

Leasehold and

WHY THE £2 BILLION D GOING TO LAW IN E

FUNDAMENTAL issues are raised by the claim in the European Court of Human Rights by the Trustees of the Will of the second Duke of Westminster, of which the present Duke is the main beneficiary.

The action alleges that the Leasehold Reform Act 1967 (as amended) violates the rights guaranteed by the European Rights Convention.

The defendant is the British government itself, and the plaintiffs seek compensation for the loss of human rights.

The Act affects leaseholds of low annual value and the claim relates to those in Belgravia in the centre of London, where only people of substantial wealth can afford to live.

The plaintiffs assert that the Act takes from the rich and gives to the rich. Piquancy is added by the estimate that the present Duke is the richest man in Britain, being worth £2 billion, mainly in real estate.

The Act gives occupiers of leaseholds ("Lessees") the right to acquire by compulsion the freehold or an extended lease at market value, but on the assumption that the lessee is not seeking to buy. So the price is the estimated value as an investment.

The leasehold system is common in South Wales. Some say it arose because miners cottages had a limited use in point of time commensurate with the term required to extract workable coal from the mine, which

By
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was itself reflected in the term of the mining lease.

But building leases are found in non-mining areas. The better opinion is that the system was the result of thoughtful land management. Under the lease the grantor ("Lessor") is at the end of the term entitled to the house but also repossession of the land on which it stands. By this time the land has become centralised and valuable.

Normally the lease contract obliges the lessee at his own expense to build the house, which the lessor permits and grants the term at a low rent. This is called a building lease.

George Thomas, formerly Labour M.P. for Cardiff South, later Speaker of the House of Commons and now Viscount Tonypandy, describes in his memoirs* the misery created by the leasehold system based on building leases in South Wales.

He says that roughly 1m people were in fear of being made homeless. So strongly was he affected that he

made it the subject of his maiden speech in Parliament and promotion of the reform was to pre-occupy him for 20 years.

The value of the lessor's interest at the start of the lease is very low indeed, for the rent approximates to the income on the then market value of the bare land. Possession of the house and land is not receivable for 100 years. Inflation devalues the rent and the cost of collection of the small rent becomes prohibitive.

Consequently it is possible on occasion to buy in the market the lessor's rights as freehold ground rents en bloc for about 11 years' purchase of the rent in England and about 12 years in Wales.

These prices assume that the leases are for 99 years and contain insurance ties. The price increases as the date of reversion approaches. Often the holder of a single lease has bought it at a low price because some of the term has expired, yet qualifies, under the Act after a short period of residence, to buy the freehold at the price restricted by the Act. He is then free to sell if he wishes and take the profit.

By this process he deprives the

COSTA RICA SHOWS WAY

A REMARKABLE study of Central America has just been published by the Economic and Social Science Research Association, writes Paul Knight.

The author, James L. Busey, is professor emeritus of political science at the University of Colorado.

He describes the horrendous poverty and social instability, and concludes that a malfunctioning land tenure system is the major source of most of the region's problems.

Prof. Busey's compact study makes available the latest data on the distribution of land in Guatemala, El Salvador, Honduras and Nicaragua.

Of particular significance is the way in which he compares these countries with the prosperity of Costa



JAMES BUSEY
His study of Central America is available at £1.50 from 177, Vauxhall Bridge Road, London SW1V 1EV

Rica, which was nominated for the 1985 Nobel Peace Prize.

Costa Rica's leaders have maintained an enlightened political approach to such issues as education and health care (see table). They abolished the national armed forces in 1949 after

military interference in general elections.

The generally peaceful attitudes, however, are made possible by the general prosperity, which is a direct function of the widespread diffusion of land rights among the peasantry. This contrasts sharply with the maldistribution of land in neighbouring countries, which as a consequence are fighting civil wars.

Prof. Busey's booklet is a valuable guide to the historical background that has led directly to the strife in Central America.

EXAMPLES OF BUDGET DISTRIBUTION
PER CAPITA, 1980: \$

	Military	Education	Health care
Pakistan	15	5	1
Guatemala	14	21	16
Honduras	12	20	11
Costa Rica	1	117	25

human rights

DUKE IS UROPE

lessor of the benefit of the possession of the house and land at the end of the term which, until the Act intervened, was a contractual right.

The following factors should be noted:

- Enfranchisement does not apply to larger houses or business premises held under building leases, notwithstanding that the principles involved are the same.

- A practical social problem arises when the term falls below 50 years to run, because building societies are reluctant to lend, and saleability is affected.

- There are circumstances where the Act applies to leases other than building leases (Section 4(1) of the Act) and some of those may be involved in the Duke's claim.

The dwellings to which the Act applied was from the outset of higher rateable value (R.V.) in London than elsewhere, and the Housing Act 1974 increased these and contained other amendments as to valuations of affected properties in the upper R.V. brackets.

Factors involved in the system which worried George Thomas were very different from those which worry the Duke and his trustees. He saw the spectacle of working people, who had invested their hard earned savings in their homes, not only losing those homes but being liable for repairs before yielding up. Further, long before that stage, they would be conscious that they would have no resources to provide substitute homes.

The Duke and his trustees, have not that spectacle. Their lessees in Belgravia apparently are wealthy, or they would not be living there, and the exercise of their statutory rights would add to their wealth at the expense of their lessors.

THE issue of human rights is raised in the following way.

Land is a natural resource and therefore not provided by any human.

The value of it rises and continues to rise according to the enterprise, industry and expenditure of the people of the locality.

Claimants in the present case assert that the lessee is not entitled to that



● Just wed . . . the Duke and his wife, Natalia, on their wedding day, seven years ago. Apart from 300 acres in central London the Duke, 34, owns 130,000 acres in Scotland, Wales, Ulster and Cheshire.

value, but they forget that they are not entitled to it either. Indeed, at least the lessee is a member of the community which created it.

Some lessees have asserted through a society formed for the purpose that *their* human rights are affected when rent revisions on leaseholds not qualified under the Act are extortionate.

But what about the human right of the whole community whose efforts created the value?

The claim seeks justice between man and man. In the wider view that claim is fundamentally false, for it is a claim to monopolise a natural resource, which is a godly claim.

Furthermore, it is a claim to take the benefit of the work of others for nothing, which is worse than the claim of a slave owner, for at least he has to feed and clothe the slaves.

THE Duke's case admirably demonstrates what I have

argued, and the British government has a better case for grounding its counter-claim in terms of human rights.

The Government represents the people for whose use the land was divinely provided and who enhanced its value by their efforts.

The present claimants would probably say in reply: "Why choose our Belgravia as against other land?" And they would be right. For Belgravia, with all its value, is only an infinitesimal part of the valuable land of Britain.

The remedy is by way of taxation through the Statute Book. This taxation would relieve and replace the taxation which now bears so heavily on the effort of working people.

So would be ushered in economic justice for all, including lessor, lessee, the Duke and his progeny.

*George Thomas, Mr. Speaker, London: Century Publishing.

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