

PROPOSED
JUDGMENT ENFORCEMENT ACT
EXECUTIVE SUMMARY

OUTLINE

A. Background

1. Introduction
2. Need for Reform
3. History
4. Objectives

B. Summary of NBJEA

1. Structure
2. Notice of Judgment
3. Binding of Property
 - a. Personal Property
 - b. Land
4. Universal Exigibility
5. Collective Enforcement
6. Specific Enforcement Procedures
 - a. General Principles
 - b. Sale of Land
 - c. Sale of Personal Property
 - d. Instalment Orders
 - e. Garnishment

f. Special Court Orders

7. Exemption
 - a. Exempt Property
 - b. Income Exemption
8. Stay of Enforcement
9. Assurance Fund
10. Conclusion

A. BACKGROUND

1. Introduction

The proposed New Brunswick *Judgment Enforcement Act* (NBJEA) is a code of enforcement procedures for money judgments. It creates a modern, efficient and balanced enforcement system primarily through a restructuring and reallocation of existing resources within the Sheriff's Branch. The proposed (NBJEA) is the culmination of two major Reports prepared for the Law Reform Branch of the Office of the Attorney General. It also reflects significant law reform initiatives in both Ontario and, particularly, Alberta. In addition, the NBJEA complements the *Personal Property Security Act* recently introduced in New Brunswick.

What follows is a more detailed statement of the history and the objectives of the NBJEA followed by a brief summary of the proposed enforcement system.

2. Need for Reform

In 1976, Professor Robert W. Kerr prepared a Report (Kerr Report) for the Law Reform Branch of the Office of the Attorney General¹. The Kerr Report recommended substantial changes in the system for the enforcement of money judgments. In 1985, I prepared a Report (1985 Report)² for the Office of the Attorney General which proposed a new system of enforcement of money judgments for New Brunswick. In the 1985 Report, it was thought unnecessary "...to detail the manifest deficiencies in the process of enforcement of judgments in New Brunswick". The observations previously made in the Kerr Report were adopted as a statement of the scope of the problem in this Province:

From the description of the existing scheme of creditors' remedies, it is apparent that the system is a complex and poorly interrelated collection

of procedures. Many of these procedures originated in the complex legal system that existed before the major legal reforms of the last century and a half. These old procedures have been substantially modified by legislation during the last century and most are now substantially regulated by statute. The reforms have proceeded on a rather haphazard basis, however, unlike the reforms in the remainder of the legal system which have endeavoured with considerable consistency to simplify and rationalize the system.³

The Ontario Law Reform Commission in its major Report⁴ on the enforcement of judgment debts noted that the structure and processes of the Ontario system "... contrive at the outset to promote a substantial degree of confusion and inefficiency in the enforcement of judgment debts"⁵. The Commission then referred to the existing system as "... fragmented, ambiguous, incomplete and archaic"⁶. Later the Commission commented that "... the law often has left debtors, their advisors and enforcement personnel in some confusion concerning the administration of the enforcement system as a whole and concerning the existence and effectiveness of statutory rights"⁷.

The comments of the Ontario Law Reform Commission are equally applicable to New Brunswick today. The fundamental problems with the current system affect not only judgment creditors, but judgment debtors and ultimately society as a whole. The lack of simplicity, efficiency and balance in the present system is unquestioned.

3. History

As noted above, there have been two major Reports prepared for the Office of the Attorney General; the Kerr Report and the 1985 Report. Both Reports recommended significant reforms in the enforcement of money judgments. The 1985 Report recommended a system for the enforcement of judgments which built on the Kerr Report as well as a number of other Canadian reports. In particular, the 1985 Report relied heavily on the recommendations of the

Ontario Law Reform Commission in its five volume Report completed in 1983. The enforcement system recommended in the 1985 Report relied upon a central computerized registry from the province.

In 1991, Professor Catherine Walsh released a Report⁸ proposing a *Personal Property Security Act* (PPSA) for New Brunswick. In 1993 the PPSA⁹ was enacted subject to proclamation. In addition to introducing new concepts for personal property, the PPSA will introduce a central provincial computerized registry called the "personal property registry" (PPR). The PPSA provided an opportunity to integrate the system of personal property security and the system for the enforcement of money judgments. In this regard, it provided an opportunity to implement some of the recommendations made in the 1985 Report. Provisions permitting registration by judgment creditors were included in the PPSA, and complementary provisions were added to the *Creditors Relief Act*¹⁰ in 1993 as an interim step pending the introduction of a new enforcement system.

These interim amendments to the *Creditors Relief Act*, which are intended to be proclaimed at the same time as the PPSA, provide for the registration of a "notice of judgment" in the PPR. The notice of judgment will bind the debtor's personal property on a province-wide basis. The binding of the debtor's land is not dealt with by the *Creditors Relief Act* amendments. Land must still be bound by the registration of a memorial of judgment in the appropriate land registry office. When the *Creditors Relief Act* amendments come into force, third parties dealing with the debtor's personal property after registration of the notice of judgment will have to search the PPR in the same circumstances that a search for a security interest would be required. In addition to binding personal property, registration of a notice of

judgment will be required before a judgment creditor can initiate any enforcement proceedings such as issuing an Order for Seizure and Sale or garnishment. Further, all judgment creditors with a registered notice of judgment will be entitled to share in a distribution by the sheriff under the *Creditors Relief Act* of any monies realized as a result of enforcement proceedings.

In 1991, the Alberta Law Reform Institute released a major Report and Model Judgment Enforcement Act¹¹. The Alberta Model Act is a code for all post-judgment enforcement procedures and is generally consistent with the approach recommended for New Brunswick in the 1985 Report. The Alberta Model Act is also consistent with the interim amendment to the *Creditors Relief Act* since it also provides for the integration of the PPSA and the judgment enforcement system through registration on the PPR.

4. Objectives of NBJEA

In May of 1993, the Office of the Attorney General commissioned a Draft Judgment Enforcement Act with commentary. The objectives were threefold: build on the 1985 Report; complete the integration with the PPSA; and adopt and adapt the Alberta Model Act for those purposes. The NBJEA is intended to meet the objective of the 1985 Report; to create a modern, efficient and balanced enforcement system. It is believed that the NBJEA can accomplish this objective largely through a reallocation of existing resources.

Following is a brief summary of the proposed system for the enforcement of money judgments contained in the NBJEA.

B. SUMMARY OF NBJEA

1. Structure

The proposed system will be fully contained in the *Judgment Enforcement Act*. This Act will constitute a code of all pre- and post-judgment enforcement procedures for all money claims and money judgments. Certain exceptions will be made where other policy considerations override such as is the case for support orders for maintenance, which will continue to be dealt with under the *Family Services Act*.

Some restructuring of the Office of the Chief Sheriff will be required. Using existing resources, a sheriff will be appointed the Enforcement Officer for the Province. The coordination and general operation of the new enforcement system will be the responsibility of the Enforcement Officer. The details of the role of the Enforcement Officer in the operation of the new system are outlined below.

The proposed system will rely on two computerized registries: the personal property registry (PPR), and a new provincial Enforcement Registry. Generally, province wide binding of property, including land, will occur through registration of a notice of judgment on the PPR. This is explained in more detail below. The Enforcement Registry is primarily for administrative purposes and permits the Enforcement Officer to coordinate collective enforcement proceedings on a province-wide basis. More details as to the role of the Enforcement Registry will be provided in the discussion of the operation of the system. However, it should be noted that the PPR will be the primary registry, as will be the case when the *Creditors Relief Act* amendments are proclaimed. Registration of a notice of judgment will be required in order for a judgment creditor to initiate any enforcement proceedings or share in

any distribution of money realized as a result of enforcement proceedings.

2. Notice of Judgment

A judgment creditor will be entitled to register a notice of judgment in the PPR once a money judgment is signed and formally entered by the court. No further court order or other document will be required in order for a judgment creditor to register the notice of judgment. Registration of a notice of judgment on the PPR will be effected in the same manner as the registration of a "financing statement" by a secured creditor pursuant to the provisions of the PPSA. Registration of the notice of judgment under the NBJEA will be the same as provided in the interim amendments to the *Creditors Relief Act*.

A registered notice of judgment will be necessary before a judgment creditor can initiate any of the specific enforcement procedures available under the NBJEA. Also, registration of a notice of judgment will be required before a judgment creditor can share in the distribution of the proceeds of an enforcement proceeding. However, the most significant consequence of the registration of the notice of judgment is the binding effect on the debtor's property. These elements of the proposed system will be discussed in more detail below.

The notice of judgment will be effective or "subsist" as long as the judgment is enforceable. In this regard, the NBJEA will reduce the limitation period for an action to enforce a money judgment from 20 years to 10 years from the date of judgment. A judgment creditor will not have an opportunity to extend the limitation period beyond the new 10 year period. A judgment creditor who has a subsisting notice of judgment will be referred to as an "enforcement creditor".

3. Binding of Property

The NBJEA extends the interim amendments to the *Creditors Relief Act* to include both land and personal property. Each is dealt with separately below.

a. Personal Property

All of the debtor's personal property, both present and after-acquired, will be bound upon the registration of the notice of judgment on the PPR. The notice of judgment will operate with respect to personal property basically as a "memorial of judgment" operates against land today. Therefore, a search of the PPR will be required before acquiring an interest in personal property to ensure that there are no notices of judgment registered.

However, in certain circumstances a subsequent third party may acquire an interest in the property in priority to the notice of judgment. For example, goods sold in the ordinary course of business or consumer goods with a value of less than \$1,000 may be acquired free of the binding of the notice of judgment. Negotiable instruments and market securities are other examples of circumstances where a third party dealing with the debtor after the registration of the notice of judgment will have priority. These exceptions to the obligation to search the PPR for notices of judgment are basically the same as those for a security interest under the PPSA.

The approach to the binding of personal property and resulting integration of the enforcement system and the PPSA is consistent with both the interim amendments to the *Creditors Relief Act* and the Alberta Model Act.

b. Land

In the case of land subject to the land registry system, a notice of judgment registered on the PPR will bind the debtor's land by creating a general lien on all present and

after-acquired land anywhere in the Province. The legal effect of registration will be unchanged from that of the current registration of a "memorial of judgment" except that a single registration will bind land anywhere in the Province.

Land subject to the *Land Titles Act* (registered land) will be dealt with slightly differently than land subject to the *Registry Act*. In the case of registered land, registration of the notice of judgment on the title will also be required and only a specific lien will be created.

There will be no exceptions to the obligation placed on third parties to search the PPR or the Land Titles Office for notices of judgment affecting the debtor's land.

4. Universal Exigibility

Under the proposed *Judgment Enforcement Act*, all valuable rights of the debtor, whether proprietary or personal in nature, will be subject to enforcement proceedings unless expressly stated to be exempt. The exemptions will be based on policy considerations to be discussed in more detail below. Property that is subject to enforcement proceedings is referred to as "exigible" property.

5. Collective Enforcement

The proposed system will continue and improve the limited system of *pro rata* sharing among creditors that currently exists under the *Creditors Relief Act*. Under the NBJEA, all money received by the Enforcement Officer as a result of enforcement proceedings will accumulate for a period of 30 days. At the end of that period, the moneys will constitute a distributable fund. All judgment creditors who have a "subsisting" notice of judgment at the end of the 30 day period will have an eligible claim against the distributable fund and be entitled to share in a distribution. The distributable fund will be paid out by the Enforcement Officer in

the following order of priority:

- a) enforcement fees and expenses,
- b) eligible maintenance claims *pro rata*,
- c) eligible wage claims *pro rata*,
- d) 15% of the balance of the distributable fund to the instructing creditor, and
- e) the balance of the distributable fund to all eligible claims *pro rata*.

However, the concept of collective enforcement goes beyond simply *pro rata* sharing. Thus, where an enforcement creditor initiates enforcement proceedings, it is for the benefit of all enforcement creditors. An example may help to illustrate the operation of the principle of collective enforcement. Assume that JD owns a truck that is exigible. JC-1 has registered a notice of judgment against JD. Subsequently, JC-2 registers a notice of judgment against JD. Other enforcement creditors can initiate enforcement proceedings with respect to the truck. Thus, JC-2 can initiate enforcement proceedings to have the truck sold by the Enforcement Officer. The Enforcement Officer will sell the truck to a buyer who will acquire title free of all notices of judgment. The rights of JC-1, JC-2, and JD with respect to the truck will all be terminated. JC-1 and JC-2 will be entitled to share in the distributable fund created as a result of the enforcement proceeding initiated by JC-2. It should be noted that in the distribution, JC-2 will receive 15% of the balance of the proceeds from the realization of the property after any eligible maintenance or wage claims are paid. This payment cannot exceed the amount outstanding on JC-2's judgment. This payment is intended as compensation for the extra time and effort that is involved in initiating the enforcement procedure for the benefit of all creditors. Simply reimbursing the instructing creditor for expenses incurred is not sufficient for this purpose. The instructing creditor will be able to share with other eligible claims based on any unpaid balance of the judgment.

Collective enforcement is the logical extension of *pro rata* sharing and adds simplicity and efficiency to the enforcement system.

6. Specific Enforcement Procedures

a. General Principles

The principle underlying the enforcement procedures in the NBJEA is creditor initiation and control. As well, the system has been designed to require minimal involvement by the Court. Enforcement of a money judgment will be primarily an administrative procedure conducted through the Enforcement Officer acting on the instructions from an enforcement creditor. However, any issue related to enforcement may be taken to the Court for directions.

Thus, an enforcement creditor will have a number of enforcement options available which may be exercised without the need to apply to the Court for further authorization. The one exception will be where a special remedy such as the appointment of a receiver by the Court is required.

Enforcement procedures will be initiated by delivering instructions to the Enforcement Officer. These instructions will identify the enforcement procedure to be initiated and the specific property to be subject to that enforcement procedure. The NBJEA will authorize and direct the Enforcement Officer to carry out the specific enforcement instruction from an enforcement creditor. An enforcement creditor who gives such instructions will be referred to as an "instructing creditor". A number of creditors can work together in the initiation and conduct of enforcement proceedings.

The Enforcement Officer will not be required to act until specific instructions are given by an enforcement creditor. These instructions must be accompanied by information and

documents required by the Act. The additional documentation will include specific identification of the property, security for fees and expenses of the Enforcement Officer as well as for any other costs that might be incurred as a result of carrying out the instructions.

Following is a list and brief description of the enforcement procedures available to an enforcement creditor under the NBJEA.

b. Sale of Land

An enforcement creditor may instruct the Enforcement Officer to initiate the sale of specifically identified land. The Enforcement Officer will initiate the proceedings by serving a notice of sale on the debtor. However, actual sale of the land cannot occur until six months have elapsed after service of the notice on the debtor. This waiting period is intended to provide the debtor with one last opportunity to refinance or sell the land voluntarily in order to pay down the judgment.

In order to obtain the best possible price, the Enforcement Officer will have considerable flexibility as to the method of sale to be used. This could include listing the property with a real estate agent. The purchaser of the land from the Enforcement Officer will receive the same title that the debtor could have conveyed at that time in similar circumstances. There should be an increase in the amount realized from the sale of the debtor's property as a result of these improvements.

c. Sale of Personal Property

An enforcement creditor may instruct the Enforcement Officer to seize personal property of the debtor. The Enforcement Officer may direct a sheriff, or a sheriff's agent to effect the seizure, conduct a sale of the property, and any other matter related to such "field

work". The standard seizure procedure will focus on notice to the debtor and protection of prior third party interests. Special seizure procedures will be provided for special categories of property such as negotiable instruments, shares, market securities and secured obligations.

Consistent with the principle of creditor initiation and control, separate instructions must be given to the Enforcement Officer in order to sell or otherwise realize on the seized property. In the case of property subject to the standard seizure procedure, the Enforcement Officer must sell the property. In the case of property subject to special seizure procedures, the Enforcement Officer may have the option of realizing by enforcing the rights of the debtor against third parties.

Where the property is to be sold, sale may be effected through an authorized agent retained by the Enforcement Officer using any method that will realize the maximum possible price for the property.

The buyer of the property will receive the same title that the debtor could have conveyed. Thus, there will be no requirement that the Enforcement Officer disclose that the property is being sold as a result of enforcement proceedings. This approach treats the sale as if it were the debtor doing indirectly what he or she should have done directly: sell the property to satisfy the judgments. This approach should increase the amount realized from the debtor's property.

d. Instalment Order

Often the best source of funds to satisfy a judgment is the debtor's flow of future income. A key element of the proposed enforcement system is an expanded and streamlined procedure for an instalment order. The instalment order will not divert the debtor's income to the Enforcement Officer. That method of reaching future income will be accomplished through

garnishment to be discussed in the next section. On the other hand, the instalment order will impose a personal duty on the debtor to pay the Enforcement Officer a portion of the income that he or she receives.

In addition to reaching future income that would be otherwise available through the usual enforcement procedures, the instalment order may also be an effective method of reaching income that is otherwise exempt at the source (eg. pension income) or income from a source that is outside the jurisdiction.

The new instalment order can only be understood in the context of the proposed "income exemption". An integral part of the new instalment order is the introduction of an "income exemption" for the protection of the debtor. The income exemption will be discussed in detail later in this Summary. Below is a review of the instalment order procedure including an introduction to the proposed income exemption.

Under the income exemption, the debtor will be entitled to retain a portion of his or her "net income" in order to be able to continue to obtain necessities. To the extent that the debtor receives "net income" in excess of this exempt portion, there is "surplus income". It is this surplus income that may be the subject of an instalment order. The calculation of the debtor's exempt income will be based on documentary financial information provided to the Enforcement Officer by the debtor voluntarily or by the enforcement creditor as a result of an oral examination which the enforcement creditor can require the debtor to undergo.

Either the debtor or an enforcement creditor may request that the Enforcement Officer issue an instalment order. The debtor may consent to pay any surplus income to the Enforcement Officer pursuant to an instalment order issued by the Enforcement Officer. The

issuance of an instalment order will not automatically result in a stay of enforcement with respect to exigible property of the debtor. However, the instalment order will be a factor considered by the Enforcement Officer in exercising his or her discretion to grant a stay of enforcement as discussed in more detail below.

If the debtor does not consent to make his or her surplus income available, an enforcement creditor may take steps to determine the debtor's financial circumstances. An oral examination of the debtor may be necessary to obtain financial information. Based on financial information provided to the Enforcement Officer, the debtor may be ordered to pay any surplus income.

Failure to pay in accordance with the instalment order without just cause may result in contempt proceedings against the debtor.

e. Garnishment

The current *Garnishee Act* will be repealed. Consistent with the approach of keeping court involvement in enforcement proceedings to a minimum, an application to the court for an attaching order will no longer be required. A new "garnishee order" will be available through the Enforcement Officer. As with tangible property of the debtor, binding of obligations will be separated from the realization mechanism under the proposed NBJEA garnishment procedure.

Binding as against subsequent third parties will occur upon registration of a notice of judgment in the PPR. As indicated in the discussion with respect to the notice of judgment, there will be some exceptions to this priority rule applicable to obligations in some circumstances. However, binding of the obligation will not affect the account debtor (garnishee)

who owes the obligation to the judgment debtor. The account debtor will be able to pay and otherwise deal with the judgment debtor until an enforcement creditor initiates garnishment proceedings.

Under the garnishment procedure, the mechanism for realization of the obligation is by diversion of payment. This will be initiated by an enforcement creditor instructing the Enforcement Officer to issue an attaching order with respect to an obligation owed by an account debtor (garnishee) to the judgment debtor. The instructions must be accompanied by an affidavit indicating reasonable grounds for the belief that the obligation exists or will exist based on an existing legal relationship. Once the attaching order is served on the account debtor (garnishee), payment of the obligation must be made to the Enforcement Officer.

Current and future obligations may be attached regardless of whether they are subject to a condition or contingency. Joint entitlements, including joint bank accounts, may be attached. Generally, the attaching order has continuing effect so as to attach "after-acquired" or future obligations. The one major exception to continuing garnishment will be bank accounts and other similar types of deposit accounts where only the amount of the obligation at the time of service will be attached.

Initially, employment earnings of a debtor will be exempt from garnishment. However, employment earnings may be subject to garnishment in circumstances where the conduct of the debtor indicates that this step is necessary. Therefore, employment earnings will only be subject to garnishment when the debtor has defaulted in the payment of "surplus income" pursuant to an instalment order without just cause. Employees will be protected from dismissal or any other disciplinary action improperly taken by the employer. This protection will extend to prohibit

all creditors from contacting the debtor's employer, even prior to judgment.

f. Special Remedies

An enforcement creditor may apply to the Court for a special remedy to assist in the enforcement of a judgment where some difficulty has arisen. The form of order granted by the Court pursuant to this jurisdiction is very broad and flexible. The jurisdiction includes the traditional appointment of a receiver by way of equitable execution. It also provides for orders directed at the debtor to do or not to do certain things. This permits the Court, if necessary, to exercise its jurisdiction over the person of the debtor through contempt proceedings.

7. Exemptions

a. Exempt Property

The proposed *Judgment Enforcement Act* will contain provisions which will exempt certain property of the debtor from enforcement proceedings.

The NBJEA will prevent the seizure of necessities required for a debtor and his or her dependants. Included in this type of exemption would be: food and heating fuel for six months; necessary clothing; furniture and appliances to a value of \$5,000; one motor vehicle to a value of \$5,000; and medical aids required by the debtor and his or her dependants. As part of the exemption for necessities, there will be a "shelter" exemption of \$5,000 for the debtor's home. This amount is intended to permit the debtor to pay the costs of moving and to acquire alternate accommodations such as renting an apartment for a period of three or four months.

There will also be exemptions that try to reduce the emotional costs of enforcement on the debtor. For example, property of sentimental value to a value of \$1,000 and pets will be exempt.

Property that constitutes a source of income that is necessary to enable the debtor to continue to obtain necessities will also be protected. There will be a "livelihood" exemption for personal property used by the debtor in a trade, occupation, business, or calling to a value of \$10,000. This exemption will be increased to \$20,000 where the debtor's primary occupation is farming.

Generally, the above exemption provisions allow the debtor to choose property within the exempt category of property up to the maximum stated value. The maximum stated values for any exempt category will be reduced in proportion to the debtor's ownership interest in the property. The stated values may be increased by regulation in order to take into consideration the effects of inflation.

In addition to exemptions for a source of present income, there will be exemptions for sources of future income. Pension plans, registered retirement savings plans and registered retirement income funds will be exempt.

Where the debtor receives compensation with respect to exempt property, or exempt property has been disposed of, the debtor is entitled to proceeds up to the maximum stated value of the exemption. This applies whether the disposition or compensation is as a result of enforcement proceedings, voluntary sale, or the loss, destruction or theft of the exempt property. The proceeds of a disposition or compensation will also be exempt for a period of time if they are deposited in a bank account.

Exemptions will be extended to protect the dependants of a deceased debtor where claims are made against the debtor's estate. Further, an executor under the will of the debtor will not be able to sell exempt property to pay the claims of creditors of the estate where dependants of

the deceased person would be prejudiced.

b. Income Exemption

An important feature of the proposed system will be the introduction of an income exemption to be calculated by the Enforcement Officer. Under the proposed system, "net income" from all sources up to a maximum amount will be exempt. The debtor must provide documentary information to the Enforcement Officer to obtain the benefits of the income exemption.

The amount of the income exemption will vary with the number of dependants and the level of the debtor's income. It will be calculated from a table and will not require an individual assessment in each case. The only issues for determination by the Enforcement Officer will be the amount of the debtor's net income and the number of dependants. Any "net income" in excess of the debtor's "income exemption amount" will be referred to as "surplus income". "Surplus income" will be subject to an instalment order issued by the Enforcement Officer. The calculation of surplus income may be reviewed by the Court based on such information as it deems appropriate. Also, if the payment of surplus income would result in a hardship on the debtor, a stay of enforcement may be granted.

8. Stay of Enforcement:

Either the debtor or an enforcement creditor may ask the Enforcement Officer to grant a stay of enforcement with respect to all or a portion of the debtor's exigible property. A debtor may request a stay where it is just and equitable to do so. This mechanism within the enforcement system provides additional protection for the debtor over and above the exemptions. It would be socially undesirable to force a debtor into poverty and onto social assistance in

some circumstances such as where reasonable alternatives exist to pay the judgment over time. There should be some mechanism in the system to deal with such cases on an exceptional and discretionary basis.

An enforcement creditor may also wish to have a stay of enforcement granted by the Enforcement Officer. A stay of enforcement may be advantageous for a creditor in order to prevent enforcement procedures initiated by other enforcement creditors from destroying an income source.

Any decision of the Enforcement Officer with respect to a stay of enforcement would be subject to the overriding jurisdiction of the Court.

9. Assurance Fund:

It is proposed that a self-sustaining assurance fund be created. The fund will provide compensation to any person who suffers a loss as a result of the operation of the enforcement system.

The assurance fund will be administered by the Minister of Justice. It will be fully funded by a small fee paid by the enforcement creditor at the time a notice of judgment is registered on the PPR. The fund will be monitored to ensure that it is self-supporting in the long term.

10. Conclusion:

Through a restructuring of existing resources, the proposed *Judgment Enforcement Act* should provide a clear and simple code of procedures for the operation of a modern, efficient and balanced enforcement system for the Province of New Brunswick.

ENDNOTES

1. Third Report of the Consumer Protection Project, (Volume II), *Legal Remedies of the Unsecured Creditor After Judgment*, prepared for the Law Reform Division, Department of Justice, New Brunswick, by Robert W. Kerr, (October, 1976).
2. Williamson, John R., Proposal for *A System of Enforcement of Judgment Debts*, prepared for the Law Reform Branch, Office of the Attorney General, New Brunswick, (July, 1985).
3. *Supra*, endnote 1, at p. 233.
4. *Report on the Enforcement of Judgment Debts and Related Matters*, Volumes I - V, Ontario Law Reform Commission, (1981).
5. *Ibid.*, Vol. I, at p. 3.
6. *Ibid.*, Vol. I, at p. 77.
7. *Ibid.*
8. Walsh, Catherine, *The Proposed New Brunswick Personal Property Security Act*, prepared for the Law Reform Branch, Department of Justice, New Brunswick, (August 1991).
9. *Personal Property Security Act*, RSNB, 1973, c. P-7.1.
10. RSNB, 1973, c. C-33, ss. 2.1-2.6.
11. Alberta Law Reform Institute, *Enforcement of Money Judgment*, Report No. 61, Volume 1 Report) and Volume 2 (Model Act), (March, 1991).

