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Backgrounder

LRC 71—Report on the Land (Wife Protection) Act

Date: January 1984

The aim of the *Land (Wife Protection) Act* [now called the *Land (Spouse Protection) Act*] is to place limitations on the right of the registered owner of a matrimonial home to sell or encumber it without the consent of the owner's spouse. In particular, at the time of this report's publication, there was a provision enabling a wife to register an entry against her husband's interest in the matrimonial home, which effectively limits the way in which he can deal with his interest in the property.

The problem with the *Act* is that it does not treat a husband and wife in an even-handed fashion. While the wife is able to register an entry against her husband limiting his dealings with the land, there is no corresponding right in favour of the husband. The report highlights that this apparent inequality is likely to fall foul of the *Canadian Charter of Rights and Freedoms*, upon the entry into force of its equality rights provisions in April 1985. It believes that there is a real danger that the *Act*, in its present form, would not survive a constitutional challenge under the *Charter* and would likely result in the *Act* being struck down in its entirety.

The report concludes that immediate action should be taken to amend the *Act* to the extent necessary to give husbands the same registration privileges that the *Act* now confers on wives.

Further Developments

See *Charter of Rights Amendments Act, 1985*, S.B.C. 1985, c. 68, ss. 61–78 [now *Land (Spouse Protection) Act*, R.S.B.C. 1996, c. 246].