

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 7

An Act to amend an Act passed in the twelfth year of Her Majesty's Reign, intituled, An Act to simplify the transfer of real property in Upper Canada, and to render certain rights and interests therein liable under execution. 2d August, 1851.

Whereas it is expedient to amend an Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to simplify the transfer of real property in Upper Canada, and to render certain rights and interests therein liable under execution*: 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 the second, third, fourth, fifth, seventh eighth, ninth and eleventh sections of the said first recited Act be and the same are hereby repealed.

II. And be it enacted, That all corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant, as well as in livery.

III. And be it enacted, That a feoffment, otherwise than by deed, shall be void at law, and no feoffment shall have any tortious operation.

IV. And be it enacted, That a partition and an exchange of any tenements and hereditaments, and a lease required by law to be in writing of any tenements and hereditaments, and an assignment of a chattel interest in any tenements or hereditaments, and a surrender in writing of any tenements or hereditaments not being an interest which might by law have been created without writing, shall be void at law, unless made by deed.

V. And be it enacted, That a contingent, an executory and a future interest and a possibility coupled with an interest in any tenements or hereditaments of any tenure, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent into or upon any tenements or hereditaments of any tenure, may be disposed of by deed, but that no such disposition shall by force only of this Act defeat or enlarge an estate tail, and that any such disposition by a married woman shall be made conformably to the provisions of any Act in force at the time of such disposition for enabling married women to convey their real estate.

VI. And be it enacted, That a contingent remainder, existing at any time after the thirtieth day of May, one thousand eight hundred and forty-nine, and if created before the passing of this Act,

shall be deemed to have been capable of taking effect, notwithstanding the determination by forfeiture, surrender or merger, of any preceding estate of freehold.

VII. And be it enacted, That when the reversion expectant on a lease made either before or after the passing of this Act of any tenements or hereditaments of any tenure, shall be surrendered or merge, the estate which shall for the time being confer, as against the tenant under the same lease, the next vested right to the same tenements or hereditaments, shall, to the extent and for purpose of preserving such incidents to and obligations on the same reversion as but for the surrender or merger thereof would have subsisted, be deemed the reversion expectant on the same lease.

VIII. And be it enacted, That when any person entitled to any freehold or leasehold land by way of mortgage, has or shall have departed this life, and his executor or administrator is or shall be entitled to the money secured by the mortgage, or shall, have assented to a bequest thereof, or shall have assigned the mortgage debt, such executor or administrator shall have power, on payment of the principal money and interest due on the said mortgage, or if the mortgage money shall have been paid to the testator or intestate in his lifetime, to convey, release and discharge the said mortgage debt and the legal estate in the land; and such executor or administrator shall also have the same power as to any portion of the lands, on payment of some part of the mortgage debt, or on any arrangement for exonerating the whole or any part of the mortgaged lands without payment of money, and such conveyance, release or discharge shall be as effectual as if the same had been made by any person having the legal estate.

IX. And be it enacted, That the thirteenth section of the said recited Act shall extend and be applied to any estate, right or title or interest in lands which may be disposed of by deed under the fifth section of this Act.