BRITISH ECONOMISTS ON COMPETITION POLICY (1890–1920)

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It is rather well-known that most turn-of-20th-century US economists gave a rather cool welcome to the Sherman Act (1890), but reacted more favorably to the Clayton and Federal Trade Commission Acts (1914).[1] A huge literature has identified several explanations for this evolving and somehow puzzling attitude, calling into play the relation between big business, new technology, and competition, a non-neoclassical notion of competition and an increasingly deeper understanding of anticompetitive business practices. Much less investigated is the reaction of *British* economists to American antitrust legislation. It may thus be relatively unknown that, during the three decades (1890–1920) of most intense antitrust debates in the United States, the theme occupied a central position even in British economic discourse. Surprisingly enough, given the common legal foundations of both countries, no major British economist favored the adoption of an American-style, statutory-based competition policy.

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This chapter digs more deeply into the British economists' views about the so-called "monopoly problem"[2] and tries to explain why, despite their ideological and methodological differences, they all shared a negative attitude toward legislative solutions. This would cast light on two different questions, one internal to the history of economics, the other pertaining to the economists' influence on public policy. On the one side, understanding the reasons behind their refusal to press for a British version of the Sherman Act may illustrate what kind of model of competitive process and industrial development British economists had in mind at the turn of the 20th century, in comparison to, say, their American colleagues. In particular, it would be helpful to acknowledge whether the refusal was theoretically or empirically motivated – in the latter case on account of the structural differences between the British and American economies. On the other, given that the earliest competition law in the United Kingdom only came in 1948, much later than in many other European countries,[3] one may legitimately ask whether the negative reaction by British economists to American antitrust acts may at least partly account for the delay or whether the economists' voice was simply irrelevant on that matter, much like that of their American colleagues in 1890 (but not in 1914).

I have so far referred to "the British economists," but this is overreaching. It goes much beyond the limits of a single chapter to give an exhaustive account of the British economics profession's views about the monopoly problem. Hence the following pages will focus on only four economists: H. S. Foxwell, D. H. MacGregor, H. W. Macrosty, and, of course, Alfred Marshall – the latter taken in two moments at the extremes of our period, 1890 and 1919. Any such selection is obviously open to bias and criticism. In the specific case, these four economists have been selected for their representative role of the main theoretical and policy positions on the field, as well as for their affiliation with the most important British universities. Briefly, Herbert Somerton Foxwell (1849–1936) was one of the champions of the British Historical School and held the Chair of Economics at University College London for more than 40 years; Henry William Macrosty (1865–1941) was an active member of the Fabian Society, a Fellow and then a President of the Royal Statistical Society and a lecturer at the newly founded Fabian stronghold, the London School of Economics; Alfred Marshall (1842–1924) was… Alfred Marshall, with all that this meant for Cambridge-style economics; David Hutchison MacGregor (1877–1953) was arguably the best industrial economist among the "minor Marshallians" (see the title of Groenewegen, 2011) and, later in his career, exported the Marshallian tradition of industrial organization at Oxford University.

Economists on both sides of the Atlantic had much in common in their reflections about competition policy. First, they shared a dynamic, process-based view of competition. Like the classics before them, these economists still conceived of competition as a specific pattern of behavior – a business activity, not a static market condition. None of them considered the monopoly problem as a matter of freedom from excessive market power. The expression "free market" still meant to them – again, as to the classics – a market free from State's interference, not a market where no firm had the power to set the price. Moreover, they took the vertical dimension of competition – namely, the competition between the seller and the buyer – to be at least as important as the horizontal dimension – namely, the competition between a firm and its rivals.

The rapid pace of industrial change in Britain and the United States caused a departure from classical ideas. The emergence of large-scale business, with enormous investments in fixed capital, put at center stage an issue that did not feature in classical accounts, the relation between business size and competition. Size meant scale economies and increasing returns,[4] which in turn led either to monopolization or to so brutal a competitive process that combination in its various forms (trusts, cartels, mergers, etc.) seemed the only available self-defense for businesses. Late 19th-century economists had therefore to reconcile their classical notion of competition with the powerful tendency to concentration in the real economy.

Finally, these economists shared in various degrees (sometimes only as a romantic regret for an idealized past) the notion of a "right to fair profit." For both ethical and economic reasons, they believed that a businessman who behaved honestly and who spent the due amount of effort in his activity was entitled to earn a normal return on his investment. The ethical reasons came from the old Millian mantra that custom was as important as competition for the setting of prices, as well as from the moral refusal of cutthroat competition against your peers. In the United States the refusal was epitomized by the Jeffersonian ideal of an economy made of "small dealers and worthy men"; in Britain it was embodied by "the gentleman's way" of doing business. The economic reasons were more mundane. Competition had to be restrained as a means to protect the profitability of the huge fixed investments characterizing modern industry. Absent adequate returns, there would be no incentive to perform the investments in the first place. The economic side of the "right of fair profit" featured prominently in the Common Law on both sides of the Atlantic. The principle long established by courts was that, within a liberal system of generalized freedom to contract, a businessman had the right to obtain a return for any activity (say, a contract in restraint of trade) that did not cause offense to the law nor violated anyone else's rights – that is, regardless of what the activity's eventual consequences might be on the working of the market.

In sum, at the turn of the 20th century, American and British economists struggled to reconcile a dynamic view of competition and a classical suspicion toward government interference with free markets with a changing industrial structure, the spread of large business, and the "right to fair profit." How this reconciliation was achieved by our four British economists, and the impact it had on their views about the pros and cons of US antitrust statutes, is the subject of the following pages. Yet, before examining their endeavor in the third (Foxwell), fourth (Marshall), fifth (MacGregor), sixth (Macrosty), and seventh (Marshall again) sections, we need to outline the position of their American colleagues (the first section) and to explain the extent of which British industrial structure and business habits differed from those in the United States (the second section).

US ECONOMISTS AND THE SHERMAN ACT

US economists found themselves in a new era at the turn of the 20th century.[5] Externally, they were facing the rapid growth and transformation of industrial forces; a world where big business had an ever-increasing role, with its enormous investments in fixed capital, large-scale industrial processes, and powerful increasing returns. Internally, they were caught in a period of theoretical transition between the classical approach and the rising Marginalist school. Coping with both novelties forced them to undertake a difficult redefinition of the meaning of competition. As remarked by Mary Morgan (1993), the difficulty of this task may explain the multifaceted, sometimes even contradictory, characterizations of the notion of competition US economists offered in a relatively short-time span, from the mid-1880s to the outbreak of WWI. A few common traits may nonetheless be singled out.

First, they all started from a classical notion of competition. In classical economics competition meant market behavior, that is, the actions and reactions of sellers and buyers in the marketplace.[6] The analytical function of competition within the classical "model" was to bring market price to its normal level, eliminating both excess profits and unsatisfied wants. For Smith and the other classics, competition was a process leading to certain predicted results – a price-determining force that operated within the market, but did not coincide with it. Competition was clearly not conceived of as a market situation or state, like in the post-1930s neoclassical approach.

The solution of the basic allocation problem was independent in classical economics of the market type and thus of specific structural assumptions about competition. In the modern sense of the term, it would perhaps be better to say that the classics did not deal with "competition," but just with the price mechanism (see Peterson, 1957). In order for this mechanism to work, the only requirement was a sufficient degree of competition between buyers and sellers, that is, of their freedom to act and react. As remarked by Paul McNulty, the concept of competition entered economics as a behavior consisting of a series of actions, like undercutting or bidding up prices, entering a market, etc., that later neoclassical economists would consider "monopolistic." The essence of classical competition was to undersell your rival; the power to set and cut prices was the main competitive weapon (McNulty, 1968; see also DiLorenzo & High, 1988; Salvadori & Signorino, forthcoming).

The process view of competition met troubles when applied to an economy like the United States in the last two decades of the 19th century. Centered as it was on the exchange behavior of buyers and sellers, the notion could not account for the internal processes within a firm, that is, for all those activities aimed at finding the cheapest way to produce or the most efficient way to manage a business. The "internal" side of competition, which the classical characterization somehow downplayed (see McNulty, 1968),[7] was crucial in the new industrial world. Alfred Chandler's path-breaking works on the history of US business have demonstrated that the search for cost-reducing methods within the firm was the main force behind the reorganization of US industry at the end of the 19th century (see, e.g., Chandler, 1977).[8]

US economists struggled to fill the gap. Drawing upon the turbulent experience of US railroad industry, Arthur T. Hadley was among the first – and surely the most lucid – to argue that the existence of large sunk costs made conventional economics irrelevant to understanding the working of a given industry (Hadley, 1885). He argued that, contrary to what classical economists believed, the mechanism of entry and exit in such industries could stabilize neither the market price nor the return on investment around their normal level. Due to the enormous sunk costs, "the rate at which it pays [for capital] to come in is much higher than the rate at which it pays to go out" (Hadley, 1886, p. 223). As a consequence, there was no normal limit to the "new" competition in the presence of large sunk costs. So huge was the loss suffered from stopping production and exiting the market production that firms preferred to fight until the end, and could be even ready to sell below average variable cost (Hadley, 1896).

The only possible outcomes for these industries were either that competition led to monopoly, and thus to the end of competition itself, or that firms would find an artificial, rather than natural, limit to competition by forming a combination or a cartel. Richard T. Ely famously remarked that competition in the presence of large fixed costs was self-destructing and *inevitably* led to monopoly (Ely, 1888, p. 121). The so-called "inevitability thesis" became a mantra for end-of-19th-century US economists. It implied, among other things, the demise of a crucial corollary of the classical view, namely, the notion that the only possible sources of monopoly power were State interferences (like franchises, tariffs, or regulations) with the free working of the market.

Yet, the inevitability thesis did not necessarily entail State intervention for preserving competition. Given decreasing costs and increasing returns, higher the market concentration better the productive efficiency. Only big firms could achieve the required size to enjoy scale economies or invest into cost-saving production techniques. Moreover, monopolies, cartels, and combinations were, at least in theory, always subject to the threat of potential competition. The notion that potential competition might constitute an effective check on monopoly power was among the major contributions by the best economist of the era, John Bates Clark (1901, 1904).[9] Accordingly, most trusts were not real monopolies but, at best, only partial ones (quasi-monopolies), because they still had to "fear rivals, actual or potential." Taking into account that bigness fostered the adoption of more efficient, socially beneficial productive technologies, it was therefore inevitable to conclude that "[c]onsolidation without monopoly is favorable to progress" (Clark, 1907, p. 534). The result held only if the trust did not block potential competition by using abnormal or unfair methods, like predatory pricing or boycotts. But apart from those cases, there was no need, in Clark's view, as well as in that of most US economists, for a specific antitrust law.[10]

The "new" competition brought forward by the presence of huge sunk costs had another dire consequence, unaccounted for in the classical view of competition. According to Clark (1886), competition in its old meaning was a "rivalry in service," that is, a race to gain the customers' favor. It was never intended as an unbridled struggle and was always restrained by custom: as the *Palgrave's* entry put it, "custom was the only hindrance to perfect competition." Custom meant, among other things, fair trading – and not just in a moral sense. In a market with several firms and free entry, competition was an impersonal activity, where each firm's lone concern was its relation to customers. Fairness and adherence to custom meant a "right to profit," that is, a businessman's entitlement to a normal return on one's own capital, provided he behaved correctly in the marketplace. The possibility itself of misbehaving was indeed limited by the (usually small) firm's inability to exercise any form of market coercion upon its customers or rivals. In the United States, the notions of fair trading and the "right to profit" were strictly related to the Jeffersonian ideal of an economy populated with small businessmen, none of whom were capable of exercising a significant market power (see Peritz, 1996, Chapter 1).

This old world was being canceled by the "new" competitive order. As Clark, Hadley, Ely, and others recognized, the necessity to either protect or remunerate the huge investments in fixed capital had transformed impersonal competition into personal attack, the rivalry in service to customers into the deliberate effort to destroy a rival, custom-regulated competition into "cutthroat competition," another popular catchword of late 19th-century debates. Cutthroat competition (also called "ruinous" or "excessive" competition) was negative for both the firms and the consumers. The former risked losing their investments, or at least having their profit margins, necessary to service their large fixed costs, severely squeezed. The latter risked forfeiting the benefits of technical progress in case the firms, for fear of the consequences of a price war, abstained from investing in the first place (see Fisher, 1912, p. 331).

The bigger the stakes, the more intense and costly was destructive competition – and the stakes were always huge in the new, heavily capitalized industries.[11] Hence, the seemingly paradoxical conclusion, "the smaller the number of competitors, the more intense is the competition" (Hadley, 1896, p. 117). Yet the paradox was only apparent, given that the vertical notion of competition between buyers and sellers had been replaced by a horizontal – and often personal – struggle between rival firms. In the new order "to compete" meant, much more than before, to perform a series of specific business actions addressed at defeating one's own rivals. As we know, the latter behavior could still be encompassed within the classical notion of competition. Despite the deep transformation in the industrial structure, US economists could therefore remain faithful to their old idea of competition as a behavioral process.

However, cutthroat competition was not the only option in a market with only a handful of firms. Combination offered an appealing alternative, free of wasteful consequences. The term "combination" covered a range of solutions, from contracts in restraint of trade to cartel-like collusion to mergers-to-monopoly. Cutthroat competition could thus lead to monopoly not only when only one firm survived a competitive war, but also as the outcome of any of the different forms combination could take. As Clark put it, "Easy and tolerant competition is the antithesis of monopoly; the cutthroat process is the father of it" (Clark, 1886, p. 120). And again: "First, there comes retaliation and reprisal until a form of guerrilla warfare takes the place of reasonable competition, and finally, the ruinously low prices spread over the whole market and profits are turned into losses everywhere. From this condition some way of escape must be found, and the simplest is by agreement or combination" (Clark & Clark, 1914, p. 55).

Far from just being the product of government interference in the marketplace, as the classics believed, monopoly seemed ubiquitous in the new industrial era. It could emerge as the natural outcome in an industry characterized by enormous fixed costs, or as the end result of a costly competitive struggle, or as the smooth escape from competition itself, in the form of a trust, a cartel, or a merger. Given the huge losses caused by ruinous competition in a context of heavily capitalized businesses, US economists were not hostile, generally speaking, to the latter solution. Irving Fisher argued that combination was a legitimate form of self-defense for a firm's investment: "The rise of trusts, pools, and rate agreements is largely due to the necessity of protection from competition, precisely analogous to the protection given by patents and copyrights" (Fisher, 1912, p. 331).

Little surprise then that the Sherman Act, which somehow compelled firms to compete, could not be welcomed by most US economists. They did not see the rise of monopoly as a real threat to the functioning of the market. Provided potential competition could work its magic, monopoly could even turn out beneficial on productive efficiency grounds.[12] For some of them – whom we may call the "corporatist economists," as in Perelman (2006, Chapter 3) – the latter gains were so relevant that they greeted the monopolization process as a natural, inevitable, and, above all, beneficial process. Others stuck to the classical vision of market freedom as absence of restraints and State interferences and as complete liberty to contract – let's call them the "conventional economists." They accepted whatever outcome the spontaneous play of competitive forces might generate. Common Law should intervene only when a monopolist restrained someone else's freedom to contract, but apart from these cases no grounds existed for new antitrust statutes. In concrete, this meant that a contract in restraint of trade that had been freely entered by independent businesses should always be considered legal, regardless of a firm's size or power.

At least until the end of the 1910s, most US economists supported just one kind of legislation, namely, that compelling the widest publicity of the monopolists' financial and accounting data, be they trusts, cartels, or other combinations. Publicity could spread information about the profitability of a business to customers, rivals, and the general public. This could help the rational calculation by potential entrants, thus fostering the working of potential competition, and could trigger the public opinion's contempt against a monopolist's misbehavior.[13] Behind the proposal for a mild form of regulation, mainly publicity, a curious alliance was formed between corporatist and conventional economists: both groups rejected the prohibitions of the Sherman Act and thought that it was business power, not business size, which should raise concern. But power required at most *regulation*, not prohibition (see, e.g., Seligman, 1909, p. 349).[14]

The right to profit of "small dealers and worthy men" was a crucial theme during the Congressional debates on the Sherman Act.[15] It became the catchword for a third policy view, that we may call the "populist" one. The populists often coincided with those "experts" (usually nonacademics, like journalists, politicians, etc.: see Perelman, 2006, Chapter 3) who, like conventional economists, praised market forces for their desirable outcomes, but who, unlike the other groups, ascribed all marketplace evils to the abandonment of old style, "fair" competition. But if the markets' natural harmony had been disrupted by the rise of monopoly power, it was up to the State to restore it by contrasting such a rise. Hence, the populists were the only group that openly favored the Sherman Act.

Two important decisions by the US Supreme Court, *Standard Oil* and *American Tobacco*, both in 1911, changed the landscape. Following those decisions the populist voices were joined by the majority of American economists who refuted the new principle, the "rule of reason," established by the Supreme Court. According to the new principle, the Sherman Act prohibitions only applied to "unreasonable" restraints of trade; moreover, the "reasonableness" of a given business practice had to be assessed case by case by the court. To the economists' eyes, the rule of reason meant a major power shift from the legislative to the judicial and, above all, a general unpredictability as to the lawfulness of specific conducts. Such uncertainty would negatively affect business decisions, especially because courts would probably make their "reasonableness" assessment on purely legal grounds, rejecting the categories of economic reasoning.[16]

Most economists were actually happy with the recognition that some restraints of trade might well be declared reasonable. This reflected their awareness that the times of classic competition had gone forever and their penchant for, to borrow Fiorito's (2012, p. 7) terminology, "a 'trustified,' or 'administered,' competitive market regime." Yet, US economists opposed leaving the regulatory power to the judiciary. The new regime had to be implemented by an administrative body, guided by economic experts. To establish it, a new piece of antitrust legislation was called for. The Sherman Act had failed in this respect, as the two Clarks (father John Bates and son John Maurice) made clear:

> We do not want competition to be as fierce as it has been in the past, for that kind never lasts long, and while it lasts it does more harm than good. The more moderate rivalry that would be set up in the way just proposed offers at least some probability of permanence, so that we should be likely to have more competition left after 20 years than after 20 years of the present attempts to preserve "free" warfare. (Clark & Clark, 1914, p. 37)

John Bates Clark himself epitomized the new attitude. As with many of his colleagues, even Clark's post-1910 analysis shifted the emphasis from structural aspects, like productive efficiency and sheer business size, to behavioral features, like specific patterns of anticompetitive conduct (see Fiorito, 2012, pp. 26–27). Thus, he actively sponsored a new antitrust statute that should, on the one side, explicitly prohibit those business practices that hindered actual or potential competition, and, on the other, create a new commission with ample regulatory powers (from licensing to investigations to publicity; only direct price setting was excluded). Clark's "new" view was founded upon a distinction between good and bad monopolies, the latter being those achieved or defended through unfair practices, and on a newly acquired pessimism about the power of potential competition. He still stuck to his previous idea that the leading principle for antitrust law should be "keep the field open for competitors" (Clark, 1907, p. 383), but he now believed that such a principle could only be made effective by prohibiting unfair or predatory practices, that is, by warranting through legislative intervention, the existence of actual, not just potential, competition (see, e.g., the preface in Clark & Clark, 1914).[17] As is well-known, Clark's proposal would eventually form the basis for the Clayton and FTC Acts that the US Congress approved in 1914.

It is worth noting that, notwithstanding the modernity of his proposal,[18] even the "new" Clark retained the traditional notion of competition as a behavior, not a state. Antitrust law was required precisely because a monopolist or a cartel might undertake some competitive actions that obstructed the possibility for other firms to undertake their own ones. In short, even the best US marginalist economist of the time, who also happened to be the keenest supporter of an "administered" market regime, was still within the boundaries of the classical process view of competition. We may therefore safely conclude that *none* of the turn-of-the-century US economists conceived the competition as a 20th-century neoclassical economist would do, that is, as a specific market structure whose welfare-maximizing properties antitrust law should protect.

COMPETITION IN THE BRITISH ECONOMY BEFORE 1920

A British quip at the turn of the 20th century claimed that Germany was the land of cartels, America the land of trusts, and Britain the land of "gentlemen's agreements" (see Mercer, 1995, p. 32). The joke captured the spread of loose vertical and horizontal agreements in British industry, aimed at regulating competition among rival firms. Due to those loose agreements, traditional family businesses and independent entrepreneurs could survive in the marketplace without having to surrender to either the excesses of US-style cutthroat competition or the tight guidelines of German-style cartels. The general attitude in British business was "live and let live" – an attitude that might even lead to the pensioning off at the other firms' expense of less efficient entrepreneurs! The agreements were usually managed by a secretary chosen by the participants and entrusted with keeping the records and accounts.[19]

The British economists' views about competition law cannot be understood without taking into account the British business's habit to self-regulation. As I said in the previous section, support in the United States for antitrust law descended from a blending of economic and moral arguments, chief among them was the protection of republican values threatened by the disruption following cutthroat competition and the rise of powerful businesses. The mixture of ethics and economics as a foundation for legislative intervention was explicitly rejected in Britain, where the values and ethos of the business class sufficed to warrant self-restraint and where the adoption of free trade policies guaranteed that external competition would always dilute internal market power.

Even British courts were, to say the least, neutral to the fore-mentioned loose agreements. Despite the Common Law's generally negative attitude toward restrictive practices in business, the actual implementation of legal rules by late 19th-century courts amounted to a sort of benign neglect. The underlying doctrine was that contracts in restraint of trade were not unlawful but, at most, just *nonenforceable* between the parties, meaning that a party could not require that a contract in restraint of trade be enforced by a court whenever a dispute arose. Clearly, the doctrine was ineffective every time no such dispute occurred or whenever, as it was actually customary, the dispute was settled by arbitration. Moreover, following a sort of "rule of reason" developed in the 1890s, British courts stated that contracts in restraint of trade might even be legally enforceable when they were declared "reasonable both between the parties and in relation to the public interest."

The spread of vertical and horizontal agreements preserved the British economy from a US-style wave of mergers and consolidations. US federal courts interpreted the Sherman Act first and foremost as an anti-cartel, rather than antitrust, statute and declared cartels and other kinds of restrictive agreements illegal. As a reaction, American firms replaced simple agreements with tighter forms of consolidation, including full-fledged mergers. Thus, the earliest effect of the Sherman Act on the American economy was a faster growth of business giants and a higher concentration of monopoly power. British commentators – be they professional economists or specialized journalists – criticized such a paradoxical outcome. This reinforced their refusal of explicit legislation and their praise of self-regulation and upper-class "fair play."

The joint action of British openness to free trade (protective tariffs were historically nil, or almost nil), business self-regulation, favorable judicial interpretations, and faith in the power of competition contributed to the general consensus, shared by scholars, businessmen, policy-makers, and the public opinion, that neither the government's nor the courts' intervention were required to bolster competition and fight market power. Apart from those special industries that, as already noted by J. S. Mill (see Medema, 2011, Chapter 2), were unsuited for competition and had therefore to be regulated (i.e., natural monopolies), free trade and "fair play" competition were deemed effective levelers of economic power.

The picture of a highly competitive economy is confirmed by historians of British business. Quoting from an extensive literature, Crafts (2011) notes that at the beginning of the 20th century the share of the largest 100 British firms in manufacturing was only 15% of output, profit rates were less than 9%, price–cost margins were low, and no restrictions hindered the international mobility of capital and goods. The overall performance of the British economy was quite good. Far from being a failure, as past economic historians had it, late Victorian economy thrived so much that by 1911 Britain was still ahead of its rivals in terms of total factor productivity.[20] Competition law would hardly be felt as an urgent need.

Business historians have identified three phases in the turn-of-the-century public opinion about the trust and combination problem in Britain (see Freyer, 1992, Chapters 2–3). The first period, from the late 1880s to the first merger wave in early 20th century, was characterized by the above-mentioned faith in free trade and competition. Laissez-faire policies, rather than State intervention, were the proper remedy against business concentration. The Report of the 1886 Royal Commission on the Depression of Trade and Industry emphasized that small firms led by innovative entrepreneurs were still essential to British economic prosperity. These firms' independence was best warranted by their loose business agreements.

The second period, from the early 20th century to the beginning of WWI, witnessed an increasing favor for those loose agreements. Spreading ever more in the economy, they represented a reaction against the first merger wave as well as against the failed "invasion" of the British economy by US industrial giants in the crucial shipping and tobacco industries. In 1909 a Royal Commission on Shipping Rings was formed to investigate the consequences of the system of "rings" or "conferences" (i.e., cartels) in the shipping industry. The Commission was the first opportunity for an exhaustive inquiry into the effects of combinations within a potentially competitive industry.[21] The issue then arose of where to draw the line between the costs of the weakening of competitive forces and the benefits of higher stability and the prevention of ruinous competition.

The Commission produced two reports (for details, see Freyer, 1992, Chapter 3). Both concurred that the remedy against potential abuses of the conference system was full publicity of the agreements, to be achieved through their official registration with the Board of Trade. The majority explicitly rejected the proposal of a regulatory body like that already existing for the railway industry. The minority partly dissented and emphasized that the conferences' real goal was the exclusion of competitors and preservation of high rates, rather than market stabilization. However, even the minority report did *not* require more government intervention; on the contrary, by making direct reference to the poor record of US antitrust law, it expressed doubts as to whether a legislation against the conference system would be worth the cost of inevitable litigations and of the government's, and the court's, interference with such a complex industry.

A lone voice in the Commission spoke in favor of a US-style antitrust law. Economist David Barbour, noting the inconsistency between the minority's diagnosis and remedy, invoked explicit government or legislative intervention. He added that: "a more drastic, and probably more effective and simpler, remedy would be legislation on the lines of the Sherman Act." However, Barbour erred in a crucial passage of his analysis. He argued that uneven market power precluded the establishment of mutually advantageous agreements for all firms, big and small. The shipping rings' experience proved exactly the opposite, namely, that achieving a balance of interests through the negotiation of mutually beneficial anticompetitive agreements was quite possible – and the real reason behind British businesses' rejection of more invasive government policies.

Finally, in the post-WWI period a rationalization rhetoric emerged, calling for a reorganization of British industry to be achieved via consolidation, agreements, trade associations, and, above all, a reduction of "wasteful" competition. The same collectivism and regimentation that had allegedly benefited both the German and the American wartime efforts had been advocated for the British economy in lieu of its traditional, family-based capitalism. Big business had been the main sponsor of the new system during the war. Accordingly, at the end of the war over 500 local or national trade or industry associations, exercising control over output and/or prices, were active throughout the British economy. Ever more frequently, one or two large firms enjoyed a near monopoly within a market, while smaller businesses could get along only through the establishment of horizontal and vertical price agreements.[22]

The rationalization rhetoric led to the appointment in 1918 of the Committee on Trusts, whose 1919 Report explicitly stated that combinations held "great possibilities of economical and efficient production and of improved distribution at lower cost." The Report,[23] including its most "scientific" part (authored by economist John Hilton), welcomed the rapid spread of associations and combines in the economy. It bluntly declared that the age of classical competition was over and claimed that combination was inevitable, so much so that the choice facing Britain was not anymore between free and restrained competition, but between loose associations and tighter consolidations.

The Committee did not neglect the potential abuses of private market power. Hilton openly dismissed the classical argument that "certain natural safeguards" (like potential competition) could effectively protect consumers from the exaction of extremely high prices. However, the "light of publicity" was still considered "the sovereign antiseptic and the best of all policemen." American antitrust law was on the contrary ridiculed, especially in view of its paradoxical impact on the survival of small businesses. Beyond publicity, the main policy recommendation endorsed by the Committee's conclusions was the creation of a Trust and Combination Department within the Board of Trade – a sort of administrative tribunal (*not*, note well, a regular court), with the power of investigating and vetting agreements.[24] The suggestion was somehow endorsed by the British government with the institution of the Standing Committee on Trusts, a watered down and short-lived (it ended in 1921) version of the permanent tribunal suggested by the Report.

This sketchy sequence of facts brings us back to the historiographical issue raised in the introduction. What was the British professional economists' attitude with respect to antitrust? Were they themselves critical of the Sherman Act or did they support it? What was their opinion about the peculiar kind of consolidation in the British economy, that is, the loose combinations among independent businessmen? What about the post-war rationalization rhetoric? It is to these questions and to the answers provided by our small sample of economists that we now turn.

AN EARLY FORAY INTO COMPETITION ISSUES: FOXWELL AT THE BRITISH ASSOCIATION

Our survey begins with an 1888 paper by Herbert S. Foxwell. There are two reasons for selecting it. First, because Foxwell, a prominent member of the English Historical School, can be taken to represent the School's position on the monopoly problem.[25] Second, because that paper, read at the British Association, is one of the earliest forays into antitrust themes by a British professional economist. Foxwell himself, returning to comment on the topic in 1917, proudly claimed: "I was perhaps the first English-speaking economist to put in a word in defense of business combinations" (Foxwell, 1917, p. 325).

Foxwell's initial statement in 1888 was premised upon the classical view of competition, but led him to a nonclassical conclusion:

> It is in fact a mistake to suppose that a state of competition can be a final permanent state of stable equilibrium. […] The main function of competition is that of selection. It is an industrial war, more or less honorably carried on, leading to the more or less disguised supremacy, the commercial monopoly, of the victorious firm. […] From this point of view it is competition which is transitional; and monopoly presents itself, not as something accidental […] but as something more permanent, more fundamental, than competition itself. (Foxwell, 1919 [1888], p. 264)

Competition is a process, as the classics said, but a process often leading to monopoly. Indeed, "the more perfect the competition, the more certain and strong is the resulting monopoly" (Foxwell, 1919 [1888], p. 264). And "where competition has been unrestrained, there is a strong tendency for it to end in agreement of more or less comprehensive kind" (Foxwell, 1919 [1888], p. 267).[26]

Among the different kinds of monopoly listed by Foxwell, two are relevant here. He called them monopolies by efficiency and monopolies by combination (Foxwell, 1919 [1888], p. 267). The latter received little credit in the chapter because Foxwell considered interfirm agreements as difficult to establish and maintain. Hence, "combination, as distinguished from amalgamation of interests [viz., fully-fledged merger], is not a fruitful source of enduring monopolies" (Foxwell, 1919 [1888], p. 267). The case of *monopoly by efficiency* – generated by scale economies, the division of labor, and the progress in transports and communications – was deemed much more relevant. Given the later diffusion of loose combinations in the British economy, we know that Foxwell was wrong, but at the time of his paper the inevitable process of monopolization might still take one path or the other, that is, either toward cartels and other agreements or toward mergers and large-scale aggregations.[27]

What should the State do against such an inevitable process? Foxwell's policy advice once again proceeded from a classical premise to a nonclassical conclusion: "It is very commonly assumed that competition exists wherever the State does not interfere. This is a very loose and misleading abuse of words. The mere absence of State interference has never given us competition in any real sense of the word. On the contrary, nothing has been more favorable to the growth of practical monopolies than the regime of laissez-faire" (Foxwell, 1919 [1888], p. 269). A major revision was called forth at all levels, theoretical, legislative, and political, because monopoly "seems to be nearly as significant a feature of our time as competition was at the time of Adam Smith." As a consequence, "the political economy and industrial legislation which suited the earlier period may require some adjustment or development in view of the new force" (Foxwell, 1919 [1888], p. 269). That the cradle of modern monopolies was competition itself rather than State privilege could not leave British public opinion unaffected: "The temper of the public toward monopoly is sensibly changing. […] Competition […] now comes in for popular odium; even monopoly, with its order and permanence, seems a welcome relief from the iron rule and terrible uncertainties of so-called free competition" (Foxwell, 1919 [1888], p. 270).[28] Laissez-faire policy was not a viable option anymore: theoretically, it was false that laissez-faire warranted the absence of monopoly; politically, the public opinion's support for unrestrained competition had vanished.

Monopoly also brought considerable advantages, "which suffice to explain its success, and to induce us to view that success with a certain degree of sympathy" (Foxwell, 1919 [1888], p. 270). Among the advantages feature the usual suspects plus a few new entries: from scale-induced cost reductions to increased business stability, from the avoidance of wasteful competition to the most efficient use of business knowledge and skills, from the saving of useless advertisement expenditures to the higher quality guaranteed by product standardization and to the higher respect for employees' rights warranted by the public visibility of big businesses (Foxwell, 1919 [1888], pp. 270–271). Foxwell even claimed that, thanks to increasing returns, monopoly might lead to *lower* consumer prices, an argument that will also feature a couple of years later in Book V, Chapter XIV, Section 5 of Alfred Marshall's *Principles*.

Foxwell did not deny the monopolies' "powers of mischief," in terms of high prices, excessive political influence, and endemic corruption. To avoid these dangers – which might lead to the spread of anticapitalistic views in the public opinion – traditional regulatory practices were the most advisable policy. Regulating the new "monopolies by efficiency" rested on two pillars: publicity and industry-specific control. First, "there should be every possible form of publicity in regard to all transactions affecting public interest [...] With due publicity, self-help would be far easier, and public opinion would come in to aid the right, and would largely dispense with the necessity for direct legal control" (Foxwell, 1919 [1888], pp. 274–275). Second, "where control is found to be called for, it should be as far as possible delegated to local or trade bodies familiar with the practical details of the case, and subject only to a mild revision from the central authority" (Foxwell, 1919 [1888], p. 275).[29]

The latter, corporative pillar, made any legislative intervention redundant, if not counterproductive: "Precise and rigid legislation should be avoided as far as possible. Most practical questions are questions of degree. *These cannot well be dealt with by law*. They are best referred to commissions or other bodies with a large lay element, and partaking of the character of a jury" (Foxwell, 1919 [1888], p. 275, emphasis added). But it was the former pillar, publicity, that should carry most of the burden. Foxwell joined the list of British commentators who thought that the spread of information about monopoly practices would reduce the necessity of actual interventions: "If [this tendency to monopoly] renders control more necessary, it also renders it more easy; and it is possible that such control as is required may be very largely secured by the simple expedient of publicity" (Foxwell, 1919 [1888], p. 276).

Four propositions summarize Foxwell's 1888 views that, as already said, we may take as representative of the English Historical School. First, monopoly is the inevitable outcome of competition in every industry where a large capital is required; second, monopoly is beneficial in several respects, including the elimination of that wasteful competition that public opinion despises; third, monopoly cannot self-regulate, lest its negative side prevails; fourth, regulation must be done administratively, that is, away from courts, and at a local or industry-specific level, but, first and foremost, it must be based on the widest publicity of monopolistic practices so that public opinion may effectively curb possible abuses.

IN DEFENSE OF BRITISH ENTREPRENEURIAL SPIRIT: MARSHALL'S 1890 ADDRESS

Our second specimen is Alfred Marshall's 1890 address to the Section F of the British Association, "Some aspects of competition." The paper commends itself for several reasons. It contains a very early reference to the newly approved Sherman Act. It also offers a useful benchmark for Marshall's deeper analysis of the monopoly issue in *Industry and Trade* that we will consider below (in the penultimate section of the chapter).

Less than a decade before, in the Preface to the second edition of *The Economics of Industry*, Marshall had defined free competition as a specific kind of behavior: "A man competes freely when he is pursuing a course which, *without entering into any combination with others*, he has deliberately selected as that which is likely to be of the greatest material advantage to himself" (Marshall & Marshall, 1881, p. vi, emphasis added). Moreover, the "active force" of deliberate competitive behavior was said to be always capable of prevailing over the "passive resistance" of custom (Marshall & Marshall, 1881, p. vii). Important implications stemmed from these early propositions. On the one side, the tendency to combine should not be considered a competitive method, but rather an instance of those "frictions" that, according to Marshall, impeded the working of rational calculation. On the other, competition would inevitably overcome all those "frictions" that might hinder it, including the British industry's tradition of "gentlemen's agreements" and the likes.[30]

The goal of the 1890 address was to explain the change in post-1840s economists' "mental attitudes" with respect to competition. The change reflected the "conditions of time and place different from those in which" their previous "narrow and inelastic" doctrines were developed (Marshall, 1890, p. 614). To highlight the modern views about competition, Marshall chose the controversy between protectionism and free trade and the analysis of trusts and combinations, both presented in terms of the different policies followed in Britain and the United States. Plant-size-based cost reductions connected the two themes on account of their different impact in the two economies. The pursuit of scale economies justified American protectionism, but also led to concerns about excessive business concentration. Free trade reduced the exploitation of scale economies in Britain, but also made concentration a lesser issue (Marshall, 1890, p. 621). Yet, the attitude toward free trade might only go so far in explaining the two countries' different concentration patterns and concerns about it. Marshall was aware that the main reason for these differences had been found elsewhere.

First came the diversity in "national character and [objective] conditions." The former affected the role of the individual in the economy:

> The individual counts for much more in American than in English economic movements. […] In England, therefore, the dominant force is that of the average opinion of the business men, and the dominant form of association is that of the joint-stock company. But in America the dominant force is the restless energy and the versatile enterprise of a comparatively few very rich and able men who rejoice in that power of doing great things by great means that their wealth gives them. (Marshall, 1890, pp. 621–622)

These "rich and able" American businessmen disliked the methods of a joint-stock company and preferred the "more mobile, more elastic, more adventurous, and often more aggressive" methods of combination, or *trust*. As to the objective conditions, Marshall remarked how monopolization was favored in the United States by the enormous distances, which made it possible the development of local monopolies, and by the power of railways over local industries, also due to sheer geography (Marshall, 1890, p. 622).

Like Foxwell in 1888, Marshall in 1890 also contains a version of the ruinous-competition-leads-to-monopoly story. Especially in the United States, it was customary to remark that "in manufactures free competition favors the growth of large firms with large capitals and expensive plants" and that "when there is not enough work for all, these manufacturers will turn their bidding recklessly against one another, and will lower prices so far that the weaker of them will be killed out" (Marshall, 1890, p. 623). Bursts of cutthroat competition inevitably led the few surviving firms to be "irresistibly drawn to some of those many kind of combinations." As even the American Congress had recognized, "combination grows out of, and is the natural development of, competition," a competition that "burns so furiously as to smother itself in its own smoke" (Marshall, 1890, p. 623).

However, Marshall did not entirely subscribe to this argument ("America's cry," as he called it). First of all, he thought that popular fears against monopoly had been exaggerated (Marshall, 1890, p. 624). In some of the most conspicuous examples of nefarious business concentration – such as the oft-quoted case of Rockfeller's Standard Oil – a crucial role had been played by objectively monopolistic features (say, ownership of oil fields) and by the control of essential facilities (say, railways and pipelines). Moreover, he noted how trusts often broke down, following a suicidal tendency to set prices so high that it became profitable for their members to deviate as well as for outside businesses to enter the market, not to mention the public opinion's outrage that might even lead to new antitrust legislation (Marshall, 1890, p. 624).

In the opening chapter of Marshall's *Principles* we read that deliberate calculation by entrepreneurs – "the fundamental characteristic of modern industrial life" – may bring to either competition or combination, whatever happens to be more convenient (Marshall, [1890] 1961, Book I, Chapter 1, Section 4). The reversal with respect to the 1881 definition of free competition – where the tendency to combine was considered a "friction," and thus explicitly excluded from the set of rational behaviors – was remarkable. Combination had become in the *Principles* one of the possible outcomes of businessmen's profit-maximizing choices. Not surprisingly, the 1890 address also embraced the new view. Competition and combination were said to both descend from rational calculation, and not, as other economists claimed, from country-specific psychological attitudes (like, say, the German "spirit"). Economic rationality explained both the rise and the demise of combinations, but also their "moderation" as far as prices and other manifestations of business power were concerned. The rationality of a "moderate" price policy was validated by the empirical observation that only "moderate" combinations managed to survive and eventually to shape the structure of their own industries (Marshall, 1890, pp. 624–625).

It is important to recognize that a gulf still separated this analysis of "moderate" combinations from the claims in favor of "bold schemes for industrial reorganizations" by those whom Marshall called the "eulogists of Trusts." He was skeptical that trusts might retain both "that individual vigor, elasticity, and originating force" typical of the separate firms and "that strength and economy which belong to a unified and centralized administration" (Marshall, 1890, p. 625). Modern trusts, with their required pooling of revenues, aimed at eliminating most of the weaknesses undermining older, and simpler, forms of combinations – first of all, the incentive to deviate. However, by destroying the individual firm's incentive to pursue efficiency and good management, trusts led to severe inefficiencies that might even soak up the benefits of scale (Marshall, 1890, p. 626). The long-run tendency pointed therefore toward full-fledged mergers, where individual firms would lose their identity and become branches of the big conglomerate.

The drift toward complete consolidation was also favored, in Marshall's view, by the law and the courts. The latter in particular seemed to adhere to an old, and mistaken, view of competition, namely, the idea of the antithetical nature of competition and combination.[31] Marshall noted that in the Common Law "a use of the rights of property, which would be 'combination in restraint of competition' if the ownership of the property were in many hands, is only a free use of the forms of competition when the property is all in a single hand" (Marshall, 1890, p. 627). This groundless "restraint of competition" doctrine led to the prohibition of pooling and other looser aggregations, while it sanctioned complete consolidation obtained via mergers and acquisitions.

Marshall's argument may be summarized as follows. A tendency existed in the economy toward concentration due to scale economies and the like, but this tendency would at most lead to loose forms of combinations, pursuing "moderate" pricing behavior, were it not for two forces pushing toward complete consolidation. These were, first, the anti-efficiency incentives originating from the pooling of revenues, and, second, the flawed Common Law doctrine of restraints of trade. As a consequence of the joint action of the two forces, the tendency toward largely innocuous combinations had turned into a drift toward dangerous industrial giants.

Armed with that argument, Marshall could tackle two crucial issues in his address. First, the question of either prohibiting or allowing a business practice depending on whether it had been undertaken by a combination or by a single, possibly powerful, firm. What made the issue particular urgent was the novelty of the US Sherman Act, whose Section 2 (against monopolizing practices) extended to individual behavior a prohibition that Common Law had until then applied only against combinations (Marshall, 1890, p. 628). Marshall did not believe that the Sherman Act would suffice to stop the trend of turning combinations into conglomerates; he thought the Act was, under this respect, just a display of legislative populism, with little effect on business behavior (Marshall, 1890, p. 628). His real concern was that the Act, much like the Common Law's traditional doctrine on combinations, lacked rigorous economic foundations.

This concern explains why he dedicated a whole section of his 1890 address to discuss the literature about the positive and negative effects of combinations. For instance, according to the "trust eulogists" large combinations reduced socially wasteful marketing expenses and stabilized output and prices (see Foxwell's discussion of gains from monopoly in the previous section). Marshall contested both points: on the one side, to gain and preserve its monopoly position the combination had to spend in wasteful bargaining activities an amount of resources comparable to competitive firms' marketing expenses; on the other, the record showed that the allegedly higher stability of monopolized industries had been paid in terms of more instability in other, related sectors (Marshall, 1890, p. 632). Marshall also downplayed the most typical pro-trust argument, namely, the efficiency gains achieved via the full exploitation of scale economies. Field experience of productive processes enabled him to argue that: "a comparatively small capital will command all the economies that can be gained by production on a large scale; and it seems probable that in many industries […] a similar position of maximum economy will shortly be attained without any much further increase in size" (Marshall, 1890, p. 632). Neither gigantic size nor combination were necessary conditions for achieving significant "reductions in the expenses of production" (almost the same words will feature thirty years later in Marshall's *Industry and Trade*; see below). On the contrary, large businesses and combinations seemed to incur into what he called "the main reason for regarding with some uneasiness any tendency there may be toward such consolidations of business" (Marshall, 1890, p. 633).

He claimed that the oft-mentioned superior power of big business to perform expensive R&D "count for little in the long run in comparison with the superior inventive force of a multitude of small undertakers" (Marshall, 1890, p. 633). The passage reveals the true reason behind Marshall's preference for a system of independent and competitive firms, namely, his belief that the latter could be more effective than the former in producing new knowledge. While giant firms and combinations usually exploited existing knowledge, small autonomous businessmen had the highest incentives to exert their utmost efforts to innovate: "Large private firms [are] inferior to private businesses of a moderate size in that energy and resource, that restlessness and inventive power, which lead to the striking out of new paths" (Marshall, 1890, p. 633). Competition, much better than combination, could enhance "the constant experiment by the ablest men for their several tasks, each trying to discover a new way in which to attain some important end" (Marshall, 1890, p. 636). In modern jargon, they are called *dynamic* efficiency gains – to be distinguished from mere size-related scale economies.[32] According to Marshall, these were the gains that competition policy should defend and promote by limiting the power of trusts. Unfortunately, "the benefits which the world reaps from this originality are apt to be underrated," if only because "older economists, though fully conscious of them," had failed to underline their being among the most precious outcomes of a competitive economy (Marshall, 1890, p. 633). The classical process view of competition had become, in Marshall's hands, an instrument for the generation of dynamic efficiency gains – a "discovery view" of competition, so to speak.

The "discovery view" found its main implications in policy terms. Those economists "in whom the Anglo Saxon spirit is stronger" would not fail to "exert themselves to the utmost to keep Government management within narrow limits," in order to preserve "the vital service which free competition renders to progress," that is, the individual freedom of discovery (Marshall, 1890, p. 642).[33] More specifically, the key issue concerned the limits of State interference on property rights (Marshall, 1890, p. 629). Of the two alternatives on the table, State ownership/management and private ownership/management subject to State control, Marshall's preference was clearly for the latter because only private ownership could warrant the proper incentives to innovate. State control was however technically hard to implement: "More forethought and hard work are needed to arrange an effective public control over an undertaking than to put it boldly into the hands of a public department" (Marshall, 1890, p. 630). Not surprisingly, he thought that the most important kind of control was exercised by neither the government nor the law. It was public opinion, if properly educated to the economic way of reasoning, which could exercise the greatest and quickest pressure against the abuses of monopolists (Marshall, 1890, pp. 638 and 642). Such an authoritative endorsement of "the new force of public opinion" would provide the rationale for the publicity mantra of so many antitrust proposals by turn-of-the-century British economists, including those by Marshall himself in *Industry and Trade* (see below).

COMBINATION AS A BUSINESS METHOD: MACGREGOR'S VERY MARSHALLIAN ANALYSIS

Foxwell's and Marshall's addresses predated the first merger wave in the British economy. Marshall's disciple, David H. MacGregor, published his

Fellowship thesis for Trinity College, titled *Industrial Combination*, in 1906, at the peak of the merger mania.[34] The work aimed at exploiting the Marshallian definition of competition to demonstrate, first, that combinations should be considered a natural outcome of market forces, and, second, that their rise would not affect the general welfare, provided these same market forces were allowed to work freely.

As we read in the Introduction to the 1938 reprint, the book originated from Marshall's lectures about the relation between competition and monopoly – in particular from the idea that "normal competition was not perfect competition; that in all competition there was an element of monopoly" (MacGregor, 1938 [1906], Introduction).[35] The monopolistic element of business behavior consisted in the practices of contracting and bargaining. It followed that "competition is the more perfect the less it has recourse to these [trade] practices." In normal – to be distinguished from perfect – competition firms make ample recourse to them. MacGregor also remarked that the "more modern [i.e., 1938] definition of perfect competition has an entirely different basis; it means that no single producer can affect the price, and this implies atomization of the supply" ([1906] 1938, Introduction). The difference between the new, neoclassical definition of perfect competition and the Marshallian, classics-inspired definition was adamant to late-1930s MacGregor, who harshly criticized the new approach for being "retrograde," "superseded," and capable of "obscuring" the relevant patterns of real world competition.

MacGregor began the 1906 book with a definition of industrial combination as "a method of economic organization by which a common control, of greater or less completeness, is exercised over a number of firms which either have operated hitherto, or could operate, independently" (MacGregor, 1938 [1906] p. 1). Characterizing combination as a result, rather than as a process, allowed him to encompass the whole range of monopolistic phenomena, like mergers, trusts, cartels, or other looser agreements. It also brought the issue back within the boundaries of pure economic analysis, away from metaphysical accounts about different national temperaments, such as the allegedly extreme American individualism.[36] Finally, if combination was just a new industrial method, a presumption existed that its general welfare effects – at least with respect to productive efficiency – were similar to those of any other business innovation, that is, surely *positive* (MacGregor, 1938 [1906], p. 193).

> The unit of industrial combination was the Marshallian representative firm, that is, the self-contained establishment which alone, under modern conditions, has economic efficiency for the supply of goods [...] the structure which is typical of that period of

> economic development, which has access to all of the normal economies of that period, and is of the size which is suited to their most efficient use. (MacGregor, 1938 [1906], p. 3)

The definition was again crucial because it allowed MacGregor to dispose of the commonest explanation for the rise of combinations. Given that, by definition, the representative firm already produces at the maximum efficiency level, the driver of combinations could *not* be production on a larger scale: "All arguments for combination which depend only on an increase of the scale of production are irrelevant" (MacGregor, 1938 [1906], p. 4). The true economic rationale for combinations should therefore reside in business organization – more precisely, in the possibility of achieving further economies, different from purely dimensional ones, via the "adjustment of the relations" between already output-efficient firms. Examples were the gains from establishing a common control or from redirecting reciprocal transactions toward a common interest.[37] The most important question to be asked thus became "whether combination may not be the 'representative method' of organization in the 20th century" (MacGregor, 1938 [1906], p. 4).

Building on Marshallian premises, MacGregor could also get rid of another popular explanation, namely, the idea that combinations be the "industrial medicine, to heal the fever of the independent system" and avoid the turmoil of "*excessive* competition" (MacGregor, 1938 [1906], p. 38, original emphasis). He thought the thesis was a *non sequitur* because its supporters never demonstrated the higher efficiency of combinations in an environment that *presupposed* the existence of either too much capital invested or too small a market. It might as well be possible that, under negative market conditions, Marshallian firms "prefer to combine rather than fight a long and losing battle for supremacy" (MacGregor, 1938 [1906], p. 39). But this solution made the problem of excess capital tougher, because the combination had now to compensate the members whose plants should reduce or shut down operation for the sake of the common profitability (MacGregor, 1938 [1906], p. 40).[38]

MacGregor denied that combination and competition were really opposed. His mantra that "combination is not monopoly" (MacGregor, 1938 [1906], p. 5) was used to stress that, while monopoly was a limiting case with no room left for competitive methods, a combination *had to* use competitive methods to exist and succeed: "No one who is acquainted with the policy of the Standard Oil Trust or the Westphalia Coal Cartel would be tempted to regard combination as the foe of competitive methods" (MacGregor, 1938 [1906], p. 6). Even when a combination reached a monopolistic situation, it still had to employ aggressive competitive methods in order to keep off potential competition: "The absence of competitors is the best proof of the force of competition" (MacGregor, 1938 [1906], p. 6). The biggest mistake was thus to believe that the "special methods" used by combinations were the negation of competition. Restating the classical view of competition, he argued that: "A monopoly cannot rest on anything, but competing power, since *competition is not one of many economic forces, but a name for economic force*" (MacGregor, 1938 [1906], p. 6, emphasis added). A few years later he would make the point even more strongly, arguing that "the very meaning of industrial competition [is] the attempt to obtain a monopoly" (MacGregor, 1911, p. 196).

From here it was just a small step for him to defend combination as a natural phenomenon, much like competition. If Adam Smith's natural state of laissez-faire amounted to the triumph of individual freedom, then the freedom to join a combination renouncing one's own business individuality should also be counted (MacGregor, 1938 [1906], p. 9). Contrary to what many believed, competition did *not* coincide with independence: competitive methods belonged to every economic system and every kind of business organization. What the modern trend toward combination showed was just the intensification of the competitive struggle (MacGregor, 1938 [1906], p. 12). Accordingly, the combination method could only survive if it proved to be the fittest method, though the standard of fit was not that of efficiency alone,[39] but rather the more comprehensive one of competitive strength (MacGregor, 1938 [1906], p. 13).

The competitive strength of a business, whatever its form or organization, depended on four general factors. The first was, obviously, productive efficiency, but the other three were equally important: a business's bargaining strength in vertical relations,[40] its ability to avoid or mitigate trade risks, and its use of "resources." By the latter term MacGregor meant "those forms of industrial strategy and tactics which a firm employs solely by its own exertions, and not through bargain" (MacGregor, 1938 [1906], pp. 13–15). He dedicated the rest of the book to analyzing how combination methods could affect these four factors of competitive strength.

Two features of his analysis deserve mention here. First of all, he argued that no general claim could be made about the overall outcome of combinations. The ambiguous welfare effects of three of the four factors (productive efficiency being the only surely positive one),[41] plus the circumstance that combination methods could affect each of them, made the general welfare effect of combinations always uncertain. Especially whenever their other alleged benefit, market stability, had also to be discounted because of its adverse impact on prices (MacGregor, 1938 [1906], p. 204).

Second, the Appendix on fair price is also noteworthy. There MacGregor discussed the popular argument that combination could help avoid the direst consequences of excessive competition: economic chaos on the one side and a strain to market morality, by depriving the entrepreneur of his "right to profit," on the other (MacGregor, 1938 [1906], pp. 108–112). He noted that, by refusing to condemn practices usually deemed "unfair" (such as exclusive dealing), English courts had sanctioned the "right to profit," that is, the right to use all lawful means to push one's own trade. However, the proper yardstick for judging the fairness of a business practice should be its welfare effects, both static and dynamic, rather than its morality. Labeling as "unfair" any output restriction agreement (which diminished static welfare) or any concerted protection of over-investment (which diverted resources from their most efficient uses) obeyed that yardstick. In other words, MacGregor thought that trade was fair whenever competition served the consumer and that any means used by a firm or combination to prevent rivals from accessing consumers should be condemned as unfair. English courts had therefore been mistaken in their "right to profit" doctrine. In modern jargon, they had considered trade as a zero-sum game, where each trader has the "right" to strive for the largest share of the given surplus, rather than as a positive-sum game, where competition increases total surplus.

MacGregor's book was not just about general principles. As the Marshallians' indirect response to the English historicists' complaints about the lack of any "systematic account of the structure of any of the great English industries of today" (Ashley, 1899, p. 172), the entire Part II was dedicated to explaining the specific causes and actual functioning of trusts and cartels in Britain, Germany, and the United States. In particular, by cleverly mixing legal, political, and economic arguments, the book offered a convincing explanation of why cartels had been more successful in Germany than in Britain and the United States. However, it is Part III, dedicated to a comprehensive evaluation of the welfare effects of combination and to the discussion of policy proposals, which deserves our attention.

What role for the State with respect to combinations? MacGregor claimed that a preliminary issue should be tackled, namely, whether monopolies and combinations really were the normal and inevitable outcome of modern business. If the answer was positive, if an inevitable tendency toward concentration did exist, then "the State places itself in an altogether untenable position by the enactment of laws against combination as such – laws, for instance, so general in their terms as the Sherman Act" (MacGregor, 1938 [1906], pp. 231–232). It was not up to public authorities to prejudge the purely theoretical issue of the desirability and/or inevitability of one form or another of business organization. As MacGregor noted, whenever the State tries "to set up a standard of economic orthodoxy," disaster is looming. "The utter failure of American laws to stop the development" of combinations corroborated this point. Here MacGregor quoted the "epitaph of such unsystematic procedure," written by the 1902 American Industrial Commission (MacGregor, 1938 [1906], p. 232). Reflecting on the implicit incentive to tighter forms of concentration provided by the Sherman Act, the Commission had declared that "the strongest forms of combination appear to have been fostered by laws intended to prevent them!"

The record of US antitrust law had been miserable: "To attach a stigma to what may be a normal evolute is to render the worst service to industry; to attach it to the outcome of artificial conditions is less logical than to operate on these conditions" (MacGregor, 1938 [1906], p. 233). MacGregor's anathema also included Clark-style proposals for new legislation directed at attacking specific business practices (see the first section above). The evolution of business methods was simply too fast for law and courts to keep pace. Practices such as price discrimination and exclusive dealing, which authors like J. B. Clark considered "unfair" (i.e., against economic efficiency), should more properly be taken as symptoms, rather than sources, of monopoly power. The right policy was to address the sources (by, say, reducing or eliminating trade tariffs), not the symptoms.[42]

The State's duty should therefore be just to ensure "that the [combination] movement will owe its success or failure to the action of the openest competition with other methods." If trust and cartels eventually succeeded in such an open contest, that would "not mean that the era of competition is over; but rather that a new form of organization has greater competitive power than an old one" (MacGregor, 1938 [1906], p. 235). This conclusion extended, in a very Marshallian way, the notion of competitive tools from the usual "price-and-capacity" pair to entire methods of business organization. The State should only care that competition between alternative methods took place in a level playing field. More concretely, the policy-maker should intervene on those sources of monopolistic powers under its direct control, first and foremost trade tariffs. Following another of J. B. Clark's ideas, the latter could be calibrated "to enable new competitors to bear the especially high charges incurred in making a start." Hence tariffs would become "simply protective of the better [business] method," be it combination or independent production (MacGregor, 1938 [1906], p. 236).

MacGregor's approach of viewing combination as a market phenomenon was reiterated in the book's conclusion: "The combinations will stay according as they can compete, as the general sense of the community approves their methods of competition, and foresees in the future no power upon prices that is mainly resourceful and strategic" (MacGregor, 1938 [1906], p. 240). Thus, the best policy advice was "to avoid passion, and prejudgment, and the terrorism of mere size; to perceive that the extortion of a few strong producers can be remedied otherwise than by drastic interference with economic tendencies" (MacGregor, 1938 [1906], p. 241). The question then arises whether such a conclusion characterizes MacGregor as a mere speaker on behalf of his mentor Marshall or as an autonomous thinker. The gist of MacGregor's argument – that combinations were just a peculiar method of organizing business in a changing industrial world and that their success or failure depended on market forces, with no need of government or, worse, judicial intervention – might as well feature in Marshall's 1890 address. Yet, as I show later, it would fit only partially within Marshall's *Industry and Trade*, a book that reflected another decade of deep transformations for the British economy.

A few years later MacGregor published another book, *The Evolution of Industry*, which appeared in the popular Home University Library of Modern Knowledge series. The volume offered a broader picture of industrial growth and development, though again with a specific emphasis on the British economy (MacGregor, 1911). In the seventh chapter, titled "Competition and Association," the author gave a more lopsided reading of the combination movement. Differently from the may-the-fittest-method-survive attitude of 1906, now combination was almost a priori declared the best method of industrial organization. For example, we read that: "It is only by some degree of combination that we can obtain for the benefit of industry certain elements which used to be ascribed to free competition" (MacGregor, 1911, p. 205). Or that: "Combination, therefore, makes actual in competition certain elements which without it belong only to competition in the ideal, so that even the benefits of competition are only obtained by alliance with this other force" (MacGregor, 1911, p. 206). He even complained that: "Of the two forces of Western civilization, it is combination which tends to come too late, and competition which tends to last too long" (MacGregor, 1911, p. 206).

Surprises continued in the next chapter, dedicated to "Types of industrial government." There MacGregor, after having reiterated his 1906 point that the internal organization of a trust did not extinguish the fire of competition, but rather revived it for efficiency reasons (MacGregor, 1911, p. 222), flirted with the idea of the nationalization of trusts. The unbridled rivalry that formerly existed between the constituent firms was replaced within a trust by a regulated kind of competition addressed at enhancing efficiency. This he saw as a concrete possibility to combine the gains of competition with those of combination, and thus as one of the key advantages of the trust method. But "regulated competition" had a further bonus to reveal. It could show "on what lines industry might proceed, *if any parts of it ever became nationalized*, in order to ensure a high standard of work" (MacGregor, 1911, p. 222, emphasis added). Stopping short of openly endorsing nationalization, MacGregor did not pursue the idea further.[43] As the next section shows, this task belonged to our fourth British economist.

FROM RADICALISM TO COMPLACENCY: THE STRANGE CASE OF H. W. MACROSTY

Our fourth author was so distant from the Marshallian camp that in the works hereby examined – two monographs and two papers, all published in a short-time span, from 1899 to 1907 – he failed to quote a single time the Cambridge master: quite a rare feat in the era of Marshall's domination over British economics. As I said in the Introduction, Henry Macrosty was an active member of the Fabian Society, the British organization founded in 1884 to advance the principles of democratic socialism via gradualist and reformist, rather than revolutionary, means. A glance at the list of Fabian Tracts in the period under scrutiny shows that Macrosty was the Society's "expert" on the themes of industrial organization and concentration.

Macrosty organized his contributions along the usual triple "explanation–description–solution." Given the applied character of his works, the descriptive part was always predominant, with detailed presentations of several examples of the various patterns of combination, taken from British and other countries' industrial experience.[44] As to the explanation of the combination movement, he identified its main causes in the firms' effort to escape from the negative consequences of competition, on the one side, and in their desire to achieve the economies of large-scale production, on the other (see, e.g., Macrosty, 1905, p. 3). While he was hardly original in arguing that, or in stressing the inevitability of "the growth in monopoly in

English industry" (such was the title of his first Fabian pamphlet: Macrosty, 1899b), his voice was surely the loudest within our survey to decry the deleterious effects of "excessive" competition. Another distinguishing feature of Macrosty's works was his remarkable knowledge of the British and American common law on restraints of trade. But where Macrosty really marked a difference with respect to the three other economists in our sample was in suggesting, at least initially, so radical a solution to the combination problem as a full-blown nationalization of monopolies. As we will see, such a drastic way-out was to be substantially watered down in his later contributions.

A firm believer in the inevitability thesis, Macrosty rejected the optimistic argument that the trust problem would never become so severe in Britain as in the United States thanks to the peculiarities of the British economy. Neither the no-tariff attitude toward foreign trade, nor "the law-abiding instinct of our people" (Macrosty, 1899b, p. 3), nor the fact that "the greed for money has never reached in this country the height to which it has attained across the Atlantic" could save British industry from the "steady movement toward combination and monopoly," the movement itself being just "the natural outcome of competition" (Macrosty, 1899b, pp. 3 and 14). We may only guess to whom Macrosty's polemic was addressed to. What is sure (see above) is that Alfred Marshall featured prominently among the champions of such "complacent conclusions" that had to be seriously reassessed (Macrosty, 1899b, p. 3).

Macrosty was never against combinations per se. He joined many other scholars in acknowledging combinations and mergers as a method to avoid the waste of capital and wealth caused by ruinous competition and as the best gateway to scale economies. He considered competing on process rather than price the most effective trigger of technological and managerial improvements that would eventually increase social welfare: "In addition to securing industrial peace in their trades, these alliances [i.e., combinations] have the great social advantage of shifting competition from cheapness to processes" (Macrosty, 1899b, p. 8). Hence, since his very first work on the topic he concluded that the net result of the combination movement was "a great improvement in productive organization." This outcome had however to be balanced against "the possibility that the new machinery may be turned against the consumer" (Macrosty, 1899b, p. 14).

The latter remark refers to what Macrosty – more clearly than any other economist in our survey – viewed as the most significant drawback of monopolization. By curbing competition, the new patterns of industrial organization would effectively cancel the main benefit of the classical system of free competition, namely, the passing through to consumers of every improvement of production processes. Consumers' harm was the perennial counterpart in Macrosty's works to the list of possible benefits stemming from the combination movement.

Admittedly, the harm potentially caused by monopolies or combinations was not limited to damaging consumers. Macrosty mentioned other well-known dangers, like the political pressure that large concentrations of capital might exert on governments or the "economic mastery" that big business might possess over workers. The latter in particular was a typical Fabian theme. Little surprise then that it featured prominently, and alarmingly, in Macrosty's earlier works (Macrosty, 1899b; see also, Macrosty, 1901, Chapter 10). His later views on the relationship between trusts and unions were however more sanguine. In the 1905 Fabian pamphlet "State Control of Trusts," he borrowed from the *Final Report* of the American Industrial Commission the optimistic conclusion that no sign of abuses by combinations against their employees had been registered thus far.[45] On the contrary, a kind of cooperative behavior had seemingly been established between the newly formed industrial giants and the most powerful workers' associations (Macrosty, 1905, p. 12). Thus, it turned out that the only real concern raised by the monopolization movement was the protection of consumers' interests. The emphasis on consumer welfare was an apparent modern trait of Macrosty's analysis, although his main policy suggestion was faraway from current antitrust practices.[46]

Theoretically speaking, Macrosty's main contributions came along three lines: his description of the working and effects of ruinous competition; his critique of the effectiveness of potential competition as a limitation of monopolistic power; and his definition and analysis of the key notions of horizontal and vertical integration.

The most lucid analysis of ruinous competition came in *The Trust Movement in British Industry* (Macrosty, 1907). As we know, the theme was a compulsory feat of turn-of-the-century literature. Yet the clarity and persuasiveness achieved by Macrosty in describing how fierce competition inevitably led to monopolization was perhaps unparalleled. A few passages would suffice: "The special reason for the formation of an amalgamation is always the existence of destructive competition, the result of a surplus of productive capacity" (Macrosty, 1907, p. 265); "Alike in protected and unprotected markets free competition becomes cutthroat, prices fall, and overproduction ensues in the wild effort of producers to reduce costs by a larger output" (Macrosty, 1907, p. 7); and, quoting from the *Preliminary Report* of the American Industrial Commission: "Among the causes which have led to the formation of industrial combinations, most of the witnesses were of opinion that competition, so vigorous that profits of nearly all competing establishments were destroyed, is to be given first place" (quoted in Macrosty, 1907, p. 7).

So strong was Macrosty's belief that amalgamation and monopoly were the inevitable endpoint of free competition that he praised those decisions by British common law courts that, starting from the last decades of the 19th century, had recognized the economic reasonableness of several contracts in restraint of trade, chief among them those linking the members of a cartel. The classic case was *Mogul Steamship Co v. McGregor, Gow & Co and others* (hereafter, *Mogul*, 1892), where a unanimous House of Lords had rejected the appeal made against the shipping conference that had excluded Mogul Steamship from the tea trade between China and London.[47] Macrosty's book contains a detailed discussion of the *Mogul* decision, an unusual feature for a British economist of that time. The Lords' arguments in favor of the cartel were openly approved by Macrosty when he lauded the decision as a "fortunate one" (Macrosty, 2001 [1907], p. 19). In particular, he endorsed their main point that a business should be free to sign a contract that restrained its own trade if that was the behavior that most effectively promoted its interests.

The key opinion in the *Mogul* case had been authored by Lord Justice of Appeal Charles Bowen. The opinion read as a tribute to the traditional doctrine of freedom to contract, one of the backbones of the classical laissez-faire era. According to Lord Bowen,

> [The defendants] have done nothing more against the plaintiffs than pursue to the bitter end a war of competition waged in the interest of their trade. […] A man is bound not to use his property so as to infringe upon another's rights […] There is surely no doctrine of law which compels him to use his property in a way that judges and juries may consider "reasonable" […] If there is no such fetter upon the use of property known to the English law, why should there be any such fetter upon trade? (*Mogul*, 1892, p. 280)

The implications were adamant: first, joining a cartel was just a way to compete, and, second, more competition – or even a deadly fight between the cartel and the excluded business – could never be unlawful at common law. Macrosty, like the unanimous House of Lords had done in sealing the case, fully endorsed these implications. Moreover, confirming his considerable legal awareness, he underlined that, by establishing that contracts in restraint of trade were lawful but (still) nonenforceable in court, the *Mogul* case had created a precedent that made cartels and other loose forms of association *more* fragile with respect to other, stricter forms of combination. Following *Mogul*, the latter were lawful too, but they had the extra advantage of not being subject to opportunistic deviations by cartel members. Hence, the decision seemed to open the door to tighter patterns of business consolidation (Macrosty, 1907, pp. 22–23).

Combinations use competition to restrain competition, argued the *Mogul* court, and therefore it was impossible to foresee the final effect of combinations on the market process, especially when account was made of the threat of potential competition. This passage of the *Mogul* decision was the only one Macrosty did *not* endorse in 1907, as he was quite skeptical about the power of potential competition.

As early as 1899 he had noted that: "A large combination can always buy up or starve out new rivals whose competition threatens its monopoly [...] The shipping rings, too, have crushed all attempts at competition" (Macrosty, 1899b, p. 14). He had reiterated the point in 1901:

> The consumer [...] is told to look to independent competition as the means of keeping prices at a proper level; but the "combine," by charging low rates and looking to a large turnover for its profit, could create a state of things in which the people would be politically serfs and yet *fresh capital would not be tempted to come in*. Even if prices were maintained at a high level, the prospects of a new competitor would not be brilliant, for he would have to face the hostility of a company already in possession of the field, fully equipped and well-organized. [...] *The power of the purse* can be used to buy out as well as to starve out a rival, and few men of business are so philanthropic as to prefer the bankruptcy court to being merged with a formidable opponent. (Macrosty, 1901, pp. 277–278, emphasis added)

Remarkably, the latter argument would represent the main critique raised only a few months later by Marshall's disciple A. C. Pigou against J. B. Clark's proposals in *The Control of Trusts*. As Pigou would put it: "It is not enough for a potential rival to be able to compete with the prices at which the Trust at any time *chooses to sell*; he must be able to meet those at which, by abandoning all 'monopoly revenue' and contenting itself with 'normal profits,' it *could* sell. [...] The latent power of the Trust to fix a new price level, high enough to maintain itself, but low enough to ruin them, would frighten [independent producers] away" (Pigou, 1902, p. 66, original emphasis). Two arguments that were to become popular in the post-WWII economics of the so-called "exclusionary practices" were clearly forerun hereby Macrosty and Pigou: the deep pocket story for predatory pricing and limit pricing theory.[48] The bottom line of both was that potential competition was a much weaker threat against the abuses of monopoly power than most other commentators believed.

Macrosty's last, but arguably most relevant, theoretical contribution was his lucid distinction between, and analysis of, the two patterns of integration, horizontal and vertical. The distinction was already in his first Fabian pamphlet (1899b), but he made it more precise in *The Trust Movement*, where, after having analyzed "the union of firms in the same line of business – 'horizontal combinations,'" he recognized the existence of "another class of combination, whose history is older, which is perhaps more closely involved in the evolution of industry, which is sometimes hostile to, sometimes ancillary to, the 'horizontal' form. Employing the same metaphor we may call it the 'vertical' form, where all processes of production, direct and lateral, from the extraction of the raw material to the sale of the finished product are concentrated or 'integrated' under the same control" (Macrosty, 1907, p. 18).

The horizontal/vertical terminology was far from established at the time. The *Oxford English Dictionary* records as first use of the word "integration" in a business context a 1894 newspaper article by, perhaps not casually, the Fabian leader Sydney Webb. This was followed, still according to the *OED*, by MacGregor's use in his 1906 book (see the previous section). As it turns out, the expressions "vertical" and "horizontal," both referred to integrations or amalgamations, did feature in MacGregor's work (see MacGregor, 1938 [1906], pp. 50 and 74), but their use was somehow casual, without even approaching the depth of analysis that we find in Macrosty, 1907. As to the JSTOR database, the earliest use of either of the expressions dates to no earlier than 1913. Hence, though far from establishing a case of absolute historical priority, we may nonetheless argue that Macrosty (1907) should be considered among the earliest analyzes of the vertical/horizontal integration dichotomy.

According to Macrosty, vertical and horizontal integration, plus what he called "terminable associations" (i.e., combinations formed "for the attainment of specific purposes over an agreed period of time after which the members are free to revert to independence": Macrosty, 1907, p. 9), represented the main lines of development of the amalgamation movement in British industry (Macrosty, 1907, p. 264). The pro-efficiency effect of vertical integration was beyond dispute to him. Hence, he juxtaposed this kind of integration to the other, anticompetitive forms of amalgamation: "We must correlate the evolution of those large efficiency combinations of integrated form with the almost universal prevalence of associations for the fixing of prices, the regulation of output, and the demarcation of territory" (Macrosty, 1907, p. 265).

But there was more than mere juxtaposition between the two patterns of integration. He also identified a feedback mechanism between horizontal and vertical integration, as the latter led to more efficient firms, and thus to a stronger need, and higher probability, of horizontal combination. The reason for this feedback was simple: cutthroat competition between bigger, integrated firms would hardly warrant the desired effect because it would be extremely difficult to "kill" or "swallow" a big, vertically integrated rival. In these circumstances, horizontal combination would provide a safer alternative: "The reduction of numbers along the former line [i.e., vertical integration] makes ever more possible combination along the latter [i.e., horizontal integration], and in proportion *as the strength of the units increases so does the possibility of securing trade by internecine competition diminish*, and the necessity for combination to ensure lasting peace become more evident" (Macrosty, 1907, p. 265, emphasis added).

Notwithstanding the obvious importance of their theoretical analysis, Macrosty's contributions gained recognition first and foremost for their suggested radical way-out from the monopoly problem. The polar star of Macrosty's solution was the necessity to protect the consumer. More specifically, the issue was finding a way to guarantee that at least part of the gains accruing from technological improvements and scale economies could still be passed from the producer to the final purchaser.

Macrosty was too knowledgeable of British and US common law to put his faith in either legislative or judicial solutions. The combination movement was a natural outcome of competition "and therefore not capable of being prevented or undone by law" (Macrosty, 1899b, p. 14). Indeed, "destructive legislation has completely failed […] In the United States antitrust legislation has been voluminous and futile" (Macrosty, 1905, p. 2). In 1907, his skepticism about antitrust law was, if possible, even stronger. He noted that:

> Repressive legislation could only affect the outward form of combination. Amalgamation cannot be prohibited without forbidding the union of even two firms, while to make monopoly illegal would be fruitless where no formal monopoly exists. […] No law can suppress the Gentlemen's Agreement, where there are no rules, no constitution, no contract, but common action is effected verbally and informally, and yet some of the most oppressive combinations have been of that form. (Macrosty, 1907, p. 275)

And again, in a passage that is among the most brilliant renditions of the intrinsic limits of antitrust law:

> To strike at the methods adopted by combinations is not easy without at the same time repressing measures blamelessly adopted by the individual trader. Boycotting, dumping, selling at a loss to crush competition, maintaining prices at the highest level which the market permits – these are no monopoly of combinations, but are weapons in everyday use by manufacturers, merchants, and shopkeepers. *It would be indeed an extraordinary*

> *thing to strike at competition in the name of competition*. (Macrosty, 1907, pp. 275–276, emphasis added)

These words highlight the distance the 1907 Macrosty had traveled from his earlier most preferred alternative to legislative and judicial intervention, namely, that proposal for the nationalization of monopolies that had secured his fame among industrial economists.

The work where Macrosty most strongly supported the nationalization solution is his 1901 *Trusts and the State*.[49] There he dedicated a whole chapter (Macrosty, 1901, Chapter XII) to an eulogy of the policy-maker's direct intervention in the economy, in the form of State ownership of combinations and monopolies. He reached such a drastic answer after having qualified, if not wholly demolished, all the other alternatives for limiting private monopoly power, from antitrust legislation to consumers' or retailers' cooperation, from foreign trade pressure to the last bulwark of the free-market supporters, potential competition (see above). The conclusion was inevitable:

> Private monopoly is a public danger, and yet it cannot be undone by law; nor if it could would any economist recommend that the community should abandon the most efficient method of production for a worse. The problem is, how to secure the benefits of combination without its disadvantages, and to this there is only one solution, the public ownership of monopolies. (Macrosty, 1901, p. 283)

In short, outright nationalization was the only way to preserve the manifold positive effects of combination without incurring into its major defect, the negative impact on consumers.

The Fabian Macrosty was quite optimistic about the ability of State ownership to safeguard the benefits while avoiding the evils:

> When a monopoly becomes collective property its character is entirely changed. Given a good system of administration and effective parliamentary control, and arbitrary conduct, which is the essence of tyranny, is impossible. Undue raising of prices or unjust treatment of employees would cause a political reaction against the government responsible, and would therefore be avoided. (Macrosty, 1901, p. 283)

Even on the more practical side he failed to see any major obstacle to his nationalization plan. At the bottom lay an analogy between combinations and governments, upon which he returned several times throughout that period: "All these different forms of [trade] association may be regarded as so many governments each in its particular locality and according to its capacity passing laws for the regulation of its branch of industry, exercising a legislative function, so to speak" (Macrosty, 1907, p. 15).[50] Given the analogy, it should not be impossible to replace the private owners of a business with "the activity of that broader federation of individuals which we call the State" (Macrosty, 1901, p. 282). The organization of modern big business was already structured along bureaucratic patterns, so much so that no major change would be required in case of nationalization. It followed that: "Half the criticism which is directed at the collectivization of industry would fall to the ground if it were clearly understood that it necessitates not so much changes in organization as an alteration in the aims to which that organization is to be directed" (Macrosty, 1901, p. 287).[51]

After having so passionately supported the nationalization of monopolies, it took just a few years for Macrosty's views to change. In what we may consider a progressive "Marshallianization" of his position, he increasingly distanced himself from the radical solution of 1899 and 1901. In his 1905 *State Control of Trust*, Macrosty explained that only socialists were really fond of trusts because they saw them as the necessary step toward the collectivization of industry.[52] The "new" Macrosty was on the contrary much more skeptical about this solution. First of all, he now distrusted the civil servants' ability to manage such complex businesses in various industrial fields. Moreover, he doubted that the public opinion was ready to accept such a radical change in the organization of economic life.[53] As if he was speaking about himself just four years before, he argued that: "It is not enough to dismiss the [trust] problem with the dictum that public monopoly must supersede private monopoly. For such a conclusion the public mind is not yet prepared, nor is the State machinery at present fitted to cope with industrial administration" (Macrosty, 1905, p. 4).

In that Fabian pamphlet Macrosty also gave credit to J. B. Clark's new efforts to redirect antitrust law toward the prohibition of a list of specific business practices. Again differently from the dismissive tone of 1901, Macrosty said that such a redirection of legislation was hard, but "not absolutely impossible" (Macrosty, 1905, p. 8). The conclusion of the 1905 Tract was, not surprisingly, midway between the old radicalism and the new, more moderate attitude. Nationalization and state management were still credited as the only *real* solution to the monopoly problem, but that was only for the long run, when both the public opinion and, above all, the bureaucrats would be up to the task. In the meanwhile, more limited, and possibly more realistic, solutions could be implemented, like the regulation and/or registration of combinations and trusts. As we know, publicity was a regular in British economists' antitrust proposals. Yet Macrosty's legal awareness still allowed him a touch of originality. He proposed that a specific incentive be granted to those combinations that endeavored to publicly register themselves: contrary to what the common law presently said, the contracts joining together the members of a *registered* combination should be enforceable, and not only lawful, at common law; this would grant the combination a much higher stability (Macrosty, 1905, pp. 10–11).

Macrosty's distance from nationalization projects was soon to increase. In 1907 he adopted a "no praise, no blame" approach to the combination movement (Macrosty, 1907, Preface). So, for instance, no definite judgment could descend from the sheer observation that post-amalgamation prices were always higher than competitive prices because nothing warranted the "healthiness" of competitive prices in the first place (Macrosty, 1907, p. 268). He still believed that combinations could always keep for themselves the gains of better production processes and technology, rather than passing them on to consumers. Yet the available evidence about the limited power on prices of even the biggest trusts showed that the real test of efficiency for a combination lay in "its own inherent capacities as an administrative method. Unless it can show that it is the cheapest and best mode of production it will fail. [...] Success, in a word, depends on management" (Macrosty, 1907, p. 269). Such a statement – which would fit perfectly within, say, MacGregor's 1906 book (see the previous section) – brought to the forefront the typically Marshallian theme of the managerial/technical expertise required for administering big businesses – a theme Macrosty had substantially neglected in his earlier works. As he put it: "A huckster may run [a competing business] but a statesman is required for [an amalgamation]" (Macrosty, 1907, p. 269).[54]

No surprise, then, that little room was left in 1907 for radical solutions. The closing tune of Macrosty's decade-long journey in the new methods of industrial organization, a journey that had started with inflamed Fabian tones, was truly anticlimax, or very Marshallian, one might say:

> The position of the British combinations in regard to the interests of the community may be summed up as *not at present dangerous* but containing, like every new development, great and unknown possibilities alike for good and for evil. [...] There are no grounds for dread lest associated capital in this country should adopt some of the grosser methods of political control as practiced in the United States. [...] The point cannot be too much emphasized that we have not in this country to face the American problem or the German problem, but a problem of our own – the modification of society by a new organization of industry, a mere efficient method of production, evolving normally without artificial stimulus. *Patience, not hostility, is our proper attitude*. What is clear is that we need more study, more investigation, and above all, more discrimination. (Macrosty, 1907, pp. 274–276, emphasis added)

A perfect instance of those "complacent conclusions" he had so ridiculed just a few years before.

IT'S TIME FOR EXPERTS: MARSHALL'S RECIPE FOR A NEW INDUSTRIAL ERA

The second volume of *Industry and Trade* (Marshall, 1920) marked Alfred Marshall's return to the combination problem. As we know from the second section of the chapter, in the three decades since his 1890 address the British economy had undergone major transformations, including a merger wave at the turn of the century followed by a new attitude toward combinations during the war years. It is therefore hardly surprising that Marshall's views on the topic may have also changed, though we will see that the main innovation in his thought was triggered by an external event, the 1914 approval in the United States of the Clayton and FTC Acts. Despite these changes, a strong continuity will be showed to exist between the two Marshalls with respect to pure theory – even more so if we include MacGregor's 1906 book as a reliable account of his teacher's beliefs.

The analytical underpinnings of Marshall's discourse on trusts, cartels, associations, and other forms of combination in volume II of *Industry and Trade* can be found in a crucial passage in the first volume. There he famously denied the existence of any sharp distinction between competition and monopoly, because "they shade into one another by imperceptible degrees" (Marshall, 1920, Vol. I, p. 123). No necessary connection existed between economic freedom, a more or less intense competition, and the spread of monopolies. Indeed, "the most malignant features of unscrupulous competition […] have been seen in the pursuit and maintenance of monopolistic control in industries which might retain an open market." The reason was obvious: monopolists stood to gain the most from the aggression, and eventual elimination, of a competitor, while truly competitive markets offered meager prizes for winners (Marshall, 1920, Vol. I, p. 124).

The monopolistic element in the economy was at the same time ubiquitous and partial, or temporary: "Every manufacturer, or other businessman, has a plant, an organization, and a business connection, which put him in a position of advantage for his special work. He has no sort of permanent monopoly, because others can easily equip themselves in like manner. But for the time being he and other owners of factories of his class are in possession of a partial monopoly" (Marshall, 1920, Vol. I, p. 135). Those combinations that will occupy a large portion of Volume II were just one of the several possible methods by which businessmen might consolidate their partial monopoly.

Consider the opening sentences of the second volume:

> The fiercest and cruelest forms of competition are found in markets which are no longer quite free, but have been already brought in some measure under monopolistic control. [...] Though monopoly and free competition are ideally wide apart, yet in practice they shade into one another by imperceptible degrees [...] There is an element of monopoly in nearly all competitive business, [...] nearly all the monopolies, that are of any practical importance in the present age, hold much of their power by an uncertain tenure, so that they would lose it ere long, if they ignored the possibilities of competition, direct and indirect. (Marshall, 1920, Vol. II, pp. 1–2)

Marshall's long list of case studies, drawn from British, German, and the United States industries, rested on these premises. Three principles summarized them: (i) competitive and monopolistic elements coexist in every business and every market; (ii) the most intense competition takes place for achieving and extending monopolistic power; (iii) any monopoly is intrinsically partial and temporary, being subject to potential competition.

From the latter point stemmed Marshall's first evaluation of the combination movement. The strength of monopolies could well become "a national danger" (Marshall, 1920, Vol. II, p. 10), but the ever-increasing threat of potential competition and the habit of farsighted businessmen to privilege the long over the short run significantly reduced the danger that monopolies could abuse their power and set very high prices (Marshall, 1920, Vol. II, p. 3). Consistently with his own 1890 address, as well as with MacGregor's (1938 [1906]) and (we may add) Macrosty's (2001 [1907]) conclusions, he did not view the situation in the British economy as particularly worrying. The examples were illuminating: a combination could well be established to protect its members' right to a "fair profit" against the intrusion of competitors charging "unfairly low prices"; a monopolist could rationally charge a low, not short-run profit-maximizing price, in order to launch a new product, increase sales, and exploit scale economies (Marshall, 1920, Vol. II, p. 8); two partial monopolists, situated at different stages of the production process, could merge in order to internalize the benefits of any efficiency improvement, to the eventual benefit of the general public (Marshall, 1920, Vol. II, p. 18).[55]

Remarkably, Marshall dealt with the traditional arguments about combinations only after those caveats against a simplistic and overtly negative attitude.[56] The two customary issues were the alleged incompatibility between scale economies and competition and the different varieties of combination prevailing in America, Germany, or Britain. As to the first, he downplayed the role of production economies in the current industrial phase, the main driver toward combination having become the economies in marketing: "The influence of technical economies on the expansion of the business unit tends to weaken after a certain size has been reached. [...] In the present age the tasks of marketing offer ever-increasing scope for vast aggregations of capital. These tasks will be found to give the keynote to the present phase of the development of trusts, and of cartels" (Marshall, 1920, Vol. II, p. 76). He also reiterated the traditional point that the maximum of production economies could well be attained by firms of moderate size: "A capital very much less than that required to dominate the market will suffice to obtain every important advantage that belongs to production on a large scale" (Marshall, 1920, Vol. II, p. 80).[57] Achieving the maximum efficiency in marketing tasks required on the contrary an "almost unlimited capital." This circumstance pushed firms toward an "association with others engaged in the same industry" (Marshall, 1920, Vol. II, p. 77).

That British public opinion had a more relaxed attitude toward combinations than the American one could be easily explained by the lesser recourse of British firms to aggressive competitive practices and by the green light given by common law courts to several kinds of restraints of trade that had been severely condemned in the United States. Marshall made it clear that the first feature was specific of the British economy, on account of its peculiar mix of "gentlemen's" business habits and extreme openness to foreign trade. A weaker trend toward trustification, as well as the spread of looser forms of associations (much looser than, say, German quasi-military cartels) had emerged: "Many industries [...] are mainly controlled in Britain by firms, whose traditions go back for several generations, and which are therefore disinclined to sudden changes, and violent courses of strategy; while attempts to make an antisocial use of monopolistic strength in manufacture would generally be frustrated by the arrival of competitive foreign goods in British ports" (Marshall, 1920, Vol. II, p. 77). Different from Germany and America, associations of producers in Britain depended on the participation of "worthy firms, that reckon costs of production on the basis of good solid work or well-tried methods and with well-tried plants." Rather than pressing hard for the elimination of lagging firms, British associations took the weaker members' costs as normal. The most efficient members could then earn hefty profits upon their lower costs while the association could boast that it was reasonably pricing at the level of normal costs (Marshall, 1920, Vol. II, p. 149).[58]

The second argument – about the heterogeneity of combinations in the different countries – called into play what Marshall dubbed the paradox of antitrust law. In the United States both the common law and, later, the Sherman Act had condemned business associations, but had left almost unaffected other forms of capital aggregation. While repressing temporary combinations in restraint of trade, the law had paid "little attention [...] to the threatening power of permanent growth and fusions of great businesses" (Marshall, 1920, Vol. II, p. 78). In Britain the courts' attitude toward combinations had been even more lenient. Contracts in restraint of trade had never been condemned as unlawful in general, but only as unfair in specific circumstances, for example, when used by a powerful business to destroy its weaker rivals (Marshall, 1920, Vol. II, p. 95). British courts had thus sanctioned even openly anticompetitive practices, such as contracts for exclusive dealing with deferred rebates, which had on the contrary been enjoined in the United States (Marshall, 1920, Vol. II, p. 151).

Up to this point Marshall's analysis was very much in line with his 1890 address – or, if anything, with MacGregor (1938 [1906]). Yet, in 1919, new times had come for the British economy. Traditional arguments about combinations now held less sway than before. Free trade was not anymore an undisputed dogma. The enhanced dependence on foreign supplies during the war and the government's increasing revenue needs pushed toward the imposition of import tariffs. Proposals had emerged that combinations for the regulation of prices should be officially sanctioned, and even encouraged, by the State (Marshall, 1920, Vol. II, pp. 82–83). Worse than that, the new mantra in British public opinion was that small businesses were out of place in the postwar era (Marshall, 1920, Vol. II, p. 123).

Against these dangerous ideas Marshall raised his authoritative voice in the most original part of *Industry and Trade*. He ridiculed the slogan that the modern industrial age belonged to large businesses as a "parrot-wise" repetition, "all the more mischievous, because there is much important truth at the back of it" (Marshall, 1920, Vol. II, p. 123). The combination movement had clearly favored countries like Germany, whose industries had been organized on a semi-military basis. In the case of Britain similar gains could be achieved only "at the expense of the diminution of the spirit of free enterprise" (Marshall, 1920, Vol. II, p. 123), "a priceless national asset" that had been the main driver behind British economic success (Marshall, 1920, Vol. II, p. 124).

Marshall's defense of the entrepreneurial spirit of individual businessmen – itself not a novelty in his thought – did not go unqualified. He acknowledged that individualism could lead to the neglect of opportunities of cooperation. The modern economy increasingly required "efforts in tasks that are needed for the proper development of industry, but are too large for a single business" (Marshall, 1920, Vol. II, p. 124). His overall balance of the pros and cons of the combination movement centered on a typically British mixing of individualism and cooperation. For example, he argued that "constructive cooperation" among independent business allowed the standardization of production without requiring that all productive activities be placed under a common direction (Marshall, 1920, Vol. II, p. 129). Hence, even small firms could specialize in the standardized production of specific components: "Standardization, specialization, and thorough organization may enable a multitude of businesses of moderate size to attain every important efficiency and economy that at first sight appear to belong only to giant businesses" (Marshall, 1920, Vol. II, p. 130). Against the claim that size was crucial for R&D activities because of their huge cost and the impossibility to arrange them cooperatively (Marshall, 1920, Vol. II, p. 130), Marshall countered that the claim only applied to specific industries, like steel and chemicals. Generally speaking, it remained true, in 1919 as in 1890, that "thought, initiative, and knowledge are the most powerful implements of production" (Marshall, 1920, Vol. II, p. 130) and that "the vaster a business, the greater is the danger that it will be dominated by routine" (Marshall, 1920, Vol. II, p. 96). Thus, it seemed "probable that the total constructive activities of the nation will be neither as vigorous nor as freely exercised, as they would have been if nearly every establishment, large enough to avail itself of the full economies of massive production, had been under independent control" (Marshall, 1920, Vol. II, p. 130).

Yet, the "new ideas" and material conditions of postwar industry did require something more concrete than a romantic appeal to augment traditional British individualism with a cooperative spirit. Here, in the field of specific policy proposals, Marshall drew an important lesson from US antitrust experience – and the main difference between his 1890 address and *Industry and Trade*. Precisely because of the new business environment and new challenges raised by modern technology, any policy statement concerning the combination movement had to be based on an adequate amount of information. Britain had to therefore imitate the United States and establish proper institutional settings for the collection and analysis of information about trusts, cartels, and other forms of combination. America's aggressive antitrust action against several kinds of anticompetitive business practices rested on a massive amount of data and research. Despite each country's economic peculiarities, the American method "seem[ed] to offer guidance of high value to Britain," because of the "unrivaled thoroughness" of its studies on the combination problems (Marshall, 1920, Vol. II, p. 121).[59]

What was then the gist of the "American method," which Marshall so much admired in the second decade of the 20th century? It rested on two pillars. On the one side, the Clark-inspired attack against "unfair" methods of competition, that is, methods that narrowed the basis of competition itself. On the other, given the vagueness of the term "unfair," the organization of "systematic studies" on that issue, conducted by "permanent and authoritative Commissions," which could help courts in handling concrete cases (Marshall, 1920, Vol. II, p. 79). Marshall endorsed both pillars.

His overall view of the goal of antitrust was, in 1919, more clear-cut than three decades earlier. He explicitly acknowledged that such a goal should be *defending the competitors' right to compete*: "The law against malicious boycotting is akin to an antitrust law: each aims at preserving the right of well-behaved persons to make free use of the common highways of business" (Marshall, 1920, Vol. II, p. 84). Freedom to trade should of course remain the leading principle. The law and the State should never hinder "the action of the great forces of economic evolution, even when they involve the destruction of old businesses." They should never be invoked to protect "incompetent competitors." What the law and the State should do was to intervene whenever "the trust sets itself to destroy a rival who is prepared to sell things of good quality at lower prices than the trust is charging for them elsewhere" (Marshall, 1920, Vol. II, p. 85). This is because "the interest of the public requires that the rival should have a fair chance of developing his business" (Marshall, 1920, Vol. II, p. 85) – in modern jargon, because it is the *possibility of competition*, carried on by efficient firms, which must be protected on account of its beneficial effects on general welfare.

As to the second pillar of the "American method," Marshall claimed that: "The first place among unfair methods of competition denounced by antitrust laws is held by price discrimination, especially local price-cutting" (Marshall, 1920, Vol. II, p. 84), that is, by what is today called predatory pricing.[60] He remarked that this kind of monopolistic strategy is "so definite that it can hardly evade the pursuit of *painstaking capable investigation* well supported by authority" (Marshall, 1920, Vol. II, p. 84, emphasis added). In hindsight, we can smile at his optimism about an antitrust violation that has caused more than a headache to 20th-century lawyers, scholars, and law enforcers. Yet, what really matters to us is the implication Marshall drew from his remark, namely, that business practices like predatory pricing had "relatively little to fear from those milder and less penetrating forms of bureaucratic control which have hitherto sufficed for most of Britain needs" (Marshall, 1920, Vol. II, p. 84). The ability to conduct *painstaking capable investigations* was required in Britain too. Hence, his call, reiterated in several places of *Industry and Trade* (see, e.g., Marshall, 1920, Vol. II, p. 155), for the intensification of research about combinations and for the establishment of a British version of the American FTC in the form of a permanent inquiry commission on monopolistic practices.

To sum up, Marshall's 1919 plea for a substantial revision of British antitrust policy was based on the *theoretical* notion that, as J. B. Clark had argued long before, several business practices did exist that were clearly anticompetitive, and on the *practical* advice that, in order to concretely identify those practices, neither antitrust law nor government orders would suffice. Absent an adequate level of information, not even an autocratic power of the kind experienced by Germany, and much less so a mere court-administered statute, could effectively curb the potential evils of powerful monopolies without risking the dissipation of their potential benefits. Before anything else, the British economy required a series of "organized, long-continued authoritative studies," like the ones performed in the United States by the FTC and its predecessor, the American Bureau of Corporations (Marshall, 1920, Vol. II, p. 118). These studies had to be conducted by "expert teams," where economists and business experts should feature prominently. Indeed, "the central fact" emerging from American experience was that "investigations in regard to the antisocial policies of trusts and cartels can be efficiently made only by a strong staff of men who give their whole time to the work" (Marshall, 1920, Vol. II, p. 98).[61]

CONCLUSION

There is good reason to believe that the views of the four men examined here capture the range of opinions in the British economics profession about the turn-of-the-century combination movement, and, specifically, about the possibility of extending to Britain an antitrust legislation akin to the American one. A more exhaustive analysis of the British economics literature might of course reveal some positions and attitudes they did not articulate. What follow are three main points emerging from the previous pages.

First of all, from a pure history of economic thought viewpoint, all the economists considered here shared a classical view of competition as a dynamic process consisting of a series of business actions and reactions.

None of them got even close to embrace a structural notion of monopoly and perfect competition like the one popularized by post-1930s neoclassical authors. Ironically, their main theoretical troubles arose precisely because, under modern industrial conditions, those very business actions and reactions were generating an outcome – generalized monopoly power – which was faraway from that envisaged by classical economists.

Second, no economist among those surveyed here declared himself explicitly in favor of a British version of the Sherman Act.[62] Surely not a member of the Historical School like Foxwell (or Ashley), who saw in the spread of combinations the inevitable outcome of the technological transformations in industrial processes. Nor a Fabian socialist like Macrosty, who was too knowledgeable of the common law to put his faith in the courts and who viewed outright nationalization as the only way to retain the benefits and avoid the evils of monopolization. Nor laissez-faire economists, like Marshall and MacGregor, who considered combination as just another business method that, like all others, should be allowed to stand or fall according to its own intrinsic efficiency in the free market. On the contrary, all economists in our sample, one way or the other, decried the Sherman Act's paradoxical outcomes, as well as the negative effects of a court-based system of law enforcement.

Only in 1919 did Marshall recognize that several business practices existed that required explicit prohibition on account of their significant anticompetitive effects. Hence, he explicitly endorsed the approval of a British antitrust law, but not, as we have seen, along the lines of the Sherman Act, but rather in the form of an administrative-based system like that envisaged by the Clayton and, especially, FTC Acts. In this partial "conversion" Marshall somehow followed the steps of his American colleagues, first and foremost J. B. Clark, though the changed economic conditions of the British economy in the 1910s undoubtedly played the major role.

Assessing the actual policy impact of those economists' views is more difficult, though the record looks dismal. Of the three possible channels through which economists' idea about antitrust may influence policy-making – the political, the legislative, and the judicial – our economists managed to affect just the first, via their direct or indirect contribution to Royal or Parliamentary Commissions on various industrial matters (for what those Commission actually mattered), and, albeit very partially, also the second, via their authoritative support for the creation itself of those study Commissions. In any case, British economists were no John Bates Clark, as none of them got even close to exercise the same influence that the American (and many of his colleagues too) had on political debates and direct legislative action (see, e.g., Fiorito, 2012). As to the judicial channel, the proper epitaph for the British courts' attitude toward economic reasoning came in Lord Bowen's *Mogul* opinion (see the previous section). Requested to balance the pros and cons of combinations with respect to general public interest, Bowen invoked the principle of judicial restraint and argued that it was not "the province of judges to mold and stretch the law of conspiracy in order to keep pace with the calculations of political economy" (*Mogul*, p. 282). Bluntly, economics found no hospitality in British courtrooms.[63]

My final point draws upon the second one to offer new food for contemporary antitrust scholars. While it may be true that the explicit laissez-faire position of his disciple MacGregor was in strong continuity with his 1890 address, and while even large parts of his own *Industry and Trade* did not go beyond the repetition of the same happy-go-lucky attitude toward trusts and cartels, it cannot be denied that in the 1919 book Alfred Marshall made a decisive step toward a more "modern" notion of competition policy. In principle, his key notion of "defending a competitor's right to compete" lent itself to two different interpretations: that of protecting *any* competitor, including inefficient ones, or that of protecting *only* those competitors whose existence in the marketplace could effectively foster social welfare. By eventually choosing the latter interpretation – which, as modern industrial economics shows, amounts to identifying the goal of competition policy in the protection of the competitive process itself – Marshall concluded a path that had begun with his 1890 address and that had significantly progressed thanks to MacGregor's 1906 book (where several hints at this new policy notion might indeed be found). That he did so without making recourse to the post-1930s neoclassical notion of competition as a static market structure that lies at the foundation of most contemporary antitrust policy should be something to ponder for those industrial economists who claim that the classical dynamic view of competition is unsuited as a groundwork for competition policy.

NOTES

1. See Stigler (1982), Mayhew (1998), and, above all, Fiorito (2012) who describes the direct contribution that US economists gave to the drafting of the 1914 Acts.

2. Also called the combination, or the cartel, problem, while the word "trust" was most frequently used in American debates. Note that in the chapter I will use as synonymous the expressions "antitrust policy/law" and "competition policy/law."

3. Austria, Czechoslovakia, Denmark, Germany, Norway, Poland, Sweden, and Yugoslavia enacted one form or another of antitrust legislation well before WWII (see Gerber, 1998, Chapters 3–5). In the chapter, I will make no mention to competition law in the rest of Europe. My goal here is limited to comparing Britain with another common law country like the United States and analyzing the British economists' attitude with respect to the two countries' antitrust policies. Another feature left out from the present narrative is how courts in both countries approached cases involving monopolization or restraints of trade.

4. In what follows I freely use "increasing returns" and "scale economies" as synonymous to mean any reduction in production cost, regardless of its being due to the sheer increase of output along a given cost curve or to a progress in production techniques.

5. This section draws on a vast literature. Even limiting the attention to works in the history of economics (thus neglecting legal history contributions), we refer to, among many others: Peterson (1957); McNulty (1967, 1968); Stigler (1982); DiLorenzo and High (1988); Williams (1990); Backhouse (1991); Morgan (1993); Machovec (1995); Mayhew (1998); and Fiorito (2012).

6. To this "vertical" aspect of competition we may add the set of activity by which firms learned what and how to produce (see, e.g., Machovec, 1995, Chapter 2), though it is far from obvious that this "internal" side of competitive behavior was as important for the classics as the "vertical," exchange-based side. More on this below.

7. For a contrary view, see Machovec (1995, Chapter 4). The point is not of course whether classical economists dealt with entrepreneurial behavior – they obviously did. The real issue is whether they viewed such within-the-firm behavior as an external competitive weapon.

8. Recent research in economic history has largely qualified Chandler's thesis. Among the fiercest critics, Leslie Hannah has showed, first, that "at the aggregate level, the notion that Europeans suffered disadvantages in plant scale relative to the United States is difficult to square with their having over half the world's giant plants – more than one might expect from Europe's relative market size – while the United States had less than a fifth" (Hannah, 2008, p. 66), and, second, that "American factories plausibly achieved higher productivity even than those in western Europe, because they used more power per worker. Yet this applies to industry overall: productivity in giant factories was probably more evenly balanced. […] If the United States had any measurable scale advantage, it was in firm, rather than plant, size" (Hannah, 2008, pp. 71, 73). I thank Chris Colvin for having raised this point.

9. The notion had a forerunner in George Gunton, who argued that: "If the gates for the admission of new competitive capital are always open, the economic effect is substantially the same as if the new competitor were already there; the fact that he *may come* any day has essentially the same effect as if he *had* come, because to *keep him out* requires the same kind of influence that would be necessary to *drive him out*" (Gunton, 1888, p. 403, original emphasis).

10. The long-debated U-turn in Clark's view with respect to the desirability of an antitrust law may thus be explained as an evolution from the idea that these "abnormal and unfair" methods were quite rare to the awareness that they were so frequent that they required explicit statutory and judicial condemnation.

11. The idea that the larger the share of fixed over variable capital, the riskier a business with respect to "sudden fluctuations in trade" was already in David Ricardo's *Principles* (1821, Chapter 19).

12. This not only on account of larger scale economies, but also because big firms could enjoy the gains of costly R&D activities or of advanced managerial techniques.

13. That lack of information might constitute a source of monopoly power, and that publicity might make for it, was acknowledged in the 1902 *Report on Trusts and Combinations of US Industrial Commission*, authored by US economist Jeremiah Jenks. See Jenks (1902).

14. An interesting issue that cannot be touched here is whether US economists' preference for regulation over prohibition was, among other things, also a consequence of their newly acquired literacy in marginalist techniques, and, thus, of their higher confidence in the possibility for the policy-maker to master, via the power of mathematics, the working of market forces.

15. See Peritz (1996, Chapter 1). These exact words would be used by Justice Rufus Peckham, writing for the Supreme Court in one of the earliest Sherman Act cases: see *United States v. Trans-Missouri Freight Association*, 166 US 290 (1897), at 323.

16. The disastrous way the Supreme Court had handled the dissolution of Standard Oil and American Tobacco just confirmed the economists' fears.

17. Fiorito (2012, pp. 24–36) details Clark's direct involvement in support of a new antitrust statute.

18. Both the idea of equating monopoly power with restrictions to entry (as done already in the early 19th century by British economist Samuel Bailey; see Backhouse, 1991, pp. 60–61) and that of focusing on business conducts, rather than static market structures, as the real sources of monopoly power, were prescient of modern developments in competition economics. The latter idea (conduct as the source of monopoly) will be openly criticized by MacGregor ([1906] 1938).

19. That is, with typical accountancy tasks. US-style combinations were on the contrary handled by lawyers and often ended in legal controversies. See Freyer (1992, Chapter 1).

20. By 1911, total factor productivity in the United States and Germany were, respectively, about 90% and 75% of that in Britain. However, both countries had a higher total factor productivity in the industrial sector than Britain (see Crafts, 2011, Table 2). McCloskey (1971) compares US and British productivity at the turn of the century in two key sectors – coal and steel. Hannah (2006) does the same for the tobacco industry. For a similar sector-by-sector comparison with Germany, see Broadberry (1997). The traditional thesis of a failing industrial sector in Britain is not validated by these works.

21. Previous inquiries had only been concerned with natural monopolies, such as the railways or the street lights. On British shipping rings, see Scott Morton (1997).

22. Rees ([1922] 2001) contains an exhaustive analysis of British industry in the war and postwar period.

23. A summary of the Report is in Jones (1919). A fuller contemporary analysis is in Rees (1922). For a modern evaluation, see Mercer (1995, Chapter 3).

24. The Committee's conclusions echoed J. B. Clark's proposals at the time of the Clayton and FTC Acts debates; see the first section of this chapter. In an Addendum to the Report, the Fabian members of the Committee (including S. Webb and J. Hobson), though basically agreeing with the Report's conclusions, advocated further government action. As a means to protect the community from the evils of private monopoly and, at the same time, grant workers and consumers a share of the benefits of improved industrial organization, they suggested socialization, that is, the monopolized services be performed either by cooperative societies or directly by public authorities. As I show in a later section of this chapter, this was the original view of H. W. Macrosty, the leading Fabian industrial economist of the period. However, by 1919 Macrosty had embraced a more moderate position.

25. On Foxwell and the English historical school see Koot (1977). Foxwell's address presents a richer analysis of the topic than similar works by even more prominent members of the same school: see, for example, the relatively uninspiring presentation of the American trust problem by William Ashley (1899) in another address to the same Association.

26. Note that Foxwell came short of making explicit the relationship between the formation of trusts or combinations and the businessmen's desire to avoid the most negative effects of ruinous competition. That trusts and combinations were "simply an attempt to lessen and, if it may be, avert altogether the disastrous and harassing effects of cutthroat competition" and that this way-out had been used especially in America were nonetheless two obvious truths for at least another important member of the English historical school writing a decade later (Ashley, 1899, p. 168).

27. In 1917, Foxwell will credit his 1888 paper as being the first "defense of business combinations" among British economists. The claim is false, but understandable in view of the wider role played by combinations in 1910s economy.

28. Again in 1917: "It is beyond doubt that unregulated competition has destroyed more honest trade than all the combinations in the worlds. Even in England, legislation has been more occupied in restraining competition than monopoly. The social history of the 19th century has been one long protest, one great legislative reaction, against the mischiefs of unregulated competition" (Foxwell, 1917, p. 325).

29. A decade later, Ashley (1899, pp. 170–171) would strongly argue in favor of government regulation of prices.

30. For more on this aspect of Marshall's early work, see Becattini (1975, pp. lxxvi ff).

31. That is, the very same view that Marshall himself had entertained just a few years before!

32. Note that our simplified terminology, explained in note 4 above, betrays Marshall's distinction between scale economies and increasing returns.

33. Marshall's polemic targets were clearly the Germany-influenced members of the Historical School and, probably, also the Socialists. With respect to the former,

Marshall's address may thus be considered as a direct reply to Foxwell's 1888 one, read in front of the same Association.

34. On MacGregor, see Lee (2008), who notes the long-lasting success of the 1906 book, and Groenewegen (2012, Chapter 7), who remarks that the book was a significant contribution to the implementation of Marshall's research agenda.

35. In his original preface, MacGregor also recognized his theoretical debt to American economists J. B. Clark and Jeremiah Jenks, as well as to German antitrust scholar Robert Liefmann.

36. See MacGregor's critique of William Ashley's argument about the "American economic atmosphere" ([1906] 1938, pp. 139−140; and Ashley, 1899, p. 167). It is hard to disagree with MacGregor's remark that, were heightened individualism the true cause of American trustification, how could we explain that trust actually suppressed the member firm's independency while cartels, which flourished in allegedly less individualistic Germany, effectively preserved it?

37. Later in the book MacGregor explained that, having by assumption already exhausted its internal economies, a representative firm could grow further only via external economies. Achieving the latter while preserving a firm's independence required an implicit or informal cooperation with other firms in some aspects of the business (like, say, general and trade-specific services or collective supplies). Combinations were simply a way to make explicit and more organized these, often preexisting, independent methods of gaining external economies (MacGregor, [1906] 1938, p. 20). As he put it, "neither private interest nor Natural Selection will realize these economies so readily or effectively as combination" (MacGregor, [1906] 1938, p. 28).

38. MacGregor mentioned here ([1906] 1938, p. 40) the British habit of "bribing" members of combinations out of their business; see the second section of this chapter.

39. Here MacGregor targeted the following passage by J. B. Clark: "Of all the fields in which the struggle for survival is in process, the one in which a quick and beneficent outcome can most surely be counted on is that in which an assorted lot of business establishments, as organized on various plans, are testing their efficiency in a competitive struggle. The stamp of assured success in such a contest puts the excellence of a type of organization beyond question" (Clark, 1892, p. 50).

40. MacGregor ([1906] 1938, p. 14) remarked that a business's horizontal bargaining strength with direct competitors depended on its vertical bargaining power with customers and suppliers. See the next section for a similar argument by H. W. Macrosty.

41. MacGregor ([1906] 1938, p. 194) knew all too well that "combination is not as a rule primarily due to productive efficiency, but rather to reasons of defense or aggression."

42. Here MacGregor partly misrepresented Clark's views. Clark believed these business practices were the means through which monopoly power was becoming ubiquitous in the US economy because they warranted the elimination of both actual and potential competition (Clark, 1901, p. 72). This aspect of Clark's analysis had been well understood by another prominent Marshallian, A. C. Pigou, in his review of *The Control of Trusts* (Pigou, 1902, pp. 65−66). Yet, both Pigou and MacGregor were right in criticizing, for different reasons, Clark's faith in the power

of either common law or new judicially enforced statutes to solve the problem. As we know, Clark himself would eventually change his mind and propose that the assessment and control of "unfair" business practices be left to a special administrative commission. On the differences between Clark and MacGregor on this point, see Williams (1990).

43. In the Preface we read that to avoid overlapping with another volume in the same series, he had "stopped on the threshold" of dealing with Socialism and had "tried to make this study a way of approach to that larger question" (MacGregor, 1911, p. v).

44. Ashley (1899, p. 172, footnote 1) praised this feature of Macrosty's works that made him akin to the historicists' approach.

45. For a similar optimistic view, still referring to the American experience, see Ashley (1899, pp. 168–169).

46. Another option for protecting consumers consisted in the development of the cooperative movement – another Fabian favorite that found ample space in Macrosty's works; see, for example, Macrosty (1901, Chapter 11).

47. *Mogul Steamship Co v. McGregor, Gow & Co and others* [1891–1894], All ER Rep 263.

48. For details, see Giocoli (2011).

49. This solution had been already proposed in Macrosty (1899b, p. 14): "What, then, is to be done? Our answer is clear. The State must take over these private monopolies and work them for the public benefit." Curiously, such a drastic conclusion did not feature in the original version of the same essay, published in the *Contemporary Review* (Macrosty, 1899a), but only in the reprint of the same year. The "radical" addition was probably not unrelated to the fact that the essay was to be reprinted as Fabian Tract No. 88.

50. The notion of the trust owners as "industrial statesmen" was also in Ashley (1899, p. 169).

51. As a specific example from recent British economic history, Macrosty mentioned the nationalization of the Post Service, which had managed to preserve "[t]he great public advantages of monopoly"; namely, "that by eliminating competition it prevents overproduction and crises, and restores stability to industry and permanence to employment," without incurring in its evils, as was still the case, for instance, with railways monopolies (Macrosty, 1901, p. 284).

52. Freyer (1992, pp. 69–70) makes the point that early 20th-century British socialists were convinced that the combination movement, being a fundamental departure from classical laissez-faire, represented a necessary step for establishing the eventual state ownership of the means of production. For this reason they refused any kind of government intervention, short of nationalization. According to Freyer (who however only refers to the 1907 book), Macrosty was the only notable exception in the socialist camp on this specific issue.

53. Though he added that the abuses committed by private monopolies were quickly turning public opinion in favor of radical solutions (Macrosty, 1905, p. 14).

54. See also Macrosty (1907, p. 270): "Rule of thumb is dead in the workshop, the day is with the engineer and the chemist with their methods of precision."

55. This is a version of what is today known as the double marginalization argument for vertical integration by either merger or contract.

56. As to the alleged increased stability of output and prices warranted by trusts, Marshall acknowledged that trusts could well "make for increased stability in the conditions of trade and industry," and that they could reduce "the wastes of competition and the strain of anxiety lest some unexpected move should largely falsify business expectations." However, he noted that this stability, at least in the United States, had been "purchased at a heavy price," especially after that free capital whose abundance had always protected the general welfare much more effectively than sophisticated regulation had fallen under the control of financial conglomerates representing the very same interests of industrial trusts (Marshall, 1920, Vol. II, pp. 97–98).

57. Recall the similar argument in Marshall (1890) and MacGregor (1906).

58. That prices were set by the association with an eye at the worst possible cost conditions was among the reasons why some British industries now lagged behind their foreign rivals.

59. And also because of the shared common law principles (Marshall, 1920, Vol. II, p. 122).

60. Still today a predatory pricing violation may fall either under Section 2 of the Sherman Act (prohibiting monopolization) or under the Clayton Act prohibition of price discrimination. See Giocoli (2011, 2013) for the history of predatory pricing in US antitrust.

61. He added that: "In such work there is but little use for the special faculties of the lawyer" (Marshall, 1920, Vol. II, p. 98). Under this respect, there was no real change in Marshall's thought. His 1890 skepticism about the Sherman Act was based on a distrust of the judiciary's ability to deal with difficult antitrust issues. In 1919 the praise of the Clayton and FTC Acts was founded on his faith in the "expert teams" called to investigate the combinations and their practices.

62. The only exception was Royal Commission member David Barbour (see above).

63. The role of economics in turn-of-the-century US antitrust case law is more controversial. For the view that American judges were significantly influenced by economic theory and ideology, see Hovenkamp (1989). For the contrary view, see Peritz (1996, Chapter 1).

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REFERENCES

Ashley, W. J. (1899). American trusts. *Economic Journal*, *9*(34), 162–172.

Backhouse, R. E. (1991). Competition. In J. Creedy (Ed.), *Foundations of economic thought* (pp. 58–86). London: Basil Blackwell.

Becattini, G. (1975). Introduzione. In A. Marshall & M. P. Marshall, *Economia della produzione*, ISEDI, Milano [Italian translation of Marshall A. & Marshall M. P. (1881)].

Broadberry, S. N. (1997). Anglo-German productivity differences 1870–1990: A sectoral analysis. *European Review of Economic History*, *1*(2), 247–267.

Chandler, A. D. Jr. (1977). *The visible hand: The managerial revolution in American business*. Cambridge: Cambridge University Press.

Clark, J. B. (1886). *The philosophy of wealth*. New York, NY: Macmillan.

Clark, J. B. (1892). Insurance and business profit. *Quarterly Journal of Economics*, *7*(1), 40–54.

Clark, J. B. (1901). *The control of trusts*. New York, NY: Macmillan.

Clark, J. B. (1904). *The problem of monopoly*. New York, NY: Macmillan.

Clark, J. B. (1907). *Essentials of economic theory*. New York, NY: Macmillan.

Clark, J. B., & Clark, J. M. (1914). *The control of trusts*. New York, NY: Macmillan.

Crafts, N. (2011). *British relative economic decline revisited.* CEPR Discussion Paper No. 8384.

DiLorenzo, T. J., & High, J. C. (1988). Antitrust and competition historically considered. *Economic Inquiry*, *26*(3), 423–435.

Ely, R. T. (1888). *Problems of to day*. New York, NY: Crowell.

Fiorito, L. (2012). The influence of American economists on the Clayton and Federal Trade Commission Acts. *Research in the History of Economic Thought and Methodology*, *30-A*, 1–58.

Fisher, I. (1997 [1912]). Elementary principles of economics. In W. J. Barber (Ed.), *The Works of Irving Fisher* (Vol. 5). London: Pickering & Chatto.

Foxwell, H. S. (1917). The nature of the industrial struggle. *Economic Journal*, *27*(107), 315–29.

Foxwell, H. S. (1919 [1888]). The growth of monopoly and its bearing on the functioning of the state. In *Papers on Current Finance* (pp. 263–277). London: Macmillan.

Freyer, T. (1992). *Regulating big business: Antitrust in Great Britain and America 1880–1990*. Cambridge: Cambridge University Press.

Gerber, D. J. (1998). *Law and competition in twentieth century Europe: Protecting Prometheus*. Oxford: Oxford University Press.

Giocoli, N. (2011). When low is no good: Predatory pricing and US antitrust law (1950–1980). *European Journal of the History of Economic Thought*, *18*(5), 777–806.

Giocoli, N. (2013). Games judges don't play: Predatory pricing and strategic reasoning in US antitrust. *Supreme Court Economic Review*, *21*.

Groenewegen, P. (2011). *The minor Marshallians and Alfred Marshall*. London: Routledge.

Gunton, G. (1888). The economic and social aspect of trusts. *Political Science Quarterly*, *3*(3), 385–408.

Hadley, A. T. (1885). *Railroad transportation: Its history and its laws*. New York, NY: Putnam's Sons.

Hadley, A. T. (1886). How far have modern improvements in production and transportation changed the principle that men should be left free to make their own bargain? Part I. *Science*, *7*(161), 221–225.

Hadley, A. T. (1896). *Economics: An account of the relations between private property and public welfare*. New York, NY: Putnam's Sons.
Hannah, L. (2006). The Whig fable of American Tobacco, 1895–1913. *Journal of Economic History*, *66*(1), 42–73.
Hannah, L. (2008). Logistics, market size, and giant plants in the early twentieth century: A global view. *Journal of Economic History*, *68*(1), 46–79.
Hovenkamp, H. (1989). The Sherman Act and classical theory of competition. *Iowa Law Review*, *74*(5), 1019–1065.
Jenks, J. W. (1902). *The trust problem*. New York, NY: McClure Phillips.
Jones, E. (1919). Report of the Committee on Trusts of the British Ministry of Reconstruction. *American Economic Review*, *9*(4), 890–892.
Koot, G. M. (1977). H. S. Foxwell and English historical economics. *Journal of Economic Issues*, *11*(3), 561–586.
Lee, F. S. (2008). David H. MacGregor and the Marshallian tradition at Oxford, 1920–1945. Paper presented at the Conference Marshall and Marshallians on Industrial Economics, Hitotsubashi University, March 15–16. Retrieved from www.ier.hit-u.ac.jp/~nisizawa/frederic%20lee.pdf
MacGregor, D. H. (1911). *The evolution of industry*. London: Williams & Norgate.
MacGregor, D. H. (1938 [1906]). *Industrial combination*. London: Routledge.
Machovec, F. M. (1995). *Perfect competition and the transformation of economics*. London: Routledge.
Macrosty, H. W. (1899a). The growth of monopoly in British industry. *Contemporary Review*, *75*, 364–378.
Macrosty, H. W. (1899b). *The growth of monopoly in British industry*. Fabian Tract No. 88. London: The Fabian Society.
Macrosty, H. W. (1901). *Trusts and the state. A sketch of competition*. The Fabian Series, n. 1, London: Grant Richards.
Macrosty, H. W. (1905). *State control of trusts*. Fabian Tract No. 124. London: The Fabian Society.
Macrosty, H. W. (2001 [1907]). *The trust movement in British industry*, Batoche Books, Kitchener.
Marshall, A. (1890). Some aspects of competition. *Journal of the Royal Statistical Society*, *53*(4), 612–643.
Marshall, A. (1920). *Industry and trade* (3rd ed., 2 Vols.). FL: Signalman Publishing.
Marshall, A. (1961 [1890]). *Principles of economics* (9th (variorum) ed.). London: Macmillan.
Marshall, A., & Marshall, M. P. (1881). *The economics of industry* (2nd ed.), London: MacMillan.
Mayhew, A. (1998). How American economists came to love the Sherman antitrust Act. In M. S. Morgan & M. Rutherford (Eds.), *From interwar pluralism to postwar neoclassicism* (pp. 179–201). Durham, NC: Duke University Press.
McCloskey, D. N. (1971). International differences in productivity? Coal and steel in America and Britain before World War I. In D. N. McCloskey (Ed.), *Essays on a Mature Economy: Britain after 1840* (pp. 285–304). Princeton, NJ: Princeton University Press.
McNulty, P. J. (1967). A note on the history of perfect competition. *Journal of Political Economy*, *75*(4), 395–399.
McNulty, P. J. (1968). Economic theory and the meaning of competition. *Quarterly Journal of Economics*, *82*(4), 639–656.

Medema, S. (2011). *The hesitant hand: Taming self-interest in the history of economic ideas*. Princeton, NJ: Princeton University Press.

Mercer, H. (1995). *Constructing a competitive order: The hidden history of British antitrust policies*. Cambridge: Cambridge University Press.

Morgan, M. (1993). Competing notions of competition. *History of Political Economy*, *25*(4), 563−604.

Perelman, M. (2006). *Railroading economics: The creation of the free market mythology*. New York, NY: Monthly Review Press.

Peritz, R. J. R. (1996). *Competition policy in America: History, rhetoric, law*. New York, NY: Oxford University Press.

Peterson, S. (1957). Antitrust and the classic model. *American Economic Review*, *47*(1), 60−78.

Pigou, A. C. (1902). Review of the control of trusts, by J. B. Clark. *Economic Journal*, *12*(45), 63−67.

Rees, J. M. (2001 [1922]). *Trusts in British industry 1914−1921: A study of recent development in business organization*. Kitchener: Batoche Books.

Ricardo, D. (1821). *On the principles of political economy and taxation* (3rd ed.), London: John Murray.

Salvadori, N., & Signorino, R. (forthcoming). Competition. In G. Faccarello & H. D. Kurz (Eds.), *Handbook of the history of economic analysis* (Vol. 3). Cheltenham: Edward Elgar.

Scott Morton, F. M. (1997). Entry and predation: British shipping cartels 1879−1929. *Journal of Economics and Management Strategy*, *6*(4), 679−724.

Seligman, E. R. A. (1909). *Principles of economics*. New York, NY: Longmans.

Stigler, G. J. (1982). The economists and the problem of monopoly. *American Economic Review, Papers and Proceedings*, *72*(2), 1−11.

Williams, P. L. (1990). The attitudes of the economics profession in Britain and the United States to the trust movement, 1890−1914. In J. D. Hey & D. Winch (Eds.), *A century of economics* (pp. 92−108). London: Basil Blackwell.