

Statutes of Upper-Canada, Passed in the fourth session of the third provincial parliament (1803). From The Provincial Statutes of Upper-Canada: Revised, Corrected, and Republished (York, R. C. Horne, 1818.)

43 George III – Chapter 5

An Act to enable Married Women having Real Estate, more conveniently to Alien and Convey the same. (5th March, 1803.)

Whereas by the Laws of England, Married Women can only alien and convey their real estates by fine, or other matter of record, and there being as yet, no express provision made for levying fines in this Province, it has become expedient that some mode of conveyance should be by Law adopted, to enable such Married Women to alien their said real estates, Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the first day of April, in this present year one thousand eight hundred and three, it shall and may be lawful to and for any Married Woman having real estate in this Province, and being above the age of twenty-one years, with the knowledge and consent of, and by any Deed or Deeds jointly with her husband, to alien, depart with, and convey the same to such use and uses as to her and her said husband shall seem meet, which conveyance shall be as valid and effectual in the Law, to all intents and purposes, as if she were sole, any law or usage to the contrary notwithstanding.

II. Provided nevertheless, and it is hereby declared, That nothing in such Deed contained, shall have any force or effect to bar such Married Woman, or her said husband, or her heirs, during the continuance of the coverture, or after the dissolution thereof, or shall be held to have any force or effect whatsoever, unless such Married Woman shall appear in open Court, in the Court of King's Bench, or before any Judge thereof at his Chambers, or before a Judge of Assize, at the sittings for the Home District, or on his Circuit, and be examined by the said Court or Judge, touching her consent, and shall freely and voluntarily, and without coercion, give her consent, before such Court or Judge, to alien and depart with such estate, nor unless such examination shall take place within six months from the time of the execution of such Deed of Conveyance as herein before stated.

III. And be it further enacted by the authority aforesaid, That in case it shall appear to the said Court or Judge, that such Married Woman doth fully and freely consent to depart with, alien and convey her said real estate, without coercion, or fear of coercion on the part of her husband, or any other person, it shall and may be lawful for such Court or Judge, and they are respectively hereby required, to cause a certificate thereof to be endorsed on the Deed so executed by her and her said husband as aforesaid, which certificate shall state the day on which such examination is

taken, and shall be signed by the Chief Justice, or in his absence by the senier puisne Judge of the said Court, or by the said Judge before, whom the same shall be taken at the said Sittings, or on the Circuit, or at Chambers, for which Certificate the Clerk of the Crown, when the examination shall be taken in term time, shall be entitled to demand and receive the sum of five shillings, and no more, and when taken by a Judge during the Sittings, or upon the Circuit, or at Chambers, the Judge's Marshall shall be entitled to demand and receive the like sum of five shillings, as a fee for such certificate.

IV. Provided also, and it is hereby farther enacted by the authority aforesaid, That nothing in this Act contained shall be taken or construed to give to such Deeds so executed as aforesaid, so far as relates to the Married Woman or the interests of herself, or those claiming under her, any greater or other force or effect, than the same would have had in case such Married Woman had been sole at the time of executing the same.