MANITOBA

LAW REFORM COMMISSION
COMMISSION DE RÉFORME DU DROIT

REPORT
ON
THE ADMINISTRATION OF JUSTICE IN MANITOBA
PART III
THE CONSOLIDATION OF
EXTRA-PROVINCIAL JUDGMENT ENFORCEMENT

Report #21

January 28, 1976

The Manitoba Law Reform Commission was established by "*The Law Reform Commission Act*" in 1970 and began functioning in 1971.

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On January 24, 1975, the Hon. Howard Pawley, Q.C., Attorney-General of Manitoba requested the Law Reform Commission to examine section 83 of *"The Queen's Bench Act"* of Manitoba.[1] The scope of the reference from the Attorney-General was very narrow and it is felt that revision of section 83 is necessary but it should be part of a wider recommendation than as envisaged by the Attorney-General. In Manitoba there are four pieces of legislation that deal with the enforcement of foreign judgments. These are *"The Reciprocal Enforcement of Judgments Act"*[2], *"The Reciprocal Enforcement of Maintenance Orders Act"*[3], *"The Extra-provincial Custody Orders Enforcement Act"*[4], and section 83 of *"The Queen's Bench Act"*.[5] It is suggested that these three statutes and section 83 be combined into a legislative consolidation to be known as The Enforcement of Foreign Judgments Act.

The proposed consolidation would include four parts. Part I would be what is now *"The Reciprocal Enforcement of Judgments Act"*. The second part of the consolidation would be *"The Reciprocal Enforcement of Maintenance Orders Act"*. And the third part would be *"The Extra-provincial Custody Orders Enforcement Act"*. It makes eminent sense to place all three pieces of legislation into one Enforcement of Foreign Judgments Act. The above-mentioned legislation deals with essentially the same problem and having them all together in one place in the statutes makes the job of research simpler as the three statutes are bound by a common thread, that is, enforcement of foreign judgments.

The Commission has never purported to have any skill at statutory drafting, and has undergone no metamorphosis in completing this study. Therefore, we make our recommendations with few exemplifications. However, it should not be unduly onerous for the really skilled drafters of our statutes to extract some provisions of general application or common definition from the three main parts and consolidate them into some general, preliminary sections.

For example, section 5 of *"The Reciprocal Enforcement of Judgments Act"* concerning conversion to Canadian money, is in necessary accord with section 11 of the federal *Currency and Exchange Act*.[6] The cited section 5 is, therefore, of general application to foreign judgments in Manitoba, and should be of general application under the proposed new statute. The same remark applies equally to its following provision, section 6, which deals rationally with judgments in a language other than English. The foregoing

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1 [1970] R.S.M., C280.

2 [1970] R.S.M., J20.

3 [1970] R.S.M., M20.

4 [1975] C.C.S.M., C360.

5 *Supra*, footnote 1.

6 [1970] R.S.C., Ch. C—39.

suggestions exemplify the kind of statutory housekeeping, which is a respected skill beyond our repertoire, to be employed here with no little perception and thoroughness.

Part IV of the proposed consolidation presents a somewhat different problem although section 83 of *"The Queen's Bench Act"* does deal specifically with the enforcement of foreign judgments in the Court of Queen's Bench for Manitoba. Section 83 reads:

> Subject to The Reciprocal Enforcement of Judgments Act, a defendant in an action upon a foreign judgment may plead to the action on the merits, or set up any defence that might have been pleaded to the original cause of action for which the judgment was recovered; but the plaintiff may apply to the court to strike out any such pleading or defence upon the ground of embarrassment or delay.[7]

The Hon. the Attorney-General in his letter of reference informed us that the County Court judges of Manitoba are of the view that the practice in the County Court should be made uniform with the practice in the Court of Queen's Bench. In this regard they believe it desirable that jurisdiction in this area not be restricted to the Court of Queen's Bench but that both of our trial courts have the same jurisdiction. It is therefore recommended that section 83 of *"The Queen's Bench Act"* of Manitoba be repealed as a feature of that statute exclusively.

In light of this recommendation we must examine what effect section 83 has in Manitoba upon the enforcement of foreign judgments. Here we are concerned with two types of foreign judgment creditors: those from reciprocating states and those from non-reciprocating states. A judgment creditor from a reciprocating state may choose to proceed to register a judgment under *"The Reciprocal Enforcement of Judgments Act"*[8] in the County Court and then the defendant in Manitoba is limited to the defences provided in that Act. If the action is brought in the Court of Queen's Bench then the defendant may choose to go beyond the defences provided in *"The Reciprocal Enforcement of Judgments Act"* and rely on section 83 in order to re-open the action on its merits. If the judgment creditor is from a non-reciprocating state and seeks to enforce the judgment in the Court of Queen's Bench then section 83 is available to the judgment debtor.

Section 83 is a statutory denial of the conclusiveness and finality of the judgment of a foreign court even one in a reciprocating jurisdiction and is diametrically opposed to the common law rule. The common law rule is:

> A final foreign judgment, if rendered by a court with international jurisdiction and not mortally tainted with fraud, cannot be impeached on the merits. This conclusiveness although akin in

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7 *Supra,* footnote 1.

8 *Supra,* footnote 2.

> effect to *res judicata* did not spring from that doctrine, but inevitably from the doctrine that the existence of the right created by a foreign judgment is in itself a sufficiently impelling reason for its recognition. The foreign court having jurisdiction, the right created by it should be treated as inviolate elsewhere.[9]

The defence which section 83 may provide for the defendant in an action on a foreign judgment is considerably wider in scope than any provided by statute in any other common law province in Canada. In fact the Manitoba Court of Appeal has stated that the effect of the relevant legislation is that in an action in Manitoba upon a foreign judgment the fact that defences have been raised and tried in the foreign jurisdiction does not prevent their being raised and tried again here.[10] Still there is discretion in the Manitoba Court of Queen's Bench to allow another trial on the merits or strike out the defences raised on the ground of delay or embarrassment. And the defendant in an action of this nature may use those defences which might have been used in the foreign court even if such defences are not known to the Manitoba Court.[11] In effect this provision of *"The Queen's Bench Act"* gives the defendant "... an absolute right to plead afresh to the original cause of action subject to the discretionary power of the court in a proper case to deny him that right".[12]

Section 83 was enacted in Manitoba in 1876, and was modelled after an earlier Ontario statute section which had been enacted in 1860. Ironically after much criticism, the Ontario section was repealed the very year of its adoption in Manitoba. The older cases in Manitoba seem to say that the defences available to the defendant are those that would have been available on the original cause of action in the foreign court and not those which although unavailable in that jurisdiction exist in Manitoba.[13] However, Richards J. in *Hickey v. Legresley* explained the purpose of section 83 as follows:

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[9] H. Read, *Recognition and Enforcement of Foreign Judgments,* Harvard University Press, 1938, at page 111.

[10] *Callaghan v. Nicholls* [1920] 3 W.W.R. 476.

[11] "In Manitoba, a defendant in an action upon a foreign judgment may plead to the action on the merits or set up any defence which may have been pleaded to the original cause of action; ... but ... the plaintiff may apply to the court to strike out any such pleading or defence upon the ground of embarrassment or delay", K.H. Nadelmann, *Enforcement of Foreign Judgments in Canada,* (1960), 38 C.B.R. 68 at page 70. See *Hickey v. Legresley* (1905), 15 Man. R. 304 at page 313.

[12] *Lange v. Manitoba Western Colonization Company Ltd.* [1921] 3 W.W.R. 877.

[13] *Bank of Montreal v. Cornish* [1879] Man. R. Temp Wood 272, at page 279: "... under our own local Act on this subject, there may be pleaded any plea on the merits, or any plea setting up any defence which might have been pleaded in the original action in which such judgment was recovered". *Hickey v. Legresley* (1905) 1 W.L.R. 546, 15 Man. R. 304; *Int. etc. Corporation v. G.N.W. Central Railway* (1893), 9 Man. R. 147; *New Hamburg Mfg. Co. v. Shields* (1906), 4 W.L.R. 307, 16 Man. R. 212; *Harbican v. Kennedy* [1937], 2 D.L.R. 541 (Man.); *British Linen Co. v. McEwan* (1892), 8 Man.

> It seems to me that the Legislature manifestly intended to give to any one coming here from another province or country, who should be sued here on a judgment of any Court of such other province, or country, the benefit of all defences which he could have set up, if sued here on the original cause of action, and at the same time thought it would be inequitable, when so enacting, to deprive him of any defences not available under the law of Manitoba but which he could have set up in the original jurisdiction where the liability, if any, has been incurred. I am of opinion that, in order to carry out such intention, the words 'plead to the action on the merits' were enacted to cover the former object, and the words which follows 'merits' were enacted for the latter purpose. The method of pleading a defence, which is available because of its being good under foreign law, is to set out the facts, and to state, as has been done in this case, that they constitute a defence under such foreign law.[14]

It must be noted that these comments suggesting a wider interpretation of section 83 are *obiter*. In our opinion this interpretation of section 83 is the more desirable one. A defendant in Manitoba should be able to raise any defences he could have raised in the foreign court (even though some may be unknown in Manitoba) as well as any defences available to him in Manitoba.

In an action in Manitoba defences may be raised even though they were brought forward in the original hearing in the foreign jurisdiction. However if the defences have already been presented and adjudicated in the foreign court, the Manitoba court has the discretion to strike out such defences as embarrassing.[15] In order for the court to exercise its discretionary power in favour of the plaintiff, it must be convinced that the defences were raised without merit, or for an ulterior purpose.[16] Trueman, J.A. pointed out in the *Lesperance v. Leistikow* case that:

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[13] R. 99, per Taylor, C.J. at page 110: "Under the statute the defendant may plead to the action on its merits and set up any defence to the action as brought on the judgment or he may set up a defence which he might have pleaded to the original cause of action for which the judgment was recovered in the court in which it was recovered. I cannot see how it can be held that a defendant can plead in an action on a judgment, a defence which he ought have set up to the original cause of action, had it been sued upon in this court, so long as the words which might have been pleaded, stand as they do in the statute."

Bains, J. at page 115 echoes the Chief Justice when he states:

> "The opinion I have come to is, that the construction contended for by the plaintiffs is the one that is indicated by the words we find in the enactment, and it means, therefore, that a defendant in such an action can plead to the action on the merits, or set up in this court any defences which he might have set up in the action on the original cause of action in the foreign court."

[14] [1905] 1 W.L.R. 546.

[15] *Sloman v. Benton* (1916), 9 W.W.R. 1466.

[16] *Moore v. Int. Securities Ltd.* (1916), 10 W.W.R. 378.

> The word embarrassment as used in the statute, appears to have a wider meaning than is generally given to the word . . . [when] applied to a pleading under the rules of practice . . . it includes the case of a plaintiff who is embarrassed by perfectly good pleas which have been put forward with the intention of blocking and delaying the action, without any real reliance on their merits, or any reasonable hope of success. . . .[17]

In summary, in an action in Manitoba to enforce a foreign judgment, the fact that the defendant has raised defences in the original cause of action in the foreign jurisdiction and these have been tried, does not prevent their being raised and tried again but there is discretion in the Court of Queen's Bench to allow a re-hearing on the merits or strike out the defences on the ground of embarrassment or delay. In most cases if the defendant tries to raise defences which have already been pleaded and argued in the foreign jurisdiction they may be struck out by the court on the ground of embarrassment or delay.[18] Section 83 is made subject to "*The Reciprocal Enforcement of Judgments Act*" which has a similar provision although it does not give the court as much discretion. Section 3(6)(g) of "*The Reciprocal Enforcement of Judgments Act*" says that no order for registration shall be made if the court to which application is made is satisfied that the judgment debtor would have a good defence if an action were brought on the judgment.

Now, is a section 83 clause really needed in the statutes of Manitoba? Such a statutory re-opening on the merits of the foreign judgment is not unusual although the extent to which it is allowed in Manitoba is unusual. Again Ontario did have an identical provision for several years in the nineteenth century although it has been repealed. Today section 53 of the Ontario *Judicature Act* allows a limited right to raise defences on the merits of a judgment from a Quebec court, in situations where service was not personal and no defence was raised at the original hearing. This is a retaliatory section because this is the stand taken by Quebec regarding judgments originating in other provinces. Nova Scotia and Prince Edward Island have provisions allowing persons domiciled therein to raise a defence which might have been raised to the original cause of action if the defendant had raised no defence at the actual hearing.

This is a different position than is taken in Saskatchewan, New Brunswick and under the common law. The Foreign Judgments Acts of those provinces deem a foreign judgment to be conclusive as to the matter adjudicated upon. In each piece of legislation there is only a limited range of defences available to the judgment debtor none of which relates to the actual merits of the case.

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[17] [1935] 3 W.W.R. 1.

[18] For example see: *Moore v. Int. Securities Ltd.* (1916), 10 W.W.R. 378.

However, the defences available to the defendant are very substantial. For example a foreign court will be recognized as possessing international jurisdiction only with respect to actions *in personam:*

(1) where the defendant is a subject of the foreign country in which the judgment was obtained;

(2) where the defendant at the time of the commencement of the proceedings was physically present in or a resident of, or domiciled in, the foreign country;

(3) where the litigant voluntarily had submitted himself to the jurisdiction of the court of the foreign country (by voluntarily appearing there, or by contracting to submit himself to that forum).[19]

Other defences included in the appropriate legislation include fraud, denial of natural justice and repugnance to public policy.

At common law, a defendant may dispute an action on a foreign judgment only by alleging a lack of international jurisdiction, fraud, contravention of the tenets of natural justice, or that enforcement of the judgment is contrary to public policy. The decision, however, is conclusive and final having regard to the actual merits of the case.[20]

> It is no longer open to the defendant to contend, unless in a court of error, that a foreign judgment can be impeached on the ground that it was erroneous on the merits; or to set up as a defence to an action on it; that the tribunal mistook either the facts or the law.[21]

In the face of this section 83 of the Manitoba Queen's Bench Act allows the defendant to re-litigate his case provided that the court be satisfied that the proceedings are not merely to embarrass or delay the judgment creditor. For this reason, the section has been subject to criticism from the Bench and from academic analysis. The very short-lived Ontario provision, on which section 83 was modelled, was criticized during its existence as an aberration:[22]

> [Section 83 was] . . . passed to protect defendants from such a case as Kingsmill v. Warrener . . . and to meet such a case as has since happened, where the foreign court contemptuously disregarded the comity of nations . . . and to meet the chances of

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[19] J.G. Castel, Recognition and Enforcement of Foreign Judgments in Personam and in Rem in the Common Law Provinces of Canada, (1971), 17 McGill L.J. 11 at page 31.

[20] *Godard v. Gray* [1870] L.R. 6 Q.B. 139.

[21] *Ibid.*, Blackburn J. at page 150.

[22] *Barned's Banking Co. Ltd. v. Reynolds* (1875), 36 U.C.Q.B. 256.

> mistakes being made in English law by foreign tribunals . . . however it may be . . . it is not well to isolate ourselves from other countries in this respect, and to refuse to give the like measure which we would receive from others.[23]

It has even been attacked in the Manitoba Court of Appeal when Trueman, J.A. stated:

> [Section 83] . . . must be sparingly used. It is a survival of the doctrine once entertained in discarded English cases that foreign judgments were only *prima facie* evidence of debt and were not conclusive on the merits, a doctrine which after a varied fortune was given its decisive *quietus* in decisions between 1850 and 1870.[24]

In a similar vein Professor Nadelmann has suggested that:

> The Manitoba provision of 1876, which has no common law background is clearly out of date. A second trial after a trial abroad by a court with proper jurisdiction always causes embarrassment and delay. Consequently, no defendant should succeed in having his cause re-argued. By encouraging manoeuvres for delay, the provision can only inconvenience the courts.[25]

Ultimately the extent to which the decision of a foreign tribunal will be recognized by our courts becomes a matter of conflicting policy considerations. Today there has been a phenomenal increase in the volume of international and interprovincial trade but, surprisingly, there has been little or no accompanying evolution of legal facilities to protect creditors in such commercial transactions.

> The recognition and enforcement of foreign judgments cannot be based on pure theory, but rather on a public policy which takes into account not only the fact that there must be an end to litigation, but also the economic and social requirements of the forum. Rules of law must be in harmony with economic and social factors if they are to operate successfully. To deny effect to a foreign judgment destroys the security in international transactions, as private relations generally ignore international boundaries.[26]

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[23] *Ibid.*, at page 290.

[24] *Lesperance v. Leistikow* [1935] 4 D.L.R. 125.

[25] Nadelmann, "Enforcement of Foreign Judgments in Canada", (1960), 38 C.B.R. 68 at pp. 81-82.

[26] *Supra*, footnote 19, at pp. 67-69.

At the same time, the world-wide revolution in transportation mechanisms has so increased population mobility as to render the necessity of seeking the enforcement of judicial decisions in the courts of other nations an increasingly common phenomenon. Nor can the fact of an outstanding foreign judgment be ignored: it means that

> A creditor [has] secured a judgment abroad, that he has successfully invoked the foreign jurisdiction, proven his case, and that the proper law has been applied and the correct procedure followed until final judgment has been rendered.[27]

If we in Manitoba expect the decisions of our tribunals to be treated with respect abroad and in fact enforced abroad, we must be willing ourselves to recognize the competence of foreign courts to deal with matters within their jurisdiction.

On the other hand, we must be very concerned with protecting the rights of Manitobans when faced with judgments obtained against them abroad. At this point one must distinguish between reciprocating and non-reciprocating jurisdictions. It does not seem reasonable that a judgment debtor in Manitoba should be able to raise section 83 as a defence to the registration of a judgment from a reciprocating state. Full faith and credit in compliance with "*The Reciprocal Enforcement of Judgments Act*" should be given to judgments from reciprocating states. But with regard to non-reciprocating states — why should their judgments be recognized automatically? After all, such judgments are pronounced in states to which the Lieutenant-Governor-in-Council has not desired, or otherwise found it advisable, to commit the trust which is implied by section 12(1) of our statute; and, in turn such trust has not been reposed in Manitoba judgments which might be enforced in those same states. In fact, there has been an understandable reluctance to recognize foreign judgments *proprio vigore*. In *Marshall v. Houghton*, Dysart, J. pointed out that section 82 (as it then was):

> . . . was apparently introduced to afford a sanctuary for debtors who cared to resort hither by placing at their disposal, for the determination of their rights, the laws, courts and juries of [Manitoba]. But does this right to have their claims litigated afresh in this jurisdiction deprive the plaintiff of all evidential value of the judgment obtained by him in a foreign jursidiction on that original cause of action? In my opinion it does not. In this case the plaintiff might have pleaded the foreign judgment without setting up his alternative and allowed the defendant to plead the original cause of action, after which the plaintiff might have replied. This would be the logical course. The plaintiff however, in his statement of claim, has pleaded both foreign judgment and the original cause of action. This removed the necessity of the defendant invoking section [83]. The situation, therefore, is, that

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[27] *Ibid.*, at page 86.

> if the plaintiff at the trial after proving his foreign judgment had rested his case, he would without more be entitled to judgment, unless defendant came forward and either disproved or overcame the strength of the *prima facie* case. While the general onus of proving his case is always on the plaintiff, there are times at certain stages of the trial when the duty of coming forward may be shifted to the defendant, and this is so after the plaintiff has established the *prima facie* case. The foreign judgment, therefore, having once been proved, casts upon the defendant the onus of impeaching the judgment or breaking it down.[28]

This comment tempered with our view that the recognition of foreign judgments is a mere concession that a state allows to the acts of other states on the grounds of convenience and utility and it is not the result of an absolute obligation. Although we would view extension of reciprocity with equanimity, there are, however, reasons for which we should hesitate automatically to enforce judgments of non-reciprocating foreign jurisdictions as if they were reciprocating states. J.G. Castel has aptly put it thusly:

> Each country has a tendency to protect itself against the intrusion of foreign judgments, to the prejudice of creditors in whose favour the judgments lie. The principle of territorial sovereignty is said to prevent foreign judgments from having any direct operation as such in any of the Canadian provinces. This attitude is principally due to a lack of confidence in other legal systems. It may be difficult for the enforcing court to ascertain the independence and legal ability of the foreign judge, and to assess the reliability of the foreign legal system. This difficulty is reinforced where the countries involved adhere to fundamentally different legal systems and thus may have different concepts of public policy and due process. To admit the principle of universal recognition and enforcement of foreign judgments would result in recognizing in a foreign judge a power superior in many instances to that possessed by the local legislature.[29]

In our opinion adequate safeguards are necessary to regulate the recognition of foreign judgments from non-reciprocating jurisdictions. These safeguards must protect both the interests of the forum as a whole and the individual Manitoba participants in the legal process in our courts. This view is one shared by Judge Molloy of the County Court of Manitoba. In *Aero Trades Western Limited v. Ben Hocum & Son Ltd.*[30] the judge stated:

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28 [1922] 3 W.W.R. 65 at page 70.

29 *Supra*, footnote 19 at page 11.

30 (1974), 51 D.L.R. 617.

> Section 83, of course, could not be repealed for it still provides the only method of enforcing a judgment obtained in a non-reciprocating state.[31]

It has been suggested that section 83 of *"The Queen's Bench Act"* is a form of over-kill. Even Castel acknowledges:

> Policy considerations dictate that there must be an end to litigation, that those who have contested an issue shall be bound by the result of the contest and that matters once tried shall be considered forever settled as between the parties.[32]

One can agree with this statement when it is applied to the judgment from reciprocating states. The problem is with non-reciprocating states and their judgments which may bind a Manitoba defendant. It is therefore suggested that Part IV of the Enforcement of Foreign Judgments Act be entitled the Enforcement of Judgments from Non-reciprocating Jurisdictions. Part IV would include a section similar to section 83 of *"The Queen's Bench Act"*.

This suggestion is made even after careful consideration of the Hague *Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters.* Canada is not a signatory to the *Convention.* In the *Convention* there is an important omission, namely of a Federal State Clause. And it does not allow the reopening of a case on the merits which is precisely the power we think should be left with our Manitoba courts, under the proposed Part IV.

This suggestion is also made after careful consideration of Chapter IV [Recognition and enforcement of foreign decisions] contained in the recently published Report on Private International Law by the Private International Law Committee of the Quebec Civil Code Revision Office. That report recommends amendments to the Civil Code which are based on the Hague *Convention.* The said report is an awesome opus which fills us with genuine admiration. However, Quebec is not, and never has been, a reciprocating state within the meaning of *"The Reciprocal Enforcement of Judgments Act"* of Manitoba, under which all other provinces and both territories of Canada are reciprocating states. Unless and until Manitoba and all these other jurisdictions move to adopt the proposed Quebec version of the Hague *Convention*, we think it advisable to remain within the bounds of the reciprocity which we have already established in Canada and abroad. Only when and if Canadian uniformity of law actually settles upon the kind of provision contemplated by the Civil Code Revision Office, would we recommend consideration of abandoning the reopening feature of the present law of Manitoba. We do not recommend its abandonment at this time, as we have already stated.

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31 *Ibid.*, at page 620.

32 *Supra*, footnote 19 at page 85.

Therefore, Part IV of the Act would only need one section and it might read as follows:

> In any action upon a foreign judgment which is not the subject of Parts I, II, or III of this Act, a defendant may plead to the action on the merits, or set up any defence that might have been pleaded to the original cause of action for which the judgment was recovered; but the plaintiff may apply to the court to strike any such pleading or defence upon the ground of embarrassment or delay.

It seems reasonable that our courts should fully be able to test the plaintiff's claim if in the court's discretion it perceives the necessity to intervene.

In summary, section 83 of *"The Queen's Bench Act"* should be repealed. A similar section, such as the one suggested above, should be added as Part IV of the proposed Enforcement of Foreign Judgments Act. This would have the effect of taking the exclusive jurisdiction in these matters from the Queen's Bench and giving it to both Queen's Bench and County Courts. In effect the Queen's Bench would not lose the power which it now has and the County Court would gain the power now exercised exclusively by the Queen's Bench with regard to foreign judgments.

SUMMARY OF RECOMMENDATIONS

WE RECOMMEND THAT:

1. *"The Reciprocal Enforcement of Judgments Act"*, *"The Reciprocal Enforcement of Maintenance Orders Act"*, *"The Extra-provincial Custody Orders Enforcement Act"* and section 83 of *"The Queen's Bench Act"* be consolidated into one piece of legislation to be known as The Enforcement of Foreign Judgments Act.

2. Section 83 of *"The Queen's Bench Act"* be repealed and a similar section be enacted as Part IV of The Enforcement of Foreign Judgments Act.

3. The provisions of general application in the existing legislation be consolidated into general preliminary sections of The Enforcement of Foreign Judgments Act.

4. Jurisdiction to deal with the reopening provision in the proposed Part IV be with both the Court of Queen's Bench and the County Court of Manitoba.

This is a Report pursuant to section 5(3) of *"The Law Reform Commission Act"* dated this 28th day of January, 1976.

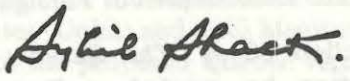
Francis C. Muldoon, Chairman

R. Dale Gibson, Commissioner

C. Myrna Bowman, Commissioner

R.G. Smethurst, Commissioner

Val Werier, Commissioner



Sybil Shack, Commissioner

Kenneth R. Hanly, Commissioner