

BILL NO. 25 OF 1925.

A BILL TO FACILITATE THE RECIPROCAL
ENFORCEMENT OF JUDGMENTS AND
AWARDS.

NOTE.

The existing law of the Province treats a foreign judgment as creating a debt between the parties to it, and permits a successful person to sue upon such debt; but the judgment itself will not be enforced by execution or any other process.

Not all judgments are recognized by the Province, but it may be said, speaking generally, that the Province recognizes judgments given in other jurisdictions where the defendant has had notice of the proceedings, and where at least one of the following conditions has been satisfied—

- (a) that the defendant was resident in the foreign jurisdiction at the time the action was begun against him; or
- (b) that the defendant in his capacity as plaintiff selected the Court where the action was heard; or
- (c) that the defendant voluntarily appeared; or
- (d) that the defendant contracted to submit to the jurisdiction of the foreign Court—

to which it may be added that the judgment must not have been contrary to the policy of English law, or to natural justice, or obtained by fraud.

The Bill provides a procedure by which persons who have obtained in any other Province of Canada which passes a similar law, a judgment that would be recognized by the Courts of this Province, can register such judgment, according to its amount, in the Supreme Court or in the District Court.

When the judgment is so registered in the Court, it will have the same effect as if it were a judgment of the Court, and will be enforced by execution.

Notice of the application to register must be given in all cases in which the defendant was not served with notice of the original action, or was served and did not appear, or defend, or otherwise submit to the Court.

When notice of the application is not given, the judgment debtor can apply to have the registration set aside within one month after he hears of such registration.

WALTER S. SCOTT,
Legislative Counsel.

(This note does not form any part of the Bill, and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 25 of 1925.

An Act to facilitate the Reciprocal Enforcement of
Judgments and Awards.

(Assented to _____, 1925.)

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

SHORT TITLE.

1. This Act may be cited as "*The Reciprocal Enforcement of Judgments Act.*"

INTERPRETATION.

2.—(1) In this Act, unless the context otherwise requires—

- (a) "Judgment" means any judgment or order given or made by a court in any civil proceedings, whether before or after the passing of this Act, whereby any sum of money is made payable, and includes an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the Province or territory where it was made, become enforceable in the same manner as a judgment given by a Court therein;
- (b) "Judgment creditor" means the person by whom the judgment was obtained, and includes the executors, administrators, successors and assigns of that person;
- (c) "Judgment debtor" means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the place where it was given;
- (d) "Original court" in relation to any judgment means the court by which the judgment was given;
- (e) "Registering court" in relation to any judgment means the court in which the judgment is registered under this Act.

(2) Subject to rules of court, any of the powers conferred by this Act on any court may be exercised by a judge of the Court.

ENFORCEMENT IN THIS PROVINCE OF JUDGMENTS OBTAINED
IN OTHER PROVINCES OR TERRITORIES OF THE
DOMINION OF CANADA.

3.—(1) Where a judgment of any superior, county or district court has been obtained outside this Province in any other Province or territory of the Dominion of Canada to which this Act applies, the judgment creditor may apply to the Supreme or a District Court of this Province at any time within six years after the date of judgment to have the judgment registered in that court, and on any such application the court may, subject to the provisions of this Act, order the judgment to be registered accordingly.

(2) Where the sum payable under the judgment would have been within the jurisdiction of the District Court if action had been brought therefor in this Province, the application shall be made to a District Court; in other cases, to the Supreme Court.

(3) Such order may be made *ex parte* in all cases in which the judgment debtor was personally served with process in the original action, or in which, though not personally served, he appeared or defended or otherwise submitted to the jurisdiction of the original court. In all other cases, reasonable notice of the application shall be given to the judgment debtor.

(4) The judgment may be registered by filing with the registrar (or other proper officer) of the registering court an exemplification or a certified copy of the judgment, together with the order for such registration, whereupon the same shall be entered as a judgment of the registering court.

4. No judgment shall be ordered to be registered under this Act if it is shown to the registering court that—

- (a) the original court acted without jurisdiction; or
- (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court; or
- (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court; or
- (d) the judgment was obtained by fraud; or
- (e) an appeal is pending, or the judgment debtor is entitled and intends to appeal, against the judgment; or

- (f) the judgment was in respect of a cause of action which for reasons of public policy or for some other similar reason would not have been entertained by the registering court; or
- (g) the judgment debtor would have a good defence if an action were brought on the original judgment.

5. Where a judgment is registered under this Act—

- (a) the judgment shall, as from the date of the registration be of the same force and effect, and subject to the provisions of this Act, proceedings may be taken thereon, as if it had been a judgment originally obtained or entered up in the registering court on the date of the registration;
- (b) the registering court shall have the same control and jurisdiction over the judgment as it has over judgments given by itself;
- (c) the reasonable costs of and incidental to the registration of the judgment (including the costs of obtaining an exemplification or certified copy thereof from the original court, and of the application for registration) shall be recoverable in like manner as if they were sums payable under the judgment, such costs to be first taxed by the proper officer of the registering court, and his certificate thereof endorsed on the order for registration.

6. In all cases in which registration is made upon an *ex parte* order, notice thereof shall be given to the judgment debtor within one month after such registration. Such notice shall be served in the manner provided by the practice of the registering court for service of writs of process, or of notice of proceedings. No sale under the judgment of any property of the judgment debtor shall be valid if made prior to the expiration of the period fixed by section 7 or such further period as the court may order.

7. In all cases in which registration is made upon an *ex parte* order, the registering court may on the application of the judgment debtor set aside the registration upon such terms as the court may think fit. Such application shall be made within one month after the judgment debtor has notice of registration, and the applicant shall be entitled to have the registration set aside upon any of the grounds mentioned in section 4.

POWER TO MAKE RULES OF COURT.

8. Rules of court may be made for regulating the practice and procedure (including costs) in respect of proceedings of any kind under this Act.

APPLICATION OF THE ACT.

9.—(1) Where the Lieutenant Governor is satisfied that reciprocal provision has been or will be made by any other province or territory of the Dominion of Canada for the enforcement within that province or territory of judgments obtained in the Supreme or any District Court of this Province, the Lieutenant Governor may, by order in council, direct that this Act shall apply to that province or territory, and thereupon this Act shall apply accordingly.

(2) An order in council under this section may be varied, or revoked by subsequent order.

10. Nothing herein contained shall deprive any judgment creditor of the right to bring an action for the recovery of the amount of his judgment instead of proceeding under this Act.

11. This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of those provinces which enact it.

12. This Act shall come into force on the.....day of.....1925.

No. 25.

FIFTH SESSION
FIFTH LEGISLATURE
15 GEORGE V
1925

BILL

An Act to facilitate the Reciprocal
Enforcement of Judgments
and Awards.

Received and read the

First time.....

Second time.....

Third time.....

HON. J. E. BROWNLEE.

EDMONTON:
J. W. JEFFERY, KING'S PRINTER
A.D. 1925