

THE FETISHISM OF DIVERGENCE:

A CRITIQUE OF PIKETTY

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the strength and weakness of that kind of criticism which knows how to judge and condemn the present, but not how to comprehend it.

Karl Marx, *Capital*, volume one¹

Thomas Piketty's Capital in the Twenty First Century has enjoyed a reception comparable only to those of Hayek's The Road to Serfdom or Galbraith's The Affluent Society. It restates Piketty and his colleagues' statistical history of capitalist inequality and advances an explanation of this based on the operation of pernicious economic forces of capitalism. The book obviously invites comparison with Marx's Capital. However, Piketty's "capital" is entirely divorced from any concrete conception of capitalist production, and his critique of capitalism is merely moralistic in a way which Marx would have scorned. Piketty's explanation of the growth of inequality since 1980, particularly of the growth of managerial "supersalaries", displays a failure to grasp the character of the economic and legal institutions of corporate capitalism.

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¹ K Marx, 'Capital volume one' in K Marx and F Engels, *Collected Works* (London: Lawrence and Wishart, 1975 ff) (hereinafter MECW), vol 35, 507 n 1.

INTRODUCTION

In what could hardly be a greater contrast to the receptions of *A Contribution to the Critique of Political Economy* and volume one of *Capital*,² the publication of Thomas Piketty's *Capital in the Twenty First Century*³ has met with what, for an academic book, can only be called an absolutely astounding success. Though a quarter of a century remained to Marx after the first of his books was published, neither of them was translated into English in his lifetime. The English edition of Piketty's book I will discuss here appeared less than a year after the original French. When I first drafted this, this English edition ranked second in the *London Times* and first in the *New York Times* relevant bestseller lists and, in two months, had already sold many times more copies than *Capital* sold in all the languages in which it appeared in Marx's lifetime. Even more copies of CITTFC would have been sold but demand had temporarily exhausted its publisher's capacity to supply!⁴ The first, German edition of volume one of *Capital* received only a single notice in English, and that was of but one paragraph from a reviewer who believed Marx's views were "pernicious".⁵ There already have been scores of English reviews of CITTFC, some by the most distinguished

² Leaving aside Marx's own views (ibid, 16), Marx's wife's disappointment at the "silence" which met the publication of her husband's books, the product of labours which dominated, and were frequently a grave burden on, her life and the lives of her children, is very moving: J Marx, 'To F Engels, 23 or 24 December 1859' in MECW, vol 40, 573, 574 and J Marx, 'To L Kugelmann 24 December 1867' in MECW, vol 42, 577, 578.

³ (Cambridge MA: Belknap Press, 2014), hereinafter CITTFC. Unattributed references in parentheses are to this book.

⁴ When the final version of this article was sent to press, CITTFC's sales in all languages had, scarcely believably, exceeded 500,000: Anon, 'France Economist Thomas Piketty Rejects Legion D'Honneur [sic]' *BBC News Europe* (1 January 2015) <http://www.bbc.co.uk/news/world-europe-30650097> accessed 16 January 2015.

⁵ Anon, 'German Literature' *Saturday Review* (18 January 1868) 96, 97. Such as it was, the review was scrupulously fair.

commentators, and predominantly they have been overwhelmingly fulsome. In the words of, for example, Paul Krugman, CITTFC is “a truly superb book” which (with other work by Piketty) “has transformed our economic discourse” and may make Piketty “a household name”.⁶ Progress towards such recognition surely is underway. For most of his adult life Marx was regarded as a pariah, or even a suspect or dangerous person, by governments across Europe. The reception of CITTFC has made Piketty a “rock star economist” whose views have been enthusiastically sought by the Obama administration.⁷ If the present discussion cannot be thought to add to the number of CITTFC’s reviews, this is only because I do not feel under an obligation to discuss all of its claims. Though I will seek to convey Piketty’s overall argument, I will do so in order to consider his views on the “explosion of ... inequality since 1980” (294) due to “the rise of the supermanager” (315) from the perspective of the law and economics of industrial organisation.

Though it is perhaps conceivable that Piketty did not intend it,⁸ it is impossible to do other than interpret the title of CITTFC (in French *Le capital au 21^e siècle*) as a

⁶ P Krugman, ‘Why We’re in a New Gilded Age’ *New York Review of Books* (8 May 2014) <http://www.nybooks.com/articles/archives/2014/may/08/thomas-piketty-new-gilded-age/> accessed 16 January 2015.

⁷ B Kachka, ‘On Tour with Rock Star Economist Thomas Piketty’ *New York* (21 April 2014) <http://nymag.com/daily/intelligencer/2014/04/on-tour-with-rock-star-economist-thomas-piketty.html> accessed 16 January 2015. After this was drafted, Piketty was offered and, rightly or wrongly but, so far as one can judge for sincere reasons, rejected the Legion d’Honneur: Anon, above n 4.

⁸ Asked in an interview with *New Republic* whether he was “tipping his hat” to *Capital* in CITTFC, Piketty, as reported, replied “No not at all, not at all!”: I Chotiner, ‘Thomas Piketty: I Don’t Care for Marx’ *New Republic* (5 May 2014) <http://www.newrepublic.com/article/117655/thomas-piketty-interview-economist-discusses-his-distaste-marx> accessed 16 January 2015. I was led to this interview by David Harvey, the distinguished marxist geographer and social theorist, whose ‘Afterthoughts on Piketty’s *Capital*’ are available at: <http://socialistworker.org/blog/critical-reading/2014/05/18/david-harvey-reviews-thomas-pi> accessed 16 January 2015.

clever pun. As a large number of reviews indicate,⁹ that title invites comparison of CITTFC with *Capital* itself, and indeed the central argument of CITTFC is an attempt to link trends in income distribution to structural features of capitalism after Piketty had rejected (7-10, 227-30) Marx's "general law of capitalist accumulation",¹⁰ the "historical tendency" of which, Marx told us in chapter 32 of volume one of *Capital*, was that, "Along with the constantly diminishing number of the magnates of capital, who monopolise all the advantages of [the development of a world capitalist economy, there] grows the mass of misery, oppression, slavery, degradation, exploitation", to the point where, ultimately, "The knell of capitalist private property sounds. The expropriators are expropriated".¹¹

But, in fact, the discussion of Marx in CITTFC is extremely brief, occupying only a half dozen of the book's 577 pages of main text, and not only are Marx's core claims as Piketty understands them – about the concentration of capital (9), the rising organic composition of capital (10, 27),¹² the tendency of the rate of profit to fall (52, 227-30) and of the historical tendency of accumulation in general (9) – thought wrong, but one gains the impression that Piketty knows Marx but little and holds him in low esteem.¹³ We are told that Marx reached conclusions years "before embarking

⁹ eg D Schuchman, 'Thomas Piketty Revives Marx for the 21st Century' *Wall Street Journal* (21 April 2014) <http://online.wsj.com/news/articles/SB10001424052702303825604579515452952131592> accessed 16 January 2015.

¹⁰ Marx, above n 1, ch 25.

¹¹ *ibid*, 750.

¹² This is the principal concept which Marx uses to analyse the issues of "durable technological progress and steadily increasing productivity" which Piketty preposterously claims that Marx, "like his predecessors ... totally neglects" (10): Marx above n 1, ch 25, sec 2 and K Marx, 'Capital volume 3' in MECW, vol 37, chs 8, 13-15.

¹³ As reported in his interview with *The New Republic*, Chotiner above n 8, Piketty said that *Capital* "is very difficult to read and for me it was not very influential", and

on the research needed to justify them” (10), issued “hasty pronouncements from which it was difficult to escape” (10), “did not exploit all the possibilities available to him” to benefit from others’ researches (10) and “usually adopted a fairly anecdotal and unsystematic approach to the available statistics” (229). Applied to the process of Marx’s research for and writing of *Capital*,¹⁴ these criticisms do not merit comment. None of Piketty’s works published in English which I have been able to consult engage with Marx more deeply or, perhaps better, less superficially. Even an interview attending the French publication of CITTFC which the *New Left Review* played a part in organising and published in English contains no real discussion of Marx.¹⁵ The very brief comments principally on Ricardo at the start of CITTFC are, I believe, Piketty’s most substantial writing on the history of economic theory (other than the econometrics of income distribution), and they are themselves extremely slight.

What Piketty principally means by “capital” is, in fact, not the book by Karl Marx, nor even the subject of that book: money which is invested so that it “adds to itself a surplus value[,] or expands itself”.¹⁶ What Piketty means is what Adam Smith meant by “wealth”: “all the necessaries and conveniences for which [a nation] has

indeed that he had “never managed really to read it”. I think it is fair to quote this, for though other things Piketty is reported as saying in this interview are questionable exaggerations of the criticism of Marx in CITTFC, they clearly are of a piece with those criticisms.

¹⁴ Marx’s published and unpublished relevant writings, excluding correspondence, are now available in nine volumes of the English MECW, vols 28-37.

¹⁵ T Piketty, ‘Dynamics of Inequality’ (January-February 2014) 85 *New Left Review* 103.

¹⁶ Marx above n 1, 161.

occasion”.¹⁷ Humpty Dumpty could have displayed no more lively a sense of the possibilities of usage than does Piketty (251) when he defines “capital” in such a way as to make it actually redundant in CITTEFC! It may, he tells us, be used “interchangeably” (47) with “wealth” (47) “as if they were perfectly synonymous” (47), and that is indeed what he does: “‘capital’ includes all forms of wealth” (47) “regardless of its legal form (profits, rents, dividends, interest, royalties, capital gains, etc)” (52). One must say that it seems to create an unnecessary difficulty to give one’s book a title based on a term which is redundant in the book’s argument.

What is more, whilst it might be sensible to claim to write a *Capital* for the twenty first century, as indeed Rudolf Hilferding effectively did for the twentieth in 1910,¹⁸ it is “more than a little premature in 2013” (35) to claim to write the, as it were, future history of “capital in the twenty first century” (35), and Piketty hastens to “beg the reader’s indulgence” (35) for doing so, repeatedly entering a caveat about “his total inability to predict what form capital will take in 2063 or 2113” (35) to which I shall return.

I think that Piketty has refused to let these difficulties stand in the way of gaining the advantage of the comparison to *Capital* invited by the pun in the title of his book, even though, as he himself acknowledges, this involves not giving his book the title it should, “logically speaking” (35), have had! I shall take this pun seriously and concentrate on the way in which CITTEFC seeks to describe a “logic of

¹⁷ A Smith, ‘The Wealth of Nations’ in *The Glasgow Edition of the Works and Correspondence of Adam Smith* (Oxford: Clarendon Press, 1976ff) (hereinafter SGE) vols 2-3, 10.

¹⁸ R Hilferding, *Finance Capital* (London: Routledge and Kegan Paul, 1981). Kautsky immediately described this book as “a continuation of Marx’s *Capital*”: K Kautsky, ‘Finance Capital and Crises pt 1’, *The Social Democrat* (15 July 1911) <https://www.marxists.org/archive/kautsky/1911/xx/finance.htm> accessed 16 January 2015.

accumulation” (377) which constitutes a “central contradiction of capitalism” (571) because it yields “long-term dynamics of ... wealth distribution [which] are potentially terrifying” (571) which is superior to the parallel account by Marx.

THE FACTS CITTFC DRAWS TO OUR ATTENTION

Piketty tells us (vii-viii) that CITTFC is the result of work stretching back to 1998¹⁹ which has led to the establishment of an international research group which maintains a top incomes database that has become a reference point for researchers and policymakers worldwide (and is the “primary source of data” for CITTFC (17)),²⁰ and in a sense has led to the foundation in 2006 of the umbrella Paris School of Economics,²¹ of which Piketty was the first Director. By means of what I understand (I am in no position to judge) are valuable econometric innovations in the use of tax and other data to measure wealth,²² Piketty (and his colleagues, to whom he is commendably generous throughout CITTFC) apparently have been the first to

¹⁹ Piketty’s first publication appears to be in English in 1993. The body of work from 1998 which he tells us led to CITTFC appears to have started with T Piketty, ‘Income Distribution Theory: A Survey of Selected Recent Contributions’ in Y Mundlak (ed) *Contemporary Economic Issues*, vol 2 *Labour, Food and Poverty* (Basingstoke : Macmillan, 1998) 25.

²⁰ F Alvarado et al, *The World Top Income Database* <http://topincomes.gmond.parisschoolofeconomics.eu/> accessed 16 January 2015.

²¹ <http://www.parisschoolofeconomics.eu/en/outline/> accessed 16 January 2015.

²² AV Mollick, ‘Income Inequality in the US: The Kuznets Hypothesis Revisited’ (2013) 36 *Economic Systems* 127, 142-43:

At the time of his writing, Kuznets ... considered the field of study as “plagued by looseness in definitions, unusual scarcity of data, and pressures of strongly held opinions.” While the latter is still present today, the former have been minimized by the research efforts of Piketty ... and others, who elaborated long-term databases based on tax files ... Kuznets referred to his own [work] as “perhaps 5 per cent empirical information and 95 per cent speculation”. We believe the empirical information part is [now] considerably higher’.

The references to Kuznets are to S Kuznets, ‘Economic Growth and Income Inequality’ (1955) 45 *American Economic Review* 1, 27, 26.

“systematically” (17) extend Simon Kuznets’ compilation of historical income distribution data²³ so as to eventually be able to describe the historical distribution of income, not merely for France and continental Europe, but for the UK and the US and for many other countries across the world (11-20).²⁴ CITTFC is both a restatement of these findings and, its novel part, an explanation of them in terms of structural features of capitalism far more comprehensive than Piketty had previously attempted.

In his path-breaking work in the mid-50s, Kuznets claimed that a marked growth of inequality in the nineteenth century had broadly been reversed in the twentieth.²⁵ What has come to be known in the secondary literature as “the Kuznets’ curve” is a graphical depiction of historical inequality as an inverted U (“bell curve” Piketty says (13)), with inequality declining since the time of the First World War. Kuznets, as he himself was at pains to insist very tentatively,²⁶ linked this ultimately

²³ S Kuznets, assisted by E Jenks, *Shares of Upper Income Groups in Income and Savings* (New York NY: National Bureau of Economic Research, 1953).

²⁴ The 2001 book on top French incomes which brought Piketty to prominence has not been translated into English. I understand that its argument is effectively restated in T Piketty, ‘Income Inequality in France 1901-98’ (2003) 111 *Journal of Political Economy* 1004. The two major products of the international group he leads with Tony (AB) Atkinson of the LSE and Emmanuel Saez of Berkeley are available in English: AB Atkinson and T Piketty (eds) *Top Incomes over the Twentieth Century: A Contrast Between Continental European and English-speaking Countries* (Oxford University Press, 2007) and AB Atkinson and T Piketty (eds) *Top Incomes: A Global Perspective* (Oxford University Press, 2010).

²⁵ The paper on which Piketty focuses is Kuznets, above n 22.

²⁶ Piketty grossly overstates the extent to which Kuznets’, either in his 1955 paper or elsewhere, made definite claims about the link between equality and capitalist development, and, in particular, Piketty fails to mention that there is no Kuznets’ curve in that paper; indeed he implies quite the opposite (14). I am unaware of Kuznets himself ever employing the term “Kuznets’ curve”, though one suspects he must have made some reference to it somewhere, even to it in the work of others. His lecture on accepting the 1971 Nobel Prize makes no reference to it: S Kuznets, ‘Modern Economic Growth: Findings and Reflections’ (1973) 63 *American Economic Review* 247. In general, to the extent that he depicts Kuznets as a sort of apotheosis of the American mathematical economics he rightly criticises, Piketty most unfairly fails to convey the way that Kuznets criticised such economics on the same grounds as

egalitarian trend to “the dynamism of a growing and free economic society”.²⁷ By extending Kuznets’ data for 1913-48 on to 2010 (24), Piketty has restored the inverted U of the Kuznets curve to an overall U. He describes a persistent dominant effect of accumulated wealth on inequality right up until the 1980s, with “hyperpatrimonial” (264) modern peaks at, in France (and other European countries) the time of the *Belle Époque* (243-45), and in the US the Gilded Age prior to the First World War (347-50). This history of income distribution leads Piketty to claim that capitalism predominantly is a “patrimonial” (284) “society of rentiers” (284). What is more, there has been an “explosion of US inequality after 1980” (294). This period has seen “the upper decile’s share [increase] from 30-35% of national income in the 1970s to 45-50% in the 2000s” (294), a “rather impressively steep” (294) growth curve that would, were it maintained, lead to “the upper decile ... raking in 60% of national income by 2030” (294). Even within that decile, “the bulk of the growth in inequality came from “the [top] 1%”, whose share of national income rose from 9% in the 1970s to about 20% in 2000-10” (296). This “explosion of ... inequality” and the position of the “top 1%” have been the main focus of discussion of CITTFC.

Having set the Kuznets curve back to a U, Piketty ascribes what he regards as

Piketty himself. The 1955 paper itself (Kuznets, above n 22, 28) concludes by saying: “For the study of the economic growth of nations, it is imperative that we become more familiar with findings in ... related social disciplines ... Effective work in this field necessarily calls for a shift from market economics to political and social economy”. See further RW Fogel, ‘Afterword: Some Notes on the Scientific Methods of Simon Kuznets’ in S Kuznets, *Economic Development, the Family and Income Distribution* (Cambridge University Press, 1989) 413 and RW Fogel et al, *Political Arithmetic* (University of Chicago Press, 2013) 102-04. Piketty’s remarks do, however, accurately capture the impression left by much of the secondary literature.

²⁷ Kuznets, above n 22, 11.

Kuznets' incorrectly "optimistic interpretation of his results" (13) to its being "a theory of the magical postwar years referred to in France as the '*Trente Glorieuses*', the thirty glorious years from 1945 to 1975" (11). He is referring to the atmosphere of the "Golden Age" of postwar capitalism, in which a historically unprecedented period of continued economic success on growth, employment *and* inflation measures led to a confidence about state direction of economic and social policy which now seems so extraordinary²⁸ that it is difficult even to adequately understand it in the sociological sense of "recapturing an experience".²⁹ The representative and at the time very influential views of the Labour intellectual and senior politician Tony Crosland turned on his belief that, "the political authority has emerged as the final arbiter of economic life [and the] era of unfettered market relations is over", and so competent was this authority's economic management that "questions of economic efficiency" were no longer "of primary importance" in a Britain which stood "on the threshold of mass abundance".³⁰ Were he then to have been asked whether the UK continued to be "capitalist", Crosland would have answered "no".³¹ Though, so far as I am aware, Crosland did not directly refer to this most famous expression of post-capitalist belief within British economic thought, his views were entirely of the cast of mind expressed in Keynes' claim that "the economic problem" was in the process of being

²⁸ A Downs, *An Economic Theory of Democracy* (Boston MA: Addison Wesley, 1957) ch 15.

²⁹ Chapters 7-13 of John Campbell's recent biography of Roy Jenkins captures the atmosphere engendered by a 'most optimistic assumption of ever increasing growth and future material abundance' in which the Golden Age Labour Party formed its policies: J Campbell, *Roy Jenkins, A Well-rounded Life* (London: Jonathan Cape, 2014) 181. Jenkins' proposals of tax rates of between 50% and 95% and a public sector of up to 70% of gdp (ibid, 138) are clear Golden Age forerunners of Piketty's proposals.

³⁰ CAR Crosland, *The Future of Socialism* (London: Jonathan Cape, 1956) 73, 515.

³¹ ibid, 76.

solved.³²

Piketty describes this period, in which the government took on “the central role in the economy” (474), as “a mixed economy, in a sense a capitalism without capitalists” (138). It was “magical” in the sense that it was a very welcome exception to the overall inegalitarian picture of capitalism he seeks to portray. During that period, inequality was in fact markedly reduced, and “the growth of a true ‘patrimonial (or propertied) middle class’” (260) which had begun around the time of the First World War was consolidated so that it constituted the “principal structural transformation of the distribution of wealth in the developed countries” (260). Until the “explosion of ... inequality since 1980”, Piketty actually paints an overall levelling over the twentieth century, for “the rise of a propertied middle class” necessarily “was accompanied by a very sharp decline in the wealth share of the upper centile” (262). Inequality, indeed, “fell to an unprecedentedly low level, so low that nearly half the population was able to acquire some measure of wealth and for the first time to own a significant share of national capital” (350). This was a “total transformation of society” (350), elsewhere described as a “major transformation ... which deeply altered the social landscape and the political structure of society and helped to redefine the distributive conflict” (262). The reasons for this are various, including the destruction of capital by the “shocks” of depression and world war (275), but “above all” (275) the levelling was the result of “new public policies” (275)

³² JM Keynes, ‘Essays in Persuasion’ in *Collected Writings* (London: Macmillan, 1971ff) (hereinafter KCW), vol 9, 325-26. Crosland, above n 30, 528 quotes a different passage from the *Essays in Persuasion* (329) to similar effect, and also (Crosland, above n 30, 377) quotes a passage from *The General Theory* which, though directly addressing returns on capital, famously contemplated a post-capitalist situation: JM Keynes, ‘The General Theory of Employment, Interest and Money’ in KCW, vol 7, 221.

of the sort represented by the US New Deal and of the progressive distributional policies adopted during the Golden Age, “a heyday of state intervention to curb the excesses of capitalism” (350) which was possible because “People felt that capitalism had been overcome and that inequality and class society had been relegated to the past” (350).

For reasons connected to the literary quality of CITTFC which I will describe below, one cannot be certain just what is being argued in the history of inequality in parts 2 and 3 of CITTFC.³³ But I think I am right in saying that, despite the impression CITTFC overall gives, and which has been conveyed in most early reviews, Piketty does not describe a picture of abiding capitalist inequality. From the First World War, the picture is of broad equalisation, and during the Golden Age the picture became highly beneficent,³⁴ ie it is a picture similar to the one painted by Kuznets. To those, like myself, with a very strong commitment to equality as a value, what was achieved in this period is not enough, so that Piketty’s claim about a “total transformation of society” seems excessive. But that claim does substantially express what was achieved during the Golden Age.

However, Piketty then describes this benign tendency going into reverse since 1980. His inequality statistics for this period are *prima facie* very troubling indeed. Because they in large part confirm the beliefs one had already formed, it would be wrong to say these statistics are amazing, but they certainly are extremely striking.

³³ After I had first waded through CITTFC there appeared (I must admit rather annoyingly) a six page synopsis of Piketty’s history of inequality which, to be frank, would be sufficient for the majority of readers and which confirms the interpretation I had laboriously reached: T Piketty and T Saez, ‘Inequality in the Long Run’ *Science* (23 May 2014) 838.

³⁴ After I had drafted this, the point was made in, *inter alia*, R Kuttner, ‘What Piketty Leaves Out’ *The American Prospect* (29 April 2014) <http://prospect.org/article/what-piketty-leaves-out> accessed 16 January 2015.

Piketty and his colleagues are widely acknowledged to have made inequality statistics available in so sound a fashion that they must now form part of the basis of the discussion of the fundamental issues of economic, legal and social policy.³⁵ I undertook to write this paper for this journal because the early reviews of CITTFC had led me to believe that I would find in it an important contribution to the understanding of an issue of great concern to the journals' readers: "the emergence of extremely high remunerations at the summit of the wage hierarchy, particularly among top managers of large firms" (298). Although, unless my reading is faulty, Piketty himself does not do this, save to the extent that it almost leaps from his book, Krugman is right, in light of Piketty's work, to claim in the review I have mentioned that "describing our current era as a new Gilded Age or *Belle Époque* isn't hyperbole; it's the simple truth".³⁶ This is a significant achievement.

PIKETTY AND THE ECONOMICS OF CAPITALIST WEALTH DISTRIBUTION

But, however *prima facie* troubling the picture he paints, "the key issue" (264), as

³⁵ Piketty and his colleagues' work has, of course, been subject to repeated academic criticism. But shortly after the publication of CITTFC in English, the *Financial Times* attacked Piketty's handling of the statistics in terms an academic finds strident: C Giles, 'Data Problems with *Capital in the 21st Century*' *Financial Times* (23 May 2014) <http://piketty.pse.ens.fr/files/capital21c/en/media/FT23052014c.pdf> accessed 16 January 2015; C Giles and F Guigliano, 'Thomas Piketty's Exhaustive Inequality Data Turn Out To Be Flawed' *Financial Times* (23 May 2014)

<http://www.ft.com/cms/s/0/c9ce1a54-e281-11e3-89fd-00144feabdc0.html?siteedition=uk#axzz3P1kNaCE1> accessed 16 January 2015.

Piketty's reply is available at

<http://piketty.pse.ens.fr/files/capital21c/en/Piketty2014TechnicalAppendixResponsetoFT.pdf> accessed 16 January 2015 . For what my opinion is worth, the *FT* seems to have journalistically exaggerated the significance of the points it made, but my own conclusion that those points are in themselves essentially right has been reached by others who are specialists: eg MJ Warshawsky, 'Capital Taxation in the 21st Century?' *Tax Notes* (30 June 2014) 1547, 1550.

³⁶ Krugman, above n 6.

Piketty himself insists, “is the justification of inequalities rather than their magnitude as such” (264). CITTFC has attracted such attention, in the end not so much because of the inequality it describes, but because its explanation of that inequality purports to show it to be unjustified, and, at the end of a convoluted argument, to be ultimately the product of socially destructive structural features of the capitalist economy which can be brought under socially productive control only by large-scale state intervention.

Piketty argues that a capitalist economy will contain egalitarian forces which tend to make incomes converge and inegalitarian forces which cause them to diverge (22-25). The “fundamental force for divergence” (25) is expressed in the equation $r > g$ where r is “the average annual rate of return on capital” (25) and g is “the rate of growth of the economy, that is, the annual increase in income or output” (25). $r > g$, Piketty tells us, is so powerful a force for divergence that it constitutes “the central contradiction of capital”:

When the rate of return on capital significantly exceeds the growth rate of the economy ... then it logically follows that inherited wealth grows faster than output and income. People with inherited wealth need save only a portion of their income from capital to see that capital grow more quickly than the economy as a whole. Under such conditions, it is almost inevitable that inherited wealth will dominate wealth amassed from a lifetime’s labour by a wide margin, and the concentration of capital will attain extremely high levels ... the process by which wealth is accumulated and distributed contains powerful forces pushing towards divergence, or at any rate toward an extremely high level of inequality (26-27).

If there are, as of course there are under capitalism, those whose income is principally derived from labour and those whose income is principally derived from capital in the sense of accumulated wealth (242-62), then if $r > g$ it does logically follow that the latter group will grow increasingly richer than the former. g is the rate of growth of the “national income”, “the sum of all income available to the residents

of a given country in a given year” (43). If $r > g$ then “the share of income from capital in national income, denoted α ” (52), must grow, and the share going to labour must fall. If, “for structural reasons” (431) this process is “automatically” (571) cumulative – “Once constituted, capital reproduces itself faster than output increases” (571) – then eventually use of terms such as “wide margin” and “high levels” may be justified. Any such justification would and must establish that capitalism is inherently productive of inequality. But, disastrously, the concept of capital that lies behind $r > g$ is severed from production of any sort.³⁷

Piketty expands upon his conceptualisation of capital as wealth by defining it as:

the sum total of nonhuman assets that can be owned and exchanged on some market. Capital includes all forms of real property (including residential real estate) as well as financial and professional capital (plant,³⁸ infrastructure, machinery, patents, and so on) used by firms and government agencies (46).

This extremely inclusive concept of capital is specifically distinguished from those definitions which “hold that the term should apply only to those components of wealth directly employed in the production process” (47). Such definitions, Piketty tells us, run into problems of distinguishing what is and what is not capital. Gold “is said to be useful only as a store of value [but it] can be a factor of production, not only in the manufacture of jewellery but also in electronics and nanotechnology” (48). Similar problems arise with distinguishing the “value of ‘virgin land’ ... apart from improvements due to human intervention” (47) and the “pure value” of “natural

³⁷ After I had drafted this, the point was made in, *inter alia*, B Kunkel, ‘Paupers and Richlings’, *London Review of Books* (3 July 2014) <http://www.lrb.co.uk/v36/n13/benjamin-kunkel/paupers-and-richlings> accessed 16 January 2015.

³⁸ CITTEFC has “plants” here but this is a difficult point of translation and surely plant is meant.

resources such as petroleum, gas, rare earth elements, and the like” (47). “Residential real estate can be seen as a capital asset that yields “housing services”, whose value is measured by their rental equivalent” (48). This very superficial set of observations is the basis of the *non sequitur* on which CITTFC unfortunately entirely rests. Piketty is right to effectively say that any form of wealth *can* be used as capital. But this does not mean that all forms wealth *are* used as capital! By equating wealth with capital Piketty makes it impossible to advance a theory of capitalist production, or of inequality caused by capitalist production, because he has no concept of capital as the wealth that enters into production. (Much less could his capitalist production be a question of the economics of private accumulation, for the definition of capital given above includes “public capital” as well as “private capital” (46-47)).

The three volumes of *Capital* published by Marx and Engels represent essentially only the first book, “on capital in general”, of a huge project Marx envisaged when he began his second period of economic studies in in 1858.³⁹ Even as scaled down in this way,⁴⁰ *Capital* unarguably does not cover all Marx intended. The incompleteness of part 7 of volume 3, which economically describes the capitalist forms of revenue – the “trinity formula” of profit, interest and wages – and thus lays the foundation for a sociological account of the bourgeois classes, means that we are missing material which would have rather beautifully tied up all of *Capital* by deriving those classes from the initial analyses of the commodity and of capital in

³⁹ K Marx, ‘To F Engels 2 April 1858’ in MECW, 298. This plan is a refinement of one Marx drafted perhaps some six months earlier at the start of his studies in 1857 but, by eliminating some originally included material, is the first statement of what Marx intended the published version of *Capital* to be.

⁴⁰ K Marx, ‘To L Kugelmann, 13 October 1866’ in MECW, vol 42, 328. Marx had less clearly stated what nevertheless unarguably is this plan 17 months earlier: K Marx, ‘To F Engels 31 July 1865’ in MECW, vol 42, 173.

volume one.⁴¹ Bourgeois social structure would have been linked, through the critique of the trinity formula, to the critique of commodity fetishism, and class conflict, leading to the expropriation of the expropriators, would have been properly derived from capital accumulation in the way that is anticipated, it seems for polemical reasons (given that only volume one was published in 1867) rather than because the material belongs there, in chapter 32 of volume one. Whatever the shortcomings of Marx's argument, it is an argument about the process of capitalist accumulation and its results in terms of class structure and, as an important (but by no means the most important) part of this, the distribution of wealth.

Piketty's argument is not an argument like this. Despite his claim to have identified a "logic of accumulation" which constitutes a "central contradiction of capitalism", CITTF is an account of trends in the distribution of income and wealth which is in no way linked or linkable to the capitalist accumulation process because his concept of capital is not a concept of capital "directly employed in the production process". As we have seen, Piketty's capital is "all forms of wealth" "regardless of its legal form", and "is therefore a broader notion than the 'rate of profit' and much broader than the 'rate of interest', while incorporating both" (52). It is so much broader that it is not capital at all, unless one can use terms entirely at one's own whim. Piketty may claim that, when $r > g$ then α must grow, but to call this the "central contradiction of capitalism" when there is no basis for it whatsoever in the analysis of capitalist production is merely rhetoric.

⁴¹ In the first outline of his planned economic project, Marx described what eventually was to be covered in the three published volumes of *Capital* thus: "The categories which constitute the internal structure of bourgeois society and on which the principal classes are based. Capital, wage labour, landed property. Their relation to one another": K Marx, 'Economic Manuscripts of 1857-58 [*Grundrisse*]' in MECW, vol 28, 45.

Though I fear I am belabouring the point, I have decided to say something further about this central contradiction. α is a conceptually perfectly simple ratio, the interesting thing about which is that it tells us the shares of the national income going to capital and to labour. The difficulty is defining and measuring income from capital and income from labour. In the act of doing this, one derives α purely empirically. Piketty's derivation of α is, however, curiously rather roundabout, involving what he calls "the capital/income ratio ... β " (50), so that $\alpha = r \times \beta$ (52). β relates the size of the accumulated national stock of capital to the annual national income, so that if the former "is the equivalent of six years of national income, we write $\beta = 6$ (or $\beta = 600\%$)" (50). So "For example, if $\beta = 600\%$ and $r = 5\%$, then $\alpha = r \times \beta = 30\%$ " (52). I do not entirely understand Piketty's intention in deriving α in this way but it does give the impression that there is some structural property of capitalism turning on r , "the rate of return on capital", the significance of which Piketty emphasises by putting this phrase in italics at this point in his explanation of how much of the national income capital (and therefore labour) gets (52), and this impression is reinforced by Piketty calling $\alpha = r \times \beta$ "the first fundamental law of capitalism" (52).

But, as Piketty immediately adds, " $\alpha = r \times \beta$ is a pure accounting identity" (52). Such identities are the basis of the cross-checking that underlies accounting. If the total annual costs of a firm are believed to be £1 million and if independent totalling of the firms' expenditures on labour, plant and raw materials yields sums of £400,000, £400,000 and £150,000 respectively, something is wrong somewhere. Such identities can involve multiplication as well as addition. If the firm believes that the optimally efficient ratios of expenditure on each of labour and plant to raw materials should be 2 to 1 and independent totalling yields the above figures, then again something is wrong somewhere regardless of total expenditure. A major problem in accounting is

identifying costs accurately, but in principle accounting identities can be entirely arbitrary. If plant maintenance is charged to both the labour and the plant heads of expenditure, the sums still have to add up just as much as if it was charged to plant alone, and some purpose is served by the former even if the latter was more accurate.

In $\alpha = r \times \beta$, α must equal $r \times \beta$, but this does not tell us the reason why it must do so or whether there is such a reason. And given Piketty's definition of capital as wealth, there is no economic reason. All successful societies generate accumulated wealth. All existing societies must have an annual income. It is always possible to relate these so as to yield r . As Piketty, it seems to me brazenly, says, $\alpha = r \times \beta$ "can be applied to all societies in all periods of history, by definition" (52). To call this "the first fundamental law of capitalism" serves no useful purpose.⁴² And it leads us to see the, I am afraid, vacuity of Piketty's reasoning because it makes it clear that r itself is grossly misleading. r is the rate of return on capital, as an arbitrary arithmetical relationship between α and β . But it is not, as surely is implied, the rate of return on capital, understood as capital that is invested, in a way that captures a real capitalist economic process. It cannot be this because Piketty's capital involves wealth that is not invested. I do not want to imply an intention to deceive when I say this use of r is like a conjuror's trick.

At the core of CITTFC one finds, I am obliged to say, nothing at all. The "fundamental force for divergence" and "the central contradiction of capitalism"

⁴² M King, 'The Tenuous Case Against Capitalism' *Daily Telegraph* (10 May 2014) <http://www.telegraph.co.uk/culture/books/bookreviews/10816161/Capital-in-the-Twenty-First-Century-by-Thomas-Piketty-review.html> accessed on 16 January 2015: "It is silly to describe an accounting identity (an equality that holds firm whatever the actual numbers) as a 'fundamental law of capitalism'. Accounting identities can be useful ways of organising data and even ideas. But they do not constitute theories because they can never be rejected whatever the pattern of underlying behaviour".

cannot and do not exist because “the first fundamental law of capital” and “the rate of return on capital” do not exist. I am not above drawing on the account of commodity fetishism in *Capital* volume one in order to claim that this is an instance when “the productions of the human brain appear as independent beings endowed with life”.⁴³ But whereas commodity fetishism necessarily arises from the fundamental social structure of capitalism and is a “prosaically real, and by no means imaginary, mystification”,⁴⁴ Piketty’s explanation of inequality is purely imaginary, or theoretical in the bad sense; a sort of fetishism of divergence which is a stark example of what Whitehead called the fallacy of “misplaced concreteness”.⁴⁵

There are, of course, what we might call the secondary effects of the simple ownership of wealth that tend to reproduce inequality. If one is rich, one has a good chance getting richer by all sorts of means stemming from the fact that one is rich. It is really only this that Piketty is pointing to as his “basic force for divergence” (26). Though I cannot pretend to fully explain why CITTFC has had such success, that Piketty has struck a chord is, in one sense, unsurprising. He is articulating an incontestable truth. Though he sets out part of the role of savings through another accounting identity which he calls “the second fundamental law of capitalism” (166), there is nothing specifically capitalist about his explanation of the rich getting richer, though, of course, they do get richer. Piketty adds nothing to such understanding as we already had of this, not merely from Kuznets,⁴⁶ but from the wisdom of Gospel,

⁴³ Marx, above n 1, 83.

⁴⁴ K Marx, ‘A Contribution to the Critique of Political Economy’ in MECW, vol 29, 289.

⁴⁵ AN Whitehead, *Science and the Modern World* (Cambridge University Press, 1926) 72.

⁴⁶ Kuznets, above n 22, 7: “Other conditions being equal, the cumulative effect of [inequality in distribution of savings] would be the concentration of an *increasing*

for Matthew 13:12 has long told us that “For whosoever hath, to him shall be given, and he shall have more abundance”, and the “Matthew effect”⁴⁷ has often previously been invoked in the discussion of, amongst other things, inequality of wealth and its possible remedy by taxation.⁴⁸ Piketty gives us some striking rhetoric which we may use to redescribe the Matthew effect, of which “The past devours the future” (571) seems to have attracted most attention, but the attempt to identify real capitalist economic forces producing divergence is not remotely made out; indeed it is merely rhetoric itself. Although the inspiration behind what Engels, perfectly legitimately, popularised as Marx’s “scientific socialism”⁴⁹ has, of course, turned out to be worse than unrealisable, the core of sense in it, which is Marx’s perception of the inadequacy of purely moralistic criticism detached from an understanding of the range of economic possibility,⁵⁰ surely applies with full force to Piketty.

Though someone like myself who has dwelt perhaps overlong on modern continental social theory sees in Piketty’s rhetoric the stamp of the Parisian public intellectual, the reader of this journal who is familiar with law and economics, but whose familiarity allows for critical distance, will not get at all far into CITTFC without being irresistibly reminded of Richard Posner. Whilst no-one can compare to Posner in his willingness to write about things he knows very little about, Piketty’s

proportion of income-yielding assets in the hands of the upper groups”.

⁴⁷ RK Merton, ‘The ‘Matthew Effect’ in Science’ *Science* (5 January 1968) 56.

⁴⁸ eg F Field et al, *To Him Who Hath* (Harmondsworth: Penguin Books, 1977).

⁴⁹ F Engels, ‘Socialism: Utopian or Scientific’ in MECW, vol 24, pt 1.

⁵⁰ K Marx, ‘To PV Annenkov, 28 December 1846’ in MECW, vol 38. This letter is effectively a synopsis of what Marx was to write in K Marx, ‘The Poverty of Philosophy’ in MECW, vol 7.

knowledge of the general economic theory he broaches in his book is thin or even scant. Amazing to say, the level of Piketty's use of elementary algebra in the explanation, but not of course the description,⁵¹ of capitalist inequality is not that far distant from Posner's use of it to justify numerous of the institutions generating that inequality. But their principal similarity is their failure to coherently identify and consistently employ core concepts and their consequent affliction of partial and ill-executed arguments upon the reader. In Piketty's case, the confusion caused by the idiosyncratic definition of capital is compounded by a failure to define, or to use consistently, even such core concepts as "wealth", "accumulated wealth", "inherited wealth" and "income".

Very many of Posner's works leave the reader with the impression, overwhelming in the case of his execrable⁵² first book on the crisis,⁵³ of simply working far too quickly with far too little regard for clarity or, sometimes indeed, intelligibility. CITTFC leaves exactly this impression. Though, as I fully acknowledge, it contains much seductive rhetoric, and though it has received great praise for displaying an acquaintance with literary sources one does not normally think to find in a book on economics, *Capital* volume one itself being a marked exception, I cannot add to the praise CITTFC has received for its literary qualities. I find it a very overlong and markedly insufficiently thoroughly revised book full of repetition or maddeningly partial repetition, the precise argument of which it is often

⁵¹ The level of this is better displayed in the relatively technical works published in the likes of the *AER* and the *QJE* of which, as this was drafted, the most recent is T Piketty and G Zucman, 'Capital is Back: Wealth-Income Ratios in Rich Countries 1700-2010' (2014) 129 *Quarterly Journal of Economics* 1255.

⁵² D Campbell, 'The End of Posnerian Law and Economics' (2010) 73 *Modern Law Review* 305.

⁵³ RA Posner, *A Failure of Capitalism: The Crisis of '08 and the Descent into Depression* (Cambridge MA: Harvard University Press, 2009).

very difficult or impossible to grasp. The contrast with the argument of *Capital*, about the presentation of which Marx took endless pains over decades, again could not be greater. But, as with Posner, it is not ultimately a question of incoherence of writing but of thinking. Like Posnerian wealth maximisation, Piketty's contradiction of capital simply cannot stand the weight, not merely that its author places on it, but of a demand for basic coherence.⁵⁴

But, of course, that Posner's and Piketty's views are not coherent does not mean they are of not significant. This is the last thing one could say of Posner, who has "clearly played the major role"⁵⁵ in the development of law and economics because he was acute enough to catch the wave of neo-liberalism at its height and was capable of riding it, within the limits of his manner, brilliantly. Piketty seems to have equally acutely caught the wave of revulsion at neo-liberalism's inegalitarian consequences, and to his prescription for dealing with these I now turn.

PIKETTY AND THE POLITICS OF THE WELFARE STATE

Even if Marx had put the general law of capitalist accumulation on a sound economic footing, what would the implications of this have been for our political attitude towards capitalism? Marx's own thinking on this point was, of course, couched within the "materialist conception of history"⁵⁶ set out in the Preface to *A Contribution to the*

⁵⁴ D Campbell, 'Welfare Economics for Capitalists: The Economic Consequences of Judge Posner' (2012) 33 *Cardozo Law Review* 2233

⁵⁵ RH Coase, 'Law and Economics at Chicago' (1993) 36 *Journal of Law and Economics* 239, 251.

⁵⁶ Marx himself never, I believe, himself used this phrase, which first appeared, as a summary of what he had in the Preface called his "guiding principle", in F Engels, 'Review of K Marx, *A Contribution to the Critique of Political Economy*' in MECW, vol 16, 469. Marx, however, certainly had had the opportunity to comment on what Engels had written prior to publication of this review, and either authored or

Critique of Political Economy, in which a succession of “modes of production”, constituting progressive improvement in humankind’s capacity to generate wealth through its relationship with the natural environment, was to culminate in capitalism, which “closes” “human pre-history”.⁵⁷ A transitional phase of “socialism”⁵⁸ would then ultimately be superseded by “communism”,⁵⁹ in which “material production ... is treated as production by freely associated men, and is consciously regulated by them in accordance with a settled plan.”⁶⁰ The allocation of goods under communism would be made under the principle: “From each according to his abilities, to each according to his needs!”⁶¹

The fundamental reason that Marxism has completely foundered as a political programme is that Marx’s conceptions of socialism and communism are impossibly vague. To the extent that one can understand the extremely little that he says, Marx seems to have believed that the end of human pre-history would represent the end of the scarcity of economic goods, and therefore, as would indeed follow, the ending of the fundamental material basis of human conflict. Against all the intentions of scientific socialism, this meant that Marxist communism was a utopian fantasy irrelevant to the problems that constitute economics and politics, and the attempts by totalitarian political parties to impose it in defiance of existential human conditions have been simultaneously farcical and horrible. Though he does not dwell on this,

sanctioned this phrase: F Engels, ‘To K Marx, 3 August 1859’ in MECW, vol 40, 478.

⁵⁷ Marx, above n 44, 262-64.

⁵⁸ K Marx, ‘The Class Struggles in France 1848-50’ in MECW, vol 10, 127.

⁵⁹ K Marx and F Engels, ‘The German Ideology’ in MECW, vol 5, 81.

⁶⁰ Marx, above n 1, 89-90.

⁶¹ K Marx, ‘Critique of the Gotha Programme’ in MECW, vol 24, 75, 86-87.

Piketty is in complete agreement with this evaluation of communism (10, 31, 531-32).

If elements of Marx's thought are to be recovered from the indifference or derision with which that thought in general is now regarded – Richard Rorty makes a particular boast of not finishing *Capital*⁶² - they must be severed from communism.

And, indeed, in the developed capitalist countries which were to be their home, they have been severed from communism. The “revision” of Marxism led by Edward Bernstein⁶³ at the turn of the nineteenth century made Marxism in the West a doctrine of reform, and were it not for the success of Bolshevism, in circumstances wholly outside the scope of Marx's core thinking, the in retrospect utterly fruitless debate about “reform or revolution”⁶⁴ would never have lasted beyond the first decades of the twentieth century.

Piketty addresses this in a way which tells one a great deal about the source of the attractiveness of CITTFC. He claims that Marx predicted an “apocalyptic end to capitalism: either the rate of return on capital would steadily diminish (thereby killing the engine of accumulation and leading to violent conflict among capitalists), or capital's share of national income would increase indefinitely (which sooner or later would unite the workers in revolt)” (9), and, the interesting point, calls this Marx's “principle of infinite accumulation” (9). Now, Marx did rest the historical tendency of capitalist accumulation on his conception of capitalism as a “restless, never-ending process of profit-making alone”⁶⁵ which has as its only commandment, as he

⁶² R Rorty, ‘A Spectre is Haunting the Intellectuals: Derrida on Marx’ in *Philosophy and Social Hope* (London: Penguin Books, 1999) 210, 210-11.

⁶³ E Bernstein, *The Preconditions of Socialism* (Cambridge University Press, 1993).

⁶⁴ R Luxemburg, ‘Reform or Revolution’ in *Rosa Luxemburg Speaks* (London: Pathfinder, 1970) 33.

⁶⁵ Marx, above n 1, 164.

unforgettably put it: “Accumulate, accumulate! That is Moses and the Prophets”.⁶⁶

Marx did claim that the absurd goal of infinite accumulation was the economic motive force of a mode of production which is, as is all of human pre-history, characterised by humankind’s subjection to social forces of which it is not self-conscious. But he did not believe this process would continue infinitely. Rather, he, of course, envisaged a transition to socialism. In the end, “The knell of capitalist private property sounds. The expropriators are expropriated”.

Marx himself did not remotely do enough to specify how this would happen or even what it meant. It is part of the great emptiness in his thought which socialism and communism failed to fill and which actually existing communism filled in a way on which further comment is supererogatory. But even Marxist socialism is difficult to concretely imagine because of the unresolved conflict of reform and revolution inherent in it. It is unarguably the case that a number of significant later Marxists did seek to fill this space in Marx’s thought with some conception of a revolutionary “breakdown of capitalism”,⁶⁷ backed by some claim that avoiding the “barbarism”⁶⁸ of continued capitalist development would make “the application of socialist principles”⁶⁹ inevitable. But this ran against the revisionism that is Marxism’s proper statement in the West, and as Crosland, one of the last generation of important British Labour politicians to whom these issues mattered a jot or who had any real

⁶⁶ *ibid*, 591.

⁶⁷ H Grossmann, *The Law of Accumulation and Breakdown of the Capitalist System* (London: Pluto Press, 1992).

⁶⁸ R Luxemburg, ‘The Junius Pamphlet’ in *Rosa Luxemburg Speaks*, above n 64, 269. Cf F Engels, ‘Anti-Dühring’ in MECW, vol. 25, 153.

⁶⁹ R Luxemburg, *The Accumulation of Capital* (London: Routledge and Kegan Paul, 1951) 467.

comprehension of them,⁷⁰ pointed out: “A people enjoying full employment and social security has lost its [utopian] dreams”.⁷¹

As Piketty tells us, accumulation now “ends at a finite level” (10): “In the last third of the nineteenth century, wages finally began to increase: the improvement in the purchasing power of workers spread everywhere, and this changed the situation radically, even if extreme inequalities persisted” (9). In what Jacques Barzun called “the Great Switch” in the nature of liberalism,⁷² *laissez faire* was extensively socialised by the 1930s and corporate capitalism now integrally involves a universal welfare state based on the government administering circa 50% of gdp. Though Marxism has been so inept at understanding this that it has become completely politically irrelevant, and the Great Switch rightly is principally attributed to the capacity of nineteenth century individualist liberalism to change so as to adapt a more “democratic” or “radical” form,⁷³ organised labour played a central role in in this process, and in this sense falsified the historical tendency of accumulation by realising it.⁷⁴ On proper reflection it cannot really be maintained that Marx conceived of the “historical”, if not the “economic”, tendency of capitalism, as “catastrophe”. He

⁷⁰ Crosland, above n 30, 98-99.

⁷¹ *ibid*, 100.

⁷² J Barzun, *From Dawn to Decadence* (New York NY: Harper Collins, 2000) 688.

⁷³ JT Kloppenberg, ‘Political Ideas in Twentieth Century America’ in *The Virtues of Liberalism* (Oxford University Press, 1998) 124 and L Seidentop, ‘Two Liberal Traditions’ in A Ryan (ed) *The Idea of Freedom* (Oxford University Press, 1979) 174.

⁷⁴ RK Merton, ‘The Unanticipated Consequences of Social Action’ in *Sociological Ambivalence* (New York NY: Free Press, 1976) 155:

Marx’s prediction of the progressive concentration of wealth and increasing misery of the masses did influence the very process predicted. For at least one of the consequences of socialist preaching in the nineteenth century was the spread of the organisation of labour, which, made conscious of its unfavourable bargaining position in cases of individual contract, organised to enjoy the advantages of collective bargaining, thus slowing up, if not eliminating, the developments that Marx had predicted.

conceived that tendency as leading to socialism, but Engels and he so inadequately conceived of the development of socialism that socialism's very success is taken to be counter-evidence to their views.⁷⁵ It is now not some fundamental contradiction of capitalism but the fluctuating fortunes of political control of the economy, and the consequences of this for the distribution of income, that Piketty describes in his picture of inequality, most of the twentieth century history of which, it will be recalled, is a picture of equalisation rather of a growing inequality integral to capitalism.

Accepting this, in what "political" rather than "economic" sense, if any, parallel to Marx's desperately inadequate conceptions of communism and socialism, can we "imagine a twenty-first century in which capitalism will be transcended in a more peaceful and lasting way" (471) than Marx envisaged? We have seen Piketty claim that the unconstrained working of $r > g$ will have "potentially terrifying" "consequences for the long-term dynamics of wealth distribution", and this is because it will produce levels of divergence "potentially incompatible with the meritocratic values and principles of social justice fundamental to modern democratic societies" (26). Though he seems to conceive of an "extreme concentration of wealth" (422) leading to "significant political upheaval" (422) or to "the next crisis or the next war (this time truly global)" (471), and to truly extreme levels of inequality at which "a revolution will likely occur, unless some peculiarly effective repressive apparatus exists to keep it from happening" (263), it would be wholly wrong to say that Piketty advances an argument that would be a parallel to breakdown theory. Instead, his

⁷⁵ R Aron, *The Century of Total War* (London: Derek Verschoyle, 1954) 355: "Socialism has ceased in the West to be a myth because it has become a part of reality".

argument is a merely moral disapproval of the growth of inequality expressed in a rhetoric of fundamental economic contradiction, with the misleading rhetoric being a reason for CITTFC's success.

The inevitable destination of an argument like this, set out at length in part 4 of CITTFC, is the establishment of a “social state for the twenty first century” (ch 13) which is capable of “regulating capital” (471) in order to exercise “democratic control” (569) over it. Drawing on Piketty's previous, I understand well regarded, work on optimal taxation,⁷⁶ that policy is a combination of increased rates of progressive income and inheritance taxes (ch 14) and a global tax on capital (ch 15). Though it does not fail to address, however trivially, *causes celebres* such as public pension reform (487-90), global warming (567-59), the distribution of oil revenues (537-39), European monetary union (553-62), etc, etc, it is the magnitude of Piketty's proposed top rate of domestic income tax - “in the developed countries probably above 80% ... on incomes over \$500,000 or \$1m a year” (512-13)' - that is the most striking of his proposals.

I do not want to discuss the detail of Piketty's tax policy. I want to make three general points about it. First, and obviously, it will sanction a very large growth of the welfare state, as, indeed, it is intended to do. Piketty maintains that there is no reason “in theory ... why a country cannot decide to devote two thirds to three quarters of its national income to taxes” (481), and though he accepts that “such a drastic increase in the size of the social state is neither realistic or desirable, at least for the foreseeable future” (481), it unarguably is his aspiration to “learn to efficiently organise public

⁷⁶ When this was drafted the most recent contribution was T Piketty et al, 'Optimal Taxation of Top Labour Incomes: A Tale of Three Elasticities' (2014) 6(1) *American Economic Journal: Economic Policy* 230.

financing equivalent to two thirds to three quarters of national income” (483). Piketty airily dismisses the possibility (513) that the top rates of tax he contemplates cannot effectively be collected, but he does think that those rates will fail to increase public revenue (473) because he, in my opinion laughably, maintains, “[they] would quickly fulfil [their] objective: to drastically reduce remuneration at [the current top] level” (513). And so, if the US government is “to obtain the revenues it sorely needs to develop the meagre US social state ... taxes would also have to be raised on incomes lower in the distribution (for example, by imposing rates of 50% or 60% on incomes above \$200,000 [less than £120,000])” (513). (Canada of course looks good by comparison to the US (158)). To these rates of income tax should be added the other “taxes” which are a normal feature of the welfare state (494), and I find it a serious shortcoming of Piketty’s “Rethinking” of these issues (ch 14) that he does not make it at all clear what the overall tax take would be in his social state.

All this is part of a general conception that equality is not merely a matter of simple income redistribution but of the range of welfare state activities which go to positive rights and the social wage: “modern redistribution does not consist of transferring income from the rich to the poor, at least not in so explicit a way. It consists rather in financing public services and replacement incomes that are more or less equal for everyone, especially in the areas of health, education and pensions ... Modern redistribution is built around a logic of rights and a principle of equal access to a number of goods deemed to be fundamental” (479). Moreover, in the face of globalisation, “nationalist responses” (27) will be “modest and less effective” (27) because many desirable policies are “not within the reach of nation-states” (573). The necessary size of the social state is large, requiring “regional political integration” (573). The US and the PRC might be big enough in themselves, but in Europe, there

is no “genuine alternative” (513) to “democracy on a European scale” (513), which includes monetary union and “a Eurozone budgetary parliament to deal with ... a stateless currency” (561). Piketty is, in sum, attempting to breathe new life into Golden Age policies in a way that is fit for those now committed to transnational governance in the age of globalisation.

Piketty only sporadically offers an explanation of why Golden Age policies were, to some extent, abandoned. The “increasingly obvious failure” (139) of actually existing communism led to “liberalisation” (139) in the East, and stagflation “demonstrated the limits of the postwar Keynesian consensus” (138) in the West, so that “it was only natural to question the wisdom of indefinitely expanding the role of the state and its increasing claims on the national output” (138). He sees that “once the public sector grows beyond a certain size, it must contend with serious problems of organisation” (482) and that, before we go on to establish the social state, “it would be good to improve the organisation and operation of the existing public sector ... no small affair” (483). Unfortunately, he has nothing to say about this that amounts to more than vague, rhetorical gestures towards “a useful utopia” (515) that are arguably even less satisfactory than Marx’s outright refusal to write Comtist recipes “for the cook-shops of the future”:⁷⁷ eg “If democracy is someday to regain control of capitalism, it must start by recognising that the concrete institutions to in which democracy and capitalism are embodied need to be reinvented again and again” (570). Piketty nevertheless seems entirely confident that creating a well-functioning social

⁷⁷ Marx, above n 1, 17. See further K Marx, ‘The Civil War in France’ in MECW, vol 22, 307, 335. The strategy outlined here is perfectly defensible as a strategy of reform, but utterly inadequate for a supposedly revolutionary movement to a new mode of production.

state of the size he envisages is possible,⁷⁸ and in particular he certainly believes that its taxes can be “collected in a transparent and efficient manner and used for purposes that everyone agrees are of high priority” (481). But as the fact that his list of public goods “that everyone agrees are of high priority ... education, health, culture, clean energy and sustainable development” (481) is nothing of the sort outside of the *Périphérique* shows,⁷⁹ this is simply not enough to properly address the deficits of democratic and legal legitimacy, in part but only in part arising from failures in policy formulation and implementation, which unarguably have been features of the universal welfare state.

In the Golden Age, these features were very much regarded as subsidiary to the welfare state’s overall success, but it must be recognised even by those, such as myself, who in a sense deeply regret the development, that that Age was brought to an end in the 70s because the balance between government failure and success was perceived to shift in the way which was articulated by neo-liberalism.⁸⁰ Appreciation of this is, of course, militated against by Piketty’s talk of a contradiction of capitalism, but, leaving it aside that, as Piketty has them, the economic “forces of divergence” do not exist, it is simply not useful to ascribe the success of neo-liberalism to economic forces constituting “the emergence of a new patrimonial capitalism” (173) when the

⁷⁸ This attempt to characterise Piketty’s overall position acutely encounters the difficulty that there are numerous statements to the contrary in Piketty’s work (eg Piketty, above n 15, 116), evidence of an inconsistency in the face of objections that is highly reminiscent of Posner’s manner of argument.

⁷⁹ Though they are extensive enough, I am seeking to limit the occasions on which I relate Piketty’s arguments to important criticisms of effectively those arguments that have already been made. I cannot, however, on this occasion resist inviting the reader to read GJ Stigler, ‘The New Welfare Economics’ (1943) 33 *American Economic Review* 355, 359 bearing this list in mind.

⁸⁰ K Hoover and R Plant, *Conservative Capitalism in Britain and the United States* (London: Routledge, 1989).

basic reason for the erosion of the political will behind Golden Age policies was a by no means entirely unjustified loss of confidence in those policies.⁸¹

Now, Piketty repeatedly tells us that the history and the future of inequality are subject to political influences, particularly via public expenditures on education (22, 71, 305-07), because education creates inherently meritocratic pressures on income distribution (420) and so is a very important vector of social mobility and as such a force for convergence (484-7). His reluctance to be thought to be making claims about what will happen to capital over the twenty first century which I have noted arises from the indeterminateness of the future politics of public policy, which, of course, can in general be “Forces Favour[ing] Convergence” (69-71): “the history of income and wealth is always deeply political, chaotic, and unpredictable. How this history plays out depends on how societies view inequalities and what kinds of policies and institutions they adopt to measure and transform them” (35). Such history is “driven not only by economic but by countless social, political, military and cultural phenomena as well” (274).

Piketty generally states his claims with a disarming modesty (35, 571), but he seems to regard hedging his bets in this way as extending him a license to then make very large claims indeed about a fundamental economic contradiction sometimes opposed by political forces, even though he is entirely unable to integrate the economic and the political in a coherent way. One is inclined to draw a parallel with Engels’ desperate attempts to reconcile the “ultimately decisive” “economic factor”

⁸¹ E Huber and JD Stephens, *Development and Crisis of the Welfare State* (University of Chicago Press, 2001). At 342 the claim that “the welfare state did not redistribute income” during the Golden Age, and therefore that “even social democratic governance could not alter policy outcomes in capitalist societies”, is categorically rejected.

with the “relative autonomy” of the “political” “superstructure”.⁸² But it would not, of course, be fair to press this too far as CITTFC, despite its title, obviously inevitably does not have a significance remotely to compare with the historical importance of Engels’ views or the theoretical importance of the materialist conception of history which remains after one has discarded Engels over-precise formulations.

Nevertheless, behind such a parallel lies what I believe is the fundamental shortcoming of CITTFC, which it is entirely fair to lay at Piketty’s door. It is not only that the economic is doing far too much work in respect of a politically managed economy, though this is so.⁸³ It is that Piketty fails to deal with the reasons for the political rejection of essentially the sort of policies he wishes to revive. The criticism of Keynesianism,⁸⁴ of Pigouvian welfare economics,⁸⁵ and of “patterning” as

⁸² F Engels, ‘To J Bloch, 21-22 September 1890’ in MECW, vol 49, 33; F Engels, ‘To C Schmidt, 27 October 1890’ in MECW, vol 49, 57; F Engels, ‘To F Mehring, 14 July 1893’ in MECW, vol 50, 163 and F Engels, ‘To W Borgius, 25 January 1894’ in MECW, vol 50, 264.

⁸³ After I had drafted this, the point was made in, *inter alia*, J Galbraith, ‘Policy, Not Capitalism, Is To Blame For the Income Divide’ *Financial Times* (26 May 2014) <http://www.ft.com/cms/s/0/8eb5e942-e49d-11e3-894f-00144feabdc0.html#axzz3P1kNaCE1> accessed 16 January 2015 and JE Stiglitz, ‘Inequality is Not Inevitable’, *The New York Times* (27 June 2014) http://opinionator.blogs.nytimes.com/2014/06/27/inequality-is-not-inevitable/?_php=true&_type=blogs&_r=0 accessed 16 January 2015. An excellent review of the sociological explanations of the rise in the incomes of senior corporate executives puts the point this way: TW Volscho and NJ Kelly, ‘The Rise of the Super-rich’ (2012) 77 *American Sociological Review* 679, 69:

A common refrain holds that inequality has risen substantially but is merely the result of natural market forces that are in large part out of our control ... But the evidence does not support this idea. Both specific policies and the partisan balance of Congress are associated with distributional outcomes ... the market is not beyond the influence of politics and policy ... Political decisions in part ‘make the market’.

⁸⁴ M Friedman, ‘The Role of Monetary Policy’ (1968) 58 *American Economic Review* 1 and J Buchanan and RE Wagner, *Democracy in Deficit* (New York NY: Academic Press, 1977).

⁸⁵ RH Coase. ‘The Problem of Social Cost’ (1960) 3 *Journal of Law and Economics* 1.

authoritarian in itself⁸⁶ and as weakening the rule of law,⁸⁷ have to be recognised to have merit in a far more systematic way than Piketty does. In particular, Rawls stands as the greatest postwar political philosopher because he coherently demonstrated the indispensability of certain core principles of liberalism that Golden Age politics had formerly regarded merely as reactionary constraints on the universalisation of the welfare state. In particular, the difference principle explains our tolerance of some degree of inequality so long as it leads to an overall welfare improvement, emphasising the welfare of the poorest.⁸⁸ Piketty simply has to deal with this if he is to plausibly rest his argument for an expanded, regional (ie transnational) social state funded by taxes of between 50% to 80% on incomes of £120,000 or more (in addition to other “taxes”) on the ground of democracy. Instead, his discussion of the difference principle (480) is perfunctory. In sum, Piketty does not confront any of the real reasons why, as he has to acknowledge, “in the 80s and 90s [there was] a political context that was on the whole more favourable to private wealth than [than was the case in] the immediate postwar decades” (173).⁸⁹

Behind the difference principle lies a general perception that “questions of economic efficiency”, to use Crosland’s term, were downgraded too far in Golden

⁸⁶ R Nozick, *Anarchy, State and Utopia* (New York NY: Basic Books, 1974) 155-60

⁸⁷ FA Hayek, ‘The Road to Serfdom’ in *Collected Works* (University of Chicago Press, 1988ff) vol 2.

⁸⁸ J Rawls, *A Theory of Justice*, rev edn (Oxford University Press, 1999) 67-68.

⁸⁹ One gets a terrible sense of *déjà vu* comparing chapter 14 of CITTFC to Field et al, above n 48. But, though written more than 35 years ago, Field and his colleagues showed how patterns of tax incidence resulting from but defeating the stated purpose of policies almost always framed in progressive terms meant that “Tax [had] become an engine of poverty in Britain” (ibid, 230). Though regressive tax effects are mentioned (eg 496), this concern does not seem to me to be remotely adequately addressed in CITTFC, though I have not at all closely consulted Piketty’s other tax work.

Age thinking. Rawls said this explicitly when formulating the principle.⁹⁰ This is a particular problem for Piketty as his rejection of communism is based on his own commitment, evidenced throughout CITTF, to a number of very important positions which have their principal theoretical expression in neo-classical economics. He says that the price mechanism plays “a useful role in coordinating the actions of millions of individuals and it is not so easy to do without” (531-32), that “the citizens of wealthy countries ... have a legitimate need for enough income [after tax] to purchase ... goods and services produced by the private sector” (482), that “true entrepreneurial labour” is “an absolutely indispensable force for economic development” (446), that it would be “a serious mistake to ignore the importance of the scarcity principle” (6), etc. Though I do not entirely agree with what Piketty says in such passages, they are very welcome, for, in my opinion, the core of sense in neo-liberalism has been to show that Golden Age policies were undermined because they really did aspire to disregard scarcity and the costs of collectivist organisation (including, not merely questioning, but disregard of consumer sovereignty) in the way that Marx has expressed more plausibly than any other figure, and that, in my opinion,⁹¹ is not plausibly at all. Part of what is criticised in neo-liberalism is its insistence on taking a realistic attitude towards the infinitude of collective demand and the existential finitude of resource when Golden Age policies saw such an attitude as surrendering to “capitalism”, the first really important such surrender in the postwar UK being the introduction of significant health care charges at the point of service, which led the founder of the NHS to in 1951 resign from the Labour Government that in 1948 had

⁹⁰ Rawls, above n 88, 68.

⁹¹ D Campbell, ‘The Critique of Bourgeois Justice After the Failure of Marxism’ in A Kerner et al (eds) *Current Legal Issues in the Czech Republic and the United Kingdom* (Prague: Charles University Press, 2003).

created the universal welfare state.⁹² But Piketty does not remotely reconcile what he says in this vein with his general advocacy of a social state which will pursue policies which will attempt to revive Golden Age policies.

In the absence of any such reconciliation, such plausibility as Piketty's argument for increased taxation and government expenditure possesses arises from the second feature of it I would like to note: it is a "third way" argument. He tells us that his own "conclusions are less apocalyptic than ... Marx's" (27), but he is also highly critical of those elements of neo-classical economics⁹³ which claim that capitalism will tend towards virtuous equilibria or regard unacceptable equilibria as the result of "market imperfection" (424) because "it is an illusion to think that something about the nature of ... the laws of the market economy ensures that inequality of wealth will decrease and harmonious stability will be achieved" (376). There is "no natural, spontaneous process to prevent destabilising, inequalitarian forces from prevailing permanently" (21). The real situation is, Piketty tells us, "Quite the contrary" (26). As the fundamental force for divergence is a contradiction of capitalism, then "the more perfect the market (in the economist's sense), the more likely r is to be greater than g " (26). He ridicules the linking of equality and capitalist development in Kuznets' claim that, as he (Piketty) renders it, "income inequality would automatically decrease in advanced phases of capitalist development ... until it eventually stabilised at an acceptable level" (11). This linking is described as a "magical" (15) "fairy tale, or at any rate 'happy ending'" (11), posited as a benign

⁹² A Bevan, *In Place of Fear* (London: William Heinemann, 1952) ch 5.

⁹³ Piketty has been applauded for saying some critical things, focusing upon a disregard of institutions (307-10) and norms (332), about neo-classical economic method in general (573-5) and of certain of their American and mathematical expressions in particular (30-32). He goes so far as to make an *ad hominem* criticism of some high earning US economists (514).

equilibrium in the distribution of income as opposed to Marx's "apocalyptic" (10) one. This leaves us with Piketty's own "quite disturbing" (10) equilibrium, an intermediate position which, the flow of the argument leads us to believe, cannot be addressed by the mere "patience" (11) of Kuznets or the "collective appropriation of the means of production" of Marx (565), but which requires the interventions Piketty proposes. We should put "bipolar confrontations" (576) traceable to "The clash of communism and capitalism" (576) "behind us" (576).

The third way has, of course, enjoyed a tremendous recent vogue,⁹⁴ but it is a way of formulating policy that has been at the core of social democratic politics since it became essential that they distinguish themselves from communism (or socialism equated with communism).⁹⁵ Beveridge captured the idea beautifully when in 1935 he observed that "Most people are looking for a ... halfway house between Cobden and Lenin".⁹⁶ The instance of third way thinking that CITTFC most calls to mind is Keynes' *General Theory*, for it seems to me that the significance of CITTFC's reception is that it is being seen by those looking to renew intervention at what they regard as "Keynesian" scales, now that the 2007-8 crash and the ensuing depression has rightly brought neo-liberalism into disrepute, as a compelling theoretical underpinning for their views. As Mr Chris Huhne, the former highly interventionist Secretary of State for Energy and Climate Change, surely what Louis Althusser would have called a "symptomatic" figure in this respect, has put it in his *Guardian* column: "The extraordinary success of Thomas Piketty's best-seller shows that progressive

⁹⁴ A Giddens, *The Third Way: The Renewal of Social Democracy* (Cambridge: Polity Press, 1998); P Mandelson and R Liddle, *The Blair Revolution* (London: Faber, 1996) and P Mandelson, *The Blair Revolution Revisited* (London: Politico's, 2002).

⁹⁵ P Diamond (ed) *New Labour's Old Roots* (Exeter: Imprint Academic, 2004).

⁹⁶ W Beveridge, 'Prices and Planning' in *Planning Under Socialism* (London: Longmans and Co, 1936) 102, 107.

ideas are at last winning”.⁹⁷

In *The General Theory* Keynes sought to argue that what he regarded as a fundamentally Ricardian approach had been taken both by those committed to *laissez faire* and by “socialists” such as Marx. The former thought Ricardo’s concept of capitalism was “true and inevitable”, and the latter thought it “true and intolerable”,⁹⁸ whereas Keynes was convinced that he himself was going to be able to advance a “third alternative” which would lead to reforms of capitalism such as “to justify economists taking their seat beside other scientists”.⁹⁹ Keynes was as ignorant of *Capital* as Piketty and had an even lower opinion of Marx,¹⁰⁰ and though he was aware that Marx had maintained the possibility of under-consumption (or over-production) against the Ricardian “orthodoxy”, he gives Marx little or no credit for this in the review of under-consumption theories in *The General Theory*, where Marx is barely mentioned. I am entirely in agreement with Schumpeter that this part of Keynes’ history of economic theory was poor to the point of being “offensive”,¹⁰¹ and

⁹⁷ C Huhne, ‘Inequality Hurts Everyone Apart from the Super-rich, and Here’s Why’, *The Guardian* (28 April 2014)

<http://www.theguardian.com/commentisfree/2014/apr/28/inequality-hurts-everyone-taxation-growth> accessed on 16 January 2015. Since I drafted this, a perceptive review of CITFC appeared which, in a way which is more sophisticated than Mr Huhne’s outright optimism, claims that Piketty’s significance is that he gives strength to the line of thought captured in the slogan “pessimism of the intellect, optimism of the will” that is associated with Gramsci: D Singh Grewal, ‘The Laws of Capitalism: Review of T Piketty, *Capital in the Twenty First Century*’ (2014) 128 *Harvard Law Review* 626, 667. In the course of approving of this feature of Piketty’s politics, this review reproduces the incoherence of his treatment of the relationship of the economic and the political, the most eloquent expression of this incoherence being, indeed, this slogan.

⁹⁸ JM Keynes, ‘Mr Keynes Replies to Shaw’ in KCW, vol 28, 30, 31.

⁹⁹ *ibid.*

¹⁰⁰ eg JM Keynes, ‘Essays in Biography’ in KCW, vol 10, 67.

¹⁰¹ JA Schumpeter, ‘Review of JM Keynes, *The General Theory of Employment, Interest and Money*’ (1936) 31 *Journal of the American Statistical Association* 791, 792 n 2.

with Joan Robinson that “starting from Marx would have saved [Keynes] a lot of trouble”.¹⁰² Nevertheless, Keynes addressed under-consumption in a way which it is now generally accepted gained a purchase on a structural shortcoming of capitalism, and macro-economic demand management is now the all but undisputed basis of economic policy.

Unlike those such as Mises,¹⁰³ I myself do not believe that policy formulation based on third way thinking necessarily is “nonsense”, but it will be nonsense unless it is underpinned by accurate institutional analysis of the “capitalist” and “socialist” propositions of what must be recognised to be only a syllogistic or dialectical metaphor. In the absence of this analysis, it is the metaphor that drives the policy, and policy arrived at in this way cannot ultimately be justified, for it is carried by no more than what Hegel would have called a monotonously formalist use of the dialectic.¹⁰⁴

CITTEFC is an entirely representative case.

For the third thing that must be said of Piketty’s argument for the social state is that it *has* to take the form of extensive intervention, conceived as an *ex post* regulatory response to undesirable economic forces, because, as he does not understand those forces, the option of *ex ante* re-regulation of them is denied to him. It is a relatively little known aspect of Coase’s critique of market failure that much regulation is an attempt to deal with the results, not of “the market” or “capitalism”,

¹⁰² J Robinson, ‘Kalecki and Keynes’ in *Collected Economic Papers* (Oxford: Basil Blackwell, 1951ff) vol 3, 96.

¹⁰³ L von Mises, *Economic Policy* (Indianapolis IN: Liberty Fund, 1979) 37.

¹⁰⁴ GWF Hegel, *Phenomenology of Spirit* (Oxford University Press, 1977) 30. Being devoid of content, it is entirely open to those starting from, as it were, the opposite proposition of the syllogism to use the third way: H Macmillan, *The Middle Way* (London: Macmillan, reissued edn, 1966).

but of previous government action.¹⁰⁵ Piketty's attempt to advance a major expansion of the social state without adequately addressing the reasons why the neo-liberal attack on the postwar Golden Age was in part successful is a clear example of what Coase had in mind. Remarkable as it is to say, this generally drastic shortcoming of CITTFC is actually exaggerated when it seeks to explain the deplorable growth of corporate "supersalaries", debate about which, I have noted, it has been a principal virtue of the book to stimulate.

PIKETTY AND THE INSTITUTIONS OF CORPORATE CAPITALISM

We have seen that, contrary to the impression Piketty seems to have wished to convey and which has been left by the reception of CITTFC, his account of twentieth century and especially postwar capitalism is one actually of growing equality, not inequality, but that since 1980 there has been an "explosion in ... inequality". The way Piketty explains this adds a significantly different further dimension to his account of the causes of inequality. He claims that there are, not one, but "two different ways for a society to achieve a very unequal distribution of total income" (264). To the sometimes hyperpatrimonial society of rentiers on which he had previously concentrated (264) he contrasts the emergence of a "hypermeritocratic" "society of

¹⁰⁵ Coase, above n 85, 26:

When they are prevented from sleeping at night by the roar of jet planes overhead (publicly authorised and perhaps publicly operated), are unable to think (or rest) in the day because of the noise and vibration from passing trains (publicly authorised and perhaps publicly operated), find it difficult to breathe because of the odour from the local sewage farm (publicly authorised and perhaps publicly operated), and are unable to escape because their driveways are blocked by a road obstruction (without any doubt publicly devised), their nerves frayed and mental balance disturbed, [most economists] proceed to declaim about the disadvantages of private enterprise and the need for governmental regulation.

superstars” or “supermanagers” (265) as a further “powerful force for divergence” (333). In the hypermeritocratic society, it is “very high incomes from labour rather than from inherited wealth” (264) that create a “hyperinegalitarian society” (265).

This “second way of achieving ... high inequality” (264) has, however, until recently been of much less importance. It “is relatively new ... largely created by the US over the past few decades” (264). The “explosion of ... inequality” means that in “the United States at the moment [there] is a record level of inequality of income from labour ... probably higher than in any other society at any time in the past, anywhere in the world” (264). Although “a very substantial and growing inequality of capital income accounts for about one-third of the increase in income inequality” (300), this increase “was largely the result of an unprecedented increase in wage inequality” (298) which “reflects an unprecedented explosion of very elevated incomes from labour” (24). This increase was reproduced, but to a lesser degree, in other “Anglo-Saxon” countries (315-21) and elsewhere (278). But though this has been little noted in commentary so far, as Piketty accounts for these extraordinary and deplorable increases as income from labour, this “relatively new” (264) “way of achieving such high inequality” (264) goes against his general finding about the dominance of capital in the society of rentiers (264). How does he explain this income effect?

I must confess that I am puzzled by Piketty’s category of “superstars”. At all recent discussion of superstars, indeed the theoretical use of this term in this context, is based on Sherwin Rosen’s 1981 paper on “The Economics of Superstars”,¹⁰⁶ which appraised the contemporary relevance of Marshall’s arguments about the relative rise he saw at the turn of the nineteenth century in the incomes “obtained by many men of

¹⁰⁶ (1981) 71 American Economic Review 845.

extraordinary ability”.¹⁰⁷ Piketty does not consider either Rosen or Marshall or the literature that links them in his consideration of superstars (314-15), and this makes it difficult to understand what his views, severed from previous consideration of the issues, exactly mean. However, this can be put to one side because Piketty does not in fact focus on superstars in the sense of celebrity actors or footballers but on supermanagers. For of those paid “supersalaries” (298), “the vast majority[,] 60 to 70% ... of the top 0.1% of the income hierarchy in 2000-10[,] consists of top managers. By comparison, athletes, actors and artists of all kinds make up less than 5% of this group” (302-3) so that “the new US inequality has much more to do with the advent of ‘supermanagers’ than with that of ‘superstars’.” (303).

Piketty is from the outset uncomfortable with the distinction between “two logics” (263) or “two worlds” (271) of inequality stemming from capital and from labour in the hypermeritocratic society. Distinguishing them immediately poses the problem of their relationship. Whatever its shortcomings, distribution by merit analytically implies a criticism of distribution according to rentier shares (241), and particularly of the transmission of those shares by inheritance (442), if the rentier does not play an economic role that can meritocratically justify its share (31). In a rhetorically compelling passage of CITTF, Piketty rightly observes that “there is something astonishing” (423) about the very possibility of a class of rentiers “in a market society where capital is privately owned” (424) that is “an affront to common sense” and “democratic and meritocratic values” (423).¹⁰⁸ But his development of this

¹⁰⁷ A Marshall, *Principles of Economics* (London: Macmillan, 8th edn, 1949) 685.

¹⁰⁸ The power of these observations as a criticism of capitalism is, however, diluted to the point of disappearance because they come in a very poor part of CITTF which one has to conclude is carried entirely by sentiment. Piketty bewilderingly defines rent as “the income on capital” in his sense of capital (422), so that the income of

observation is very unsatisfactory. Chapter 11 on “merit and inheritance in the long run” combines the conclusions of chapter 9 on “inequality of labour income” and chapter 10 on “inequality of capital ownership”. I am afraid it is a particularly confusing combination, in part because Piketty’s failure to adequately revise his book leaves the argument very hard to follow. Discussion of important issues such as aging and mortality (383-98) are poorly integrated into the overall argument, and the relationship of wealth and work is continuously overlain with a discussion of the relative importance of intergenerational inheritance and savings within a generation, which sometimes are and sometimes are not run together.

Overall, however, Piketty seems to conclude that “in the twenty first century” (429) inherited wealth will resume something of the predominance it formerly had in generating inequality, “but for some decades to come it will affect mainly Europe and to a lesser degree the United States” (429). This seems to offset the likelihood that the two logics, which of course “can coexist” (265) and in fact are “both ... at work in every society” (265), “may complement each other in the century ahead and combine effects” (265). If so, this is just as well, for “If this happens, the future could hold in store a new world of inequality more extreme than any that preceded it.” (265). I am unable to say exactly what weight Piketty gives to this possibility. What he does say

rentiers is “rent”, with “rent” as it is normally understood being one form of rent as he has it (421). On this basis, Piketty then claims that “rent is a reality in any market economy where capital is privately owned” (424). This is true, but, using Piketty’s terms, the implicit restriction of rent to capitalism which gives this claim its force is not. For as Piketty defines rent the yield of any asset of any sort whether privately or publicly owned is rent. In a theoretical fully communist society, that part of everyone’s income attributable to the use of accumulated wealth would be a rent. Making a comment on this sort of stuff is difficult.

does cast a pall of foreboding over capitalism's future.

By regarding the income of superstars and supermanagers as generating a hypermeritocracy, Piketty runs the risk of condoning that income as, *ex hypothesi*, a reward of meritorious labour. He does not want to do this. But his way of addressing the “complex normative question” (265) raised by supersalaries is weak. Their meritocratic justifications are rightly criticised. The current argument (314) that supersalaries reflect marginal productivity (314) (of questionable application even to normal wages and salaries (305)) is a “naïve” “illusion” (330), as were views which might be regarded as its nineteenth century equivalents (416-18). Far from articulating “a rational productivity justification” (334), the decisions of remuneration committees, “the members of [which] were often chosen in a rather incestuous manner” (510), are subject to “imperfect information” (331) and conflicts of interest (332) to such a degree that their decisions are characterised by “uncertainty” (332) and are “largely arbitrary” (332). The marginal productivity theory is “something close to a pure ideological construct on the basis of which a justification for higher salaries can be elaborated” (331), and, whilst “It may be excessive to accuse senior managers of having their ‘hands in the till’ [this] metaphor is probably more apt than Adam Smith’s metaphor of the market’s ‘invisible hand’” (332). Though it is quickly added that “This does not mean that senior executives and compensation committees can set whatever salaries they please and always chose the highest possible figure” (332), Piketty gets quite carried away in this vein of criticism. He tells us that “the return on capital often inextricably combines elements of true entrepreneurial labour ... pure luck ... and outright theft” (446), somewhat lavishly illustrating this wisdom by referring both to a real comprador kleptocrat, “the son of the dictator of Equatorial Guinea” (446), and to a character from Tolstoy “who embodies the idea that wealth

and merit are totally unrelated” (447) because he gains his wealth through gambling and even murder!

Though they are an attempt to do so, observations such as these cannot bring coherence to Piketty’s conception of supersalaries, because behind the difficulties of regarding such income as the reward of merit lies the far greater difficulty of regarding it as the reward of “labour” (314) at all. What principally distinguishes supersalaries from other salaries and wages is, not whether they “can be explained as a form of ‘meritocratic extremism’” (334), but that they are principally determined by non-market legal institutions. The size of supersalaries does reflect a sort of competition for, say, the services of a top footballer or a CEO, but supersalaries are so huge only because that competition takes place within fundamentally uncompetitive, non-market environments. They are not competitively determined incomes in the same sense as other incomes at all.

The incomes of superstars are fundamentally derived from the creation and exploitation of intellectual property rights and the incomes of supermanagers are similarly derived from their occupation of hierarchical positions within public companies incorporated under general limited liability and subject to a separation of ownership and control. Intellectual property rights and general limited liability are both the creation of profound state interventions which were specifically intended to alter the outcomes – essentially the rate of innovation and the propensity to invest - which would be produced by competitive markets, and as such were and are bitterly opposed by those who, like myself,¹⁰⁹ believe that such markets would yield superior

¹⁰⁹ D Campbell and S Picciotto, ‘The Acceptable Face of Intervention (Review of W Landes and RA Posner, *The Economic Structure of Intellectual Property Law*’ (2006) 15 *Social and Legal Studies* 455 and D Campbell and S Griffin, ‘Enron and the End

welfare outcomes. Smith, who was nothing if not an open-minded pragmatist on questions of economic policy, had a place for both copyright and patent¹¹⁰ and the joint-stock company¹¹¹ in his economics. He was sanguine about copyright and patent,¹¹² but he knew them in vestigial form and I believe he would have been aghast at the function and reach of intellectual property now (and at how that reach is maintained).¹¹³ He was utterly distrustful of joint-stock,¹¹⁴ but he of course knew nothing of general limited liability and I believe he would not have regarded the contemporary corporate capitalist economy as an economy at all reconcilable with his views.¹¹⁵

Of course, managerial power over remuneration policy is a very important cause of the growth of supersalaries for supermanagers: “Simply put, wage inequalities increased rapidly in the US and Britain because US and British corporations became much more tolerant of extremely generous pay packages after 1970” (332). But in order to say anything useful about this one has to carry out concrete institutional

of Corporate Governance’ in S MacLeod (ed) *Global Governance and the Quest for Justice*, vol 2, *Corporate Governance* (Oxford: Hart, 2006) 47.

¹¹⁰ Smith, above n 17, 754.

¹¹¹ *ibid*, 757. Smith was also prepared to countenance the grant of a trading monopoly to the specially chartered undertakings he had in mind.

¹¹² A Smith, ‘Lectures on Jurisprudence’ in SGE, vol 5, 83, 472.

¹¹³ How, in my opinion, Smith would have seen the economics of intellectual “property” is set out in A Plant, ‘The Economic Theory Concerning Patents for Inventions’ in *Selected Economic Essays and Addresses* (London: Routledge and Kegan Paul, 1974) ch 3.

¹¹⁴ Smith, above n 17, 732-58.

¹¹⁵ How, in my opinion, Smith would have seen the move from the specifically chartered company to general limited liability is set out in W Lippmann, *The Good Society* (New Brunswick NJ: Transaction Publishers, 2005) 277-81, 305-06.

analysis of the source of managerial power.¹¹⁶ This is unlikely to happen in a book which believes it can find “convincing proof of the failure of corporate governance” (334) but does not mention Berle and Means. I do not mean to ask too much of a book by an economist (or econometrician), but Piketty has seen fit to make claims that surely invite criticism at the highest level, and it must be said that his determination to in some way attribute inequality to “the deep structures of capital” (234) leads him badly astray as the basic issue raised by supermanagers is the consequences of the non-market partition of assets which has made the public company the most important form of economic organisation. Smith did not hedge his views on the likely conduct of the directors of a joint stock company, who, “being the managers of other people’s money rather than their own, it cannot be well expected, that they should watch over it with the same anxious vigilance with which the partners in a private copartnery frequently watch over their own ... Negligence and profusion, therefore, must always prevail, more or less, in the management of the affairs of such a company”.¹¹⁷ This was not the result of any contradiction of capitalism but of the way that joint stock “necessarily breaks, more or less, that natural proportion which would otherwise establish itself between judicious industry and profit”.¹¹⁸

CONCLUSION

I have made no inquiry into this, but I should have thought that the only postwar books by economists that have had an early sales success comparable to that which CITTFC has had are Hayek’s *The Road to Serfdom* and Galbraith’s *The Affluent*

¹¹⁶ eg L Bebchuk and J Fried, *Pay Without Performance* (Cambridge MA: Harvard University Press, 2004).

¹¹⁷ Smith, above n 17, 741.

¹¹⁸ *ibid*, 758.

Society. In terms of the success Piketty, and almost any academic, certainly including myself, would in their dreams like to have in influencing policy, a comparison might without absurdity be drawn between the initial receptions of CITTFC and *The General Theory of Employment, Interest and Money*, though the early sales of *The General Theory* were themselves very modest compared to those of CITTFC. It will be obvious that I do not think Piketty's book will stay the course with *The General Theory*, not to speak of *Capital*, or indeed reach the one furlong post with either in sight, if it gets even that far. For whereas Keynes' views, despite what he himself maintained, were formed in a tradition of under-consumption theory to which Marx's general law of capital accumulation was a major contribution, Piketty regards that law as falsified and replaces it with one of his own which certainly is novel in the way it is expressed, but the content of which adds nothing to what we learn from Gospel. Such learning may, of course, be instructive in the highest degree, but not about the economic structure of the capitalist mode of production.

I am sorry to have to say that the key to Piketty's book lies in its title, which is opportunistic and highly misleading. It is not about Marx's *Capital* in any sustained way. It is not even about capital as resource save in a very unusual and extremely unhelpful sense. Building on a highly praised series of statistics about wealth distribution which it restates, CITTFC is an attempt to explain that distribution in a way which places a rhetorically highly significant but a theoretically utterly insubstantial emphasis on a fundamental contradiction of capitalism, and to give a prescription for political measures to counter the consequences of that contradiction which has already been very successfully received but which amounts to no more than yet another utterly slovenly welfare case for intervention.

To understand the significance of the reception of Piketty's book despite the

fact that his fundamental law is wholly illusory one must place it in the context of the current state of general economic policy. If Piketty's prescription of a social state were followed, it would involve an enormous expansion of the scale and scope of government action, even in France, not to speak of the US and other countries located on the range the ends of France and the US in this respect describe. One might say, as I would, that systematic appreciation of the possibility of government failure obliges one to conclude that following a prescription based on so speculative a basis would be most unwise, but in an important sense this would be to miss the point. The explanation of the success of CITTFC is that it offers a vague general justification for the expansion of intervention to national and transnational elites which want such power, even though detailed welfare cases for expanded intervention have become very difficult to make and the superheating of the financial sector that led to the crash and the depression are yet more evidence that those elites have over-extended their grip on basic economic management. That the contradiction of capitalism Piketty claims to identify is the purest fantasy, and that the criticism of supersalaries that has brought CITTFC such praise is based on a complete misrecognition of the issues, is merely the latest demonstration of the fatuity of the elite conflation of the improvement of welfare with its own will to power.

Piketty is commendably frank enough to allow that "there is no significant support for" (481) the taxing and public spending – involving, it will be recalled, in addition to other "taxes", income taxes of between 50% to 80% on incomes of £120,000 and over - necessary for his social state, "at least for the foreseeable future", and this surely poses a difficulty for a proposed social state "regulating capital" in order, it will also be recalled, to establish "democratic control": "if we are to regain control of capitalism, we must bet everything on democracy" (573). It is clear that

Piketty adopts that progressive usage of (deliberative) democracy which decouples it from what common citizens actually want to what they rationally should want, which regrettably has to be identified by an elite until the happy time when “democracy is someday [able] to regain control of capitalism” (570).

That this makes one think of “false consciousness”, the most odious Marxist concept that can with at least some justice be laid at the door of Marx himself,¹¹⁹ is instructive. For we have seen that Piketty is dismissive of Marx and of communism, but there is a tremendous paradox bound up in this. An “economic” concept of capitalist “forces” is put forward and the remedy for the “central contradiction” is a highly interventionist “social state”. Of course, no-one who can hope her or his views will be taken seriously now actually asserts communism, but the principle of CITTFC is a statism which it is hard to differentiate from communism, save that there is no possibility whatsoever of Piketty’s state ultimately “withering away”.¹²⁰

Because his failure to understand the legal constitution of markets and firms obliges him to take this, in my opinion, either laughably or very worryingly maximally statist line, Piketty cannot avail himself of the opportunity which his description of “the explosion of ... inequality since 1980” gave him. His conception of the relationship of economics to politics and law is of the latter being used to correct pre-existing “economic” “laws” and “contradictions”, leading to an endless spiralling of intervention. Piketty may not know what is causing the problem of inequality, but he knows the answer to it: the expansion of the state.

¹¹⁹ Lukács is the real author of false consciousness: G Lukács, *History and Class Consciousness* (London: Merlin Books, 1971) 70-81. But despite the support he gave Bolshevism and its successors throughout his life, Lukács undoubtedly is Marx’s most profound interpreter and false consciousness can be traced to Marx, eg ‘The Poverty of Philosophy’, above n 50, 211.

¹²⁰ Engels, above n 68, 268

As Piketty effectively tells us, the essential task of economic policy now is to revive the aspiration of the Golden Age of capitalism, but, I would add, whilst avoiding the mistakes then made. Piketty has no systematic way of addressing this, with the result that his social state and its policies are merely interventionism of a sort which would inspire the *ennui* of *déjà vu* were it not that the success of CITTFC leads one to think it may gain an influence which would be reminiscent of Keynes, and then *ennui* is replaced with alarm. Intervention on the scale Piketty envisages is needed if one simply accepts the existence of economic “forces” and then seeks to counter them *ex post*. The far more profound and productive, if far more challenging, line to take is to look to the institutions given force in law that give the economy its shape. One would find that failures of political macro-economic management and the shortcomings of explicitly anti-market fundamental legal structures have given rise to many of the issues that Piketty ascribes to the central contradiction of capitalism. This completely illusory “economic” contradiction misdescribes the central feature of the corporate capitalist economy, which is that it is a system of “political” support for corporate accumulation, typically in defiance – this has been graphically illustrated by the US government’s response to the crash – of what a generally competitive market would require. The proper response to this surely is to consider, not *ex post* intervention heaped upon intervention, but *ex ante* reform of the way markets and firms are legally established. What is needed is not intervention in response to a capitalism thought ineluctable but a critique of the economic institutions of corporate capitalism. This would, however, require actual knowledge of those institutions.