

An Act to regulate the rights of persons married in Foreign Countries, and emigrating therefrom to reside in Lower Canada.

**W**HEREAS by the laws of Lower Canada a *communauté de biens* (community of property, moveable and immoveable, acquired during marriage, in equal shares) is established between husband and wife from the time of their marriage within Lower Canada, in the absence of any marriage contract or settlement; And whereas doubts and difficulties have frequently arisen in determining the rights of persons married in the different States of Europe and America, and afterwards residing and acquiring property in Lower Canada, and it becomes necessary to make Legislative provision for simplifying and settling the law in this behalf.

Preamble.

Therefore, &c..

I. From and after the first day of January, one thousand eight hundred and sixty-one, all persons coming into Canada to reside therein who have been previously married in the British Isles, or in any other Country or State of Europe or of America, and who had entered into no marriage contract or settlement previously to such marriage, shall, after having remained domiciled during twelve months in Lower Canada, with respect to all property acquired by them during their subsisting marriage, be declared and held to have submitted themselves to the laws of Lower Canada for the government, regulation and settlement of their respective rights in and to such property, and after the expiration of the said period of twelve months, a *communauté de biens*, conformable to the laws of Lower Canada, shall be and subsist between them during the continuance of such marriage, unless such *communauté* shall or have been dissolved by authority of a competent Court or by operation of Law, and shall be held to have commenced from the period of their having acquired a domicile, or commenced a permanent residence in Lower Canada, in like manner and to the same effect as if such marriage had been first solemnized therein :

Community to commence after one year's domiciliation in L. Canada.

Provided always, that it shall be lawful for such married persons and for each of them, whether husband or wife, within the said period of twelve months to declare, in the manner hereinafter provided, their intention to abide by the laws of the particular State or country in which they may have been married in respect to the determination of their marriage rights respectively, and it shall be competent to either husband or wife to make such declaration without the presence, assistance or authority of the other of them.

Proviso : parties may declare their option to abide by the laws of the state where they were married.

II. In every case in which it may be the desire of such husband or wife to make such declaration, it shall be lawful to make the same before a Public Notary, in the form or to the effect set forth in the Schedule.

Form of declaration of such option ; and how made