

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbyshire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 115

An Act to enable Married Women resident in Foreign Countries, to convey Real Estate of which they are seized in Upper Canada. 30th August, 1851.

Whereas no provision has been made by Law to enable Married Women resident out of the Province of Canada, and who are residents of States or Countries not owning allegiance to the Crown of Great Britain, or who may be temporarily absent from the said Province of Canada, and for the time being residents of such States or Countries as aforesaid, to convey any real estate being within the said Province, and of which such Married Women may be seized, possessed of or otherwise entitled to: And whereas it often happens that such Married Women so resident as aforesaid, or absent from the said Province, are willing and desirous to convey and dispose of such their real estate and all their interest and estate therein to purchasers and others desirous of obtaining the title thereto, and it is right that such Married Women should be enabled to convey such their real estate without its being required that such Married Women or Husbands should come into this Province for the purpose of enabling them to make a valid conveyance of such their real estate, their estate and interest therein: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for any Married Woman being above the age of twenty-one years, resident out of this Province, and being a resident of any State or Country not owning allegiance to the Crown of Great Britain, or being temporarily absent from this Province, and for the time being a resident of such State or Country as aforesaid, and being seized, possessed of or otherwise entitled to real estate within this Province, to alien and convey such real estate or any interest therein she may be entitled to by Deed, to be executed in such State or Country as aforesaid, 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 the presence of the Governor, or other Chief Executive Officer of such State or Country aforesaid, or in the presence of the British Consul resident in such State or Country, if there be a British Consul there resident, or in the presence of a Judge of a Court of Record of such State or Country, nor unless such Married Woman be examined by the said Governor, or other Chief Executive Officer, or such British Consul, or Judge of Court of Record, touching her consent to alien and depart with such real estate, and shall freely and voluntarily, and without coercion, give her consent before such Governor, or other Chief Executive Officer, or such British Consul or Judge as aforesaid, to alien and depart with such estate: Provided always, that it shall not in any case be necessary for any such Governor, or other Chief Executive Officer, British Consul or Judge, to attest the execution of any such Deed as a subscribing Witness.

II. And be it enacted, That in case it shall appear to such Governor, or other Chief Executive Officer, British Consul or Judge, that such Married Woman doth freely and voluntarily consent to depart with, alien and convey her said real estate, or any interest she may be entitled to therein, without coercion on the part of her husband or any other person, it shall and may be lawful for such Governor, or other Chief Executive Officer, British Consul or Judge, 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 such Governor, or other Chief Executive Officer, and shall be also under the Seal of the State or Country of which such Governor or other Chief Executive Officer shall be the Governor or Chief Executive Officer as aforesaid, in cases where the said Certificate is made by such Governor or Chief Executive Officer, or signed by the said British Consul, or Judge of a Court of Record, and under the Seal of such Court, and which Certificate shall be in form or to the effect following, viz:

“I, _____, do hereby certify, that on this _____ day of _____, at _____, the within Deed was duly executed in the presence of _____, by A. B., of _____, wife of _____, one of the grantors therein named; and that the said wife of the said _____ at the said time and place being examined by me, apart from her husband, did appear to give her consent to depart with her estate in the lands mentioned in the said Deed, freely and voluntarily, and without coercion or fear of coercion on the part of her husband, or of any other person or persons whatsoever.”

And such Certificate shall be deemed and taken to be *primâ facie* evidence of the facts contained therein.

III. And be it enacted, That the first section of an Act of the Parliament of the Province of Upper Canada, passed in the first year of the Reign of His late Majesty King William the Fourth, and intituled, *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, intituled, ‘An Act to enable Married Women, having Real Estate, more conveniently to alienate and convey the same,’* be, and the same is hereby amended, by expunging from the proviso of the said section the following paragraph, viz: “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 inserting in the place thereof and substituting therefor the following paragraph, viz: “Or in the presence of the Judge of the County Court, or Judge of the Surrogate Court, or two Justices of the Peace of the County where such Married Woman shall reside, or happen to be when the said Deed is executed by such Married Woman.”

IV. And be it enacted, That this Act shall apply to Real Estate in Upper Canada only.