

*Office of the Vermont Secretary of State*  
**Vermont State Archives**

**Veto Message: Governor Mead  
1911 (H.394)  
An act to regulate the service of process.**

STATE OF VERMONT  
Executive Department.  
Montpelier, Vt., Jan. 25, 1911

The Speaker laid before the House a communication from the Governor as follows:

*To the Honorable Speaker and Members of the House of Representatives:*

House No. 394. An act to regulate the service of process.

Under the provisions of this bill, where the officer's return alleges personal service, a defendant may before judgment attack the return by a motion to dismiss or a plea in the action and upon proof of failure of the officer to have made personally actual delivery of the writ to the party, the suit will abate; and further a defendant may, even after judgment, upset that judgment upon similar proof. It is apparent therefore that an officer attempting to make personal service must make actual travel to the place of service, thus increasing the costs in an action by ten cents per mile for the distance of such travel. It may be easily seen that in many cases and, especially in a case where there are several defendants widely separated throughout the state, the creditor will hesitate before he incurs such an increased bill of costs. It is doubtful whether the bill does not make it impossible to serve a party by delivery of the writ to his agent, in as much as the bill requires *actual* delivery to the *defendant* or other *party* against whom the writ is directed. This would, of course, render it impossible to serve a foreign corporation or partnership and prevent the state as well as private parties from collecting their just claims. It may also be questioned whether the bill does not

prevent service of a summons by lodging a copy, as now allowed, by section 1443 of the Public Statutes, inasmuch as the bill reads all other manner of service when personal service is required shall be void. If this is the intended effect, the section mentioned should be repealed lest confusion result. If this is not the effect the party attempted to be served by having a copy lodged at his house has as great need and should have equal opportunity of contesting the officer's return as the party attempted to be served personally. The bill is also subject to the interpretation that a party may thwart service and prevent himself being sued by refusing to accept the writ, for the bill requires actual delivery of the writ.

Acts relating to court procedure and rights of parties should be clear beyond question that there may be a minimum of litigation and that just claims may not be imperilled.

For these reasons I herewith return H. 394 to the House without my signature.

Dated at Montpelier, Vt., this 25th day of January, 1911.

JOHN A. MEAD,  
Governor

**Governor's Veto Sustained**  
**H.394 1911**

The Governor's veto was sustained in the House by unanimous vote in the negative.

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Sources: *Journal of the House*, January 25, 1911 (pages 748-749)