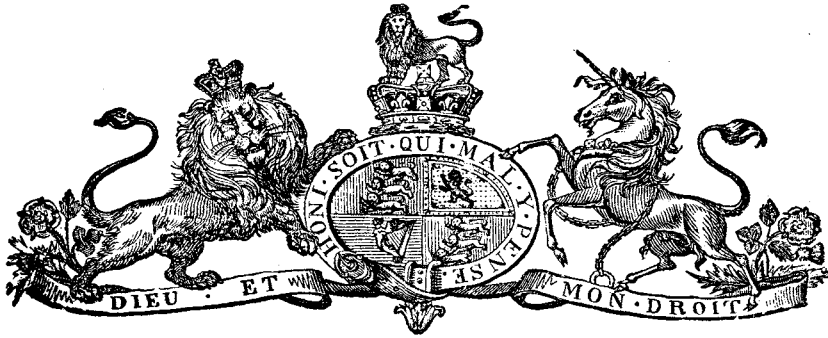


T A S M A N I A.

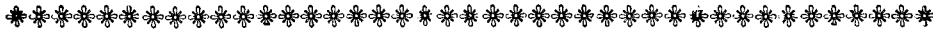


1865.

ANNO VICESIMO-NONO

VICTORIÆ REGINÆ,

No. 11.



AN ACT to further amend the Course of Proceeding in Equity in the Supreme Court of *Tasmania*. [29 September, 1865.]

**W**HEREAS it is desirable to extend the Equitable Jurisdiction of the Supreme Court in certain cases: Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1** This Act shall commence and take effect on and after the 1st day of *October*, 1865, and may be cited and referred to as *The Equity Procedure Act, No. 3*. PREAMBLE.  
Commencement of Act.  
Short Title.

**2** In the construction of this Act the word "Court" shall mean the Supreme Court of *Tasmania* in its Equity Jurisdiction. Interpretation.  
"Court."

**3** In any Suit instituted in the Court after the time when this Act commences and takes effect concerning any real or personal property situate or being within *Tasmania*, it shall be lawful for the Court, on Motion in open Court of any Plaintiff in such Suit founded upon Affidavit that any Defendant in such Suit is then actually resident out of *Tasmania*, specifying the place of residence, and upon such other documents as may be applicable for the purpose of ascertaining the residence of the party, and the particulars material to identify such party and his residence, and also specifying the means whereby such service may be authenticated, to order and direct that service of a copy of the Bill of Complaint in such Supreme Court in Suits, &c. concerning any real or personal property in *Tasmania* may direct Process to be served out of *Tasmania*.

*Equity Procedure.*

Suit, with an indorsement thereon in the mode prescribed by *The Equity Procedure Act*, or with such variations in such indorsement as to time of appearance and otherwise as the Court directs, upon the party in the manner in the said Order directed, or, in case the Court deems fit, upon the Receiver, Steward, or other person receiving or remitting the rents of the lands or premises on behalf of such Defendant so resident out of the Colony, if any, in the Suit mentioned, returnable at such time as the Court directs, shall be deemed good service of such party, and afterwards, upon an Affidavit or such other proof as the Court directs, that such service has been effected in accordance with the Order and Direction of the Court, to order an appearance to be entered for such party in such manner and at such time as the Court directs; and that thereupon it shall be lawful for the Court to proceed upon such service so made as aforesaid as fully and effectually as if the same had been duly made upon such party within *Tasmania*.

Service of copy  
Bill of Complaint  
in cases where  
Defendants cannot  
be found.

**4** Where it appears upon Affidavit to the satisfaction of the Court that any Defendant in any such Suit as hereinbefore mentioned cannot by reasonable diligence be personally served with the copy of the Bill of Complaint as aforesaid, or that upon inquiry at his 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 the Court, then and in all such cases it shall be lawful for the Court to order that the service of the copy of the Bill of Complaint shall be substituted in such manner as the Court thinks reasonable and directs by such Order.

No Process of  
Contempt to be  
entered without  
Special Order.

**5** No process of Contempt shall be entered upon any such proceedings as hereinbefore mentioned nor any decree made absolute without the Special Order of the Court upon Special Motion made for such purpose: Provided that nothing in this Act shall make it compulsory upon the Plaintiff in any Suit in the said Court to serve with process or bring before the Court any party or person further or otherwise than such Plaintiff is now by Law or the practice of the Court required to do.

Judges may make  
General Orders  
for carrying pur-  
poses of Act into  
effect.

**6** The Judges of the Supreme Court may, from time to time, make General Orders for carrying the purposes of this Act into effect; and such Orders may, from time to time, be rescinded or altered by the like authority; and all such Orders shall take effect as General Orders of the said Court.