

## The Colloque Walter Lippmann: How to Rebuild the Foundations of Liberalism?

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### Abstract

While the re-foundation of liberalism is generally attributed to the Colloque Walter Lippmann, it should be recalled that the supporters of this renewed liberalism intended to stand together in the face of the advance of planism, the problem of industrial concentration, and the rise of the limited liability company. This paper focuses on the groups known today under the captions of French neoliberalism and German ordoliberalism who, at the Colloque and in the following decades, sought to bring together ideas and people with the objective of defining the foundations of a liberal society and state interventions compatible with the market.

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### 1. Introduction

It is customary to recall that the Colloque Walter Lippmann (CWL) (Reinhoudt and Audier 2018; Audier 2012; Denord 2016, 2007), held in Paris between August 26–30, 1938, was an important moment in the renewal of liberalism. The organization of the CWL was suggested by Louis Rougier after the success of Lippmann's book *The Good Society*, and its French translation (*La Cité libre*) published by Librairie de Médecis. The main ideas of this book overlapped with those formulated at the same time by other authors whose works were also published (or even translated) by Librairie de Médecis. These include books from Ludwig von Mises (*Socialism*), Louis Rougier (*Mystiques économiques*), Bertrand Lavergne (*La Crise et ses remèdes*), and Lionel Robbins (*Economic Planning and International Order*).<sup>1</sup>

According to Louis Rougier, Lippmann's book delivers a triple message. First, it underlines the common belief that socialism and Nazism proposed a more just and prosperous society, in which the altruistic satisfaction of the collective needs of the

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masses would replace the pursuit of individual profit. The market economy, based on individual ownership and the price mechanism, would thus be replaced by a planned economy, based on a partial or total nationalization of the means of production and enacted through the decision-making of a bureaucratic body. Second, it shows that the liberal regime is not the result of a spontaneous natural order as declared by the classical authors of the 18<sup>th</sup> and 19<sup>th</sup> centuries. It is rather the result of a legal order, which itself suggests the existence of legal interventionism by the state. Thus, economic life is governed by a legal framework that sets out the property regime, contracts, patents, company status, currency, etc. Third, it contributes to the reintegration of economic problems into a broader political, sociological, and psychological context (Röpke 1942). Those who supported the renewal of liberalism were well aware that pure economics is based on simplified assumptions that are out of touch with reality. If the *homo oeconomicus* acts in a purely rational way and in his own best interests, it is necessary to find “the man of flesh, of passion, and of narrow mind who suffers from a herd instinct, follows mystical beliefs and is never able to calculate the implications of his actions” (Rougier in Reinhoudt and Audier 2018, 100).

This intellectual renaissance of liberalism finds two strong defenders in French neoliberalism (Jacques Rueff, Louis Rougier, etc.) and German ordoliberalism (Wilhelm Röpke, Walter Eucken, Alexander Rüstow, etc.). A minority of intellectuals intended to defend the idea of a liberal order, considered in all its forms (economic, political, social, moral, etc.), and thus to rebuild the foundations of a new liberalism. This renewal was mainly based on the questioning of socialism and planism, but also on the condemnation of 19<sup>th</sup> century liberalism, which they suspected had compromised liberal principles and ideals:

I am of the opinion that we will not accomplish anything if we let ourselves think, and if we give the impression, that our goal is only to reaffirm and to resuscitate the formulas of the nineteenth-century liberalism. It is clear, to me at least, that freedom would not have been annihilated in half of the civilized world, so seriously compromised in the other half, if the old liberalism had not possessed critical defects. This old liberalism, let us not forget, had been embraced by the classes in power of all great nations of Western civilization” (Lippmann in Reinhoudt and Audier 2018, 103).

Lippmann’s indictment is uncompromising, as it is both a question of fighting the thesis of *laissez-faire* (associated with Cobden and Spencer) for him as well as condemning industrial concentration, with the latter having become commonplace in modern capitalism and whose origin he linked to the history of large companies in France and Germany, and in particular to the creation of the limited liability company at the end of the 19<sup>th</sup> century.

In this article, we propose to return to the three debates that led to the CWL. Specifically, (1) the delimitation of state intervention in a market economy; (2) the condemnation of *laissez-faire* and industrial concentration; and (3) the emergence of a capitalism dominated by special interests (especially those of large groups). These three debates reflect the will of the elites to renew the foundations of liberalism, as

liberalism's proponents had experienced a real trauma with the economic crisis post-1929. The lack of unity in the ranks of the liberals attending the conference makes it possible to understand the trajectories of French neoliberalism (institutionalization of the State) and German ordoliberalism (ethical and moral re-foundation of liberalism). Thus, as early as 1938 the idea of a third way (between central planning and *laissez-faire*) emerged explicitly, which would be embodied in the 1950s and 1960s by competitive planning in France and the Social Market Economy in Germany (Commun 2003; 2009; 2016). This third way is still relevant today, particularly in the context of the crisis post-2008 and the new criticisms of the liberal system (e. g. the rejection of financial globalization).

## 2. What Are the Limits of State Interventionism?

Walter Lippmann's book was the origin of the CWL, and the basis on which proposals for the renovation of liberalism were grounded: "The idea of the Colloquium that gathers us today arose, among the friends of Walter Lippmann, from a common sentiment of the extreme importance, the decisive importance, of his book *The Good Society*" (Rougier in Reinhoudt and Audier 2018, 96). This agenda of liberalism was first proposed by Lippmann in his book *The Good Society* (1938, 204–238), then put on the agenda of the CWL, and finally included in the resolutions related to the creation of the International Center of Studies for the Renovation of Liberalism. These resolutions consist of six points:

1. Economic liberalism recognizes as a fundamental premise that only the price mechanism operating on free markets makes it possible to obtain an organization of production likely to make the best use of the means of production and to lead to the maximum satisfaction of human desires.

2. The equilibrium positions that are established in markets are affected, and can be determined, in a decisive way by laws on property, contracts, groups, associations and collective legal persons, patents, bankruptcy, currency, banks, and the tax system. As these laws are the creation of the state, it is the responsibility of the state to determine the legal regime that provides the framework for the free development of economic activities.

3. Political liberalism holds as an essential premise that the legal regime must be decided by virtue of a pre-established procedure involving the elaboration of the law at the heart of the democratic debate. Solutions applied to particular cases must result from general standards, which are themselves established in advance.

4. The determination of the legal regime constitutes the liberal method of social control. The objective of the legal regime is to ensure the maximum utility of production under the conditions that may be determined by other social purposes. These

purposes must be chosen by democratic procedure, and if they are not of maximum use, the liberal system requires that the choice of other purposes be taken consciously.

5. The organization of production in accordance with liberal principles does not exclude the possibility of the allocation of part of the national income for collective purposes. A liberal state can and must collect part of its national income through taxation and use it to finance national defense, social insurance, social services, education, scientific research, etc.

6. Although liberalism has as its fundamental premise the regularization of production through the mechanism of market prices, the regime recognizes: (a) that market prices are affected by the property and contract regime; (b) that maximum utility is a social good, but is not necessarily the only one that must be sought; and (c) that even when production is governed by the price mechanism, the sacrifices involved in the operation of the system can be charged to the community. In this case, the transfer must be made using transparent methods, and the sacrifice requested from the community must be expressly and conscientiously made. The intervention must address the causes of the situation to be corrected and not give the state the means to modify individual situations arbitrarily.

All CWL participants approved this agenda. Almost everybody strongly opposed both the doctrine of centralized planism (whether associated with Socialism or Nazism) and the Manchesterian doctrine of *laissez-faire*, two doctrines which place the delimitation of state interventions at the heart of the debate. Indeed, the question of the possibilities and limits of interventionism appeared at every session of the CWL. It was even discussed at the closing session of the CWL. Louis Rougier integrates this question into the liberalism agenda by prioritizing cases:

(i) Forms of public intervention compatible with the price mechanism. Jacques Rueff talks about the delimitation of eligible interventions and considers that a regime based on authoritarian dirigisme is not likely to last.

(ii) Does the war economy exclude the liberal economy? Does total war involve the totalitarian state? According to Rueff, these two questions can be rephrased as follows: “In the preparation of war, is the directed regime better than the liberal regime? Are totalitarian methods more effective than liberal methods” (Session “Liberalism and the War Economy,” Reinhoudt and Audier 2018, 129).

(iii) The conditions that a liberal state must meet. What structural reforms are needed in existing democracies to transform them into truly liberal states? Rüstow points out that the market economy is based on precise institutional conditions, created voluntarily by men. As a result, “it can function without friction and effectively only if a strong and independent State ensures the precise observance of these conditions” (Session “Psychological and Sociological Causes, Political and Ideological Causes of the Decline of Liberalism,” Reinhoudt and Audier 2018, 160). It would be this fundamental concept, as well as its consequences, that would be at the root of the degeneration of the economy.

(iv) The relationship of economic policy of liberal states towards each other. The establishment of a League of Nations based on a liberal economy model.

(v) The problems of coexistence of liberal and totalitarian economies.

(vi) The problems of the transition from a world dominated by war to a world devoted to peace.

(vii) The question of liberal education of elites and the masses.

The delimitation of the interventions of the state, and more broadly of a liberal state, requires respect for a legal order which permits the coexistence of the freedoms of all individuals in a society. As a result, the renewal of liberalism required the condemnation of the dogma of *laissez-faire*, which had been advocated for and promulgated by Manchesterism, and a thorough analysis of the causes of its decline (i.e. principally a tendency towards industrial concentration).

### 3. The Condemnation of *Laissez-Faire*

From 1840s to 1880s, the United Kingdom experienced an irresistible rise of liberals (Dicey 1905, Bariot 2016). The successive deaths of David Ricardo (1823), Jeremy Bentham (1832), and James Mill (1836) did not leave an intellectual void. New faces, more energetic, and more politically invested, embodied an uncomplicated liberalism. The Manchester School, represented by Richard Cobden, William Johnson Fox, John Bright, Thomas Perronet Thompson, and Harriet Martineau (Logan 2004), differed from its Smithian and Ricardian precursors by its strong taste for verbal jousting, sacred speech, and persuasion techniques (Barnes 1930; Grampp 1960). Pacifists and anti-colonialists, these liberals were fierce activists of free markets and free trade (Laurent 2016). Their parliamentary battles, which were reinforced by public meetings, led to the repeal of the Corn Laws and the liberalization of the English wheat market. According to William Johnson Fox, Richard Cobden's right-hand man, in a speech to the British Parliament in 1845, the free trade movement had passed through at least two stages.

First, the ideas of Adam Smith and his disciples outlined the plan for an entire policy, without, however, providing the means to achieve it. These philosophers' talents were used to make a science with what was until then a chaos of isolated facts. This was the work of the scientists, but in doing so they failed to give the country freedom of trade because legislators are not chosen for their scholarship in the science of wealth (Fox cited in Taquay 1939, 121).

Second, the Anti-Corn Law League's supporters turned a science into politics (Galpin 1931). Free trade was no longer to appear only desirable in theory, but indispensable in practice, not only in the general interest of all peoples, but adapted to the particular needs of the British nation (*ibid.*). Speeches in Parliament and public meetings replaced doctrinal statements, blew a wind of liberal reforms (Huskinson's

customs reform, Parnell's financial reform, etc.), and popularized the principles of trade:

Let us observe here that it is surprising that little progress has been made in the study of science of which Adam Smith was the great visionary more than half a century ago. We regret that no company has been created to disseminate knowledge of the true principles of commerce [...] We do not have a society of traders, united together for the common purpose of enlightening the world on an issue as poorly understood and slandered as free trade (Cobden 1835, 30).

Frédéric Bastiat, admirer of Cobden and author of the book *Cobden and the League* (1845), does not hesitate to attribute this success (Diemer 2014), not to the power of doctrine but to the art of agitation:

I now have in mind the constitutional tactics to arrive at a solution to a major national issue, in other words the art of agitation. We are still new to this kind of strategy. I am not afraid to offend national self-esteem by saying that a long experience has given the English the knowledge, which we lack, of the means by which a principle can be triumphed over, not by a one-day scuffle, but by a slow, patient, persistent struggle; by in-depth discussion, by the education of public opinion (Bastiat 1845, 74).

A feeling shared by Jacques Rueff, almost a century later: “for a thought to become a policy, it must be shared by a large number of people. For this, a true apostle is essential. Cobden has developed a technique of economic unrest. Tomorrow, as yesterday, if it is applied by a few convinced and determined men, it will be effective” (Rueff 1939, 11).

It should be noted that this economic turmoil is not limited to simple speeches, the arguments mobilized by the speakers are both general (aimed at any audience), and specific (aimed at the classes who live off industry), as well as moral and economic. Several fundamental principles of free trade emerged (Taquay 1939, 126–128): (1) Protection does not protect anyone. In Britain, farmers are starving to death behind customs barriers. (2) The high cost of living makes foreign competition particularly attractive. (3) It is exporters who support the state. Public debt is paid to a large extent by industry, in particular through import duties on raw materials. (4) Free trade is good for the consumer. The freedom to buy abroad benefits the consumer above all, i.e. mass society. (5) Free trade is the natural consequence of the right of ownership and individual freedom. (6) Free trade leads to peace. The multiplication of trade exchanges as the consequence of England's specialization in industry offers nations a significant guarantee of peace. (7) A growing population without the development of wealth is poverty for all. (8) Products and commodities are exchanged for products and commodities. (9) Progress regulates trade. Freedom allows for the organization and continuity of international exchange. (10) Protection is immobility, and immobility is death. (11) When the vital emergency disappears, the initiative fades away. (12) In a liberal regime, one job lost often coincides with ten created jobs. (13) While an inflow of foreign goods seems good for the consumer, it is above all a utopia. (14) Goods and services are the only entities which constitute wealth, not cash. This

refutes the balance of trade theory. These principles form the main framework of the Free Trade Agreement signed between France and the United Kingdom, after close cooperation between Richard Cobden and the French liberal Michel Chevalier.

All participants of the CWL among the later supporters of French neoliberalism and German ordoliberalism condemned *laissez-faire*. In his book, Walter Lippmann did not hesitate to associate the debacle of liberalism with a mistake committed by liberals, namely their self-proclaimed faith in *laissez-faire* and classical economics. The post-1929 depression should have reminded us that real markets on which the economy is based are far from ideal: “Not all buyers and sellers of goods and services are equally aware of the actual state of the market, and are not equally capable of dealing freely and knowingly” (Lippmann 1938, 220) and “[u]topian *laissez-faire* supporters have assumed that perfect markets would somehow organize themselves, or at least that markets are as perfect as they can be. This is not true” (1938, 221).

In his book *Les Mystiques économiques* (1938), Rougier associates collectivism and Manchesterian liberalism with mystification of the mind. A doctrine becomes mystical “when it is removed from the control of experience and the test of discussion, to treat it as an intangible dogma, or when it is based on a basis that has no empirical or rational meaning and only expresses a passionate conviction” (Rougier 1938, 12). By the term mystical, Louis Rougier meant to dissociate economics, based on experience and reason, and the laws that govern economic phenomena (laws that govern economic equilibrium in a system of free competition), from the economic doctrines themselves, which “simply explain certain mental attitudes by colouring them with pseudo-scientific demonstrations; in short, certain passionate biases” (Rougier 1938, 7). Like the religious values of the past, economic and political ideologies play the role of beliefs that are blindly accepted. The directed economy, corporatism, Manchesterian liberalism and Marxism could be considered illustrations of these mystical concepts. The renewal of liberalism can therefore only be achieved by reversing public opinion and demystifying pseudo-truths.

This new approach, described by Rougier as “constructive liberalism,” criticizes the theory of the Manchesterian *laissez-faire*, labelling it *laissez-passer* which would lead to the suppression of freedom through excess freedom. While competition is the foundation of the liberal economic system, this competition tends to disappear on its own because it leads to the triumph of monopoly. Liberalism must be progressive and constructive – it claims the authority of economics (Walrasian solution to exchange) when it says that free competition ensures maximum satisfaction; it implies a whole system of laws on contracts, public limited companies, employers’ agreements, trade unions, professional guarantees, inheritance, property status, etc. So, monopolies, holding companies, trade union power, etc. cannot be established:

What I call constructive liberalism is not identifiable with the Manchesterian theory of *laissez-faire*, *laissez-passer*, because such liberalism destroys itself by leading, through competition and natural selection alone, to a monopoly economy corresponding to a plutocratic regime. Constructive liberalism implies a positive legal order such that the possibility

of free competition is always safeguarded, i. e. a legal order such that the formation of trusts, holding companies, etc. becomes impossible, as well as union tyranny, imposing wage and employment conditions contrary to the balance of the labour market (Rougier 1938, 34).

This opposition to *laissez-faire* was shared by Wilhelm Röpke, one of the figures of German ordoliberalism. In 1937, in his book *Die Lehre von der Wirtschaft* (forbidden in Germany but translated into French in 1940 with the title *Explications économiques du monde moderne*), Röpke insisted on political economy's failure to explain reality and identify the real problems. This responsibility falls to economists who have not always been able to make their science accessible. To understand society as a whole, and the crisis it is facing, the economist must not only focus on economic problems, but also on the legal, sociological, anthropological, political, moral and theological foundations of society. Indeed, the post-1929 crisis showed the limits and inadequacies of *laissez-faire* (uncontrolled urbanization, monopolization, excessive regulation, domination of class interests, etc). Economic freedom is a necessary but not sufficient condition for the "free city," it must be linked to a social state in which individuals lead a life based on private property, a life which ensures internal and external independence. Wilhelm Röpke (1940) thus proposes to build an economic and social order based on freedom, justice and human dignity, taking into account human nature.

#### 4. The Evils: Industrial Concentration and Limited Liability Company

According to the *laissez-faire* critics, the creation of the public limited company, as well as cartels and agreements are the two other targets of the new liberalism. The CWL devoted its first meeting to this topic: "The question on the agenda is as follows: is the decline of liberalism inevitable as a result of the trends towards corporate concentration, the concentration of capital, and the formation of the corporations; of the replacement of atomistic capitalism by the capitalism of large unit?" (Rougier in Reinhoudt and Audier 2018, 119). It must be said that this subject occupies an important place in Lippmann's book *The Good Society*, in which he devotes a whole chapter, entitled "The Gods of the Machine," to this issue. While there is a link between mechanization (the mechanization of industry) and industrial concentration, Lippmann points out that the causal link must be sought elsewhere. The concentration does not originate in the mechanization of industry, it comes from the state, namely that "[i]t was the State that, about a hundred years ago, began to grant to anyone who paid a small royalty to it a privilege that had hitherto been very rare and exceptional: the privilege of incorporating companies in which liabilities are limited to contributions and whose securities are transferable in perpetuity by succession" (1938, 26), through the recognition of new legal forms of companies. In this case, it is the public limited company. Nicholas Murray Butler speaks of a real legal revolution,



which was very important in his view, in that it would even surpass all the great human discoveries:

I am weighing my words when I say that, in my opinion, the joint-stock company is the greatest discovery of modern times, if we judge it by its social, ethical, industrial or political effects, in the long term, we will know how to understand it and how to use it. Even steam and electricity are less important than the corporation, they would be reduced to a relative helplessness without it (1912, 82).

He argues that it is thanks to the law and the power of the state that corporate concentration has developed in the United States and in most European countries. Claude Ducouloux-Favard recalls that the history of public limited companies has been marked “by a constant oscillation between a liberalism sufficient for the development of commercial enterprises and between a dirigisme ensuring the protection of the general interests of the national economy” (1992, 851). As a result, while the laws of European countries differ considerably from one another, the construction and evolution of these laws follow the same trends in legal thought and philosophy.

The first public limited companies were created by a state act, the grant (*Verleihung* in German and *riconoscimento* in Italian). For the public authorities, the grant consisted of ratifying a specific professional activity and delegating it to a large company which, as a result of this delegation of power, enjoyed part of the sovereignty of the state. In such a system, the will of the actors or the drafting of the statutes of a company were not sufficient for it to exist; it required the intervention of the sovereign will of the state to obtain this grant. It was not until the 19<sup>th</sup> century that the idea of regulating public limited companies appeared as possible and replaced government authority. In France, it became law on July 24, 1867 (five years after the signing of the Free Trade Agreement) which stipulated in article 21, paragraph 1: “In the future, public limited companies may be formed without government authorization.” The system of regulated freedom, which was already used by limited partnerships (limited by shares), was thus generalized. In Germany, it became law on June 2, 1870, which generalized the free formation of all public limited companies. Ducouloux-Favard (1992, 859) points out that German legislation brought some interesting innovations: (i) the regulatory requirements included registration in a commercial register, after judicial verification; (ii) the implementation of the rule of commerciality by the form of joint-stock companies; (iii) the establishment of a supervisory board (*Aufsichtsrat*), hitherto an optional body, which became the advisory body for the dual management of large German companies; (iv) regulation of contributions in kind and special benefits (sanctions in the event of fictitious contributions). In Italy, the revision of the Commercial Code took place in 1882 (a strong movement of ideas inspired by German law) and entered into force in January 1883 (Droulers 1982). While government intervention is not allowed, there is always ex-post control when the public limited company is established. Moreover, the Italian legal system “required that the intrinsic regularity of the constituent instrument of public limited liability companies be recognized by the judicial authority so that the constituent formalities could be entered in a register open to the public” (*ibid.*, 861).

The 19<sup>th</sup> century thus ended with a new orientation: commercial companies were now an exchange between private individuals, so their nature was contractual. The freedom to contract now faces only one limit: public order. It is this concept of the company as contract that is found in most liberal theses. Indeed, it is the agreement between future shareholders that gives birth to the company. However, at the beginning of the 20<sup>th</sup> century, another approach emerged, namely that of the company as an institution (Gierke 1902). This German-inspired approach is based on the principle that when public authorities attribute to a legal entity the status of legal subject (by a law or a normative act), they are simply led to recognize the existence of a group of individuals. As a result, the concept of the contract company would not be sufficient to understand the emergence and evolution of public limited companies at the end of the 19<sup>th</sup> century and throughout the 20<sup>th</sup> century. If the legal personhood of limited liability companies is based on the will of the future shareholders, this will cannot be expressed in the form of a simple contract, it also constitutes a collective act (i. e. recognition by the state):

Most authors, after Gierke, will insist on the transition from contractual to institutional. They will affirm that before the intervention of the public authorities, the legal regime of the company is contractual, that its personification is not complete and that the company, at this stage, is only a Substrate, an essence of society. On the other hand, as soon as the public authority has recognized the company by a particular act, it becomes legally distinct from its members and at the same time acquires its legally organized structure (Ducouloux-Favard 1992, 863).

The company is thus elevated to the rank of an institution, it includes bodies and managers instituted in legally defined functions. The organization of management powers, such as the distribution of powers between the various organs of the company, are provided for by law.

This institutionalist philosophy was gradually introduced into all European legislation (particularly in Germany between 1931 and 1937, in Italy in 1942). This was at a time following World War I when the capitalist system was characterized by numerous experiments in directed economy, significant industrial concentrations (Hardy-Hémery 2001) and a strong internationalization of activity by capital-intensive companies (Bossarelle 2008).

This situation posed a delicate problem for liberal economists, i. e. the balance between entrepreneurial freedom and the safeguarding of general interests. Indeed, large companies do not only serve private interests, they are also constitutive elements of the national economy. Bouvier, Furet, and Gillet (1975, 126) remark that on the eve of World War I, the coal mines of Nord-Pas-de-Calais (France) had as many shareholders as employees. It was thus becoming important to improve the legal rights of large companies (the right to information, etc.). From this point of view, the post-1929 crisis is an important event, as it makes many people aware of the scope of action of large companies, the legal regime that must be put in place to better organize public

limited liability companies, and the role of the state in regulating the concentration of companies.

This last point was widely discussed at the CWL. Various participants sought in particular to know whether the concentration of companies and capital was an unavoidable consequence of economic development (a kind of Darwinian law) or the result of the privilege granted by the state to certain companies or economic sectors. While the economic consequences of mergers (mainly the emergence of monopolies) were unanimously condemned (the question of competitive pricing), the presence of cartels was the subject of numerous statements (Bigot 1927; Benni 1931; Cortat 2010). The feedback on the debates that accompanied the treatment of this question is particularly interesting, as it makes it possible to identify a big difference (a kind of cleavage) between French neoliberalism and German ordoliberalism.

From the point of view of German ordoliberalism, economic concentration arising due to technological and organizational progress in companies can be an immanent and legitimate feature of the competitive system. This contrasts with the situation where the emergence of monopolies is the result of state intervention, the enactment of laws, and court decisions. Röpke dissociates the natural tendency towards concentration (via technology and mechanization) from the long march towards state control: “Technology develops as fixed capital increases, that is as the general cost increases each day; it is a development that excludes the mechanism on which the philosophy of liberalism has been built. Companies become larger, the number of competitors becomes smaller, and the price calculation becomes increasingly arbitrary [...] This tendency toward large companies brings about the monopoly” (Röpke in Reinhoudt and Audier 2018, 119).

The natural tendency towards concentration is inevitable (the monopoly is not a creation of man, but of the technology employed), the long march towards State control is more artificial (the monopoly is an arbitrary creation of men in the form of laws or customs). A few years later, Röpke explored this question in four books: *Die Lehre von der Wirtschaft* (1937) (*Economics of the Free Society* 1963), *Die Gesellschaftskrisis der Gegenwart* (1942) (*The Social Crisis of Our Time* 1950), *Civitas Humana: Grundfragen der Gesellschafts- und Wirtschaftsreform* (1944) (*Civitas Humana: A Humane Order of Society* 1948) and *Jenseits von Angebot und Nachfrage* (1958) (*A Humane Economy: The Social Framework of the Free Market* 1960). Röpke insisted that “nothing more prejudices the general ideal that the market economy is linked to a larger order, both moral and ethical, appropriate to human nature than the following two things: the proletarianization of the masses and concentration” (1960, 7). Indeed, concentration had destroyed the middle class, made up of small independent owners with civic virtues, by replacing it with an army of workers and employees, subject to the working conditions (and wages) of large companies. This proletarianization of the masses constitutes a form of degeneration of capitalism, to be put at the disposal of the state:

It will always be necessary to consider a country as highly proletarianized, when large farms and the concentration of ownership have transformed a large part of the population into dependent employees, urban dwellers and integrated into the administrative hierarchy, industrial and commercial [...] An increasingly powerful centralization and bureaucratism have mechanized the State at the expense of its vertical and organic structure, based on federalism or communal autonomy, thus precipitating the levelling movement of gregarianism, so characteristic for the whole society, and then transposing it into the field of constitution and administration (Röpke 1960, 27–28).

Here Röpke offers us a very broad acceptance of concentration; it is present in all spheres. It is at the same time, the concentration of individuals in organizations, cities, industrial centers, companies and firms; the concentration of the power of the state and the administration; the concentration of the economic and social power of the state, the concentration of power in terms of decisions and responsibilities. However, a rigorous analysis makes it possible to distinguish between “the concentration of firms and that of plants, i.e. between centralisation of legal financial and that of technical units” (Röpke 1948, 169). Thus, it is not technological progress that drives business conglomeration, but government legislation and economic policy.

It is therefore easier to understand why Röpke considers the crisis of capitalism after 1929 to be the very expression of a total crisis, whether spiritual, moral or sociological:

As economists, we must not only concern ourselves exclusively with economic problems, but also, to the extent of our strengths and knowledge, with the legal, sociological, anthropological, political, moral and theological foundations of society (1940, 17).

At the CWL, this point of view was shared by Ludwig von Mises and Alexander Rüstow, who attributed the emergence and proliferation of cartels, and even monopolies, to the interventionist policy of the state: “It is thus an error of logic to want to justify the intervention of the State in the economic realm by the need to prevent the formation of cartels, because it is precisely the State that, through its intervention has brought about the creation of the latter” (Mises in Reinhoudt and Audier 2018, 120). Rüstow does not hesitate to point out that the famous adage that competition kills competition is unfounded and that the phenomenon of concentration should rather be sought in “the intellectual and moral weakness of the State that, a first ignorant of and negligent in its duties as policeman of the market, lets competition degenerate, then lets its rights be abused by robber knights (chevaliers pillards) to deal the fatal blow to this degenerate competition” (Rüstow in Reinhoudt and Audier 2018, 124).

The rise of cartels in Germany in the 1930s was a major problem for the *ordo-liberals*, and the only way out was to move forward towards a new, competitive, liberalism. For Rüstow, this consideration was already present in 1932 in a presentation entitled “*Freie Wirtschaft, starker Staat*” (“Free Economy, Strong State”), during which he raised the idea of state interventionism aimed at “instituting and monitoring market rules” (Audier 2012, 179). It is a state free from the problems of private interests, lobbies, and cartels, all of which seek to use the power of the state to

enjoy privileges. In 1940, Walter Eucken returned to this issue in his book *Die Grundlagen der Nationalökonomie* (*The Foundations of Economics*). Denouncing the proliferation of cartels in Germany, he remains very measured, even pessimistic about the ability of economists to identify the main issues. On the one hand, economists try to explain the origins of cartels, their effects and their consequences on consumer well-being. On the other hand, economists have developed a general theory of monopoly. The conclusion is bitter: As long as there is a division between theoretical economics and economic history, the real problems are not solved and science gets lost in obscure paths:

Both history and theory proceed independently, and only a few economists try to link them together. Just because of this lack of co-operation the scientific treatment of actual cartel problems is usually unsatisfactory. Only when history and theory are combined is it possible to build up a scientific picture of the concrete effects of cartels and of the factors which bring them into being, that is, of the real relationships concerned (Eucken 1951 [1940], 57).

If the German ordoliberalism seems to condemn the omnipresence of the state and the drift towards state interventionism, the supporters of French neoliberalism have a more nuanced position. While they admit that the role of the state has been decisive in the proliferation of concentrations, they argue at the same time that state interventions have occurred when the state could not act otherwise. Thus, state interventionism must not be linked to a political argument, but to the desire to establish a minimum level of order:

Today, railways constitute, for all States, a very large burden. There where they belonged to private enterprises, the State has been brought to support them in order to avoid the ruin of a whole section of the population. The question, however, is knowing whether a modern State can withstand a large part of the population finding itself [financially] ruined. If yes, interventionism is of political origin; if not, it is of natural origin: it is a spontaneous reaction of the social organism (Detœuf in Reinhoudt and Audier 2018, 121).

Louis Marlio (1930; 1935; 1947) even argues that there are some advantages to corporate concentration: (1) the ability of cartels to file patents, whereas small companies do not have the means to advance technological progress; (2) the colossal sums invested in scientific research (e.g. the aluminium cartel), allowing great advances; (3) finally, contrary to what is believed, the industries with the highest concentration are also those that have lowered their selling prices the most, and this is good for consumers. In the end, Marlio seems to trust economics' general law, which reminds us that a liberal system is a system where economic balance is established by the price mechanism. Concentrations that do not respect this law can only survive in a market economy at the price of a privilege granted by the state: "As long as the concentration remains under the purview of freedom, it is good, but if it takes on the sign of a privilege, it is bad" (Marlio in Reinhoudt and Audier 2018, 123).

The subsequent discussions, mainly between Rüstow and Mises on the one hand and Detœuf, Marlio and Mantoux on the other, illustrate very well this gap between a hard line defended by German ordoliberalism (the main origin of concentration is a

degeneration of the state) and the compromises resulting from French neoliberalism (the state can play an important role in the economy, without calling into question the functioning of the price mechanism). However, these positions must be placed in a somewhat different historical and political context within the two countries. Germany had entered a long period during which the totalitarian state was very favorable to cartels and mergers (which also happened to be true for Japan and Italy). The ordoliberals were thus the last bastion of the liberal fortress and their condemnation of concentration (agreements and cartels) a necessity for survival. The French economists had an intermediate position on the subject of concentration and cartels. On the one hand, the Colbertist heritage gave birth to the notion of industrial policy, by developing the idea that the country's production capacity could be increased tenfold thanks to state aid (Bussière, Demoulin, and Schirmann 2007). On the other hand, price fixing had long been considered illegal under Article 419 of the 1810 Criminal Code. It was not until the years between the two world wars, and the debates around the post-1929 economic crisis, that price fixing was discussed in the French Parliament, generating thinking about the role of the state and the law in regulation of the economy (Chatriot 2008). In 1922, the Millerand project proposed action against price increases. The Colrat-Dior project (Maurice Colrat was then Minister of Justice, Lucien Dior was Minister of Trade and Industry) led to the law of December 3, 1926. This Act amended section 419 (see above) by seeking to determine the nature of the earnings, whether they were normal or abnormal, and therefore unlawful, resulting from a price fixing agreement. In 1932, the Reynaud-Rollin project aimed to protect the good price fixing agreements which were seen as instruments to regulate production and its flow. In 1935, the Flandin-Marchandeu bill proposed to permit the state to make certain price fixing agreements mandatory, particularly if they had been agreed by a majority of professionals in the sector. If none of the projects mentioned above were adopted (with the exception of the 1926 law), and if France remained for a long time under articles 419 and 420 of the Criminal Code, which refer to cartel offences (Pasqualaggi 1952), it should be stressed that the debates generated a real ideological shift. First, analysed from a technical and jurisprudential point of view, the concentration of companies, via cartels, becomes an economic policy choice issue. Louis Marlio writes in the *Revue de Paris* that "agreements between producers are above all an element of stability, a means of combating anarchy in production" (1930, 835).

## 5. Conclusion

While the CWL has often been presented as a founding act of the renewal of liberalism and rebellion against the rise of planism, it should be recalled that it also made it possible to structure various national networks. At the last day of the meeting, Louis Rougier proposed an agenda for liberalism, aimed on the one hand at establishing the list of theoretical and practical problems which needed to be studied quickly to lay the foundations of renewed liberalism, and on the other hand at in-

stitutionalizing liberal ideas within the International Center of Studies for the Renovation of Liberalism, headed by Louis Marlio. Lippmann, Hayek, and Röpke were entrusted with the task of organizing the American, English and Swiss sections of the Center, while Baudin, Bourgeois, Mantoux, Marlio, Rougier, and Rueff were responsible for keeping the French section alive. While various protagonists of the CWL continued to maintain close contact through their correspondence (Rougier – Röpke, Rueff – Röpke, Hayek – Lippmann), it must be noted that two currents of thought were more or less present on the national scenes from 1940 to 1960: French neoliberalism and German ordoliberalism. These two movements based their doctrine on a rejection of Manchesterian liberalism (i.e. *laissez-faire*) and a condemnation of economic concentration. Their trajectories and visions of a renewed liberalism highlight some differences. While ordoliberalism embodied Germany's transition to the Social Market Economy (Alcouffe and Diebolt 2009), neoliberalism had great difficulty spreading its ideas effectively in France. While German ordoliberalism remained very suspicious of state intervention, French neoliberalism promoted state interventions compatible with the price mechanism. These two movements have had the merit of engaging in constructive thinking about the content and scope of liberal discourse in the difficult interwar period. In the aftermath of the crisis post-2008 and the new attacks on liberalism, it would seem that questions about state intervention, the limited liability company, and especially financial lobbies are still the subject of debates and controversial issues. However, the analogy stops there. It is no longer a question of renewing the foundations of liberalism but of breathing new life into society.

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