A Paradoxical Convergence: French Economists and the Policy toward Cartels from the 1870s to the Eve of the Great Depression

David Spector

The development of cartels in industrialized countries from the last quarter of the nineteenth century to the Great Depression put them at the forefront of a general debate involving economists, lawyers, politicians, businessmen, and the public at large. However, the form and substance of the debates varied considerably across countries. This article analyzes economists' contributions to the debate in France.

When assessing French economists' views on cartels and government regulation of competition between the second half of the nineteenth century and the Great Depression, one cannot but be struck by a paradox. On the one hand, the field of economics in France was highly fractured, with different "schools" of economists agreeing on next to nothing on most economic policy issues—such as free trade versus protectionism, labor laws, taxation, and the role of the government—and on the methods and goals of economics and its relation to other social sciences. On the other hand, whereas economists' statements about the merits of competition in principle were far from uniform, in practice hardly any economist advocated policies against competition-restricting conduct by private firms. Moreover, this skepticism remained almost unchanged until the 1920s.

Correspondence may be addressed to David Spector, Centre National de la Recherche Scientifique and Paris School of Economics (davidspector666@gmail.com). I thank the grant ANR-17-EURE-0001 for its support.

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This stands in sharp contrast to the United Kingdom and the United States. In the United States, the enforcement of the Sherman Antitrust Act, even if initially timid, gradually exposed the sophisticated strategies used by certain large firms to cement their dominance. This newly available information caused several prominent economists in the 1910s to revisit their earlier skepticism and embrace a more interventionist approach. Likewise, in the United Kingdom, where the dominant view had long been that free trade provided sufficient protection against abuse by domestic cartels, mounting evidence to the contrary led Alfred Marshall and his disciples to consider cartels worthy of close public scrutiny.

Academic economists were not the only or even the main participants in these debates, which also involved business representatives, union leaders, politicians, scholars in other fields (in particular law and the new discipline of sociology), civil servants, and judges. Studying economists' roles in these debates thus requires one to take into account the status of economists within and outside of academia, and their relationship to other participants in the debates, including foreign economists. This is all the truer insofar as in the period we are considering, economics was still a nascent academic field. Law professors, specialized journalists, or experts working for trade associations—with some overlap between these groups—who contributed to the debates about the regulation of market competition were also on occasion considered economists, were appointed by the government as economic experts, and published articles in the same journals as economics professors; for instance, France's most renowned expert on cartels and trusts was not an academic but a polymath who worked for the shipbuilders' professional association—see the developments below on Paul de Rousiers.[1]

The Evolution of French Policy on Cartels

The legal treatment of cartels in France was based on Article 419 of the Penal Code of 1810, which prohibited firms from forming "coalitions that tend not to sell, or to sell only at a certain price" or from "using fraudulent means leading to prices above or below the level that the operation of

1. On the sociology of the economics profession in France in the nineteenth century and the changes it underwent since then, see Breton and Lutfalla 1991, Fourcade-Gourinchas 2001, and Fourcade 2010.

natural and free competition would have set."[2] This prohibition dated back to the revolutionary Le Chapelier law (1791), which had abolished guilds and stated that "citizens of the same trade or profession . . . may not . . . draft regulations concerning their alleged common interests" or "make agreements among themselves designed to set prices for their industry or their labor."[3] The Penal Code articles applying this prohibition to labor were gradually removed in the second half of the nineteenth century, but Article 419 was left unchanged until 1926.

This prohibition reflected one of the main principles underlying the Revolution, namely, the replacement of a social order based on specific groups with different privileges and obligations with one based on a community of equal citizens, without intermediate groupings. On a more down-to-earth level, it was initially meant to target "hoarders" of commodities—primarily grain. It addressed the long-standing fear that speculation could cause shortages and political unrest.

Over the course of the nineteenth century, the concern over hoarding made way for preoccupations about industrial concentration, reflecting the rising share of industry in the economy.[4] Cartel agreements became widespread after the start of the 1873 depression. Most took the form of common sales agencies, or *comptoirs*, which operated according to rules to which their members had committed in detailed binding contracts. These comptoirs were private companies jointly owned by their members or, less frequently, professional associations. Some cartels dispensed with the setting up of a separate legal structure such as a comptoir and merely relied on written conventions, whereas others were based on informal oral agreements. Whatever their form, these cartels aimed to prevent "ruinous competition" by means of price fixing, production quotas, or a centralized allocation of customer orders. Comptoirs covered most of the metallurgical industry from pig iron (the Comptoir de Longwy, created in 1876) to welded steel tubes (1890), axles (1892), steel beams (1896), sheet and plate steel (1895), coach springs (1896), semifinished bar steel (1897), iron ore (1897), and seamless steel tubes (1910). Many cartels were formed in the

2. The translation is mine, as are all translations from French in this article except for the quotation from the Le Chapelier law (see n. 3) and an excerpt from the published English translation of Émile Durkheim's book that is mentioned in the bibliography.

3. This translation is by Stewart (1951: 165–66). On the debates on guilds in eighteenth-century France, see Kaplan 2001.

4. Hoarding cases did not completely disappear, however. As late as the end of the 1880s, a case about copper hoarding made headlines (Freedeman 1988).

sugar, paper, coal, petroleum, textile, and chemical industries (Tchernoff 1933; Freedeman 1988).

Some cartels ensured internal discipline thanks to sophisticated mechanisms, such as imposing penalties on firms that exceeded their quota or having all cartel members own shares in any member's new plants.[5] There are also examples of coordinated responses to external threats such as temporary price cuts to bankrupt entrants and deter further entry, or the joint acquisition of noncartel firms followed by their shutdown and in some cases the destruction of their machines. [6]

As in other industrial countries, monopolies and cartels met strong opposition. An early example is the Compagnie des mines de la Loire, which after several mergers had become a coal monopoly in the region of Saint-Étienne in the late 1840s. It was soon accused of setting excessive prices and artificially low wages. Protests by consumers and miners led Napoleon III to order its dissolution and its split into four companies (1854). Proudhon (1865: 405–8) saw in this episode an illustration of the "antinomy of competition."

In this article, we will focus in particular on the role played by economists during two periods when cartels were at the forefront of public debate: the years 1890–1905 and the aftermath of World War I.

The development of cartels in the last quarter of the nineteenth century led to increasingly vocal criticism by disgruntled customers, and in the 1890s and early 1900s to several debates in parliament and legal proceedings. However, judges gradually became more lenient, in a context characterized by a general loosening of the restrictions on the creation of associations of all kinds, and in particular by the legalization of worker unions.[7] A series of rulings between 1894 and 1902 set a new standard based on the distinction between "good" and "bad" cartels: cartels that aimed only to stabilize prices at levels compatible with the "natural operation of supply and demand" rather than to set them at "excessive" levels were now found not to violate Article 419.[8] The most

5. Morsel's 1976 study of the chlorates cartel describes such clauses in detail.

6. Mastin's 2011 study of the Roubaix wool-combing cartel that functioned between 1881 and 1914 describes such aggressive tactics against outside competitors.

7. This loosening started in 1864 when the Second Empire entered a more liberal phase. It was furthered at the start of the Third Republic, with the 1881 law on associations.

8. These rulings include those on cartels between tile producers in the Grenoble area, lime producers in the southwest, pig iron producers in the Lorraine, and booksellers (Freedeman 1988).

highly publicized of these proceedings (the *Cartel de Longwy* case) ended with a permissive ruling in 1902.

These rulings clarified the legal situation, and the topic of cartels became less prevalent in the public debate. However, it returned to the fore at the end of World War I, as government-sponsored cooperation between firms in war-related industries led to suspicions of profiteering and triggered complaints on the basis of Article 419. The uncertainty caused by these proceedings and claims by industrialists that interfirm cooperation was key to modernization caused the public debate on cartels to pick up. The matter came to parliament in 1922, ending with a law that in practice removed the prohibition on cartels (1926)—in line with the prewar rulings.

"Liberal," Promarket Economists: Procompetition, against Government Intervention

We start our inquiry with the group that was dominant until the 1870–80 decades. The *libéraux*, sometimes merely called *les économistes* in public discourse, formed the oldest and most cohesive network. Since the middle of the century, its members had occupied prestigious positions in the *grandes écoles* and, after its founding (1871), at the École libre des sciences politiques. Their main purpose was political rather than scientific: in the journals they had founded (the *Journal des économistes*, published by the Société d'économie politique, and *L'Économiste français*) as well as in more generalist periodicals and their books, *libéraux* authors extolled the "eternal truths" discovered by the early classical economists. This advocacy was meant to oppose the ever-present threat of socialism, which the *libéraux* detected in even modest policy proposals and the fear of which had been revived by the 1848 revolution, the 1871 *Commune*, and the rise of parliamentary socialism and radicalism at the end of the century. They also relentlessly promoted free trade in the face of increasingly protectionist policies, especially after 1890.[9]

Our analysis will focus on the most influential liberal writings of the period: articles in the two flagship journals mentioned above, treatises, and articles by the most prominent *libéraux*. Gustave de Molinari (1819–1912), a Belgian who spent almost all his adult life in Paris, was the editor

9. A notable exception in this regard is Paul-Leroy Beaulieu, whose opposition to protectionism was less adamant than that of the other *libéraux*.

of the influential, general interest journal titled the *Journal des débats* (1871–76) and of the *Journal des économistes* (1881–1909). Léon Say (1826–96) was a minister of budget several times in the 1870s, president of the Senate (1880–82), a member of the Chambre des députés (the lower house), the editor of the *Journal des débats*, and a member of the Académie française; his being Jean-Baptiste Say's grandson only added to the weight of his pronouncements on economic matters. Yves Guyot (1843–1928) was a member of the government (1889–92) and of the Chambre des députés, and he was the editor of the influential journal *Le Siècle* and of the *Journal des économistes* (after 1910). Paul Leroy-Beaulieu (1843–1916) was the only professor of economics at the Collège de France—France's most prestigious academic institution—a member of the Académie des sciences morales et politiques, and the editor of *L'Économiste français*.

With the important exception of Clément Colson (see below), most *libéraux* opposed mathematical formalism, because of their lack of mathematical training and because they disliked the views voiced by the most prominent mathematical economists, from Léon Walras's self-proclaimed socialism to Alfred Marshall's partial embrace of Lloyd George's People's Budget in 1910 (Breton 1992).

The *libéraux* were not a fully homogeneous group, and several undercurrents can be distinguished, as some advocated a strict laissez-faire doctrine whereas others were open to some role for government beyond "night watchman" functions.[10] Despite this heterogeneity, a thorough analysis of their writings reveals a quasi-uniform approach to cartels: whereas they wrote paeans to market competition as a principle, they objected to government policies targeting anticompetitive conduct by private companies.

Since the beginning of the nineteenth century, and with little evolution until the 1930s, French liberal economists devoted much of their writings to extolling the virtues of market competition and warning against the dangers of government interference. One of Guyot's many antisocialist pamphlets was titled *The Morality of Competition* (1896); a chapter in Leroy-Beaulieu's treatise (1914, 1:638–674) is devoted to rebutting the criticisms leveled at competition, including Proudhon's claim that in most industries competition is bound to end in monopoly. Leroy-Beaulieu

10. On the various undercurrents among the *libéraux*, see chap. 3 in Breton and Lutfalla 1991 and the chapters in the "Libéralisme" section of Dockès et al. 2000.

(1885: 281) also claims that the erosion of profits and of high-skilled workers' wages under the ever-stronger pressure of competition causes "Marx's theory on profit to collapse like a house of cards." In a similar vein, Molinari (1887: 133) states that "industrial competition brings not only progress, but also order in production and fairness in distribution." Similar statements can be found in the *Nouveau dictionnaire d'économie politique* (entries on "competition" and "monopoly") published under the direction of Léon Say, with particular stress on ridiculing the claim that cutthroat competition leads to instability and, ultimately, monopoly: "Whatever one might say, establishing a *de facto* monopoly has become ever harder" (Say and Chailley 1900, 1:532–33, 2:324).

However much they praised competition, the *libéraux* advocated a hands-off approach to cartels, in line with their overall hostility to government intervention in the economy—even though French cartels, for the most part, were about fixing prices or restricting quantities rather than about efficiency-enhancing cooperation or standardization. This stance was identical to that of most business leaders, to whom they had close ties:[11] even though some companies occasionally complained against a cartel that made their inputs more expensive, business leaders were more united on cartels than on trade policy, and the majority of the regional chambers of commerce lobbied for the abolition of Article 419.[12]

In contemporaneous writings by *libéraux* and by authors who opposed their views, the unanimous opposition of the *libéraux* to any repression of cartels is mentioned as a well-known, undisputed element of their doctrine: "Just as they condemn all coalitions, [liberal] economists disapprove of all government action against these coalitions."[13]

11. Léon Say had been a banker early in his career; he was also, like Leroy-Beaulieu, a member of the boards of several large companies; the Béghin-Say company, founded by his grandfather's brother, was one of the main participants in the sugar refining cartel in the 1890s. Yves Guyot was one of the two vice presidents of a business union (the Société des industriels et des commerçants de France). *L'Économiste français*, which contained articles on general economic themes and information of more immediate practical interest to businessmen who were its targeted (and actual) readership, illustrates the proximity between *libéraux* economists and the business world (Le Van-Lemesle 2004: 363–73).

12. Examples of complaints by firms against cartels that raised input prices include protests by the Algerian chambers of commerce against the maritime shipping cartel that hindered their exports to metropolitan France and by railway companies against the cartel in the rail supply industry (Caron 1988).

13. This sentence, from an article in the liberal *Journal des économistes*, is characteristically followed by a condemnation of President Roosevelt's antitrust push: "Therefore, one cannot approve President Roosevelt's demagogic action, which aims to punish trusts while leaving

Early on, Joseph Garnier (1859: 11), one of the most prominent *libéraux* of his generation, had opposed the repression of cartels by appealing to the principle of contractual freedom, presented as an essential ingredient of free competition: "What is natural and free competition . . . without the right to enter agreements?"[14] In the following decades, as cartels became widespread and started to trigger complaints, this appeal to the principle of contractual freedom, while still present, was complemented with new, more narrowly economic arguments.[15]

With few exceptions and with little change from the 1880s to the 1920s, the same claims were repeated in the discussions on cartels and trusts at the Société d'économie politique (every year between 1900 and 1904) in many articles in the *Journal des économistes* or *L'Économiste français*, in Léon Say's *Dictionnaire*, and in the writings by the most prominent *libéraux*: abuses were rare, benign, and transitory.[16] Attempts to raise prices beyond normal levels were bound to be prevented by a combination of responses on the supply side (with the entry of noncartel competitors or the breakdown of cartel discipline) and on the demand side (through substitution to other products). Accordingly, any harm caused by cartels or trusts could result only from government restrictions on the operation of markets, such as tariffs. But even in countries where removing protectionist tariffs seemed infeasible, a specific policy against abuses by private

their [protectionist] roots intact" (Huart 1908: 200). Almost at the same time, a self-proclaimed adversary of the *libéraux* describes their stance in exactly the same way: "Liberal economists . . . consider that one should not avoid these abuses [by cartels and trusts] through repressive policies but only . . . by completely giving up tariffs" (Pic 1909: 439).

14. Joseph Garnier (1813–81) was one of the founders, and for many years the secretary, of the Société d'économie politique. He taught economics in a *grande école*, the École nationale des ponts et chaussées, was a member of the Académie des sciences morales et politiques, and a senator after 1876.

15. For instance, an anonymous contributor wrote in the *Journal des économistes* (1906: 269) that "the right to form associations and coalitions is the most important of all freedoms in the economic sphere." After the general principle of freedom of association was affirmed in law, in particular to the benefit of worker unions (in 1864, and then more completely in 1884), many liberal economists presented the legalization of cartels as an obvious logical necessity, lest there be an unacceptable asymmetry between workers' and business owners' rights (see, e.g., Salomon 1885 and de Nouvion 1918).

16. Unlike the claims of the partisans of the "national economy" who distinguished between "good" European (and especially French) cartels that preserved the existence of separate, autonomous firms and "bad" American trusts that amalgamated them in a gigantic organization (see below), the claim of the *libéraux* that the unhindered play of market forces was sufficient to prevent any abuse applied indifferently to trusts and cartels. This is why there is no need to dwell on this distinction when assessing their views.

companies was unadvisable because government attempts to tamper with markets were likely to cause more harm than good.

This view is formulated for instance in Say's *Dictionnaire d'économie politique*, which expresses the consensus view of liberal economists around 1900 (most of whom contributed articles to it). It addresses the policy toward cartels in the articles on competition ("concurrence") and hoarding ("accaparement"): "Cartels always contain in themselves the source of their dissolution": because each member is tempted to increase its output or undercut the cartel price, "international coalitions are often precarious"; and in any case, "cutting tariffs would be more efficient [against abuses by domestic cartels] than all repressive laws" (Say and Chailley 1900, 1:8–13). Even in protectionist France, one "should have great doubts about Article 419": it rests on the "absurd assumption that a court can determine which price would result from the normal operation of supply and demand"; it violates "firms' absolute right to agree on cutting their output or preventing prices from falling"; and the repression of cartels is bound to lead to "a disproportion between the gravity of the punishment and the little harm they cause" because "the way things work makes it hard for cartels to succeed" (10, 12, 535).

Similar views had been expressed in the *Journal des économistes* as early as 1885 and were repeated by the participants in the discussions on cartels organized by the Société d'économie politique around 1900 (*Journal des économistes* 1900a, 1900b, 1902a, 1902b, 1904).[17] In almost all writings by *libéraux* on this topic, criticism is directed chiefly toward government: the harmlessness of private monopolies is contrasted against the evils of public monopolies, with mocking references to the inefficiency of the state-operated provision of matches, tobacco, telephone services, or rail transportation services (see, e.g., Molinari 1900: 467; Schelle 1906: 331; de Nouvion 1913). This antigovernment stance also underlies another argument against wide-ranging anticartel laws, namely, the claim that any expansion of state power is bad by itself: accordingly, *L'Économiste français* (1901: 535) characterized an Austrian draft law providing for some administrative oversight over cartels as a step toward "the absolute supremacy of the State, a favorite dream of contemporary collectivism and communism."

17. Salomon (1885: 195) concludes his article on commercial coalitions with the claim that "against [harmful] coalitions, [commercial] freedom is sufficient. . . . And then, which tribunal has the ability to set the price of a product, as it would result from the operation of supply and demand?"

Within this broad consensus, one can distinguish shades that follow a simple pattern: among the *libéraux*, those who expressed the most extreme and intransigent laissez-faire views on other topics most adamantly denied that trusts or cartels could cause any harm. But the heterogeneity in the views of the *libéraux* was limited: save for very few authors at the margins of the liberal networks, even the more moderate *libéraux* were hostile to government action against anticompetitive conduct by private companies.

The most extreme *libéraux* tended to minimize the harm to competition caused by trusts or cartels: for instance, Guyot published a passionate defense of Standard Oil against the well-documented accusations of its American competitors.[18] Likewise, Molinari (1911: 228) claimed that "the worst abuses [had] been committed by worker unions" rather than by producer coalitions, a claim almost identical to the view expressed in a book he had published in 1887, notwithstanding the growing concern over cartels and trusts on both sides of the Atlantic in the intervening years.[19] He insisted that cartels could cause harm only under the protection of tariffs or other government restrictions on the operation of markets and that "antitrust laws meant to rein the monopoly of trusts could in fact not rein in anything": free trade was the only efficient check on trusts and cartels, whereas more specific policies were bound to fail (Molinari 1902; 1911: 184).[20]

Leroy-Beaulieu, a more moderate figure who occupied a median position among the *libéraux* (Baslé 1991), acknowledged that some American trusts could be "scary" (although he touted the "beneficial effects" of Standard Oil) and that their development in the United States had been possible thanks to the "complicity of railways"; he also

18. Guyot presented his defense of Standard Oil during a discussion on cartels at the Société d'économie politique and then in a short book (*Journal des économistes* 1902b; Guyot 1903). Later on, in the context of a discussion of the plans for the promotion of international cartels that occurred at the International Economic Conference of the League of Nations, Guyot was critical of government-sponsored cartels and trusts, but this did not lead him to endorse anticartel legislation (Guyot 1927).

19. Guyot and Molinari are considered to be among "the most extremist" *libéraux* of their time (see, e.g., Marco 1991: 158). In his 1887 book on "the natural laws of political economy" that contained several chapters on the "evolution of competition," Molinari failed to mention trusts and cartels even once, and his only example of harmful restrictions on competition is "worker unions that attempt to obtain a monopoly and keep competition at bay" (Molinari 1887: 130).

20. Among the government policies other than protectionist tariffs that Molinari considered responsible for cartel harm was a law preventing foreign shipping companies from transporting goods between Algeria and mainland France.

advocated the imposition of "serious publicity obligations" (*Journal des économistes* 1902b: 261–62). This was slightly different from the two authors mentioned above who considered free trade to be a sufficient cure-all. But his main idea was close to theirs: the free operation of market forces was sufficient to prevent serious harm, and even in protectionist France, harmful restrictions of competition by private firms should not be feared. Leroy-Beaulieu prophesized in 1889 that the failure of a recent attempt to corner the copper market "against the law of supply and demand, which it is almost impossible to defeat," would discourage future attempts (quoted in Villey 1889: 185). He cautioned again in 1900 against "taking tragically all these trusts and syndicates" because "the law of substitution" was enough to prevent abuses, making repressive legislation useless (*Journal des économistes* 1900a: 119–21). He therefore called for the abolition of Article 419, precisely at the time when French courts were investigating several high-profile cartel cases.[21] Leroy-Beaulieu (1914, 1:660) repeated this in the 1914 edition of his economics treatise, claiming, with reference to a few past cartels (zinc, coffee, oil, copper) and to his personal experience in business, that coalitions could not raise prices durably. He also showed extreme reluctance to concede a role for government in industries that English-speaking classical or neoclassical economists had recognized as exceptions warranting either price regulation or direct administration by the government—explicitly criticizing John Stuart Mill's claim that competition in postal services was inefficient and even unworkable (1:670–74) and ignoring John Bates Clark's and Alfred Marshall's nuanced views of railways.

At the other end of the spectrum, we find Clément Colson (1853–1939). He had an atypical status among the *libéraux*, as he belonged to two strands of French economics that had hitherto been strictly separated, the "engineer-economist" tradition and the "liberal school" (Le Van-Lemesle 2005; Picory 1989). Colson, who had a strong training in mathematics, held important positions in academia and government over

21. "Should one abolish the articles of the Penal Code against hoarding [including Article 419]? Absolutely. I would gladly abolish them" (*Journal des économistes* 1900: 127). This statement was made during a discussion of the Société d'économie politique on January 5, 1900. In the same discussion, another participant, Arthur Raffalovich (1853–1921), acknowledged that cartels could have adverse effects in protectionist countries. But he still opposed anticartel legislation, both in France and in the United States.

his long career and was considered a "master of liberal thought."[22] Whereas he unambiguously identified with the liberal camp (he succeeded Guyot as president of the Société d'économie politique in 1929), he was not a dogmatic opponent of government intervention. The tone of his writings is more scientific than militant.

However, like the other *libéraux*, he held a constantly lenient view of cartels and warned against any policy aiming to restrict their action. In the 1927 edition of his treatise, he wrote that "special repressive measures . . . are neither necessary nor efficient" (Colson 1927: 265) and that "cartel abuses are always limited by [economic] freedom" (256). In the same year, in a discussion at the Société d'économie politique, he concurred with all other participants on the inanity of any prohibition of cartels, claiming that only outright fraud should be prosecuted (*Journal des économistes* 1927). He had repeated this stance for more than twenty years (Colson 1903: 193–227; [1912] 1918; *Journal des économistes* 1904). In the 1933 edition of his treatise, he criticized international cartels, but only because they led to calls for government intervention (Colson 1933: 76–79).

One cannot but notice a contradiction in the pages of Colson's treatise dealing with cartels: after a detailed theoretical analysis and a balanced overview of the available evidence, he concludes that cartels are unlikely to cause harm, even though this pronouncement seems at odds with the preceding developments. After explaining that the success of cartels depends on the number of possible producers and the magnitude of fixed costs, he states, without the kind of detailed reasoning that is applied to other subjects in the same treatise, that in concentrated industries "coalitions cannot harm the public by abusively raising prices; they can only raise, slightly, their members' profits by reducing general administrative and marketing expenditures" (Colson 1924: 291). After accurately writing that "Mr Jenks's authoritative study [of American trusts] found significant price increases in several cases," he states somewhat paradoxically that "it is impossible to reach absolute conclusions": "the mere fact that the estimated price effect depends on complicated calculations . . . is proof

22. Jacques Rueff (1939: 815) writes in his obituary that Colson's 1912 treatise had made him the "undisputed master of liberal thought." Colson, a graduate of the École polytechnique, taught economics there between 1914 and 1928. He also headed the Conseil d'État (France's highest administrative court) and was the president of the Académie des sciences morales et politiques.

that the price increase, if it exists, is never important, just like theory would predict" (Colson 1927: 245).

In particular, Colson's treatise presents a skeptical view of cartels' ability to exclude competitors durably by resorting to tactics such as selective price-cutting or the granting of discounts to customers who agree to exclusivity: after discussing these tactics, he concludes that "we always end up with the same observation: virtual competition prevents a coalition of firms from raising prices beyond any measure" (Colson 1927: 241–42). The only effective exclusionary tactic that he cautions against is the pressuring of railway companies to practice discriminatory prices against actual or potential competitors (243–44)—a topic Colson was familiar with, as a former official in charge of railways at the Ministry of Transportation.[23]

This unchanging and systematic hostility to any legal restriction on cartels contrasts with the views expressed by contemporaneous neoclassical British and American economists. It is well known that after widespread skepticism regarding the Sherman Antitrust Act (1890), American economists gradually warmed to antitrust policy. Several analyses of the main American economic journals have documented this evolution, which can be illustrated by a comparison of the 1901 and 1912 editions of John Bates Clark's *Control of Trusts*.[24] Whereas the 1901 edition dismisses the fears of abuse of market power, arguing that such abuses would necessarily trigger entry, the 1912 edition recognizes that trusts can resort to certain exclusionary tactics (in particular, selective price-cutting) to deter entry and charge excessive prices durably. The causes for this gradual shift have long been discussed (Stigler 1982; Scherer 1989; Mayhew 1998), but one of them stands out: the legal proceedings that followed the enactment of the Sherman Antitrust Act brought to light the brutal, sophisticated, and often effective exclusionary strategies used by dominant firms or trusts to evict weaker competitors. This body of evidence belied the reassuring view that potential entry was sufficient to keep trusts in check.

Even though the context in the UK was different—with a total free-trade regime, less industrial concentration, and less cartelization—the

23. Colson (1929) devoted a separate volume of his treatise to the regulation of transportation. It must be noted that the French Civil Code enacted in 1804 contained provisions against unfair competition ("concurrence déloyale"). According to Gerber 1998, the protection afforded by these provisions played a role in diminishing the urge for a stronger competition law in France.

24. The 1912 edition was written with Clark's son, John Maurice.

evolution was similar, if less marked, at least as regards the (dominant) neoclassical school. Marshall's stance on trusts, cartels, and economic concentration shifted from an almost total lack of concern in 1890 to a more nuanced view decades later.[25] In *Industry and Trade*, Marshall (1919) warned that cooperation, even when justified by actual efficiency gains, was always likely to lead to "militant restrictive monopoly." He also noted that free trade did not suffice to prevent cartel abuses in all cases. Just like Clark at about the same time, he warned against exclusionary practices that cartels or monopolies could use to deter entry, such as discriminatory pricing (especially in the form of local price-cutting) or exclusivity clauses—a characterization of harmful tactics that goes beyond Colson's caution, a few years later, against monopolies' access to preferential rail freight prices. Marshall (1919) approved of the repression of such exclusionary conduct in the United States, to the extent that courts were supplied with economic analysis conducted by "a strong bureau or Commission to search out the facts needed to decide whether any exclusive, or 'tying' contract tends to 'substantially lessen competition or to create a monopoly.'" He advocated the setting up of "permanent authoritative Commissions" that could conduct "systematic studies" on "unfair methods of competition" and assist courts, even though he considered that "the conditions of British industries seldom call for strong authoritative intervention in such matters."

French liberal economists' unwavering hostility to any policy restricting cartel activity cannot be explained by differential access to information, since detailed references to British and American debates were ubiquitous in articles, books, and parliamentary debates on cartels in France. Nor can a different economic situation explain their lack of concern. On the contrary, the combination of protectionism (unlike in the UK) and a smaller domestic market than in the United States could only magnify the adverse effect of cartels. In fact, one may be surprised that French liberal economists, having claimed that free trade was the cure to the ills of cartels and observing that it was unlikely to prevail soon, did not advocate restrictions on cartel activity as a second-best policy.

This comparison confirms that the hostility to the repression of cartels displayed by most French liberal economists stemmed from the general

25. In "Some Aspects of Competition," Marshall (1890: 624) dismissed concerns over trusts' ability to exploit consumers by resorting to the general claim that high prices "tempt those on the inside to break faith and those on the outside to start rival works."

principle underlying their stance on most topics—a strong distrust of government intervention—rather than from a specific analysis of the functioning of competition; in particular, their writings contain only scant reference to the efficiency gains that cartels could generate.[26]

As if to confirm this interpretation, the only well-known liberal economist who advocated strong action against cartels or dominant companies, Edmond Villey (1848–1924), was a kind of outsider who did not belong to the liberal network described above. A professor at the university of Caen and the author of a widely read treatise, he complained in 1889 that Article 419 had not been enforced strongly enough against the recent copper cartel (Villey 1889); thirty-five years later, he criticized the weakening of this legal provision and wrote that "maybe an institution similar [to the American Federal Trade Commission] should be created in France. In any case, the legislator should refrain from weakening Article 419 of the penal code, the only weapon available for the protection of free competition and consumers!" (Villey 1924: 402). Although Villey can be considered a (moderate) liberal economist, he did not fully identify with the liberal camp in the highly polarized world of French economics: in his 1889 article cited above, he contrasted his views with those of "pure-bred economists who never back down in the face of the most extreme consequences of *laisser-faire*" (targeting Leroy-Beaulieu's indifference to the victims of the short-lived copper monopoly); he was also one of the founders of the *Revue d'économie politique*, which from the beginning was meant to be an alternative to the dogmatic *Journal des économistes*.[27]

The "Solidarist" University Professors' Lukewarm View of Competition

We now turn to a second group, the university professors. After the teaching of economics became a compulsory part of law studies (1877), several

26. Colson's treatise (1903: 198–99, 1927: 238–39) mentions savings on advertising and transportation costs in a short paragraph, left unchanged in the successive versions, over more than twenty years.

27. Edmond Villey was the "best-known liberal university professor" at the end of the nineteenth and the beginning of the twentieth century (Breton and Lutfalla 1991; Le Van-Lemesle 2004: 587). The only articles in favor of government action against cartels and trusts that can be found in the *Journal des économistes* are written by its US correspondent, a French-born American citizen who acknowledged the usefulness of the Sherman Antitrust Act against trust abuses (Nestler-Tricoche 1902) and stated that free trade might not be sufficient to prevent them (Nestler-Tricoche 1909).

political economy chairs were created within law faculties. The role assigned by the government to their holders was to "manufacture consensus" (Le Van-Lemesle 2004: 321), in line with the dominant discourse in the early years of the Third Republic, namely, cautious reformism and the defense of social stability. While these broad principles left room for heterogeneity, most of the new economics professors shared a rejection of the *libéraux*'s dogmatic faith in the virtues of unregulated markets.[28] In the first decades of the Third Republic, the scholarly economic debate was dominated by the opposition between the ascendant group of university professors and the old liberal guard—two groups that had little in common beyond a lack of familiarity with and in some cases distaste for mathematical formalism.[29]

The analysis that follows is based on a reading of four especially influential economics professors: Charles Gide (1847–1932), who as the founder of the *Revue d'économie politique* (1887) and the author of the best-selling economics treatise in French was for several decades their undisputed leader; Paul Cauwès (1843–1917), who held "the strategically important political economy chair at the university of Paris" (Gélédan 1991: 337), taught at the Sorbonne for over forty years and was involved in the efforts to make cartels licit around 1900; Paul Pic (1862–1944), whose *Traité de législation industrielle* was "one of the best-known books in the French legal literature" between its first edition (1894) and the 1930s (Bayon and Frobert 1997); and Maurice Bourguin (1856–1910), whose *Les Systèmes socialistes et l'évolution économique* was one of the most successful economics treatises of its time (Lutfalla 1966). These economists shared a common commitment to social reform: Cauwès and Pic were among the leaders of the International Association for the Legal Protection of Workers (Association internationale pour la protection légale des travailleurs), Gide was the leader of the French cooperative

28. A few exceptions can be noted, including the abovementioned Villey. For a detailed analysis of the early holders of the political economy chairs and the evolution of this group, see Le Van-Lemesle 2004.

29. See Fourcade-Gourinchas 2001, Fourcade 2010, and Le Van-Lemesle 2004. A notable exception is Adolphe Landry (1874–1956), who, like Léon Walras, tried to "reconcile socialism and marginalism." While Landry cannot be called an outsider (he was one of the editors of the *Revue d'économie politique* and held several ministerial posts), his economic ideas were not influential, unlike his ideas on demography in the interwar period (Sauvy 1956). Landry (1908: 290–91) expressed concern over cartel abuses. Likewise, even though Walras's scientific stature was recognized in France in his lifetime, he had little influence in academia or in the public debate. On his views on competition, including from a policy viewpoint, see Potier 1999.

movement, and Bourguin, who was less politically active, has been characterized as a "petit-bourgeois socialist" (Lutfalla 1966: 664).

Two elements of context must be kept in mind when assessing their views on cartels. First, economics was institutionally part of law faculties. This gave these professors' pronouncements significant weight since the policy debate was as much about how courts should apply the existing law as about whether it should be changed.

Second, most economics professors embraced the discourse of *solidarisme*. This doctrine, whose main exponent was Léon Bourgeois (1851–1925), one of the leaders of the center-left Parti radical that was the backbone of most French governments after the mid-1890s, has been called the "official philosophy of the Third Republic" (Hayward 1961).[30] One of the key ideas of *solidarisme* was that "British thought," through Darwinism and classical economics, and to a lesser extent "German thought," after it had fallen under Nietzsche's spell, had overestimated the importance and usefulness of competition in natural and social life: against "the Darwinians and the Nietzscheans, for whom struggle is more fundamental than union" (Fouillée 1904: 553–54), and against "the Manchester school that deifies economic selection" (566), "it is the honor of French philosophy not to have yielded to this supposedly scientific movement. . . . France never stopped affirming the primacy of law over force . . . , of association over brutal competition" (547).[31] The rhetoric of *solidarisme* was vague enough to justify policies as varied as protectionist tariffs (in the name of solidarity with farmers), progressive taxation, old-age pensions, and unemployment insurance, depending on who appealed to it and when. Beyond this variety, the criticism of brutal competition was one of its main unifying themes. The most prominent economics professors were thus in close personal and intellectual proximity to the heralds of a social doctrine that condemned "excessive" competition on moral and philosophical grounds.[32]

30. The Parti radical was formally created in 1901, but several of its leaders had been members of governments earlier, including Léon Bourgeois, who was prime minister in 1895 and 1896.

31. One can find it ironic that, whereas *solidarisme* was formulated as a French reaction to the soulless promotion of competition by British economists and social Darwinists, it was largely a reaction to the specificity of the French *libéraux*, who had made classical economics appear staunchly conservative while in the English-speaking world, John Stuart Mill's and Henry George's works had the opposite effect.

32. Gide, Pic, and Cauwès claimed to adhere to *solidarisme* and lavished praise on *solidariste* authors such as Léon Bourgeois, Célestin Bouglé, and Alfred Fouillée (Gide 1930; Pic 1909; Hayward 1961).

In addition to stating these general misgivings about market competition in his brochures on the concept of *solidarité* (Gide 1893, 1930), Gide presents more specifically economic arguments in his economics treatise. In the 1894 edition, he reminds the reader that "in the past, it was customary to contrast the virtues of competition against the evils of monopoly." After acknowledging that "competition has certain advantages and any private monopoly is a potential threat to the public interest," he claims that "this enthusiasm has subsided" because the superiority of competition is not well established: "Each monopolist's interest is to lower its prices to increase sales . . . [whereas in competitive markets] it may be the case that, since each competitor sells little, it cannot lower its prices as much as a monopolist would." In addition to this mention of scale economies, Gide writes that "from the point of view of quality, monopoly leads to better outcomes since each competitor has an incentive to degrade quality to be able to cut its price." Finally, "for the biggest monopolies that have the characteristics of a public service, abusive profits must be corrected through the use of government-mandated prices or even the substitution of a public monopoly for a private one" (Gide 1894: 154–56). Additional objections appear in the 1898 edition: competitive markets "do not direct efforts towards the most useful works . . . because the market value of products or services is not related to their social utility," they "do not necessarily bring about the equalization of profits and fortunes," and "competition is not a stable state because . . . it tends to destruct itself and lead to monopoly" (Gide 1898: 174–77). Later editions bring few changes, except for an illustration of the possible adverse effect of competition on prices through "the example of a new railway company competing against a pre-existing one" and leading to wasteful cost duplication (Gide 1926: 161).

Similar words can be found in the books by Gide's three abovementioned colleagues.[33] The presence of the theme of competition and cartels in books by *solidariste* economics professors increases after the turn of

33. According to Cauwès (1893, 2:146–47), "Excessive competition . . . causes high prices" because of cost duplication; it is "an unstable state, which can in some cases lead to monopoly"; and "it strangles small producers." Bourguin ([1904] 1906: 305–6) concurs: "Free competition, the universal panacea of individualists, failed to deliver the expected benefits. . . . It turns into abuse when it causes wages and prices to fall to levels that bring misery to workers and bankruptcy to weaker firms, leading ultimately to monopoly." Pic's treatise starts with a chapter on the "abuse of free competition" (Pic 1909: 7). At the turn of the century, this idea of "inevitable monopoly" was not specific to French debates, since it was also expressed by American progressives such as Richard T. Ely (see Ely 1900) and Judge (and future justice) Louis Brandeis.

the century, in line with its growing importance in the public debate.[34] They all considered cartels “a very interesting attempt to remedy the ills of overproduction” (Cauwès 1893, 2:149) and stabilize markets, while acknowledging the risk of abuses.[35]

Their writings on cartels seem to reflect a tension between two principles: on the one hand, the *solidariste* economists’ misgivings about competition made them wary of a policy meant to safeguard it; on the other hand, as the heralds of the “school of intervention and solidarity” (Brouilhet 1910), they were generally favorable to policies meant to protect the weak against abuse by the strong. The repression of cartel abuses could be seen as such a policy, especially in the 1890s and 1900s, when left-wing (socialist) and center left (Parti radical) politicians denounced cartels’ misdeeds in parliament, claiming to relay public anger and in some cases targeting conservative members of parliament who had personal ties to the companies involved.[36]

In the case of Gide and Bourguin, this tension results in silence on the legal handling of cartels and trusts. The 1898 edition of Gide’s treatise

34. In Gide’s treatise, the length of the section titled “Competition and Monopoly” grows from three to six pages from 1894 to 1898 (Gide 1894: 154–56; 1898: 172–78). A specific section on cartels and trusts appears only in later editions (Gide 1913: 216–22; 1926: 222–29).

35. Gide’s (1898: 177) claim that “we start to witness an economic regime where free agreements (between producers through syndicates, between workers through trade unions, above all between producers and consumers through cooperatives) will cause most of the evils of competition to disappear” makes way for more precise statements in the later editions of his treatise: cartels “maintain balance between production and consumption, which competition proved unable to achieve, and thus they remove the danger of crises” (Gide 1913: 220; 1926: 227). However, Gide also warns of cartels’ and trusts’ “despotic” domination of markets (Gide 1898: 177; 1913: 220–21; 1926: 227–28). Likewise, Bourguin ([1904] 1906: 153) states that “everywhere, one felt the need to form coalitions in certain branches of production to put an end to ruinous competition.” Whereas the principle of a “cartel-induced price increase is justified since a combination is always caused by an abnormal lowering of prices induced by excessive competition,” he distinguishes between cartels “that profited from their situation to raise prices as high as was permitted by tariffs” and triggered consumers’ “justified complaints,” such as the German cast-iron cartel, and those that merely “stabilized” prices and output, such as the German coal or industrial alcohol cartels (158–60). On Pic’s and Cauwès’s views on cartels, see the discussion below.

36. The maritime freight cartel was discussed in Parliament in 1895 and 1901; in 1899 the minister of commerce, addressing the chamber, mentioned that disgruntled customers had “pointed out to him” cartels in the alcohol, sugar, and metal industries. In 1901 a long debate took place about two cartels that had caused a major uproar and given rise to legal proceedings—the pig iron and the sugar refining cartels. The latter came under fierce attacks from socialist representative Gustave Rouanet; one of its main participants was a firm partly owned by a conservative member of parliament, Jules Jaluzot (*Journal Officiel de la République française: Débats parlementaires* 1895, 1901a, 1899, 1901b, 1901c).

fails to mention the Sherman Antitrust Act; the 1913 edition describes the abuses of Rockefeller's Standard Oil, but it fails to mention that the Sherman Antitrust Act allowed a court to order its dismantling in 1911; likewise, whereas earlier editions stressed that one of the many ways firms could circumvent the Sherman Antitrust Act was by merging through acquisitions (Gide 1913: 222), the later editions fail to mention that the Clayton Antitrust Act was enacted in 1914 with the goal of precluding this way out; finally, the 1926 edition does not even mention the contemporaneous debate in France about the reform of Article 419, which had been particularly vigorous since 1923.[37] The reason for this silence is probably that whereas Gide (1913: 222; 1926: 229) acknowledged the risk of cartel abuses, the solution to him did not lie in the defense of the competitive process but rather in consumer cooperatives that could act as a counterweight.

Bourguin's ([1904] 1906) almost total silence on the existing (let alone the desirable) legal treatment of cartels is even more striking because his treatise devotes a long chapter to cartels, trusts, and their effects in the United States and in France, including a detailed discussion of the most egregious examples in these two countries, namely, Standard Oil and the Comptoir de Longwy, without even mentioning the Sherman Antitrust Act or the French Article 419 (145–67). Bourguin's ([1904] 1906) book purports to be a discussion of the future of capitalism and the prospect for greater "democracy in the economic sphere" (384–86); it prophesizes and calls for "the moderate development of capitalist concentration, and in parallel the development of associations, in particular trade unions, and of the government" (Lutfalla 1966: 642)—a worldview that seems to leave no room for the discussion of policies meant to protect competition.

In contrast, Paul Pic and Paul Cauwès took a clear stance on cartel policy, based on the same distinction as in Gide's and Bourguin's writings between "good" cartels that stabilize prices at "reasonable" levels and "bad" ones that attempt to exploit their customers—with, however, a different emphasis on these two categories.

Over more than thirty years, Pic insisted with equal strength on the need for a lenient treatment of the former and a harsh repression of the latter. On the one hand, he approved courts' permissive attitude toward

37. The relative failure of American antitrust policy to effectively control mergers until the Celler-Kefauver Act of 1950 does not suffice to explain the absence of any mention of the earlier attempt to achieve this goal through the 1914 Clayton Antitrust Act.

"the industrial syndicates formed, not to impose an excessive price, but only to prevent price debasing and avoid overproduction" (Pic 1894: 203); he repeated this idea in almost the same terms in later editions, extending it to international cartels after World War I (Pic 1909: 443; 1930: 480).[38] On the other hand, he criticized the *libéraux*'s "dangerous illusion that one can always count on commercial freedom to restore competition," and he claimed that "it would be dangerous to abolish Article 419, a useful weapon allowing the government to protect consumers, even if it is rarely used" (Pic 1894: 204–5). Accordingly, decades later, he approved the reform of Article 419 that confirmed the earlier case law and declared "moderate" cartels licit, but he also called, without success, for a mandatory registration of cartels and a French version of the Clayton Antitrust Act (Pic 1930: 376–88).

Paul Cauwès, "National Political Economy," and the Landmark Case of the Comptoir de Longwy

Cauwès's views were less balanced, and he played an active role in the campaign in favor of a lenient legal treatment of cartels. Whereas this stance coincided with that of the *libéraux*, it was the product of his lifelong hostility to classical economics and laissez-faire. Cauwès, "a nationalist in favor of State intervention, . . . who professed a mix of nationalism inspired by List and of historical school economics in the spirit of Schmoller" (Gélédan 1991: 335–36), joined forces with the protectionist business lobbying group the Association de l'industrie et de l'agriculture françaises to create the Société d'économie politique nationale (1897), of which he was the first president. Its honorary president was Jules Méline (1838–1925), the conservative politician who as a member of parliament and then prime minister had been the driving force behind the tariff increases of the 1890s. This association published the *Bulletin de la Société d'économie politique nationale* with the aim of countering the influence of the liberal Société d'économie politique and its *Journal des économistes.*

Unlike Cauwès, whose support for protectionism and cartels was part of a coherent worldview centered on the rejection of economic

38. According to Pic (1930: 480), "Cartels are sometimes useful and even necessary, at the national level by regularizing the conditions of competition, and at the international level because they allow similar industries in various countries to unite in order to avoid the perils of overproduction."

liberalism, Méline and his close associates cared less about intellectual consistency than about the business interests they were defending. For instance, whereas Méline adamantly opposed the *libéraux* on trade policy, he appealed to the standard liberal argument of contractual freedom to oppose binding collective employment agreements (Fournière 1904).

Cartels mattered less than protective tariffs to the Société d'économie politique nationale; accordingly, they were not discussed at its meetings during its first three years of existence. However, long discussions on cartels are reported in its bulletin each year between 1901 and 1904. The sudden rise to prominence of this topic is easily explained: in 1900, Méline, having returned to the private practice of law after his fall from power, took up the defense of the Comptoir de Longwy in what would come to be a landmark court case. The Comptoir de Longwy (named after the town where it was headquartered) was a joint venture created in 1876 by all producers of pig iron of the Meurthe-et-Moselle department, which in 1893 accounted for 61 percent of French production. Its members were contractually committed to selling the entirety of their output to the Comptoir (save the quantities used for export and for internal transformation), which then resold it to French customers. The Comptoir could also impose production ceilings on its members.

Customers who complained about excessive prices and temporary shortages sued the Comptoir in 1900 on the basis of Article 419, but after long and highly publicized proceedings, a court declared its practices licit in 1902: the Comptoir "had acted as it had only in order to regularize prices and to decrease stocks, which could otherwise have become enormous . . . , with the goal of regulating its members' operations in accordance with the general interest of production" (quoted in Tchernoff 1933: 270–73). This ruling was understood as a clarification that enshrined courts' lenient application of Article 419; as a result, cartels were less frequently discussed in parliament or in economic journals in the years 1905–15 than in the previous or (as we will see below) following decade.

Cauwès's early writings on cartels had been similar to those of his abovementioned colleagues. He had praised the "very real advantages" of cartels, which prevented "cutthroat competition [that was] unstable and likely to end in monopoly," but he had also warned that any "coalition of producers might become an oppressive monopoly" and cautioned that "setting the limit between what should be licit and what should be prohibited will be difficult" (Cauwès 1893, 2:147–49).

However, at the meetings of the Société d'économie politique nationale a few years later, he expressed total support for cartels: "Our industrialists should refrain from fearing Article 419, they should act boldly, get organized to defend their common interests, reduce instability, avoid times of excessive production followed by sudden stops. They should even get organized as regards sales, as long as they set prices on the basis of a regular principle rather than arbitrarily." He preferred to argue for a lenient enforcement of Article 419 than for its repeal, because "if one asks for the repeal of Article 419, one cannot know what could happen afterwards; the legislator could end up making decisions that would hurt the interests one is defending" (*Bulletin mensuel de la Société d'économie politique nationale* 1902: 19–20).

Cauwès and his associates in the "national political economy" movement never appealed to arguments based on productive or even commercial efficiency. On the contrary, they praised the restraint of French cartels: in accordance with France's "prudent and moderate" character (Méline 1903: XIII), they did not interfere in the production process, in contrast to American trusts that were denounced as gigantic and oppressive across the political spectrum.[39]

One reason behind their opposition to any deeper integration was the French specialization in consumer goods industries deemed unsuitable for concentration: "Since French industry has an almost familial character and the value of our main productions lies in the fact that each reflects a unique personality, would there not be for most industries a mortal peril in unifying under a single direction?" (*Bulletin mensuel de la Société d'économie politique nationale* 1903: 6–7).

The rejection of fully integrated trusts also had a political justification: "Trusts are the practical application of collectivist theory, which aims to make the State the universal employer, a goal towards which the formation of monopolies is a step" (*Bulletin mensuel de la Société d'économie*

39. On the widespread perception of the United States as a frightening "empire of trusts" around 1900, see chap. 8 of Roger 2002. As we saw above, the *libéraux*, unlike the partisans of national political economy, had a similar (permissive) attitude toward trusts and cartels. The mention of "national character" is also common in writings by contemporaneous English-language economists. According to Marshall (1890: 621–22), Americans "are the only great people whose industrial temper is at all like that of the English, and yet even theirs is not very like" because English businessmen "seek safe investments" whereas American businessmen's "restless energy" makes them "more adventurous and often more aggressive." On the supposedly "gentlemanly" British way of doing business, see Mercer 1995: chap. 2.

politique nationale 1901: 218), whereas cartels were to be commended for leaving their members "independent from an industrial viewpoint" (220). Since trusts were considered more likely than mere coalitions to abuse their market power, the partisans of national political economy also feared that they could trigger a backlash against protectionism. Accordingly, restrictions on competition should be "discreet like honest women" and limited to "agreements that prevent price and output fluctuations," lest "industrialists kill the goose that lays golden eggs, namely protective tariffs" (*Bulletin mensuel de la Société d'économie politique nationale* 1903: 7, 11–14, 26).

This overarching concern over the threat of foreign competition led the partisans of national political economy to denounce American trusts that were "pushing for free-trade" because their productive efficiency had increased their "expansion force" (*Bulletin mensuel de la Société d'économie politique nationale* 1901: 216–17), but also "German cartels that use high domestic profits to subsidize exports" (222): "Practiced in that way, a cartel is an absurd enterprise. . . . The correct model for future organizations is in Longwy, not in Germany" (225).

In sum, Cauwès and his associates praised cartels for their conservative character: they were meant to stabilize markets and help perpetuate the existing industrial structure, not to facilitate domestic or international expansion. Around 1900, this indifference to efficiency arguments was not specific to the partisans of national political economy. In the writings by the other *solidariste* economists or in sectoral studies by other university professors at the same time, the efficiency gains induced by cartels are rarely mentioned, and only as a secondary benefit ancillary to the main one, namely, market stabilization.[40] Gide (1905: 411–13) saw the

40. Neither Pic nor Cauwès mentions cartel-induced cost savings. Bourguin ([1904] 1906: 153) writes in passing that cartels "reduce [commercial] expenses," and Gide mentions "the decrease of the number of salespeople and of advertising expenditures; in fact, of all the expenses induced by competition." Whereas this remark could logically apply to common sales agencies such as comptoirs, and not only to integrated trusts, Gide fails to make that point: this brief mention of savings on commercial costs is part of a paragraph on the efficiency benefits of industrial concentration, which mostly mentions production costs and ends with the remark that unlike trusts, "cartels, or simple commercial agreements, are unable to reach such results" (Gide 1913: 220; 1926: 227). Sectoral studies by university professors, such as Albert Aftalion's (1908) monograph on the textile industry in the north of France, also praised cartels' role in "dampening the effects of low demand," without mentioning cost-related efficiency gains (61). Whereas cartelization in some cases led to some efficiency-enhancing product standardization (Gillet 1973), the partisans of cartels did not stress such effects and praised almost exclusively their price-stabilizing effects.

preservation of small and midsize companies thanks to "industrial associations that sell directly to the public (and) replace the spirit of competition with the spirit of cooperation" as a goal in itself, in a spirit reminiscent of the "Jeffersonian" rationale that motivated some early supporters of American antitrust law (Areeda and Turner 1985): "Small industry is worth defending [because] independent workers are happier than they would be if they were employees of big companies."

The concern over the stability of firms' profits, rather than on productivity or growth, is also a product of the "long stagnation" of the French economy, which lasted until the first years of the twentieth century: industrial prices fell by about 30 percent between 1865 and 1905, the number of bankruptcies increased in the 1880s and remained high in the 1890s, and industrial margins fell until at least 1895 (Breton, Broder, and Lutfalla 1997: 104–5, 110). At the same time, even though economic growth (40 percent between 1865 and 1869 and between 1901 and 1905) was much lower than in Germany (226 percent) or the United Kingdom (106 percent), it was still significant (Breton, Broder, and Lutfalla 1997: 17). Falling prices and the fragility of many companies was thus more visible to contemporary observers than lackluster growth, which helps one to understand why firm survival seemed more important than productivity.

The Specific Case of the "Durkheimian" Sociologists-Economists and the Renewal of the Debates on Cartels after World War I

The approach to competition by the founders of French sociology deserves a specific discussion, for two main reasons. First, despite their close professional links to the *solidariste* economists and similar political leanings, they formed a separate group with its own scientific program and journal, *L'Année sociologique*.[41] Second, several disciples of Émile Durkheim (1858–1917) reached positions of power during and after World War I: Maurice Halbwachs (1877–1945) and François Simiand (1873–1935) became advisers to Albert Thomas (1878–1932), the socialist minister or armaments in the wartime national union government. They were tasked

41. Durkheim's disciple François Simiand, a sociologist and economic historian, was involved alongside Paul Pic in the Association internationale pour la protection légale des travailleurs; Maurice Bourguin (a "protector of Durkheimian sociologists at the faculty of law of Paris") and Paul Cauwès belonged to his thesis committee (Topalov 1999: 41). But the Durkheimians' attempt to obtain academic positions in law faculties by allying with the economics professors of "Charles Gide's group" largely failed (15).

with helping him organize input allocation and procurement and enact industrial policies that led to a renewal of the debate on cartels. Thomas himself, before becoming a full-time politician, was largely influenced by Durkheimian sociology, like several of his fellow students at the École normale supérieure.[42] The Durkheimian networks remained influential in intellectual and government circles throughout the entire interwar period (Topalov 1999).

Whereas Durkheim's work did not address strictly economic topics, the question of competition was at the heart of his foundational book, *The Division of Labor in Society* (1893). One of Durkheim's main ideas was that beyond improving productive efficiency, the increasing division of labor was a source of progress because it made individuals aware of their interdependence, and thereby more moral. However, this awareness could be threatened by excessive competition: he cautioned that "when competition places isolated and estranged individuals in opposition, it can only separate them more" (Durkheim [1933] 1960: 275) and cause *anomy*, that is, lack of order and of meaning. Against this danger, he advocated "solidarity," whose "role is not to suppress competition, but to moderate it" (365). In addition to these noneconomics concerns, he criticized "(liberal) economists'" overreliance on spontaneous adjustment on markets, which overlooked the "prolonged disturbances" that happen along the way (367). Accordingly, in his well-known preface to the second edition (published in 1902), he advocated the "urgent" (31) creation of professional associations, hoping that new kinds of guilds, different from those of the preindustrial era, could bring about "cohesion" and "regularity" in production, in a way that would pacify society (5).

World War I made coordination of production move from the realm of academic musings to that of urgent necessities, especially in view of the German occupation of northeastern France that deprived the country of much of its industrial base. As in other belligerent countries, the government encouraged close cooperation in industries deemed essential to the war effort. In many of them, the largest firms formed "consortia" that coordinated the allocation of raw materials and manpower, production, and sales under government oversight; some of these consortia were the continuation of prewar cartels. Thomas, Halbwachs, and Simiand played a major role in this effort.

42. On Albert Thomas's network "straddling science and social action," see Christophe Prochasson's chapter in Topalov 1999.

This interfirm cooperation led to a renewal of the debate on cartels, in a context of high sensitivity to "profiteering," as living standards fell and fairness in the allocation of the war burden became a cardinal value. The almost-extinct Article 419 was revived: several local cartels that had affected the price of basic consumer goods, especially foodstuffs, were prosecuted and condemned. But the most emblematic case was that of the calcium carbide consortium, whose members were targeted in 1915 by a complaint that triggered a long and highly publicized procedure (Paxton 1977).

The calcium carbide consortium was eventually exonerated (in 1919), but these proceedings belied the view that Article 419 was a relic of preindustrial times, which lenient prewar rulings had rendered obsolete. This made a clarification necessary. The tenor of the public debate was different from that of 1900: rather than market stabilization alone, industrial modernization was often invoked, especially in view of the need to keep the ever-present German threat at bay.

There was broad agreement that modernization would require mergers or large-scale interfirm cooperation, but broad disagreement on whether, how, and by whom such cooperation should be controlled. Business leaders called for an end to the prohibition of cartels to facilitate efficiency-enhancing cooperation without any government oversight—this was hammered in particular by a new business lobbying group, the Association nationale pour l'expansion économique (Hauser 1918). Louis Loucheur (1872–1931), the former businessman who had succeeded Thomas at the Ministry of Armaments in 1917, concurred with business leaders who asked for government intervention to stop now that the war was over (Kuisel 1981). Left and center-left politicians like Thomas and Étienne Clementel (the wartime minister of commerce and one of the leaders of the Parti radical) agreed that wartime consortia set a model for peacetime, and they advocated the creation of industrial cartels that would operate under government oversight (Hennebicque 1977), whereas the largest worker union, the Confédération générale du travail, envisioned control by "industrial councils" including worker representatives. In line with this vision of a future making more room for cooperation than for competition, Halbwachs, in a wartime letter to Thomas, characterized Article 419 as a relic of a liberal age defended by "legal minds focusing on the letter of the law," while "economists" understood the need for new forms of cooperation to "adapt the French economy to the postwar world" (Paxton 1977: 169).

The parliamentary debates on Article 419 lasted from 1922 to 1926 (Paxton 1977; Chatriot 2008). Public sensitivity to high prices caused by inflation in 1923–24 made it inexpedient to explicitly legalize cartels. Instead, according to the modification of Article 419 enacted in 1926, it would apply only to "actions leading to prices that would not be the natural result of the operation of supply and demand." A parliamentary vote rejected an amendment that singled out as illicit "agreements to sell a good only at a certain price" (*Journal Officiel de la République française: Débats parlementaires* 1924). This rejection made it clear that the new law was meant to lift the ban on cartels unless their conduct was blatantly abusive.[43] "Agreements that only aim to sustain a normal balance between production and consumption and market stability while preventing overproduction crises" were now legal (*Journal Officiel de la République française, Débats parlementaires* 1926: 1654).

The 1926 law did not reflect the expansionary concerns invoked against Article 419 by business lobbies and left-wing advocates of economic "organization." The condition for cartels to be licit was their moderation, not their contribution to productive efficiency, in line with the prewar case law. According to later economic historians, the many cartels that flourished under the auspices of the 1926 law (in metallurgy, coal, chemicals, cement, shipbuilding, wool, cotton, silk) did not contribute to productive efficiency. On the contrary, they allowed less efficient firms to survive and reduced incentives to cut costs or increase quality (Hirsch and Sauvy 1984).[44]

Unlike Thomas and Halbwachs, who moved on to other topics after the war, Simiand was a professional economist, and his postwar views on cartels are well documented. His economics course taught in 1930 at the École normale supérieure deals with cartels within two chapters on the trend toward ever-greater coordination between firms, through "second-degree organizations" such as trusts and coalitions, and "third-degree organizations" such as international cartels and professional associations encompassing broadly defined industrial sectors (Simiand 1932: 572–613).

43. The words "a certain price" in the proposed amendment, which were present in the original (1810) version of Article 419, would have made price-fixing agreements illicit even if it could be argued that the agreed-upon price was in line with the "normal" operation of supply and demand.

44. Some monographs on specific industries tend to qualify Hirsch and Sauvy's conclusion. Omnès (1980) claims that the interwar mergers and cartels in the steel pipe industry contributed to its modernization.

Simiand's (1932: 612–14) general message is that "coordination is increasing, it is mandatory, necessary. . . . Without any doubt, it leads to productive organisms that are economically superior." His course describes an inexorable evolution whereby the action of cartels is increasingly in line with the interests of society at large: in the United States, "professional associations tried to gain acceptance by public opinion and the government by showing that they cared not only about profits but also about improving the technical organization of production" (599); in Germany, "cartels [after World War I] strove not only to coordinate commercial conditions but also to make production more rational" (601); in France, "consortia extended their action from pricing to technology, normalization, standardization, in concertation with government" (604). In short, cartels according to Simiand should not be viewed as coalitions bent on exploiting consumers but as a welcome step toward economic "organization," in line with Durkheim's warnings against the perils of "anomy" and with Simiand's wartime experience in organizing industrial production.

Simiand's dismissal of the concerns over cartel abuses relies on arguments that had been made for decades by business leaders and *libéraux* economists: neither cartels nor trusts can create much harm because any attempt to raise prices would face "competitors and limitations" that make "moderation" the only reasonable course of action (Simiand 1932: 588–89), as in the case of "the famous meat trust of Chicago [that was] kept in check by the organized reaction of consumers" (591). Simiand's procartel bias is illustrated by his selective mention of English-language analyses of cartels and his misrepresentation of their findings: his course quotes Jeremiah Jenks's *Trust Problem* but not Clark's or Marshall's later and more critical contributions. In addition, Simiand inaccurately claims that Jenks found the American sugar trust to have had little effect on prices.[45] The dismissal of Jenks's finding that some cartels harm consumers is all the more striking given that Jenks had not subjected interfirm coordination to a blanket condemnation. Rather, he had proposed a criterion to

45. According to Simiand (1932: 586–87), the data presented by Jenks on the American sugar cartel that operated after 1887 show that the cartel "did not materially increase margins over a substantial period of time." This is at odds with Jenks's (1912: 144) summary of his own findings: "On the whole, the chart seems to make it perfectly evident that the sugar combination has raised the price of refined sugar beyond the rates in vogue during the period of active competition before the formation of the Sugar Trust and the two competitive periods during its existence."

distinguish efficiency-enhancing cartels from those that merely exploit their clients: "The actual effects of the industrial combination upon prices form certainly one of the best tests of their usefulness or disadvantage to society" (Jenks 1912: 131–32).

This lenient view of cartels by the leading French economists-sociologists of the Durkheimian school is in contrast with those of the most influential contemporaneous British and German sociologists. Leonard Hobhouse (1911) denied that competition was bound to degenerate into monopoly and remarked approvingly that in Britain, free trade had limited cartelization, belying Karl Marx's somber prediction. As for Max Weber, he acknowledged that concentration could increase productive efficiency but he criticized German cartels, which he deemed "economically conservative" (Roth 2006).

The Durkheimians' views were also at odds with those expressed by a large fraction of public opinion and in particular by left-wing politicians. In 1924, when the Chambre des députés had to vote on the abovementioned amendment that would have explicitly prohibited cartels, the majority of "yes" votes came from communist and socialist members of parliament (Paxton 1977: 168). Even though the Durkheimians' political stance was unambiguously left wing, their stress on the superiority of "organization" over the "anomy" of competition, as well as their wartime cooperation with business leaders, caused them to have a more favorable view of cartels.

Industry Experts in Defense of Cartels in the Name of Modernization

The last group we need to mention is the so-called industry experts. They were for the most part journalists or public intellectuals who had been hired by industrial associations to work as lobbyists, or business leaders who had an academic or editorial activity on the side. Frontiers were porous between business, government, and academia (in particular in the *grandes écoles*, which had a more practical orientation than universities), and many of the men considered the best specialists of industrial economics had careers that straddled these three spheres (Kuisel 1981). These "practical men" prided themselves on their pragmatism and did not identify with a particular "school" of economists; accordingly, one can find numerous laudatory references to their detailed knowledge of industry in both the liberal *Journal des économistes* and the solidarist *Revue d'économie politique*.

Paul de Rousiers (1857–1934) was considered the best-informed specialist on cartels in France. A polymath who made a living as the secretary-general of the shipbuilders' association and who wrote on subjects ranging from the British working class to French ports, elites in modern societies, and modern American civilization, he authored several articles and books on cartels: *Les Industries monopolisées (trusts) aux États-Unis* (1898); *Les Syndicats industriels de producteurs en France et à l'étranger (trust—cartells—comptoirs—ententes internationals)* in 1901, with several subsequent editions; and a report on cartels for the committee preparing the 1927 International Economic Conference of the League of Nations, to which he was appointed as an expert. These writings express an unchanging view, namely, that the market stabilization made possible by French cartels was beneficial to all and could never lead to abuses similar to those of American trusts.

Over the course of his career, Henri de Peyerimhoff (1871–1953) was in turn an administrative judge, an official at the Ministry of Agriculture, and one of the leaders of the coalmines association. He was also the vice president of the Conseil national économique, a consultative council that included labor and business representatives, after its creation in 1925 (Chatriot [2005] 2013). As a member of the French delegation at the 1927 International Economic Conference, he called for international cartels to be encouraged, without any form of government oversight (de Peyerimhoff 1929).

The 1927 conference led to no tangible decisions except the creation of a study group, the International Industrial Cartel Committee (CEII). One of its members was the industrialist Louis Marlio (1878–1952), who, after a few years in government, became a business leader in the aluminum industry (he ended up being chairman of the aluminum company Péchiney) and one of the leaders of Redressement français, a business lobby promoting industrial modernization and concentration; he also taught economics at the École nationale des ponts et chaussées and the École libre des sciences politiques (Morsel 1983). Unsurprisingly, his report on the global aluminum cartel (in which Péchiney participated; see Bertilorenzi 2015) for the CEII was reassuring, as was his article on the same topic in *La Revue de Paris* (Marlio 1930).

French versus British Economists' Views at the International Economic Conference of the League of Nations (1927)

In the aftermath of World War I, in France and the UK, political and business elites feared that their industry was lagging behind that of Germany and the United States. In both countries, interfirm cooperation and mergers were seen as possible solutions, and support for government-supported rationalization was widespread.

However, as we have seen, economists' stance toward cartels differed in both countries, with British liberal economists acknowledging cartel abuses to a greater extent than French economists of all stripes. The International Economic Conference, held in 1927 under the auspices of the League of Nations, is instructive in this respect. It was meant to explore ways to increase international economic cooperation and revive international trade. This conference was the brainchild of the abovementioned French politician and former industrialist Loucheur. He put international cartels on its agenda because he thought that they might make free trade less destabilizing and decrease the appeal of protectionism (Barjot 2013).

A group of countries led by France advocated the creation of an international framework to encourage and give a legal status to international cartels, a stance opposed by the British delegation (Hantos 1930: 153–162; Bussière 1992, 1994; Hara 1994; Berger 2006; Bertilorenzi 2016). Among the experts who were asked to submit studies, de Rousiers wrote a markedly procartel report, unlike the Oxford professor (and former student of Marshall) David MacGregor (1877–1953), Britain's foremost industrial economist. MacGregor's (1927a) report acknowledged that interfirm cooperation might be useful in some circumstances. But he stressed that the threat of abuse should be kept in check by free trade, and he disapproved of international cartels that would weaken this source of competitive pressure (see also MacGregor 1927b).

According to a book published in Paris in 1928, MacGregor's skepticism had a simple cause: "He [was] an Englishman, and like every Briton, he [had] 1) an instinctive distrust of anything that goes against the English individualist tradition, and 2) a repulsion towards any overly precise international commitment" (Pilavachi 1928: 376). However, a comparison of the status and contents of economic expertise in both countries better accounts than national character for the difference between the stance taken by the French and the British economists who participated in the conference.

In both countries, the majority of business and labor leaders were favorable to cartels, even though they differed on the need for oversight. Alfred Mond (1927: 283), the chairman of one of the UK's largest corporations, Imperial Chemical Industries, praised international cartels in his work as an expert for the conference, and he ridiculed the reluctance of economists such as MacGregor who "still held the antiquated idea that business men sat solemnly round a table with a view to shoving up prices." Arthur Pugh, the union leader who belonged to the British delegation, was also favorable to cartels—under government and union oversight. These views were similar to those expressed by business and union representatives in other delegations, including the French one.

The main contrast has to do with the nature of the economic expertise that the two countries mobilized: one of the British experts was MacGregor, and one of the members of the British delegation was Arthur Layton, the editor of the *Economist* and a former student of Marshall who was favorable to industrial rationalization but skeptical of cartels (Layton 1927). On the French side, one of the experts was the abovementioned procartel de Rousiers, and, among the members of the delegation who were involved in the discussion of international cartels, only (procartel) de Peyerimhoff could claim some expertise on industrial economics.[46] In other words, some British experts and members of the British delegation, who were academically trained (in the Marshallian mold) and independent of business interests, took a stance that was at odds with the demands of business, unlike their French counterparts, who all had close ties to industry.[47]

Economists, Competition, and Rationalization in France and in the UK

Characterizing British economists or policymakers in the first decades of the twentieth century as uniformly staunch defenders of competition against cartels and monopolies would be plainly wrong. On the left, starting around 1900, the Fabian economists departed from Mill's promotion

46. The other economic expert involved in the discussions on international cartels in the French delegation was William Oualid, a law professor whose report can be described as neutral. The other members of the French delegation were the head of the largest worker union, a representative of an agricultural association, and a liberal-leaning official, Daniel Serruys, who was involved in the discussions on tariffs but not in those on international cartels.

47. This observation was made by Guyot (1927: 275).

of competitive markets combined with redistributive taxation. They considered that trusts “heralded the new Socialist Age” and paved the way for “guild socialism” (Mercer 1995). After World War I, even the Liberal Party departed from economic orthodoxy. When it launched an industrial inquiry in 1927, it entrusted the section on “the organisation of business” to Keynes, whose contribution to the party’s book *Britain’s Industrial Future* (Liberal Industrial Inquiry 1928) charted a future characterized by a corporatist management of industry under the aegis of government.

Moving from ideas to policies, the British government in the late 1920s encouraged rationalization and cartelization in many sectors (shipbuilding, coal, textile, steel, sugar, and ocean-liner shipping; see Mercer 1995). No such policies were attempted in France until the Great Depression. Even then, attempts in that direction failed. A draft law that would have allowed the largest firms in an industry to force cartelization on their smaller competitors was ultimately shelved, largely as a result of disagreements on the scope of government control (Chatriot 2008: 13–16; Denord 2007).

A focus on the experience of the 1930s in the UK and France might suggest that economists’ ideas are too volatile, or too irrelevant to policy, to matter. But this interpretation would not be justified. In France, the lack of wide-ranging government-sponsored cartelization is largely attributable to political instability. But it is also consistent with the distribution of French economists’ views: there was no common ground between the *libéraux*’s laissez-faire prescriptions and the solidarist or Durkheimian economists’ vision of government-controlled cartelization, and therefore no basis for a well-defined industrial policy.

Turning to the UK, one might be tempted to infer from the cartelization policy of the late 1920s that the Marshallians’ previous skepticism regarding cartels was superseded by different ideas and became irrelevant, or that economists’ ideas had little influence in any case. However, considering the longer run, such a view must be qualified. In the late 1930s, after the cartelization of the 1920s had been found to raise profits but not productivity (Broadberry and Crafts 1992; Crafts 2013) and Keynes’s *General Theory* had shifted the debate to macroeconomics, many British economists returned to a more positive appraisal of competition: Keynes (1936) himself did, in the famous last chapter of the *General Theory*, but also the young socialist economists at the New Fabian Research Bureau (Durbin 1985). Whereas the post–World War II Labour Party cannot be described as promarket, these economists had significant influence on the policies it followed when in power: the immediate postwar Labour government limited the scope of nationalizations to natural monopolies (plus coal and steel) in the 1940s (Millward 1997) and enacted an anticartel law in 1948; the Labour Party supported the strengthening of anticartel policy in 1956 (under a conservative government); and another Labour government enacted a merger control law in 1965, the second in the world after the American one (Mercer 1995: 92–94, 140–41). One can hypothesize that the Marshallian view of competition probably played a role: even if it seemed to be sidelined by the late 1920s, it was later incorporated (together with the new theories of oligopolistic competition and Keynes's macroeconomic ideas) into the neoclassical synthesis that became the economic orthodoxy in the English-speaking world after World War II.

In contrast, France remained the European country most consistently reluctant toward competition policy until the end of the twentieth century.[48] After the Treaty of Rome created the European Economic Community, the French government attempted (in vain) to prevent its anticartel clauses from being implemented too forcefully—that is, by the European Commission with little say for national governments (Warlouzet 2006, 2008). Later on, successive French governments insisted that agriculture be exempted from competition rules and blocked the creation of a common merger control mechanism until 1989. France has permanently been the country pushing most strongly for exceptions to competition rules in the name of industrial policy or public services.

The history of the debates on competition policy in France throughout the twentieth century falls outside of the scope of this article. However, considering the permanence of the French reluctance, in spite of far-ranging political and economic changes over the seven decades since the beginnings of European economic integration, one can hypothesize that the intellectual configuration underlying the rejection of competition-promoting policies by almost all French economists in the decades leading up to the Great Depression had a long-lasting influence.

48. The main exception concerns the origin of European competition policy: the French government wanted a competition provision to be included in the treaty creating the European Community of Coal and Steel (1951) to prevent German steel producers from enjoying preferential access to cheaper German coal. These provisions, which were directly inspired by American antitrust law and drafted with the help of American experts, were the basis for the competition articles in the Treaty of Rome a few years later.

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