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No. 206.

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4th Session, 3rd Parliament, 14 & 15 Vict., 1851.

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## BILL.

An Act to enable Married Women resident in foreign countries to convey Real Estate of which they are seized in the Province of Upper Canada.

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Received and read a first time, Thursday, 3rd July, 1851.

Second reading, Monday, 7th July, 1851.

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Col. PRINCE.

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TORONTO: PRINTED BY LOVELL AND GIBSON.

BILL.

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

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, &c.

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, or a Notary Public of such state

Preamble.

Married Women resident in a foreign State may convey estate in U. C

Proviso: Deed to be executed before the Governor, British Consul, &c.

Who shall examine her. 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, or Notary Public, touching her consent to alien and depart with such real estate, and shall freely and voluntarily, 5 and without coercion, give her consent before such Governor or other chief executive officer, or such British Consul, Judge or Notary Public as aforesaid, to alien and  
 Proviso. depart with such estate: Provided always, that it shall not in any case be necessary for any such Governor or 10 other chief executive officer, British Consul, Judge or Notary Public to attest the execution of any such deed as a subscribing witness.

Such Governor, Consul, &c. to give a certificate. II. And be it enacted, That in case it shall appear to such Governor or other chief executive officer, British 15 Consul, Judge or Notary Public, 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 20 lawful for such Governor or other chief executive officer, British Consul, Judge or Notary Public, 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 25 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 30 certificate is made by such Governor or chief executive officer, or signed by the said British Consul, or Judge of Court of Record and under the seal of such Court, or signed by the said Notary Public and under his notarial seal, and which said certificate shall be in form or to the 35 effect following, viz:—

Form of certificate. "I, \_\_\_\_\_ do hereby certify, that on this day of \_\_\_\_\_ at \_\_\_\_\_ the within deed was duly executed in the presence of \_\_\_\_\_ by wife of \_\_\_\_\_ one of the grantors therein named; 40 and that 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 45 husband or of any other person or persons whatsoever."

Its effect. And such certificate shall be deemed and taken to be *prima facie* evidence of the facts contained therein.

Married Woman so resident may III. And be it enacted, That it shall and may be lawful for any such Married Woman as aforesaid, resident of 50

such state or country as aforesaid, or absent from this Province and for the time being resident in such state or country as aforesaid, jointly with her husband to make and execute to any other person or persons other than her husband, a power of attorney, giving such other person or persons any power and authority he and she may think proper, for and on behalf and in the name of her and her said husband, to sell, lease, convey and in any manner dispose of any real estate or interest therein, of which she may be seized, possessed or in any manner entitled to in this Province, and also, if necessary, authorizing by such power the said attorney to grant acquittances for the purchase money agreed to be paid for the real estate or interest therein mentioned, or take security for the payment thereof or any portion thereof, which said power of attorney shall be valid and effectual and as good for all purposes as if the said Married Woman were a *feme sole* at the time of the making thereof: Provided always, that such power of attorney shall have no effect and shall not be valid for any purpose unless the same be executed by such Married Woman in the manner hereinbefore provided in respect of deeds to be executed by Married Women, nor unless all the provisions hereinbefore contained with reference to deeds executed by Married Women be complied with, with reference to such Power of Attorney, for which purpose power is hereby given; and the certificate hereinbefore required to be endorsed on deeds shall have the same and no other or larger effect when endorsed on such power of attorney, and when so endorsed shall be *prima facie* evidence of the facts stated therein.

in like manner  
execute a  
Power of  
Attorney to  
sell estate in  
U. C.

Proviso: the  
same formal-  
ities to be  
observed.

IV. 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, 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."

Part of sec. 1  
of Act of U. C.,  
1 Will. 4, c. 2.  
repealed.

Other  
provisions  
substituted.

V. And be it enacted, That this Act shall apply to real estate in Upper Canada only.

Extent of Act.