

THE SECURITY OF INDIVIDUALLY-OWNED PROPERTY UNDER SOVIET LAW

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THE material wealth of many Soviet citizens has increased greatly over the past decade¹ and will continue to increase.² Many own their own homes;³ ownership of durable consumer goods is becoming widespread;⁴ savings accounts are at an all time high.⁵ The Soviet constitution and the established legal framework provide for private ownership on a broad scale, although private commercial activity is severely restricted.⁶

Does the present system of Soviet law grant the property-owner adequate security against uncompensated loss of his property to state agencies or private individuals? Are changes likely to occur in the immediate future that would either jeopardize or reinforce such security as is now afforded?

In the 1920's, constantly shifting economic policy led alternately to confiscation and denationalization of property on a large scale.⁷ However, by the time of the Stalin constitution, a comparatively stable policy had been reached as to what types of property were to be in

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¹ The latest statistical yearbook depicts the increase in consumer goods. NARODNOE KHOZIAISTVO SSSR V 1958 GODU—STATISTICHESKII EZHEGODNIK [The National Economy of the U.S.S.R. in 1958—A Statistical Yearbook] (1959) [hereinafter cited as 1958 YEARBOOK].

² The Seven-Year Plan promises a sixty per cent rise in the value of consumer goods owned by the public. SOROKIN, SEMILETNIĬ PLAN—NOVYĬ ETAP STROITELSTVA KOMMUNIZMA V SSSR [The Seven-Year Plan—A New Stage in the Building of Communism in the U.S.S.R.] 36 (1959).

³ In 1958 about one-third of the urban housing space was privately owned. 1958 YEARBOOK 641.

⁴ 1958 YEARBOOK 158.

⁵ 1958 YEARBOOK 915.

⁶ The right of personal ownership of citizens in their income and savings from work, in their dwelling houses and subsidiary household economy, in their household furniture and utensils, and in articles of personal use and convenience, as well as the right of inheritance of personal ownership of citizens, are protected by law. SOVIET CONSTR. art. 10.

⁷ A concise history of property rights in this turbulent period may be found in 1 SOROK LET SOVETSKOGO PRAVA [Forty Years of Soviet Law] 195 (Ioffe ed. 1957).

private hands. At present a Soviet citizen may have cash, government bonds and savings-bank deposits in unlimited amounts. He may own consumer goods of any sort. He may receive income from patents and copyrights.⁸ The constitution recognizes the institution of privately-owned housing.⁹ Construction of new private housing was authorized by an Edict of the Presidium of the Supreme Soviet of the U.S.S.R. of August 26, 1948, "On the Right of Citizens to the Purchase and Construction of Individual Dwelling Houses."¹⁰ State land is granted in perpetual tenure to the homeowner. In return, he must pay an annual ground rent to local administrative authorities.¹¹ If the house is sold, the land and the obligation to pay ground rent go with it. The legal position of the homeowner is analogous to that of an American homeowner in a state where the tenurial theory prevails;¹² *Quia Emptores* is in force; and a property tax is imposed on land according to its value.

The peasant household remains the only significant holdover of private ownership of means of production. It consists of the home of a peasant family, livestock, agricultural implements, and a small plot of land. Part of the household's produce is consumed; the rest is sold to the public, and the proceeds are divided among the members of the household. At present, the private plot is an important source of income for the peasant. Economic progress will require the end of intensive farming of small plots and a reduction of the number of people engaged in agriculture. Under such circumstances, the amount of land worked privately by each peasant family must either be greatly increased or eliminated. Since legal norms did not protect the peasant

⁸ A detailed listing of items subject to private ownership is given in Hazard, *Soviet Property Law*, 30 CORNELL L.Q. 466 (1945).

⁹ See note 6 *supra*.

¹⁰ VEDOMOSTI VERKHOVNOGO SOVETA SSSR No. 36 (1948). This edict was accompanied by a decree of the Council of Ministers of the same date, "On the Procedure for Applying the Edict of the Presidium of the Supreme Soviet of the U.S.S.R. of August 26, 1948." IZVESTIA No. 206 (1948). These two important statutes are reprinted as an appendix to recent editions of the civil code of the R.S.F.S.R.

¹¹ A detailed description of the assessment process for ground rent is found in SPRAVOCHNIK NALOGOVOGO RABOTNIKA [The Tax Worker's Guide] 146 (1958). Ground rent is set at 4 to 18 kopecks a square meter, depending on a classification of the location according to its economic utility. (Lots run from 300 to 1200 square meters according to the decree mentioned in note 10 *supra*. Thus ground rent for a lot would be neither less than 12 rubles nor more than 216 rubles a year. [All figures in this article are expressed in "old rubles"—the currency in use from 1947 until Dec. 31, 1960. See note 30 *infra*.])

¹² See Vance, *The Quest for Tenure in the United States*, 33 YALE L.J. 248 (1923).

during the period of collectivization, there is no reason to suppose they would offer any protection if those in control thought it was politically feasible to eliminate the private plots. The fate of hand-craftsmanship shows that the constitutional guarantee could be nullified by gradual application of economic pressure.¹³

The strong Communist policy against use of private capital for the production of income has influenced not only the choice of items which may be the subject of some form of private ownership but also the selection of rights which make up such ownership. Many of the items which may be owned privately, for example, livestock, sewing machines, and automobiles, are suitable as means of production. The use of these items for the production of unearned income is severely restricted, and the penalties for violation of the restrictions are harsh. Commonly they include confiscation. A citizen's ownership of such property is secure only to the extent that he can be sure what he may do with it. An examination of the system of laws governing private ownership will show some areas of uncertainty and permit an evaluation of the threat they present to security of private ownership.

A number of Soviet citizens have large cash incomes from permissible sources such as legacies, savings accounts, and leases. Generally, the recipient of such income can spend it as he sees fit. However, the Soviet constitution provides that there is a duty to work.¹⁴ While living on capital and unearned income has always been condemned in theory, only recently have any systematic legal sanctions been imposed. Starting in 1957 laws were passed in some of the smaller Soviet Republics providing for the exile of "loafers" to far parts of the Soviet Union by vote of neighborhood committees.¹⁵ If such a law were passed in every Soviet Republic and were enforced according to its letter, Soviet "capitalists" would have to put on the appearance of working to protect their freedom and property. So far there is no evidence that these laws have been enforced so as to present a threat to the respectable Soviet man of means. Rather, they have been used against vagrants and black-marketeers.

¹³ The present legal status of the peasant household and the hand-craftsman is discussed in KHALFINA, PRAVO LICHNOI SOBSTVENNOSTI GRAZHDAN SSSR [The Law of Individually-owned Property of Citizens of the U.S.S.R.] 50 (1955).

¹⁴ "Work in the U.S.S.R. is an obligation and a matter of honor for every able-bodied person, in accordance with the principle: 'He who does not work, neither shall he eat.'" SOVIET CONST. art. 12.

¹⁵ See Berman, Materials for Comparison of Soviet and American Law 364-415 (1958).

The rules governing the permissible uses of movable personal property are fairly clear. Movable property suitable for personal enjoyment may not be used to produce unearned income. For instance, a car may not be rented out¹⁶ or used for carrying paying passengers.¹⁷ Article 107 of the Criminal Code forbids systematic profiteering on sales. The penalties include confiscation of the property involved. One may sell safely to or through state agencies or at prices not in excess of those in state stores, and casual sales at higher prices are permitted. There is no settled definition of the frequency of sale or amount of market that constitutes a violation, however, so there is some insecurity for those who would exercise their rights to the fullest extent.¹⁸

The law governing the rights of homeowners is complicated and vague. Although Soviet law professes not to distinguish real and personal property or movable and immovable property, the law of private housing differs greatly from that of personal property. One may rent out housing space that is not needed but may not profiteer; there is no clear criterion, however, of what is legitimate renting and what is profiteering. There is considerable pressure to rent. The demand for urban housing is tremendous, and State housing is crowded and strictly rationed. Rental income may be needed to pay off construction loans.¹⁹ Houses in resort areas have even become transient hotels.

Recently, there has been criticism of abuses in private rental transactions and sporadic convictions have been reported.²⁰ However, the press has also reaffirmed the role of private housing under the Seven-Year Plan.²¹ One who rents at rates prevailing in his area probably need

¹⁶ This was the holding in the *Poliakov* case in 1939. Comments of recent writers indicate that the doctrine of this case persists, although there has been considerable controversy about it. One reason for this controversy is the fact that renting of housing is allowable and Soviet Law is said not to make "bourgeois" distinctions between movable and immovable property. KHALFINA, *op. cit. supra* note 13, at 152; 2 SOROK LET SOVETSKOGO PRAVA [Forty Years of Soviet Law] 196 (1957).

¹⁷ This was the holding in a case reported in KHALFINA, *id.* at 142.

¹⁸ Judicial practice in this area is discussed in KHALFINA, *id.* at 148.

¹⁹ Building loans are granted to cover up to half the cost of construction. Loans ordinarily do not exceed 7000 rubles. Up to seven years is allowed for repayment, and interest is at 2 per cent. Larger loans on more generous terms are allowed to those engaged in certain privileged occupations. ATLAS, DENEZHNOE OBRASHCHENIE I KREDIT SSSR [Money Circulation and Credit of the U.S.S.R.] 386 (1957).

²⁰ Wohl, *Real Estate Rubles Rub Russian Fur*, Christian Science Monitor, Nov. 21, 1959, p. 1.

²¹ Logachev, *Sheptuny Mutiat Vodu* [Rumor-mongers Muddy the Water] Sovetskaiia Rossiia, Nov. 11, 1959, p. 2.

not fear confiscation of his property, but stricter rent controls may well be passed, and these would lessen the value of his property.

There is danger of committing an act in connection with the sale of a house that may result in forfeiture of all or part of the property or the compensation received therefor. One may not engage in the sale of a house more than once in three years.²² Transactions that seem to involve the sale of land are void. The property involved may be confiscated, but there is no clear judicial practice as to what constitutes the sale of land.²³ Houses generally sell for much more than the cost of materials and the value of labor that go into them. One of the reasons for this discrepancy is the value of the land. While one who wishes to build theoretically may receive an allocation of state land, considerable red tape may be involved in obtaining such an allocation. Further, land in a desirable location may be unavailable. No one knows how high a price he can ask for his house without being accused of selling land. Complicated transactions involving joint-ownership or the moving of a house from one lot to another may cause the rule against sales of land to be invoked.²⁴

The homeowner must take care that his house is neither too good nor too bad. If it is too big, all or part may be confiscated.²⁵ If it is allowed to fall into disuse or out of repair, it may also be confiscated. What is failure to keep in repair is an open question. The writers say forfeiture for failure to keep in repair almost never occurs.²⁶ Strict enforcement would not be likely in a country where housing standards are low and building materials are hard to obtain.

Property owners are also made insecure by sporadic enforcement of laws they thought were dead letters. Recently, a "get tough" campaign was introduced in a community where due to long lack of en-

²² Civil Code of the R.S.F.S.R. § 182.

²³ Since all land in theory belongs to the state, the proceeds of such a contract are considered state property.

²⁴ Kachkin & Makarova, *Nekotorye Voprosy Sudebnoi Praktiki po Delam o Prave Obshchei Sobstvennosti na Zhilye Stroeniia* [Several Questions of Judicial Practice in Cases Involving the Law of Joint Ownership of Dwelling-houses] *Sovetskaia Yustitsiia*, May 1957, p. 29.

²⁵ Houses in various large cities are limited to five rooms by the decree of August 26, 1948, note 10 *supra*. It is interesting to speculate if and when this limit will be raised. Until it is raised the Soviet homeowner will be unable to catch up with the average U.S. homeowner who already has more than five rooms. BUREAU OF THE CENSUS, 1 CENSUS OF HOUSING pt. I (1950).

²⁶ KHALFINA, *op. cit. supra* note 13, at 125.

forcement, size and rent controls were violated habitually.²⁷ Such campaigns not only hurt those who feel directly in danger because they have violated long dormant rules. These campaigns may also cause panic selling and serious local depression of real estate values.²⁸

The security of the owner of a private home should increase with time. As the rapid increase in the amount of private housing and the improved mobility of the average Soviet citizen will mean many more sale and rental transactions, judicial practice should eventually clear up the areas of uncertainty in the law. Use of private funds for new construction of individual houses and cooperative apartments can relieve the problem of suppressed inflation. Internal and international propaganda commit the government to charging an uneconomically low rent for state-owned housing, but there is no such reason why private housing and building materials may not be sold at prices in line with their actual value. Property taxes can serve to reduce further the liquid funds in the hands of the people. Uneven distribution of housing space in rationed state apartments is hard to reconcile with Communist theory. Yet, the rising Soviet middle class expects and is getting better housing. It should be no surprise that a lot of this better housing is privately owned or that Soviet planners have ordered large scale production of housing for private ownership in the 1960's.

Even though one may be able to ascertain and obey the legal norms for the use of his property, he may still find his property confiscated through arbitrary action of state agencies. As Soviet writers point out, such confiscation was common in various forms during the years immediately following the Bolshevik revolution.²⁹ Do presently established legal norms protect the property owner from such action?

There is no legal control on the power of financial institutions to institute currency reforms or repudiate state obligations. A drastic currency reform was made as recently as 1947.³⁰ A second currency

²⁷ *Literatura i Zhizn'*, June 7, 1959.

²⁸ The susceptibility of the homeowner to panic selling is discussed in Logachev, *Sheptuny Mutiat Vodu* [Rumor-mongers Muddy the Water] *Sovetskaia Rossiia*, Nov. 11, 1959, p. 2.

²⁹ KHALFINA, *op. cit. supra* note 13, at 14-15; 1 SOROK LET SOVETSKOGO PRAVA [Forty Years of Soviet Law] 195 (Ioffe ed. 1957)

³⁰ See ATLAS, *op. cit. supra* note 19, at 125-31. The reform was as follows:

<i>Asset</i>	<i>Pre-1947 Rubles Equivalent to One Post-1947 Ruble</i>
Cash	10
Savings accounts under 3,000 rubles	1

reform effective January 1, 1961, resulted in the substitution of one new ruble for each ten old rubles. However, this reform was made uniformly throughout the economy, so that no one was hurt except those who were afraid to exchange illegally accumulated hords of old rubles. Payment on government bonds was suspended as late as 1957.³¹ However, the state has consistently honored small private savings accounts, and these have become a characteristic form of private liquid wealth. While it is clear that no court would interfere to protect these deposits from a general confiscation scheme, long precedent minimizes the insecurity felt by the depositors.

There is no legal protection against inflation. Private hoarding of precious metals is forbidden. However, the price level has fallen over the last decade.³²

Confiscation of property has long been one of the forms of punishment of criminals under the Soviet legal system. During the worst of the purges, such confiscation was a serious threat to private property. To what extent have legal and administrative reforms reduced this threat?

First, the number of crimes for which this penalty is applied is reduced. Where imposition of this penalty is optional, the tendency is not to impose it.³³ At present, few respectable citizens are convicted of non-political crimes which they did not in fact commit.³⁴ Second, the danger of conviction for political crimes has been greatly reduced.³⁵ Recent history has shown that even political disgrace may mean only a downgrading in job-status, unaccompanied by criminal sanctions.

An innocent party may still find himself hurt in confiscation proceedings against another. Particularly, one who has a share of community property or jointly-owned property may suffer if a co-owner is sentenced to have his property confiscated. The innocent co-owner may be unable

Savings accounts 3,000-10,000 rubles	1.5
Savings accounts over 10,000 rubles	2
Government bonds	3 to 5

³¹ Jorden, *Soviet Freezes Debt to People*, New York Times, April 11, 1957, p. 1.

³² The Soviet price index fell 26 per cent from 1951 to 1955. SOVETSKAIA SOCIALISTICHESKAIA EKONOMIKA, 1917-1957 [Soviet Socialist Economy, 1917-1957] 597 (1957). The most important recent anti-inflationary step was the repudiation of bonded indebtedness in April 1957. See note 31 *supra*.

³³ Sovetskaiia Justitsiia, Feb. 1958, p. 41.

³⁴ Berman, *Soviet Law Reform—Dateline Moscow 1957*, 66 YALE L.J. 1191 (1957).

³⁵ *Ibid.*

to produce sufficient proof of the amount of his interest. Even if he can show the percentage of his interest, he may suffer if the property involved is a private home. The state will confiscate the whole property and pay the innocent co-owner an inadequate amount in compensation for his share.³⁶ An owner of record may find his property confiscated if it is found that conveyance was made to him to avoid confiscation or that beneficial ownership remains in one sentenced to deprivation of property.³⁷

With the exception of these problems related to joint-ownership, the penalty of confiscation presents little threat to the average property-owner's security. It is employed rarely, wrongful or political convictions are few, and a remedial procedure is available to those who feel that their property has been wrongly confiscated.³⁸

During the 1920's the principle was established that all property was rebuttably presumed to be state socialist property. This principle has been limited by judicial practice and now has minimal effect. Writers would limit its effectiveness to cases where a serious contention is made that state property has been converted.³⁹ However, the rule still holds in one other instance. Soviet law does not recognize prescriptive rights or adverse possession. Therefore, the state may claim property by virtue of this presumption if the "true owner" has lost the right to claim the property from the possessor because of the running of the statute of limitations.⁴⁰ There is no evidence that this principle has ever been widely resorted to, and the presumption itself is now so limited by judicial practice that the average property owner has nothing to fear from it.

In theory, Soviet law provides for compensation for property taken by state agencies for public use. As Soviet cities continue to expand, many private homeowners will find their houses and lots taken by right

³⁶ Compensation is on the same basis that is used when private property is taken for public use. The adequacy of this compensation is evaluated below.

³⁷ On confiscation in general, see KHALFINA, *op. cit. supra* note 13, at 82.

³⁸ Redress may be secured through the offices of the local procurator against a judgment of confiscation which violates established legal norms. LEBEDINSKII & KALENOV, *PROKURORSKII NADZOR v SSSR* [Procuratorial Supervision in the U.S.S.R.] 158 (1957). This remedy is available only when there is no political motive for the confiscation. See BERMAN, *JUSTICE IN RUSSIA* 168-73 (1950).

³⁹ VENEDIKTOV, *GOSUDARSTVENNAIA SOTSIALISTICHESKAIA SOBSTVENNOST'* [State Socialist Property] 538-42 (1948).

⁴⁰ This principle was formulated in 28 *EZHENEDELNIK SOVETSKOI IUSTITSII* 978 (1925). KhalFINA comments that it is still valid. *Op. cit. supra* note 13, at 136.

of eminent domain. Are they secure against suffering a significant economic loss when this happens?

An adequate, established procedure exists for the adjudication of the sufficiency of compensation offered upon seizure of private property for public use.⁴¹ The aggrieved party may sue in the local court of first instance the organization which has taken his property. The procuracy may intervene at any stage of the proceeding to protect the property owner from receiving outrageously little or to protect the state agency from having to pay too much.⁴² A successful litigant may be reimbursed for the fees of expert witnesses who testify to the value of the property involved.⁴³

The standard applied by the court in such a procedure does not provide for compensation equal to the economic loss sustained. The standard of value is the same used in appraising a house for insurance.⁴⁴ This method of appraisal is given in the standard Soviet text on insurance.⁴⁵ The number of square meters of floor space or cubic meters of content of the structure is computed. This area or volume is multiplied by a coefficient which is supposed to correspond to the value of labor and materials. A percentage is then deducted for deterioration. The text gives the example of a summer house 9.1 meters by 6.3 meters by 3.3 meters of slightly below average materials, depreciated 25%. The insurance appraisal is computed to be 3,120 rubles.⁴⁶ This price is far too low. A Moscow cab driver makes about 700 rubles a month. He could easily afford to buy such a house at this price. However, a recent article in *Izvestia* clearly implies that ownership of a summer house would be evidence that a Moscow cab driver was living beyond his means.⁴⁷

There is other evidence that houses sell for much more than their insurance appraisal. A recorder of deeds writes to the magazine *Soviet Justice* to complain that buyers are avoiding payment of the full transfer

⁴¹ A typical suit of this type is reported in *Sovetskaia Justitsiia*, July 1957, p. 75

⁴² Statute of May 24, 1955, On Procuratorial Supervision in the U.S.S.R., ch. 4, art. 23. *VEDOMOSTI VERKHOVNOGO SOVETA SSSR* No. 1 (1956).

⁴³ Reimbursement for the cost of expert witnesses was allowed by the lower court in the case cited in note 41 *supra*. The judgment was overruled on other grounds.

⁴⁴ This rule was enunciated by the Supreme Court of the R.S.F.S.R. See note 41 *supra*.

⁴⁵ KONSHIN, *GOSUDARSTVENNOE STRAKHOVANIE V SSSR* [State Insurance in the U.S.S.R.] 241 (1953).

⁴⁶ *Id.* at 251.

⁴⁷ Grishin, *Vzvyatka* [Graft], *Izvestia*, July 3, 1959, p. 6.

tax on registration of the purchase of privately owned housing.⁴⁸ The recorder's complaint is that parties are making their deeds read as if the transfer was for a price equal to the insurance appraisal, though the actual price is usually three or four times that much. This way the tax, a percentage of the sale price, was evaded. A recent issue of the New York Times quotes Soviet citizens as saying that the cost of materials for constructing a small house without central heating runs over 40,000 rubles—much more than the value given in the insurance text for materials and labor combined.⁴⁹

The present method of determination of the compensation to be paid on condemnation by its nature could only lead to a result much lower than market value. The insurance appraisal is too low to cover the value of labor and materials. This may be a natural result of a reasonable insurance policy designed to prevent arson and laxity in fire prevention. Building materials and skilled labor are hard to find at all in the Soviet Union. Even full reimbursement of their official price would not make up for their scarcity value. The method of appraisal makes no allowance for the time for which money must be tied up during the construction of the house, the difficulties and red tape involved in getting a good lot assigned by the local authorities, and the value of living space in a society where most housing space is strictly rationed.

The inadequacy of compensation is to some extent alleviated by the right of a dispossessed homeowner to be assigned space in municipal housing by the local rationing board.⁵⁰ Generally, homeowners have a fairly high employment status.⁵¹ The right to receive housing from the local rationing board would probably be worthless to them, since their status would give them the right to some sort of housing space anyway. Many of the private houses are unheated summer houses whose owners also have an apartment in town. Since such persons already have state housing space allocated to them, they would not get another allocation if their summer house and lot was taken for public use.

⁴⁸ Sovetskaia Justitsiia, June 1957, p. 36.

⁴⁹ Caruthers, *Soviet Estonia Is Found a Land of Many Private Homes*, N. Y. Times, Oct. 1, 1959, p. 14.

⁵⁰ In the case referred to in note 41 *supra*, the right to assignment of state housing was mentioned as a reason why the lower insurance valuation should be used.

⁵¹ Nemtsov, *Sobstvennost' i eë Poklonniki* [Property and Its Worshipers] *Izvestia*, Aug. 7, 1959, p. 4.

The danger of having one's home taken without adequate compensation would seem to be one of the greatest threats to the security of private property in the Soviet Union. The inadequacy is clearly tied in with the anachronistic refusal of those in control to place values on land while allowing houses and lots to be bought and sold in an open market. Pressure for change from the isolated individuals affected is weak in comparison with the influence of the condemning state organizations which are engaged in an unceasing campaign to cut costs. Change is likely to occur, if at all, only coincidentally, if and when Soviet planners decide that rational use of national resources demands a system of pricing for land.

Like most legal systems, Soviet law does not provide for compensation for reduction in the value of property due to the incidental effect of planning or zoning regulations. Such lack of protection presents no serious threat where the only permissible private use of urban real property is housing. The perpetual housing shortage makes it extremely unlikely that regulations will be issued in the near future setting a limit on the number of families per house or raising requirements as to facilities required for houses to be fit for human habitation. A recent incident shows that there are channels of redress against outrageous action by planning authorities. The city fathers of Andizhan in Uzbekistan decided that their modern city should have no more donkeys on the streets. A large-scale program of confiscation of donkeys found in the city limits began. Local residents were deprived of their most valued possession. Commerce was crippled by the abolition of "donkey-taxis." Complaints led to an article in *Izvestia* which said that the jackasses in the case were the city fathers themselves.⁵² Such newspaper articles are generally followed by appropriate remedial measures.

Marxist theory provides for heavy taxation as a means of eliminating socially undesirable forms of property ownership. Are there confiscatory property taxes in the Soviet Union today? There is no tax on bank accounts or minor items of personal property. Besides the ground rent discussed above, there is a "charge for municipal services" of one percent of the insured value or a fraction of one percent of the actual value of a private home.⁵³ Owners of cars, boats, and television sets pay a reasonable license fee for their use.⁵⁴ Taxation at present

⁵² Frankel, *Soviet City Bars Its 180 Donkeys*, N. Y. Times, Dec. 17, 1959, p. 8.

⁵³ SPRAVOCHNIK NALOGOVOGO RABOTNIKA [The Tax Worker's Guide] 148-52 (1958).

⁵⁴ *Id.* at 172.

presents no threat to the security of private property in the Soviet Union. Offenses against property are punished by the criminal code of every Soviet Republic.

A fully-developed system of civil law gives the Soviet citizen a good chance of recovery for conversion or tortious injury to his property. The 1926 civil code parallels those of Western Europe. The provisions dealing with the rights of redress of a private property owner to redress against one who has damaged or converted his property are generally still in effect. Lawyers' fees are reasonable,⁵⁶ and court procedure is simple.⁵⁶ The few peculiarities of Russian law in this field present no great threat to the property owner. The non-recognition of title by prescription or adverse possession has little effect. Owners of recently-built housing can trace their title to a government grant issued under the Decree of August 26, 1948.⁵⁷ Formal proof of ownership is not required by the courts.⁵⁸ The regular practice of granting civil damages in criminal cases provides a simple and convenient procedure to remedy a willful wrong to private property.⁵⁹ All in all, redress for civil wrongs to property is simple and inexpensive for the Soviet citizen. However, the informality and flexibility of the system naturally deprive him of the security a more certain and rigid system would provide.

There is no limit to the amount of property that may be left to one's heirs. Freedom to dispose of property by will is limited by statutory rights of certain relatives. In the past, drastic restrictions and heavy taxes have been placed on inheritance. Tax rates are quite low at present.⁶⁰ There is even an advertising campaign going on for life insurance. At the same time, however, there is criticism in the press of the results of the present inheritance laws.⁶¹ Criticism is aimed particularly at the continuance of royalties on books and patents after death. While some change might come in these fields, the experience

⁵⁶ Hazard, *Law Practice in Russia: The Organized Bar in the U.S.S.R.*, 35 A.B.A.J. 177 (1949).

⁵⁶ Berman, *Real Property Actions in Soviet Law*, 29 TUL. L. REV. 687 (1955).

⁵⁷ See note 10 *supra*.

⁵⁸ Berman, *supra* note 56.

⁵⁹ Art. 25, *Principles of Criminal Legislation of the U.S.S.R. and the Union Republics*, Pravda, Dec. 26, 1958.

⁶⁰ Soviet law of inheritance is summed up in GSOVSKI, 1 SOVIET CIVIL LAW 618-58 (1948).

⁶¹ Nemtsov, *Sobstvennost' i ee Poklommniki* [Property and Its Worshipers] *Izvestia*, Aug. 7, 1959, p. 4.

of the 1920's, when drastic restrictions on the right of inheritance were found unworkable, suggests that severe restrictions on the right to inherit personal property, housing or bank accounts are unlikely in the near future.⁶²

The law affecting private ownership of property in the Soviet Union has entered a relatively stable period. The nation's wealth has been divided definitely into areas of individual control and areas of control by state organizations. The property owner need not fear that the range of items deemed suitable for private ownership will be narrowed in the near future. This stability will serve to build up the idea of the sanctity of private property in the minds of the people of the Soviet Union. Thus, the chance of change will be lessened still further.

Large scale seizure of property has been abolished. The average law-abiding citizen need not fear confiscation of his property on a criminal charge. The period of drastic manipulation of the monetary system appears to be over. One whose home is taken for public use will not receive adequate compensation, but he will be given another place to live.

By Western standards, Soviet property law suffers from a lack of certainty. There is no clear delineation of the extent to which the restrictions on private commercial activity limit the property-owner's freedom of action. In the absence of precise legal norms, isolated cases and rumors affect the security of property ownership and cause fluctuations in market value. Soviet jurists have given private property rights a new name.⁶³ The task remaining is the development of a legal system that will provide an adequate definition of those rights.

⁶² Inheritance law in the first twenty years after the Bolshevik revolution is discussed in 1 SOROK LET SOVETSKOGO PRAVA [40 Years of Soviet Law] 229 (Ioffe ed. 1957).

⁶³ In the 1920's Soviet law referred to "private" property. Modern legal writers all agree that this designation is obsolete and say that the property in the hands of Soviet citizens should be called "personal" or "individual" property.