BOOK REVIEW

By Gavin Putland

HIJACKED INHERITANCE - The Triumph of Dollar Darwinism?

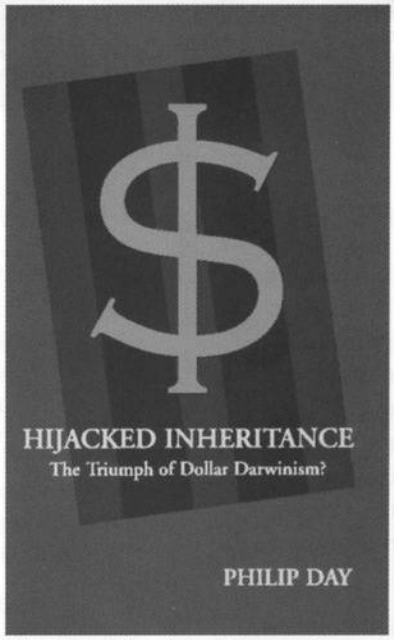
by Philip Day

Ed: Here's an overdue review of a long-awaited publication by an Australian geoist authority. Phil Day has a background in law and town planning, is a Life Fellow of the Royal Australian Planning Institute, was Director of Decentralisation in NSW in the 1970s and later head of the University of Queensland's Town Planning Department. He's been editor of "Queensland Planner', and is a former Director of the Institute of Urban Studies. In his spare time, Phil has built up a bit of a reputation for assisting community groups against controversial town planning decisions. His previous book, 'Land', has gained worldwide geoist acclaim.

Exhibit A: In 1890, a prominent member of the Queensland colonial parliament introduced the "Elementary Property Law" bill, which declared that "Land is, by natural law, the common property of the community," and that "When for the purposes of production the use of land is required, ...[t]he person who receives the rent is not, by reason only of his permission to use the land, concerned in the production... He is therefore not entitled, by reason only of such permission, to any share of the net products."

And who was the communist/anarchist/nihilist ratbag who sponsored this bill? Well, actually it was the Premier of the day, who subsequently distinguished himself by calling in the troops to break a shearers' strike. He was also the author of the first draft of the Australian Constitution, the author of the internationally influential Queensland Criminal Code, the founding Chief Justice of the High Court of Australia, and a Privy Councillor — and posthumously gave his name to Australia's leading conservative legal think-tank, the Samuel Griffith Society!

Exhibit B: A speech given at Edinburgh's Kings Theatre on July 17,



1909, complained that "every form of enterprise, every step in material progress, is only undertaken after the land monopolist has skimmed the cream off for himself; and everywhere today the man or the public body that wishes to put land to its highest use is forced to pay a preliminary fine in land values to the man who is putting it to an inferior use, and in some cases to no use at

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all. All comes back to the land value, and its owner for the time being is able to levy his toll upon all other forms of wealth and upon every form of industry. A portion, in some cases the whole, of every benefit which is laboriously acquired by the community is represented in the land value, and finds its way automatically into the landlord's pocket."

What rabble-rousing Bolshevik said *that*? Winston Churchill!

Exhibit C: Shortly before the collapse of the Soviet Union, thirty western economists signed an open letter to Mikhail Gorbachev, warning that "there is a danger that you will adopt features of our economies that keep us from being as prosperous as we might be. In particular, there is a danger that you may follow us in allowing most of the rent of land to be collected privately."

Who were these traitors to their discipline? Suffice it to say that they included four current or future Nobel laureates.

Griffith and Churchill are quoted at length by the retired lawyer, town planner, and academic Philip Day, in the appendices of his latest book, *Hijacked Inheritance*. The Thirty Economists are also mentioned in the text. According to Day, the "inheritance" that has been "hijacked" is the **unearned increment** — that is, the uplift in the value of land caused by economic growth, community growth, provision of public infrastructure, and rezoning of land for more lucrative permitted uses. This "increment" is created not by the landowners *per se*, but by the community, and therefore belongs by natural right to the community; to the extent that it is allowed to fall into the hands of the landowners simply because they are the owners, it is "unearned".

Contradictions

Private appropriation of the unearned increment represents, in the main, a flow of income from the poor to the rich, but somehow fails to draw the ire of progressive politicians. It also represents a reward for non-producers — the very antithesis of capitalism — and must be funded by punitive taxes on everything that the capitalist system purports to encourage: hard work, job creation, enterprise, ingenuity, self-reliance, and the production and consumption of socially desirable goods and services. Yet it somehow fails to draw the ire of conservative politicians who constantly try to minimize the flow of income to *poor* non-producers such as the unemployed. In mainstream public debate, the public subsidy of private landowners is unquestioned and unquestionable, unmentioned and unmentionable. Yet this mindset, says Day, comes from *nothing more noble or pre-ordained than the fact that for centuries prior to the extension of the franchise, lawmakers in the English House of Commons were landowners elected by landowners* (p.25, italics in the original). Is it then any wonder that Griffith or Churchill or the Thirty Economists, or anyone else capable of independent thought, should find the present arrangements indefensible?

However, when Day goes on to describe the aforesaid "landowners elected by landowners" as "Not an inspiring model for a modern liberal democracy," this reviewer detects an elephant in the kitchen. In the modern liberal democracy called Australia, about two thirds of the voters are landowners. Admittedly, most of these own no land apart from that under their homes, and most of the homes are encumbered by mortgages. But the mystique of home ownership drives the owners to assume that their interests as landowners outweigh their interests as workers or business owners, and that by the act of buying a home they have thrown in their lot with the biggest property investors. In view of this, what are Australia's federal, state, and local legislators but "landowners elected by landowners"? What hope is there for achieving any reform except by appealing to the self-interest of landowners *qua* landowners?

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Don't laugh. At present it seems that the highest-profile campaigner for taxation of the unearned increment is a British property developer named Don Riley. In his book ***Taken for a Ride*** (London: Centre for Land Policy Studies, 2001), Riley concludes that the unearned increments caused by the recent extension of the Jubilee Line in south-eastern London would have paid for the extension several times over — or paid for it once while still leaving a huge windfall in the pockets of landowners. On balance, the funding of infrastructure projects out of the ensuing unearned increments would benefit landowners by giving them windfalls that they would not otherwise get, through projects that would not otherwise proceed. Yet Day cites Riley (p.134) simply as an advocate of capturing the unearned increment, without acknowledging that Riley is openly and honestly promoting the interests of *landowners*.

Notice that Griffith's Elementary Property Law bill seems to impugn not only private retention of the unearned increment, but also the very idea of private property in land. Indeed, as Day explains (Ch.5), this idea has no support in pre-western cultures or even in the Judeo-Christian roots of western culture (cf. Leviticus 25:23). Neither does it have any support in the foundations of English law, which held (both before and after the Norman conquest) that the only absolute owner of land was the King, and that every other "lord" was a tenant of the King, either directly or through some higher lord, and held his tenancy in return for certain services (Ch.6). The resemblance of absolute private ownership emerged only after the landlords, little by little, managed to cast off their obligations onto the peasants in the form of taxes. The argument is telling. But will "landowners elected by landowners" want to hear it? Will media owned by landowners and beholden to landowning advertisers allow anyone else to hear it?

Proposed solutions

That said, Day is at pains to deny that he is calling for a return to leasehold tenure. His preferred solution is to shift municipal rates onto land values only (where this has not been done already) and gradually increase the rates until they absorb the entire rental value of land *and* yield enough revenue for all levels of government (pp.24,101–2). This arrangement would not only capture the entire unearned increment but also give complete compensation for **worsenment**, i.e. *reductions* in property values.

Thus we come to the tiger in the dining room. In the Australian Capital Territory, under s.125 of the Australian Constitution, all land is owned by the Commonwealth and all land tenures are leasehold. But that didn't stop the Federal Government under Prime Minister John Gorton from abolishing land rents in the territory in 1970, with the result that the leases suddenly acquired substantial resale values. It was as if every leaseholder in Canberra had won a 2nd-division Lotto prize at the expense of federal taxpayers. Day duly recounts this debacle (pp.16,93–4). And he duly notes the exemptions and thresholds that emasculate state land taxes, the remnant of which he describes (p.16) as "an arbitrary wealth tax on landholding other than the place of residence (except in New South Wales)". But the parenthetical exception is out of date; it refers to the NSW Premium Property Tax, which *was* a recurrent land tax on the most valuable owner-occupied residential sites, but which became a stamp-duty surcharge in April 2004. And while Day expresses his approval of the **two-rate** property tax in Pittsburgh, PA, whereby land was taxed at a higher rate than buildings, he fails to note that the arrangement was repealed in 2001. Moreover, events like those in Canberra and Pittsburgh are the rule, not the exception. Given that the kinds of taxes advocated by Day were being dismantled as he wrote, how does he imagine that this trend can be not only reversed, but reversed for long enough to soak up the entire rental value of land for public purposes? His proposal shouldn't be seen as radical, but surely will be.

Historical scholarship

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Being a town planner, Day devotes considerable space to the **rezoning windfall** — that is, the component of the unearned increment caused by permission to use land for more lucrative purposes. The rezoning windfall tends to be called **betterment** nowadays, although the latter term originally referred to windfalls due to public works. Day describes the abuses invited by the prospect of manifold increases in property values at the stroke of a pen, and then recounts the long history of British and Australian attempts to capture rezoning windfalls through one-off **betterment levies** calculated on the resulting uplifts in land values — or rather, the long history of *failures* of such attempts. The only exception is the Australian Capital Territory, where a betterment levy was introduced after the abolition of rental payments on what is supposed to be leasehold land — a Pyrrhic victory. Noting that rezoning windfalls could alternatively be captured by an "*ongoing* betterment levy" (p.96) or by increases in municipal rates, Day concedes, without apparent regret, that "betterment levies are a dead letter."

With that remark, Day begins a crucial 2½-page excursus on negotiated **development contributions** — that is, contributions by property developers, in kind or in cash, to the provision of infrastructure made necessary by their developments. Such contributions have effectively superseded betterment levies in Australia since 1945. Contributions in kind can include parks and gardens, roads, drains, sewers, and (more recently) affordable housing. Contributions in cash, which have received much media coverage in recent years, are intended to defray the costs of incidental items that cannot be provided by developers themselves, including the **headworks** that connect the internal infrastructure of the new suburb to the rest of the system. Day rightly complains that while these contributions are obviously attempts to capture betterment, they are *not* explicitly quantified in terms of uplifts in land values; consequently they can be portrayed by developers as arbitrary imposts, and cynically viewed by voters as but one step removed from corrupt political donations.

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Connecting the dots

Nevertheless, the reader is likely to know that development contributions *in cash* are becoming more and more prevalent in spite of well-publicized and credible allegations that they are increasing the cost of housing. Such contributions have appeared almost spontaneously, and become entrenched, because they exploit the desire of self-interested parties to do things that cannot be done without the cooperation of the government, and because they claw back only *part* of the profits that the self-interested parties expect to make from the desired actions.

The same can be said — although Day doesn't say it — for an even more firmly entrenched class of property taxes that have even less visible connection with unearned increments: stamp duties on conveyancing. Day rightly attacks these stamp duties for inhibiting turnover in the property market and hence the mobility of labour. But this effect and the associated upward pressure on the cost of housing would be greatly reduced if stamp duties were calculated on the unearned increment since the last transfer of title (because each transfer would not create a *new* tax liability, but would merely realize the existing liability accumulated since the last transfer).

So, by redefining development contributions and stamp duties in terms of unearned increments and *merging* them into a single tax (presumably called a stamp duty), one could simultaneously increase the capture of the unearned increment, provide partial compensation for worsenment, reduce the constraints on property turnover and labour mobility, remove the element of arbitrariness and the associated resemblance to corrupt donations, and sell the whole idea to property owners as a means of funding infrastructure projects that would not otherwise proceed, providing property owners with (after-tax) unearned increments that they would not otherwise get. By medieval or modern standards, this is not "radical". And one could do it without introducing anything that could be portrayed as a "new tax".

Day does not pursue this line of thinking; but neither could this reviewer have done so without the benefit of Day's historical overview.

The first printing contains a few errors of the sort that can easily intrude in transcription. The Magna Carta should be dated 1215, not 1265 (p.22). Henry George's reply to Pope Leo XIII's encyclical Rerum novarum should be dated 1891, not 1881 (p.122, n.7). A heavily elided quotation from Adam Smith (p.182) accurately represents Smith's position, but the source and the necessary elision marks are unfortunately omitted ("[G]round-rents... are a species of revenue which the owner... enjoys without any care or attention of his own [and] can best bear to have a peculiar tax imposed upon them" — Wealth of Nations, Bk.5, Ch.II, Pt.2, Art.I). The quote from Alfred Deakin on the same page is also unsourced. To err is human; but the substitution of a capital `B' for opening and closing parenthesis (p.103) probably involved a machine. One hopes that these glitches will be repaired in later printings.

One also hopes that the demand for this book will indeed require further printings. While there is no shortage of literature on economic inequality, under-funded services, and overstretched infrastructure, too few authors explain the relevance of the unearned increment, where it comes from, and where it goes. Even in the literature that exposes the unearned increment, there is (at least in this reviewer's experience) too little analysis of past attempts to capture the unearned increment for public purposes. Obviously the history of such attempts and their successes and failures (mostly failures, except for negotiated development contributions) contains indispensable lessons concerning the political feasibility of present proposals for capturing the unearned increment. In Hijacked Inheritance, the octogenarian Dr. Day has given an accessible survey of that history. For this his successors will be ever in his debt, even if their conclusions differ from his.

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