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c 150 Married Woman's Conveyances Act

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CHAPTER 150.

An Act to facilitate the Conveyance of Land
by Married Women.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Married Woman's Conveyances Act*. 3-4 Geo. V. c. 30, s. 1.

Interpretation.

2. In this Act

"Judge."

(a) "Judge" shall mean a Judge of the Supreme Court.

"Land."

(b) "Land" shall mean and include land, chattels real, rents and hereditaments, whether corporeal or incorporeal, and any undivided share thereof; any estate, right or interest therein whether legal or equitable; any charge, lien or incumbrance in, upon or affecting land, money subject to be invested in land; and any interest, charge, lien or incumbrance in, upon or affecting such money as aforesaid. 3-4 Geo. V. c. 30, s. 2.

Married woman's power to convey real estate. Rev. Stat. c. 126.

3. Subject to the provisions of *The Land Titles Act* every married woman, being of the full age of twenty-one years, may execute a certificate of discharge of mortgage of land and may also, by deed, convey her land and convey, release, surrender, disclaim or extinguish any interest therein, and release or extinguish any power vested in, or limited or reserved to her in regard to land, and bar or release her dower, and any right or inchoate right of dower in any land, and appoint an attorney for such purposes or any of them as fully and effectually as she could do if she were a *feme sole*. 3-4 Geo. V. c. 30, s. 3.

Married woman as executrix or trustee.

4.—(1) A married woman who is an executrix or administratrix, alone or jointly with any other person or persons, of the estate of any deceased person, or a trustee alone or jointly of property subject to any trust, may transfer or join in transferring any such particulars as are mentioned in section 11 of *The Married Women's Property Act* without her husband as if she were a *feme sole*.

Rev. Stat. c. 149.

[See *Married Women's Property Act*, R.S.O. c. 149, s. 4 (3).]

(2) Where any freehold hereditament is vested in a married woman as a bare trustee she may convey or surrender the same as if she were a *feme sole*, and without her husband joining in the conveyance. 3-4 Geo. V. c. 30, s. 4.

5. Where a conveyance to a purchaser for value purporting to bar or release dower in any land was before the 5th day of May, 1894, executed by a wife entitled to an inchoate right of dower, and such wife was at the time of such execution under age, but the purchaser had at or before the execution of the conveyance and payment of the purchase money no notice that she was under age, the conveyance shall be effectual to bar her dower unless prior to the 1st day of January, 1899, she had brought an action for dower or had given to the owner of the land written notice of her claim to dower by reason of her minority; but nothing in this section shall affect any conveyance which prior to the 31st day of December, 1897, became valid under the Act passed in the fifty-ninth year of the reign of Her late Majesty Queen Victoria intituled *An Act relating to Dower in Certain Cases*. 59 V. c. 40. 3-4 Geo. V. c. 30, s. 5.

6. Subject to the provisions of *The Land Titles Act* a married woman, under twenty-one years of age, of sound mind, might on and since the 5th day of May, 1894, have barred and hereafter may bar her dower in any land by joining with her husband in a deed or conveyance thereof to a purchaser for value, or to a mortgagee, in which deed or conveyance a release or bar of her dower is contained, and she may in like manner release her dower to any person to whom such land has been previously conveyed. 3-4 Geo. V. c. 30, s. 6.

7.—(1) Every conveyance before the 29th day of March, 1873, executed by a married woman of or affecting her land, to which her husband was a party, shall be deemed to have been valid and effectual to pass the estate which such conveyance purported to pass of such married woman in the land, notwithstanding

- (a) the absence or want of a certificate of her consent to convey the same;
- (b) any irregularity, informality or defect in the certificate; and
- (c) that such conveyance was not executed, acknowledged or certified as required by any Act at or before that date in force, or may not have been executed by the married woman in the presence of her husband, or on the same day on which or at the same place at which such conveyance was executed by her husband.

Saving as to subsequent conveyances properly executed.

Exception.

Absence of good faith.

Adverse possession.

Conveyance by married women before 1st July, 1884.

Saving as to titles acquired from married women subsequent to such conveyance.

Exception.

Absence of good faith.

Adverse possession.

Validity of conveyances made since March 29th, 1873.

Certain titles not to be prejudiced.

(2) Nothing in this section shall render valid any conveyance to the prejudice of any title subsequently to the execution of such conveyance and before the said date acquired from the married woman by deed executed and certified as by law required, unless the actual possession or enjoyment of the land conveyed or intended to be conveyed by the prior conveyance has been had at any time subsequent thereto by the grantee therein, or those claiming by, from or under him, and he or they have been in such actual possession or enjoyment continuously for the period of three years before the said date, and he or they were at that date in the actual possession or enjoyment thereof.

(3) Nothing in this Act shall render valid any conveyance from the married woman which was not executed in good faith, or any conveyance of land of which the married woman or those claiming under her is or are in the actual possession or enjoyment contrary to the terms of such conveyance. 3-4 Geo. V. c. 30, s. 7.

8.—(1) Every conveyance before the 1st July, 1884, executed by a married woman of or affecting her land shall, notwithstanding her husband did not join therein, be deemed to have been valid and effectual to pass the estate which such conveyance purported to pass of such married woman in the land.

(2) Nothing in this section shall render valid any such conveyance to the prejudice of any title subsequently to the execution of such conveyance and before the 7th day of April, 1896, acquired from the married woman by deed duly executed as by law required, unless the actual possession or enjoyment of the land conveyed or intended to be conveyed by the prior conveyance shall have been had at any time subsequent thereto by the grantee therein or those claiming by, from or under him, and he or they shall have been in such actual possession or enjoyment continuously for the period of three years before that date, and he or they was or were at such date in the actual possession or enjoyment thereof.

(3) Nothing in this section shall render valid any conveyance from the married woman which was not executed in good faith, or any conveyance of land of which the married woman or those claiming under her is or are in the actual possession or enjoyment contrary to the terms of such conveyance. 3-4 Geo. V. c. 30, s. 8.

9.—(1) Every conveyance made on or after the 29th day of March, 1873, by a married woman of or affecting her land which was signed or executed by her husband shall be deemed to be valid and effectual to pass the estate of such married woman in such land which such conveyance purports to pass.

(2) Nothing in this section shall render valid any conveyance to the prejudice of any title lawfully acquired from any married woman prior to the 23rd day of April, 1887, nor

render valid any conveyance from the married woman not executed in good faith or any conveyance of any land of which the married woman or those claiming under her was or were on that day in actual possession or enjoyment contrary to the terms of such conveyance, or affect any action or proceeding then pending.

(3) This section shall not be deemed to declare or imply any construction of any statute passed prior to the 23rd day of April, 1887, as affecting the matters mentioned in this section or any other matters relating to the rights or powers of married women. 3-4 Geo. V. c. 30, s. 9.

Construc-
tion of any
earlier
statute not
affected.

10.—(1) Where a husband is entitled to tenancy by the curtesy in the land of his wife, and where a married woman is unable to give a valid deed of her land without her husband joining therein, if the husband is in consequence of being a lunatic, idiot or of unsound mind, and whether so found by inquisition or not, or is from any other cause incapable of executing a deed or conveyance, or if his residence is not known, or he is in prison, or is living apart from his wife by mutual consent or under circumstances which entitle her to alimony, or if he has deserted her, or if there is in the opinion of the Judge any other cause for so doing, a Judge may, by an order to be made by him in a summary way upon the application of the wife upon such evidence as to him seems meet and upon such notice to the husband as he deems requisite, dispense with the execution of the deed or conveyance by or concurrence of the husband therein in any deed or conveyance of the land of his wife and enable the wife effectually to convey such land without such execution by or concurrence of the husband, and free from any estate of the husband by the curtesy.

When con-
veyance
may be
made free
from
curtesy.

(2) All acts or deeds done or executed by the wife in pursuance of such order in regard to her land shall be done, executed, or made by her in the same manner and with the same effect as if she were a *feme sole*, and when so done, executed or made by her shall be as good, valid and effectual as they would have been if the husband had become a party to and executed the same.

Mode of
execution
by wife.

Effect.

(3) Where the residence of the husband is not known notice to him shall not be necessary.

Dispensing
with notice.

(4) Nothing in this section shall be construed as implying that a married woman may not, without and irrespective of the provisions of this section, validly execute any deed, transfer or conveyance of her land, or of any right or interest therein, in all respects as if she were a *feme sole*. 3-4 Geo. V. c. 30, s. 10.

Right of
married
women to
convey
not af-
fected.

Form of
order.

11. The order may be in the form following:—

“THE MARRIED WOMAN’S CONVEYANCES ACT.”

Upon application of A.B., of the wife of C.B.,
(or formerly of, etc.) I, one of the Judges of the
Supreme Court (or as the case may be), do, pursuant to
The Married Woman’s Conveyances Act, order that the said A.B.
may, in the same manner, and with the same effect, as if she were
a *feme sole*, and free from any estate of her husband by the curtesy,
grant and convey all or any part of her estate, title and interest
of, in, to or out of all and singular (*describe the premises*).

Dated this

day of

A.D.

(Signature of Judge.)

3-4 Geo. V. c. 30, s. 11.

Registration.

12. The order may be in duplicate or in as many parts as are necessary and shall be signed by the Judge, and may be registered in the registry office of the registry division wherein the land to which the same relates is situate, upon its production and deposit, without any proof thereof, and either before or after the execution of the deed made in pursuance of such order. 3-4 Geo. V. c. 30, s. 12.

Method.

13. The order may be indorsed or written upon the deed to which the same relates, in which case it shall be registered as part of the deed and the land to which the order relates may be described therein by reference to the description contained in the deed. 3-4 Geo. V. c. 30, s. 13.

Description.

Filing of
papers.

14. The affidavits and papers upon which the order is obtained shall be filed with the clerk in chambers and shall be transmitted by him to the Central Office. 3-4 Geo. V. c. 30, s. 14.

Judge’s fee
for order.

15. For every such order, including every duplicate or other part thereof, the Judge shall be entitled for his own use to a fee of \$2; but no other fee or charge shall be payable in respect thereof except for filing the affidavits and papers for which the same fees shall be charged, payable in law stamps, as are chargeable for filing papers in other matters. 3-4 Geo. V. c. 30, s. 15.

Fee for
registration
of order.

16. For the registration of such order, except where it is written upon and registered as part of the deed, including all necessary entries and certificates, the registrar shall be entitled to a fee of \$1. 3-4 Geo. V. c. 30, s. 16.