

[39] In case no. 903/2002 there similarly remains as part of Nedcor's non-constitutional challenge to the stance of the Buffalo Municipality, its contention that s 118(1)(b) is not to be interpreted as embracing fees for water and electricity supplied at, or sewerage fees and fire and refuse levies in respect of, erf 31692 which were incurred prior to its acquisition of the erf, and that it is accordingly entitled to repayment of that portion of the amount of R7 284,23 as represents the amounts referred to. The contention must suffer the same fate as that of the similar one referred to in para [38] above.

THE FIRST CONSTITUTIONAL CHALLENGE:

[40] We turn now to consider the constitutional challenge to s 118(1) of the Act (quoted in full in para [3] above). The applicants' first attack upon the section is founded on s 25(1) of the Constitution which provides:

"No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property".

It is common cause in the present case that the Act is a law of general application.

DEPRIVATION OF PROPERTY:

[41] The concept of "deprivation of property" as envisaged in this section is somewhat elastic. It embodies a negative protection of property and while it does not expressly guarantee the right to acquire, hold and dispose of property, it implicitly provides protection for the holding of property – see: *First National Bank of South Africa Limited t/a Wesbank v Commissioner of the South African*