

Laws of His Majesty's Province of Upper Canada, passed in the year 1831. York: Robert Stanton, 1831.

1 William IV – Chapter 3

An Act to enable Married Women more conveniently to Alien and Convey their Real Estate, and to Repeal an Act passed in the forty-third year of the Reign of King George the Third, entitled “An Act to enable Married Women, having Real Estate, more conveniently to Alienate and Convey the same.” Passed 16th March, 1831.

Whereas the Laws now in force enabling Married Women more conveniently to Alien their Real Estate do not afford the facility required, and at the same time unnecessarily expose Purchasers to risque, from the chance of the Married Woman dying, or re-tracting her consent after her execution of the Conveyance, by means whereof such Conveyances may be defeated to the great prejudice of innocent purchasers: 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, entitled, *“An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s Reign, entitled, ‘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 August next after the passing of this Act, it shall and may be lawful for any Married Woman being above the age of twenty-one years, residing within this Province, and seized of Real Estate therein, to alien and convey such Real Estate by Deed, to be executed by her jointly with her husband, to such use and uses as to her and her husband shall seem meet: Provided always, nevertheless, that such Deed shall not be valid or have any effect unless such Married Woman shall execute the same in presence of one of the Judges of the Court of King’s Bench in this Province, or in the presence of a Judge in the District Court, or of a Judge of the Surrogate Court of the District in which such Married Woman shall reside, or of two Justices of the Peace for such District, and unless such Judge or two Justices of the Peace (as the case may be) shall examine such Married Woman, apart from her husband, respecting her free and voluntary consent to alien and depart with her Estate as mentioned in the Deed, and shall on the day of the execution of such Deed, certify on the back of the Deed in some form of words to the effect following:—“That on the day mentioned in the Certificate, such Married Woman did appear before him, or them, (as the case may be) at the place to be named in the said Certificate, and being examined by him, or them, (as the case may be) apart from her Husband, did appear to give her consent to depart with her Estate in the Deed mentioned, freely and voluntarily, and without any coercion, or fear of coercion, on the part of her Husband, or of any other person or persons whatsoever.”

II. And be it further enacted by the authority aforesaid, That when the Married Woman resides out of this Province, the Deed may be executed by her in the presence of a Judge of the Court of King’s Bench, or of a Judge of the District Court, or of the Surrogate Court, or of two Justices of the Peace in and for any District of this Province, whose certificate shall be effectual for the purposes aforesaid: Provided always, that it shall not in any case be necessary for any such Judge or Justices

as aforesaid, to attest the execution of any Deed as a subscribing Witness: Provided always, 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 of 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.

III. And be it further enacted by the authority aforesaid, That in all cases in which a Married Woman shall, before the passing of this Act, have made any Conveyance, which would be valid in Law if such Certificate had been obtained within the period of twelve months as was required by the Laws then in force in this Province, such Certificate may at any time after the passing of this Act be obtained, notwithstanding the period of twelve months may have expired, and the same shall have the like effect, and no other, as if given within twelve months: Provided always nevertheless, that nothing herein contained shall affect, or be construed to affect, the right to Lands of any person or persons who may have obtained a Deed according to Law for any Lands which may have been previously Conveyed by a Married Woman but not acknowledged before a Judge pursuant to the Laws of this Province.

IV. And be it further enacted by the authority aforesaid, That the sum of Five Shillings shall be paid for every such Certificate, and no more.

V. And be it further enacted by the authority aforesaid, That a certain Act of the Parliament of this Province, passed in the forty-third year of the Reign of His late Majesty King George the Third, entitled "*An Act to enable Married Women having Real Estate more conveniently to alien and convey the same,*" shall, from and after the said first day of August next, be repealed, except as to any conveyances which have been or shall be executed while the same was in force.