

admit new members, except by a two-thirds vote, was a lawful exercise of a society right. No injustice has been done which the equity powers of the court can remedy, and the grounds of complaint are of a character so intangible as to elude the grasp of judicial cognizance.

*Bill dismissed.*

STANLEY, J., did not sit.

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BANCROFT v. DAMON & Tr.

A plea in abatement, that the writ has not been served on the defendant, should state facts showing that it could have been served on him. An averment, that at the date of the writ and ever since he has been an inhabitant of the state, is not sufficient.

FOREIGN ATTACHMENT. The defendant is described in the writ as "of Charlestown in our county of Sullivan." The writ was served on the trustee, but not on the defendant. At the first term, the action was continued for notice. At the second term, the defendant appeared specially, and pleaded in abatement that on the day of the date of the writ, and for a long time before, he was and ever since has been an inhabitant of said Charlestown, and no service of the writ has been made upon him. The plaintiff demurred.

*Faulkner*, for the plaintiff, cited *Currier v. Gilman*, 55 N. H. 364; *Adams v. Hodsdon*, 33 Me. 225; *Baker v. Compton*, 2 Head 471; *Pearson v. French*, 9 Vt. 349; *Morse v. Nash*, 30 Vt. 76.

*Woodward & Wellington*, for the defendant.

DOE, C. J. The plea should state facts showing that the writ could have been served on the defendant. The averment that he was an inhabitant of the state is not sufficient.

*Demurrer sustained.*

ALLEN, J., did not sit.

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BROOKS & a. v. HOWARD.

In chancery, a decree may be made upon facts established, to the satisfaction of the court, in a trial before a jury, a referee, or the court, without regard to such errors in the issue, the verdict, or the report, as, being explained by evidence, may be rightly understood.