

No. XLVI.

VICE-ADMIRALTY
PROCESS RESTRICTION.

An Act to prevent frivolous and vexatious Arrests of Ships and Vessels or the Masters or Commanders thereof by process issuing out of the Vice-Admiralty Court of New South Wales.
[15th June, 1848.]

Preamble.

WHEREAS many ships and vessels arriving and being within the limits of the Colony of New South Wales have been frivolously and vexatiously arrested by process issuing out of the Vice-Admiralty Court of the said Colony in suits for seamen's wages in many cases in which the said Court of Vice-Admiralty had no jurisdiction over such ships or vessels or the master or commander thereof on account of the contract

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contract between the master of the said ship or vessel and of the mariners thereof having been of a special nature and such as the said Court of Vice-Admiralty could not adjudicate upon And whereas great delay inconvenience and expense have been incurred by such arrests and it is desirable that the same should in future be prevented Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That whenever any ship or vessel or the master or commander thereof shall be arrested by any process issuing out of the Vice-Admiralty Court of New South Wales for any matter or thing not within the jurisdiction of the said Court of Vice-Admiralty the complainant or complainants or promovent or promovents in any such proceeding and the proctor of such complainant or complainants promovent or promovents shall and are hereby declared liable to pay the costs of all such proceedings both in the Court of Vice-Admiralty and in the Supreme Court in case a writ of prohibition should be granted to be taxed as between attorney and client and in default of payment of such costs a writ of attachment shall and may be issued out of the said Supreme Court against the party or parties at whose suit such ship or vessel or the master or commander thereof shall have been arrested and the proctor of such party or parties.

Where a vessel or the master thereof shall be arrested by process issuing out of the Court of Vice-Admiralty and prohibition granted by the Supreme Court the party or parties or his or their proctor to pay costs.

2. And be it enacted That it shall and may be lawful for the master or commander of every such ship or vessel which shall have been so arrested in any such proceeding or any other person or persons who shall or may directly or indirectly be injured or sustain any damage through or by means of any such ship or vessel or the master or commander thereof being arrested in any such proceeding to sue for and recover of and from the party or parties causing such ship or vessel or the master or commander thereof to be arrested as aforesaid or the proctor of such party or parties in any such proceeding as aforesaid all and singular such damages as he or they may have sustained or be put to by any such arrest as aforesaid in an action on the case to be brought in any Court of competent jurisdiction in the said Colony.

Damages may be recovered where prohibition granted by action on the case by master or person sustaining injury.

3. And be it enacted That a copy of the ship's articles and the signatures thereto as well as a copy of the register (duly proved on any trial to be a true copy of such ship's articles or register) of any such ship or vessel which shall have been arrested under any process issuing out of the Vice-Admiralty Court shall be evidence of the contents of such ship's articles and of the signatures thereto and of the register of such ship or vessel as aforesaid in all civil and criminal proceedings.

Copy of ship's articles and of register to be received in evidence.