Property Rights

Section 1(a) of the 1960 *Canadian Bill of Rights* (S.C. 1960, c. 44, reprinted in R.S.C. 1985, App. III) provides federal statutory recognition of "the right of the individual to ... enjoyment of property", and the right "not to be deprived thereof except by due process of law." The right to property is also included under the fifth and fourteenth Amendments of the American Bill of Rights. However, the *Canadian Charter of Rights and Freedoms* does not provide constitutional protection for individual 'property rights'. At the meetings of the Special Joint Committee on the Constitution and during Parliamentary debate on Bill C-60, Progressive Conservative MPs proposed that a right to "the enjoyment of property" be included under section 7 of the Charter. This amendment was rejected largely due to provincial government concerns, shared by federal New Democratic Party MPs, that entrenching property rights in the *Charter of Rights and Freedoms* could interfere with environmental, zoning and other land use regulation; public ownership, expropriation and regulation of resource-based and other industries; and with legislative restrictions on foreign ownership of land. In the 1989 decision of *Irwin Toy* v. *Quebec (A.G.)* (1 S.C.R. 927), the Supreme Court of Canada referred to the intentional exclusion of property rights from the *Charter* as a basis for finding that economic rights of a "corporate-commercial" nature are not protected under section 7.

Sources:

- A. Alvaro, "Why Property Rights Were Excluded from the *Canadian Charter of Rights and Freedoms*" (1991) 24 Canadian Journal of Political Science 309.