

Why do communists drink herbal tea? The answer, of course, is that proper tea is theft, ha ha. The truth is, though, that property is all the rage now, even among communists, and there are only a very few things left these days that can't be owned — you can't own a celestial body, for example, unless you're Elle Macpherson. You can't own large areas of seafloor or, amazingly enough, Antarctica.

Everything else is property. Everything else you can buy and sell and own and control, that is, because property and control are inextricably bound. As Oliver Wendell Holmes Jr, the great American jurist, wrote in *The Common Law* in 1881, property has two fundamental aspects: one is our possession of things, defined as having control over a resource; the other is title, by which others recognise that control.

What a helpful definition. Essential in a free country such as Britain. Except, hang on, last month Ruth Kelly, the newly appointed secretary of state for communities and local government, effectively declared Britain a communist state.

On a Friday teatime, when everybody in Westminster was already on the train home and everyone else was watching the World Cup, Kelly's department



quietly outlined details of a strategy, dreamed up by John Prescott in 2004, that allows local authorities to seize houses lying empty.

That's right. Under the rules, which came into force yesterday, councils have the power to issue Empty Dwelling Management Orders (Edmos) and take control of properties unoccupied for more than six months. The legislation will allow a council to break into a property, refurbish where necessary and then let the place to tenants of its choice for — and this is the truly incredible bit — up to seven years. Bang goes any idea of you controlling your own property and with it any effective legal sense of ownership, too.

So if, for example, you're in the unhappy position of having lost an elderly relative and are in the process of dividing up the estate, the chances are that, if you don't get a move on, you

New rules have just come into force allowing councils to take over and rent out homes that have been left empty for more than six months. It is a piece of legislation that is deeply flawed, argues **Kevin McCloud**

might find your relative's house suddenly occupied by a family from the social housing list.

Or there again, if your auntie dies in September and you think you would like to wait for the spring upturn in the housing market before selling her place, I'd think again.

Admittedly, these are extreme examples. In Prescott's defence, he came up with the idea in frustration at the hundreds of thousands of abandoned homes in private ownership across Britain that he felt should be upgraded and brought back into use. Right on, John. Buildings are meant to be used, and when they are derelict, they blight the landscape and damage communities. The intention behind the scheme is admirable.

And before any of you with empty second homes break out in a cold sweat, I should point out they are exempt, as are the houses of those people who

work away from home. Like everything to do with local government, the procedure is certain to be slow and bureaucratic, with a right of appeal (see box below).

Michael Gove, the shadow housing minister, is especially

alarmed by the prospect of homes belonging to the recently deceased being seized. "This is a stealthy new form of inheritance tax," he says.

Indeed, it is the vagueness of the scheme and its openness to misinterpretation that makes

it such a bad law. It is also ironic that it is to be implemented by local authorities, tens of thousands of whose homes are themselves empty, through neglect or bad management.

Underneath these orders lies an even more sinister threat to one of our most basic civil liberties dating back to Magna Carta: the removal of ownership of property by removing the control of it.

Robert Whelan of the Civitas think tank believes it cuts right across the ancient common law principle of private property. "I think anybody whose property is seized should go straight to court to see if a judge thinks it should stand," he says.

That would be worth trying. Although I couldn't possibly recommend you follow the advice given by William Blackstone, the jurist and professor, in his *Commentaries on the Laws of England*, published in the 1760s. His view was "every wanton and causeless restraint of the will of the subject, whether produced by a monarch, a nobility or a popular assembly, is a degree of tyranny".

His remedy? Any landowner should be free to kill a stranger on his property between dusk and dawn. This included even agents of the King, since how on earth were you supposed to recognise them in the dark?

## Edmos: the lowdown

- A local authority can take control of a privately owned house that has been empty for more than six months
- Britain has an estimated 690,000 empty homes
- An Edmo can last for up to seven years
- A local authority must get permission from the owner before it can let the property, but if permission is refused, a local authority can make a final Edmo

- Properties exempt from Edmos include second homes and holiday homes
- Owners may sell up while an order is in force, or seek to have it revoked early in order to sell
- If the local authority cannot track down the owner, they can seize the property
- For more information, visit [www.communities.gov.uk](http://www.communities.gov.uk); [www.emptyhomes.com](http://www.emptyhomes.com)