

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1847. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1847.

10 Victoria – Chapter 38

An Act for the further regulation of the Court of Governor and Council in causes of Marriage and Divorce. Passed 7th April 1847.

Whereas it is expedient that certain regulations should be made to expedite the proceedings in the Court of Governor and Council in suits of Marriage and Divorce;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That in all causes which by the Laws of this Province are cognizable in the Court of Governor and Council for hearing causes of Marriage and Divorce, when any person or persons having been duly cited to appear in such Court, or required to comply with the lawful orders or decrees, as well final as interlocutory, of such Court, shall neglect or refuse to appear, or neglect or refuse to pay obedience to such lawful orders or decrees, or when any person or persons shall commit a contempt in the face of such Court, it shall be lawful for the Court who issued out the citation, or whose lawful orders or decrees have not been obeyed, or before whom such contempt shall have been committed, to pronounce such person or persons in contempt shall have been committed, to pronounce such person or persons in contempt, and thereupon a Writ *de contumace capiendo*, in the form to this Act annexed, shall issue out of the said Court, directed to any of the Sheriffs of the several Counties in the Province within whose Bailiwick the person or persons so in contempt may be alleged to be, returnable on the first day of the next Term of such Court, and tested the last day of the preceding Term or if issued in Term time, returnable on any day in such Term to be directed by the said Court, and tested the first day of the said Term; and all Sheriffs, Gaolers, and other Officers, are hereby authorized and required to execute the same, by taking and detaining the body of the person against whom the said Writ shall be directed to be executed; and upon the due appearing of the said party so cited, and not having appeared as aforesaid, or the obedience of the party so having committed a contempt in the face of the Court, the said court shall pronounce such party absolved from the contempt aforesaid, and shall forthwith make an order on the Sheriff or other Officer in whose custody such party may be, for discharging such party out of custody; and such Sheriff or other Officer shall, on the said order being shewn to him, as soon as such party shall have discharged the costs lawfully incurred by reason of such contempt, forthwith discharge him.

II. And be it enacted, That the said Court shall have full power and authority from time to time to direct and declare the forms of process, and to prescribe, modify, alter and amend the practice and proceedings to be observed in all matters of which the said Court now has or hereafter may have cognizance and jurisdiction.

Schedule.

Form of Writ *De Contumace Capiendo*.

Victoria, &c.

To the Sheriff of _____

Greeting:

Whereas _____ is manifestly contumacious, and contemns the jurisdiction and authority of the Court of Governor and Council for Marriage and Divorce [here state fully the non-appearance, disobedience, or the contempt in the face of the Court, as the case may be] You are hereby commanded to attach the said _____ by _____ body until _____ shall make satisfaction for the said contempt; and how you shall execute this precept, notify unto the said Court on _____ next, and in no wise omit this: and have you there then this Writ.

Witness _____ Lieutenant Governor [or Administrator of the Government, as the case may be] in the said Province.