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Raymond De Roover

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MONOPOLY THEORY PRIOR TO ADAM SMITH: A REVISION

By RAYMOND DE ROOVER

First, I put downe for a Maxime that all Monopolies have bin condemned by all politique men and in all well governed Comonweales, as a cause of all dearth and scarcetie in the same, contrarie to the nature and kinde of all Societies, which first growe into Townes and Cities to lie in safetie and to leve in plentie and cheapnes. — *A Discourse of Corporations* (1587–89?).

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I. INTRODUCTION

A leading economist in this country recently asserted that Adam Smith “let off the first thunderous broadside” in the attack on monopoly.¹ While the merits of Adam Smith are great, indeed, it would be a mistake to believe that the science of political economy begins with the *Wealth of Nations*. Adam Smith was by no means a pioneer but a voracious reader and a master in the difficult art of synthesis.² He used not only the materials contained in the technical treatises of the French physiocrats and the English mercantilists but also the ideas and concepts scattered throughout the great books, philosophical, historical and legal, which are the common heritage of western civilization. It is, therefore, not surprising that Adam Smith’s monopoly theory, far from being original, can be traced back to Aristotle’s *Politics*.

Apparently, it is in this work that the Greek philosopher coined the word “monopoly” or *μονοπωλία* from *μόνος*, which means “one,” and *πωλεῖν*, which means “to sell.” The word is used for the first time in the paragraph where Aristotle tells the delightful story of the philosopher Thales, who, annoyed at being taunted for his poverty, decided to prove that philosophers, too, could make a fortune, if only they cared to apply their wits to the solution of practical business problems.³ Foreseeing a bumper crop of olives, on the basis of astro-nomic observations, he leased all the oil presses available on the Isle of Chios and around Miletus on the coast of Asia Minor. Having

1. K. E. Boulding, “In Defense of Monopoly,” this *Journal*, LIX (1944), 524.

2. See, in particular, the pertinent remarks of Alexander Gray, *The Development of Economic Doctrine* (London, 1937), p. 122.

3. Aristotle, *Politics*, I, iv, 5.

thus acquired control of the local supply, he let out the presses at harvest time with a huge profit. Aristotle adds that, in his time, to secure a monopoly had already become a universal principle of business and that some states raised revenue by granting exclusive rights on the sale of marketable commodities.

From the Greek, the word "monopoly" or *monopolium* was introduced into Latin, retaining the same meaning. However, it remained a neologism as late as the reign of Emperor Tiberius who, in a speech to the Senate, apologized for using it for want of a better term.⁴ Later, Pliny the Elder reports that nothing was a subject of more frequent legislation than illegal monopolies.⁵

It is well known that the Romans did not excel in speculative science and it is, therefore, not astonishing that they did not develop the rudiments of economics which are found in the writings of the Greeks. On the other hand, the Romans, being expert administrators, made a major contribution in developing the body of Roman law, codified in the time of Justinian. Monopolies are not overlooked. An edict of Diocletian, promulgated in 301, had decreed the death penalty for any attempt to bring about artificial scarcity of commodities, especially victuals. This stringent enactment was probably repealed upon Diocletian's abdication in 305, but this repeal did not affect the leading principle of Roman law that all monopolies and conspiracies to raise prices were illegal.⁶ This principle is embodied in the Codex, which outlaws all monopolies and illicit pacts among merchants, artificers, or operators of the baths.⁷

The real foundations of price theory in general, and of monopoly in particular, should, however, not be sought among the Greeks and the Romans, but in the learned treatises, which the Doctors of the scholastic school devoted to the important subject of social ethics. Unfortunately, these writings have been systematically ignored by professional economists. It is true that the current textbooks on the history of economic thought mention the price theories of Thomas Aquinas and the monetary theories of Oresme, but from there they jump to the mercantilists, entirely overlooking that Aquinas was the founder of a school and that his doctrines were further elaborated and refined by his followers.⁸

4. Suetonius, *De vita caesarum. Tiberius*, III, 71.

5. Pliny, *Naturalis historia*, VIII, 56, §135.

6. Roman Piotrowski, *Cartels and Trusts; Their Origin and Historical Development* (London, 1933), pp. 107 ff.

7. *Corpus juris civilis, codex*, IV, 59.

8. Some of the standard textbooks, such as Gide and Rist, Heimann, and Scott, omit the subject altogether and start with the English mercantilists or the French physiocrats. With respect to early and foreign economic doctrines,

The causes of this neglect are manifold. One may be Protestant prejudice against scholastic philosophy.⁹ Another is that the economic doctrines of the Doctors are buried in ponderous Latin treatises, which have discouraged the most courageous investigators. Still another cause of this contempt for early economics is traceable to the prevailing tendency among sociologists and economists to over-emphasize recent developments and to disparage the past. As a result of this trend, the belief has spread that Adam Smith is the founder of a new science and that there is little merit in the writings of his predecessors. And, finally, it must be admitted that there is in English no good book available on the subject. The essay of Father George O'Brien on mediaeval economics is naturally apologetic and, moreover, deficient in economic analysis and critical sense.¹ The most erudite book is still the two-volume work of Wilhelm Endemann, but it is in German; it overstresses the importance of the usury doctrine and is now partly out of date, since it was written some seventy years ago.² A reliable and more recent book is that of Edmund Schreiber, also in German, on the economic doctrines of Aquinas and his school.³ Unfortunately, it does not show the influence of scholastic economics on the subsequent evolution of economic thought.

In this respect, it should be pointed out, that, contrary to common belief, scholastic economics is by no means the economic doctrine of the Middle Ages. As a matter of fact, the great works on scholastic economics, such as those of Luis Molina and Leonardus Lessius, did not appear until the sixteenth and seventeenth centuries.⁴ Moreover, we should not forget that human knowledge grows by accretion;

a useful guide is still Luigi Cossa, *An Introduction to the Study of Political Economy* (London, 1893). There are earlier editions with a different text.

9. To be fair and impartial, it should perhaps be added that the Catholic scholars have missed a golden opportunity to emphasize the importance of the contributions made by eminent members of their own Church. The latest failure in this regard is Joseph F. Flubacher, *The Concept of Ethics in the History of Economics* (New York: Vantage Press, 1950). All in all, in this book, less than twenty pages are devoted to the great Catholic thinkers of the Middle Ages, and the moralists and jurists of the 16th and 17th centuries are simply ignored.

1. *An Essay on Mediaeval Economic Teaching* (London, 1920).

2. *Studien in der romanisch-kanonistischen Wirtschafts- und Rechtslehre bis gegen Ende des 17. Jahrhunderts* (2 vols., Berlin, 1874-1883).

3. *Die volkswirtschaftlichen Anschauungen der Scholastik seit Thomas v. Aquin* (Jena, 1913).

4. Luis Molina (1535-1600) was a Spanish Jesuit. His work, *De justitia et jure*, was first published in 1593 and was so esteemed that it ran into several editions. Leonardus Lessius, or de Leys (1554-1623), was born in Brecht (Belgium). He also entered the Society of Jesus and taught theology at the University of Louvain. His major work bears the same title as that of Molina and is also extant in several editions.

scholastic thought, by influencing such men as Grotius, Pufendorf, and Galiani, left its stamp on all later writings, including those of Adam Smith.⁵ Whether the last was conscious of this influence does not matter at all: it is present in his work, and that is the essential point. Perhaps we ought to become more aware of the problems of continuity and filiation in dealing with the evolution of economic ideas.

In passing judgment on early writers, we are confronted with a major difficulty in that their method of approach is so entirely different from analytical procedure today. Differences in terminology are another source of trouble, because certain words either were not used at all, like "competition," for example, or were used in an entirely different meaning, like the expression "free trade." Other expressions, such as "common estimation," used constantly in old treatises, have fallen completely into disuse. Unless one is extremely careful about the definition of terms, there is always the danger of misreading and misinterpreting the texts.

II. THE MONOPOLY THEORY OF THE DOCTORS

The scholastic Doctors approached economic problems from an ethical and legal point of view. Their primary concern was with social justice. They were much less concerned with the operation of the economic system: this was undoubtedly the great weakness of their method of analysis. In accordance with the doctrine of St. Thomas Aquinas, the Doctors distinguished between distributive and commutative justice. The first dealt with the place of the individual within the social order and was not based on the principle of equality.⁶ On the contrary, it was based on the premise that each person was entitled to a share of the goods of this world according to his station in life. Distributive justice, then, regulated the distribution of wealth and income. According to Aquinas — followed by all the

5. Hugo Grotius, or de Groot (1583–1645), was a famous Dutch jurist. Much valuable economic theory is included in his treatise, *De jure belli ac pacis, libri tres*. The same applies to the treatise, *De jure naturae et gentium, libri octo*, by Baron Samuel von Pufendorf (1622–1694), a German jurist and philosopher. Both treatises, with an English translation, have been republished recently by the Carnegie Endowment for International Peace. Ferdinando Galiani (1728–87) was a Neapolitan *abbé*, whose wit made him very popular in the Parisian salons. He wrote on money and on the corn trade. Abbé Galiani has a name in French and Italian literature as well as in economics. He has been praised for developing a value theory based on utility and scarcity, but this was good scholastic economics! All the works of Abbé Galiani show traces of his theological training.

6. Thomas Aquinas (1226–1274), *Summa theologiae*, II, ii, quest. 61, art. 1. I have used the English translation prepared under the auspices of the Dominican Order.

Doctors — the basis of this distribution depended upon the social structure and could vary from one society to another. Commutative justice, on the other hand, dealt with the relations between individuals and was based on the principle of absolute equality, since justice required that the thing delivered be the equivalent of the thing received. Consequently, the exchange of goods, as in buying and selling, was within the province of commutative justice. Hence, the latter applied to the theory of value and price.⁷

It is impossible to give here an exhaustive discussion of the price theory evolved by the Doctors. It centered around the concept of the just price. What was the just price? A bewildering variety of answers have been given to this question, but it seems clear to me that the just price was nothing more mysterious than the competitive price, with this important qualification: the Doctors never questioned the right of the public authorities to set and regulate prices.⁸ In the absence of regulation, however, the just price was the one set by common estimation, that is by the free valuation of buyers and sellers, or, in other words, by the interplay of the forces of demand and supply.⁹ By some of the Doctors, this price was called the natural price as opposed to the legal price fixed by public authority. In any case, contrary to a widespread belief, the just price was not necessarily based on the cost of production.¹

7. *Ibid.*, art. 2.

8. Thomas Aquinas gives no precise definition, but it may be inferred from the examples given that he has in mind the market price (*Summa*, II, ii, quest. 77, art. 3, objection 4). This interpretation agrees with that of Armando Saporì, "Il giusto prezzo nella dottrina di san Tommaso e nella pratica del suo tempo," *Studi di storia economica medievale* (2nd ed., Florence, 1946), pp. 203 ff. The best definition which I have found is that of Lessius, *De justitia et jure*, libr. 2, cap. 21, dub. 2, §7: "The just price is either that which is fixed by public authority in consideration of the common good or that which is determined by the estimation of the community" (*Respondeo, Justum Pretium, censei, quod vel a potestate publica ob bonum commune est taxatum, vel communi hominum aestimatione determinatum*).

9. Everything depends, of course, on the definition of "common estimation" as a synonym of market valuation. The correctness of this definition is confirmed by a passage of Tommaso Buoninsegni, O. P., *Trattato de' traffichi giusti e ordinari* (Venice, 1591), cap. VI, §1, fols. 14^v–15^r. From his description, it appears that the "common estimation" is the result of the process of price determination in a free market. According to Father Buoninsegni, there was general agreement on this subject among the Doctors — theologians as well as jurists. From my acquaintance with other texts, there is no reason to doubt his word.

1. This belief is shared, among others, by Sir William J. Ashley, *An Introduction to English Economic History and Theory* (4th ed., London, 1919), I, 138. However, it is in contradiction with the treatises of the Doctors. According to Henry of Ghent (c. 1217–1293), the Solemn Doctor, "a commodity is worth as much as it is commonly sold for in the market place" (*prout communiter venditur in foro*). This text is quoted by O'Brien, *op. cit.*, p. 110 n. Besides Henry of

Briefly, if there was no legal or fixed price, the natural or competitive price was the just price. This doctrine was incipient in the writings of Thomas Aquinas, but it was first clearly formulated by one of his students, Aegidius Lessinus, who stated that "a thing is justly worth what it can be sold for without fraud."² The words "without fraud" should be interpreted to mean "without cunning devices, in a competitive market."³ The famous Buridan (1300–1358), rector of the University of Paris in 1327, went even further and stated that prices should be set with reference to the utility and needs of the entire community and not by taking advantage of an individual's urgent desire to buy or to sell.⁴ From these premises, the Doctors drew the inescapable conclusion that price discrimination and monopoly were both evil practices.⁵

Throughout the Middle Ages, monopolies, therefore, were regarded with universal reprobation.⁶ Clearly such practices were iniquitous on all counts. For one thing, by enhancing the price, monopolists sold something for more than it was worth, which was against the idea of equality underlying commutative justice. In the second place, exploitation in whatever form was against the precept of charity and brotherly love. And, thirdly, monopolies were injuri-

Ghent, the market price was considered just by the following Doctors: Richard Middleton (fl. 1300), Aegidius Lessinus, Buridan, Johannes Nider (1380–1438), San Bernardino of Siena, and San Antonino of Florence (Schreiber, *op. cit.*, pp. 140–142, 163–164, 187, 208, 218). According to the last, the cost of production enters into consideration only in so far as it affects the supply. This theory is not only correct, but up to date. In his *Instrucion de mercaderes* (Medina del Campo, 1544, fol. 30^r), Dr. Saravia de la Calle declares that "the just price is determined by the abundance or the lack of goods, merchants, or moneys . . . and not by cost, labor or risk." (*Porque el justo precio nasce de la abundancia o falta de mercaderias, de mercaderes y dineros . . . y no de las costas, trabajos y peligros.*) And Buoninsegni (*Trattato de' traffichi giusti e ordinari*, 1591, fol. 15^r) declares that "a thing is worth as much as it can commonly be sold for" (*che tanto vale la cosa, quando si pu vendere communemente*). He adds that prices rise and fall in response to the scarcity or abundance of the commodities. From a Catholic point of view, the orthodoxy of the authors quoted is beyond question. And, further, I should like to point out that the Doctors did not disagree on such a fundamental point.

2. Text quoted by Amintore Fanfani, *Le origini dello spirito capitalistico in Italia* (Pubblicazioni della Università cattolica del Sacro Cuore, serie terza, scienze sociali, v. XII, Milan, 1933), p. 12.

3. This interpretation conforms to the definition of "fraud" given by Luys de Alcalá, O.F.M., *Tractado de los prestamos que passan entre mercaderes y tractantes* . . . (Toledo, 1546), fol. 5^v.

4. Schreiber, *op. cit.*, p. 184.

5. According to San Bernardino of Siena, O.F.M., a merchant ought to sell to all at the same price and not charge one customer more than another (Fanfani, *op. cit.*, p. 110).

6. O'Brien, *op. cit.*, pp. 124 f.

ous to the commonweal, because monopolists not only increased prices, but also withheld supplies from the market and thus created artificial scarcity. The dictum was: *Monopolium est injustum et rei publicae injuriosum*.⁷

In accordance with canon law, monopoly profits were considered as *turpe lucrum* or ill-gotten gains.⁸ Like usury, they were subject to restitution, under the penalty of eternal damnation. The only difference consisted in the fact that usury was, in principle, repayable to the aggrieved party or to his heirs. Monopoly profits, on the other hand, were usually made by exploiting the public, that is, the anonymous crowd. *In incertis*, since the persons wronged were unknown, restitution could be made in the form of alms to the poor, gifts to charities, bequests to hospitals, and other pious works.⁹ There are countless examples of restitution of usury and ill-gotten gains in mediaeval wills, so that there can be no doubt that the code of social ethics was actually enforced by the Church, chiefly *in foro conscientiae*, that is, through the sacrament of confession.¹

Thomas Aquinas (1226–1274) deals with monopoly only by implication, since a monopolist is not an honest trader, but one who pursues an excessive gain to the detriment of the public.² One of the first to attack monopoly specifically was apparently Nicole Oresme (c. 1320–1382). In his famous treatise on money, he denounces any monopoly on the necessities of life, even if it is public and designed to raise revenue for the Crown.³ The treatise, as a whole, is an indictment of debasement as a tyrannical abuse by the prince of his regalia or monopoly on coinage.

In the fifteenth century, the attack does not abate. San Anto-

7. Joseph A. Schumpeter, "Science and Ideology," *The American Economic Review*, XXXIX (1949), 357. Cf. Endemann, *Studien*, II, 59.

8. *Corpus juris canonici*, Decr. II, c. xiv, qu. 4, c. 9. The text of this canon seems to be the same as that of a capitulary of Charlemagne promulgated in 802. Piotrowski, *Cartels and Trusts*, p. 131.

9. T. P. McLaughlin, "The Teachings of the Canonists on Usury," *Mediaeval Studies*, I (1939), 125: "Restitution in all cases of *turpe lucrum* is to be made, not to the buyers, but to the poor." Cf. Thomas Aquinas, II, ii, qu. 62, art. 5, obj. 3.

1. Typical examples are given by Fanfani, *op. cit.*, p. 51. One should also consult the interesting article of Benjamin N. Nelson, "The Usurer and the Merchant Prince: Italian Businessmen and the Ecclesiastical Law of Restitution, 1100–1550," *The Tasks of Economic History*, suppl. to *Journal of Economic History*, VII (1947), 101–122, esp. 112 ff.

2. Thomas Aquinas, II, ii, qu. 77, art. 4. See also the comments of Cardinal Cajetan (Thomas de Vio) quoted by Fanfani, *op. cit.*, p. 123.

3. *Traictié de la première invention des monnoies*, ed. M. L. Wolowski (Paris, 1864), chap. 10, pp. xxx ff.

nino (1389–1459), archbishop of Florence, fiercely inveighs against the formation of any temporary rings or more permanent cartels for the purpose of securing larger profits and higher prices. Such combinations ought not to be tolerated by the State, especially not if they involve victuals or other necessities and thus place an excessive burden on the poor.⁴ The same note is struck by San Bernardino of Siena (1380–1444), a popular preacher and a coeval of the archbishop of Florence, San Antonino. To him, as to others, the word “monopoly” has a broad meaning and applies to the control of the supply of a commodity by a few as well as by one person.⁵ The same is true of later moralists.

According to Molina (1535–1600), the term “monopoly” covers all pacts by which merchants set a maximum price above which they refuse to buy or a minimum price below which they agree not to sell. The term even covers agreements according to which one artificer will not finish a job begun by another.⁶ In short, the Doctors gave to “monopoly” an extensive meaning which included oligopoly, monopsony, and even restrictive labor practices, which we think are weapons developed by our modern trade unions, but which, in fact, were already known to the mediaeval guilds.

Since it is impossible to study all the Doctors, one by one, it may be well to confine ourselves to one typical example of their analysis and to examine in some detail what Leonardus Lessius, or de Leys, has to say on the subject of monopoly. Lessius (1554–1623) is a rather late moralist, since his treatise did not appear until the beginning of the seventeenth century.⁷ By that time, however, scholastic economics had reached its zenith in elaboration and refinement; hence, we are dealing with a fully developed doctrine.

After giving the usual definition, Lessius distinguishes four kinds of monopoly: (1) that in which sellers “conspire” (*conspirant*) to set a minimum price; (2) that which is granted by a privilege of the prince; (3) that which consists in cornering the market by buying

4. Bede Jarrett, O. P., *San Antonino and Mediaeval Economics* (St. Louis, 1914), pp. 69 f.

5. San Bernardino, *Istruzioni morali al traffico e all'usura* (Venice, 1771), istr. 1, cap. 3, §5, pp. 21 f.

6. Molina, *Justitia et jure*, tract. II, disp. 345, §2.

7. Lessius, *De justitia et jure caeterisque virtutibus cardinalibus*, libri IV (Paris, 1606), lib. 2, cap. 21, dub. 20, pp. 270 ff. There is an article on Lessius by the Belgian economist Victor Brants, “L'économie politique et sociale dans les écrits de L. Lessius (1554–1623),” *Revue d'histoire ecclésiastique*, XIII (1912), 73–89 and 302–318. I do not agree with the commentator, who contends that Lessius condemned competition as well as monopoly.

up the available supply and by refusing to sell until the price has risen; and (4) that which consists in impeding the importation of a commodity by others. For example, the Portuguese used force and attacked Arab vessels in the Indian Ocean to prevent spices from reaching Alexandria and thence Venice.

With regard to the first of those practices, Lessius remarks that monopolists who make price agreements sin against charity in any case, but also against justice, if they fix a price higher than the one that would be set by common estimation in the absence of fraud or conspiracy. In other words, there is exploitation whenever the price charged by monopolists or oligopolists is above the competitive price. According to Lessius, commutative justice is also violated in cases of monopsony — although he does not use this word — when buyers get together to lower the price of the goods or services offered to them. With respect to exclusive privileges conceded by a prince, one should consider whether or not the grant is for the public good. If it applies to necessities, the prince ought to be extremely careful to keep the price low but, if trifles or luxuries are involved, he may have good cause to make them expensive and to restrict consumption. In the opinion of Lessius, practices three and four are doubtless contrary to justice and, because they create dearth, harmful to the common weal. Thus, monopoly became a public offense which was punishable *in foro externo*, that is, by the courts.

Lessius was a theologian, but the jurists adopted much the same point of view. For example, de Damhoudere (1507–1581), the renowned Flemish criminologist, propounds the theory that merchants may legitimately earn enough to live from their business, but that they must adhere to the market price (*pris du marché publicq*).⁸ Only in times of dearth are the authorities allowed to fix a reasonable price for victuals and other necessities, so that the poor would not die from starvation. Probably de Damhoudere, if he were living today, would, in case of national emergency, have approved wholeheartedly of price controls, food rationing, priorities, and the allocation of scarce supplies.

As for monopoly, it is a crime which is forbidden by the laws of many states, but which, de Damhoudere complains, remains often unpunished. It is committed not only by merchants, but also by artificers and craftsmen who enter into collusion not to work except at the rate which they have established themselves and which is often exorbitant and exceeds the wage paid in neighboring towns.

8. Joost de Damhoudere, docteur ès Droitz, *Practique judiciaire ès causes criminelles* (Antwerp, 1564), fols. 169^r–170^v.

III. MONOPOLY THEORY AND ECONOMIC POLICY

It would be a grievous mistake in historical interpretation to assume that the theories of the Doctors did not affect economic policy or influence legislation. For example, a French ordinance of 1519, regulating the rates chargeable by innkeepers, states that the latter, driven by avarice and cupidity, had endangered the salvation of their souls by overcharging their customers "in disregard of all honesty and of commutative justice."⁹ So the government decided to be kind and to save the souls of the French innkeepers by reducing their prices to a more reasonable level. For us, the significant fact is the reference to commutative justice in a piece of legislation.

England, around 1600, affords an even better example of the persistent grip of scholastic ideas on the minds of legislators. As is well known, the question of monopolies was being hotly debated in the House of Commons. The tempest eventually calmed down after enactment of the Statute of Monopolies (1624). What interests us is to ascertain which theory inspired the arguments used in the debate. A perusal of the Journals of the House of Commons leaves no doubt as to the source of inspiration. In the debate of 1601, for example, one learned speaker gave an etymology of "monopoly" which is wrong, but which must have been taken from a mediaeval treatise, since I have found the same in San Bernardino of Siena.¹ Secretary Robert Cecil made a distinction between *forum conscientiae* and *forum iudicii*, no doubt a scholastic reminiscence.² Nearly all speakers pointed out that monopolies were a "restraint of freedom" and that they were oppressive to the public and hurtful to the commonwealth, an observation which the Doctors had made long ago.³ When the Statute of Monopolies was finally passed, the old and venerable principle of restitution was written into the law, and the persons aggrieved were given a claim against monopolists at common law.⁴ All this is not surprising: the legal and social doctrine of the Doctors

9. *Recueil général des anciennes lois françaises*, eds. Isambert, Decrusy et Armet, Vol. XII (Paris, 1828), p. 168, No. 72.

1. This error was made by Mr. Spicer, member for Warwick, who derived the word "monopoly" from *monos* (one) and *polio* (city). Sir Simonds D'Ewes, *A complete Journal of the Votes, Speeches, and Debates of the House of Lords and the House of Commons* (London, 1693), p. 644. Cf. San Bernardino, *Istruzioni*, I, cap. iii, §5.

2. D'Ewes, *op. cit.*, p. 653.

3. The expression "restraint of trade" is used as early as 1604. The text of the debates is easily accessible in *Tudor Economic Documents*, eds. R. H. Tawney and Eileen Power (London, 1924), II, 269-92, and in *English Economic History, Select Documents*, eds. A. E. Bland, P. A. Brown, R. H. Tawney (London, 1915), p. 443.

4. 21 James I, c. 3 (1623-24). Text available in *Select Documents*, pp. 465 ff.

was still taught in all the universities, including Oxford and Cambridge, where Sir Francis Bacon, Sir Robert Cecil and other members of Parliament had received their formal training.

It has been asserted that the canonists considered free competition as the root of all evil.⁵ Such a contention agrees neither with the texts nor with the facts. It is in a class with the error of those who draw an idyllic picture of the mediaeval guild system as a panacea against all the ills of rationalism and unrestricted competition.⁶ The truth is rather different. The policy of mediaeval authorities was not always consistent, but its purpose was often to enforce and maintain competition. This is especially true of the towns in their relation with the country; their main concern was to provide their population with an adequate supply of goods, especially victuals, at as low prices as possible. Professor Eli F. Hecksher has called this policy "the policy of provision."⁷ In order to achieve their aim, most towns, if not all, had open markets where the peasants from the neighborhood were expected to bring their produce and to sell it directly to the consumer at prices determined by competitive bidding among buyers as well as sellers.⁸ Any attempt to engross, to regrade, or to forestall was punishable by the pillory, banishment, or confiscation, not only in England but everywhere.⁹

As for the guilds, they were often accused of abusing their regulatory and supervisory functions in order to engage in monopolistic practices.¹ Complaints of this sort were especially loud and frequent in France. As early as 1283, the jurist Beaumanoir vituperates

5. August Oncken, *Geschichte der Nationalökonomie* (Leipzig, 1902), I, 135: "Die Kanonisten umgekehrt erblickten in der freien Konkurrenz die Wurzel alles Übels, die Ursache aller Ungleichheit und riefen daher nach einer unumschränkten Intervention der öffentlichen Gewalten." I have not found any support for such a statement: even today, Catholic moralists, true to tradition, consider free competition necessary and disapprove only of abuses arising from unfair and unbridled competition. See Albert Muller, S.J., *La morale et la vie des affaires* (Tournai, 1951), pp. 140 f.

6. This point of view is represented, among others, by Amintore Fanfani, *Cattolicesimo e Protestantismo nella formazione storica del Capitalismo* (Milan, 1934), pp. 34 f. After the fall of fascism, the author became minister of Labor in the de Gasperi cabinet.

7. *Mercantilism* (London, 1935), II, 80 ff.

8. This aspect of the question has been studied by Vernon A. Mund, *Open Markets, an Essential of Free Enterprise* (New York, 1948), pp. 13 ff. I do not always agree with the point of view of this author, but his book is the fruit of extensive research and contains valuable material not available elsewhere.

9. For a definition of these terms, see *ibid.*, pp. 43 ff.

1. In theory, the guilds were supposed to prevent unfair practices, to supervise quality, to make apprenticeship rules, etc., but not to put monopolistic restrictions on trade. Humanity being what it is, the practice was often different.

against the monopolizing tendencies of the craft guilds.² In 1339, shipmasters were forbidden by an ordinance of the king, Philip VI, to form *harelles* or seditious associations for the purpose of improving their bargaining position.³ In 1500, under Louis XII, the Parlement of Paris censured the officials of the guilds for combining to raise the price of their services or merchandise at the expense of the public. The complaints were repeated under Francis I, Charles IX, and Henry III.⁴ As is known, the famous Jean Bodin (1520–1596) was the first to attribute the rise in prices during the sixteenth century to the influx of precious metals pouring into Europe from the New World. What is less known, is that he listed monopolies second as the principal cause of dearth.⁵ According to Bodin, illicit combinations were often disguised under the cloak of religious fraternities.

Our anti-trust laws are not the first of their kind. Throughout the Middle Ages and the sixteenth century, legislation was passed to bring business practice into conformity with the teachings of the Church and the code of social ethics developed by the theologians and the jurists. It is true that mediaeval statutes often remained a dead letter and that the abyss between enactment and enforcement was rarely bridged. Nevertheless, when the opportunity arose or when complaints grew too loud, the authorities might unexpectedly awake from their slumbers and display a sudden zeal for the enforcement of a long forgotten statute. As long as the law was on the books, wrongdoers were never safe: infringement could always lead them to the pillory, if not to the gallows. In one respect, anti-monopoly legislation had a pernicious effect: it was scarcely ever applied to the big merchants, but it was frequently misused to catch the small fry guilty of organizing workmen into brotherhoods.

In the Middle Ages, the statutes of most Italian city-states contained provisions forbidding "conspiracies," coalitions, and other combinations for the purpose of increasing the prices of commodities.⁶ Even the guilds themselves incorporated such prohibitions in their statutes, for example, the Florentine merchant guild or Arte di

2. Emile Coornaert, *Les corporations en France avant 1789* (3rd ed., Paris, 1941), p. 69.

3. "Harelle," Charles du Cange, *Glossarium*.

4. Coornaert, *op. cit.*, p. 119.

5. Jean-Yves Le Branchu, *Ecrits notables sur la monnaie (XVI^e siècle) de Copernic à Davanzati* (Paris, 1934), I, 84, 94–95.

6. A list of the statutes is given by Alessandro Lattes, *Il diritto commerciale nella legislazione statutaria delle città italiane* (Milan, 1884), p. 140, and notes on pp. 145–46. The word "conspiracy" is actually used in a Pisan statute (Sapori, "Il giusto prezzo," *op. cit.*, pp. 216 f.).

Calimala.⁷ On the other hand, the same statutes often contained regulations whereby the workers or artificers subject to the guild's jurisdiction were threatened with blacklisting (*divieto*), if they dared to assemble in "conventicles" or to form "leagues" or brotherhoods.⁸ In 1345, a Florentine woolcarder, named Ciuto Brandini, was arrested and even executed for attempting to organize some sort of labor union.⁹ Naturally, it was to the interest of the masters to maintain, at all costs, competition in the labor market.

Beyond the Alps, the anti-monopoly movement did not gain momentum until the sixteenth century, when international cartels, such as the copper, alum, and spice cartels, aroused a storm of protests. In Germany, the first important act of legislation was a resolution of the Diet of Trier-Cologne in 1512. Attempts at enforcement by the attorney of the Empire (*Fiskal*) caused the Augsburg magnates some worries, but, in the end, produced little in the way of tangible results. The Emperor Charles V depended too much on the credit of the principal offenders (the Fuggers) to allow the charges to be pressed.¹ Moreover, the high-German business magnates had an exceedingly clever and influential counsel in the person of Dr. Conrad Peutinger (1465-1547), who was closely related to two of the leading merchant families, the Höchstetters and the Welsers.

Peutinger has often been regarded as opposed to the economic ethics of the Middle Ages and as favoring concessions to capitalist monopolies and cartels.² As it stands, this statement, it seems to me, is somewhat of an exaggeration. In my opinion, it is based on a misinterpretation of his *Concilium*, or *Gutachten*, of 1530, in which he

7. Statuto dell'Arte di Calimala (1332), lib. II, rubr. 35. I have used the text published by Paolo Emiliani-Giudici, *Storia dei Municipi italiani* (Florence, 1851), Part IV.

8. Statuto dell'Arte di Calimala (1332), lib. II, rubr. 6. The statutes of the Wool and Silk guilds contain similar provisions. Niccolò Rodolico, *La democrazia fiorentina nel suo tramonto, 1378-1382* (Bologna, 1905), pp. 54, 114. Cf. Gaetano Salvemini, *Magnati e popolani in Firenze dal 1280 al 1295* (Florence, 1899), p. 36.

9. Rodolico, *op. cit.*, p. 119. Cf. Ferdinand Schevill, *History of Florence* (New York, 1936), pp. 265 f.

1. More details are given in Jakob Strieder, *Studien zur Geschichte kapitalistischer Organisationsformen* (Munich, 1925), pp. 53-92. Cf. A. Kluckhohn, "Zur Geschichte der Handelsgesellschaften und Monopole im Zeitalter der Reformation," *Historische Aufsätze dem Andenken an Georg Waitz gewidmet* (Hanover, 1886), pp. 666-704. I am indebted to Professor Adolph Lowe for this reference.

2. Jakob Strieder, "Peutinger, Konrad," *Encyclopaedia of the Social Sciences*. The same point of view is taken by Mary Catherine Welborn, "An Intellectual Father of Modern Business," *Bulletin of the Business Historical Society*, XIII (1939), 20-22.

took up the defense of the great Augsburg mercantile and banking houses.³

Since Peutinger was steeped in the knowledge of Roman law, he did not ignore that monopoly was a crime according to the *Codex*. As a matter of fact, he fully admits this point in several of his writings; his line of argument is not that monopoly was legal or justifiable, but that the great Augsburg firms were not guilty of illegal practices. To make his point, Peutinger places a strict interpretation on article IV, 59, of the *Codex* and contends that it applies only to the necessities of life (*res viles*), such as grain or wine, and not to luxury articles, such as spices or silks, in which the Fuggers and other large companies were dealing. In his *Concilium* of 1530, he argues at great length that, even with regard to these commodities, they did not control the supply and were unable to set prices according to their fancy.

It is true that Peutinger defends the freedom of the pricing process. He protests that it is unfair to blame merchants if they sell at the best price which they are able to secure. Sometimes they may be favored by luck, but if the market goes down, they stand to lose. Contrary to the general belief, I do not see anything in this statement that is in disagreement with the economic ethics of the Middle Ages: the Doctors take the same attitude. One might ask, however, whether the high-German houses really refrained from manipulating prices, but this is raising a question of fact and not of theory.

It is also true that Peutinger secured legislation which was favorable to big business. The resolution of the German Diet of 1512 threatened monopolists with confiscation of all their property, which, incidentally, was going beyond the requirements of canon law. Peutinger, however, persuaded the Emperor to issue the edict of March 10, 1525, which overruled the Diet by defining monopoly more strictly and by reducing the penalty to the confiscation of excess profits. This penalty was in agreement with the principle of restitution found in canon law. Peutinger went further; he saw to it that even this milder ordinance became ineffective. Due to his influence, the cognizance of monopoly cases was transferred from the imperial jurisdiction to the local courts. Of course, Peutinger knew very well that the City of Augsburg would never start proceedings against its leading citizens. By using legal tricks, he thus made sure that the anti-monopoly edicts remained a dead letter.

3. Parts of this *Concilium* have been published by P. Hecker, "Ein Gutachten Conrad Peutingers in Sachen der Handelsgesellschaften," *Zeitschrift des Historischen Vereins für Schwaben und Neuburg*, II (1875), 188-216. The best study, however, is that by Erich König, *Peutingerstudien*, "Studien und Darstellungen aus dem Gebiete der Geschichte," IX (Freiburg in Breisgau, 1914).

It would be a mistake to attach too much importance to Peutinger's pronouncements. They represent only the opinion of a legal counsel who used every possible argument and legal technicality to keep his clients out of trouble. Today lawyers do the same when they try to convince the Supreme Court that the policies of this or that large corporation are not infringements of the anti-trust laws. In short, Peutinger was a brilliant lawyer, but this is a far cry from saluting him as an intellectual father of modern business or as one of the founders of economic individualism.

In France, the most important ordinance was that of 1539 by which Francis I forbade merchants to enter into secret price agreements to the detriment of the Crown and of public interest (*la chose publique*). Another ordinance of the same year was aimed at the monopolistic practices of the guilds. But the evil did not cease. As late as 1676, Louis XIV promulgated an edict against profiteering and engrossing by rings concealed as legitimate business organizations (*sociétés*).⁴

In the sixteenth century, the powerful international cartels all had factors in Antwerp, the great emporium of the time.⁵ In principle, any agreement smacking of monopoly was illegal in the Low Countries, as elsewhere; moreover, monopolies were explicitly forbidden by the ordinances, especially by the *placard* of October 4, 1540.⁶ In practice, it was soon proved that the international cartels were above the law. Nevertheless, pressure of public opinion from time to time forced the government to take action. In 1525, members of the spice cartel were arrested but were soon released, when they threatened to divert the trade to foreign parts.⁷ In dealing with the alum cartel, the authorities once or twice resorted to the expedient of confiscating all the local stocks and selling them at a reasonable price. But the cartel threatened to retaliate and to halt shipments to the Low Countries. Finally, the Brussels government, to protect as much as possible the interests of its subjects, came to terms and concluded an

4. Piotrowski, *Cartels and Trusts*, p. 187.

5. These combines were not temporary rings but real cartels based on written agreements containing price arrangements, fixing quotas, and providing penalties in case of non-observance of the contract.

6. *Recueil des anciennes ordonnances de la Belgique (Ordonnances des Pays-Bas sous le règne de Charles-Quint, 1506-1555)*, eds. Ch. Laurent, J. Lameere and H. Simont, IV (Brussels, 1907), 234.

7. One of them, Diego Mendez, was a *marano* or converted Jew. He was accused of practicing Judaism, but as no evidence was found, only charges of monopoly were retained. J. A. Goris, *Étude sur les colonies marchandes méridionales à Anvers de 1488 à 1567* (Louvain, 1925), pp. 194 ff.

agreement limiting the price which the alum cartel was allowed to charge.⁸

Later on, economic and political developments caused the decline of Antwerp and the gradual disappearance of the great international cartels until they were revived in recent times. Trust busting was even less successful in the past than it is in the present. I know of no historical instance where a government succeeded in breaking up a strong cartel and in restoring competition.

In England, the activities of the Antwerp monopolists created much ill-feeling, and Sir Thomas Gresham in his letters and reports advocated an economic policy designed to free his country from their control. He also accused the Antwerp merchant-bankers of rigging the money market, although it must be said in all fairness that Sir Thomas himself tried to do the same thing and to manipulate the exchange rate of the pound sterling.⁹ In England, however, public opinion did not really become aroused until the end of the sixteenth century when the Crown began to grant patents for the sale or manufacture of all sorts of commodities from playing cards to salt and saltpeter.¹ After a struggle of thirty years, the issue was finally settled by Parliament enacting the Statute of Monopolies, as we have already stated in another connection. This statute was effective in suppressing the royal patents, but it still allowed the grant of patents for fourteen years to new inventions, and, more important, it stopped at the trading companies, did not touch the East India Company, and left the guilds and municipal corporations in the undisturbed possession of their privileges.

From a legal point of view, the discussion in Parliament brought out the fact that monopolies were illegal at common law. When, in 1601, the House of Commons wanted to pass a bill prohibiting monopolies, Sir Francis Bacon, speaking on behalf of the Crown, opposed such a move on the grounds "that a bill which is only expository, to expound the Common Law, doth enact nothing."² And Sir Edward Coke wrote: "All monopolies are against the Magna Charta because they are against the Liberty and Freedom of the Subject."³

8. "Stukken rakende de aluin-, saltpeter- en zouthandel hier te lande in de eerste helft der XVI. eeuw," *Het archief*, II (Middelburg, 1844?), 265-272.

9. R. de Roover, *Gresham on Foreign Exchange* (Cambridge, Mass.: Harvard University Press, 1949), pp. 259 ff.

1. As a speaker in Parliament listed salt, but forgot saltpeter, another cried out: "Do not forget to add 'peter' to the salt." On these monopolies, consult William H. Price, *The English Patents of Monopoly* (Harvard Economic Studies, No. I, Cambridge, Mass., 1906).

2. *Journal of Elizabeth's Parliaments*, ed. D'Ewes, p. 648.

3. Sir Edward Coke, *The Second Part of the Institutes of the Laws of England* (London, 1681), p. 47.

From an economic point of view, the debate on monopolies gave rise to a war of pamphlets in which the early mercantilists fought to defend their vested interests. Wheeler and Misselden took up the defense of the Merchant Adventurers, Mun wrote a reply to the attacks on the East India Company, and Malynes continued to indict the bankers as the source of all monopolies. The quarrel became the more vehement as it fanned the flames of another controversy about the control of foreign exchange and the desirability of a favorable balance of trade.

IV. POST-SCHOLASTIC MONOPOLY THEORIES

The Reformation did not bring about a sudden change in social ideals. On the contrary. Martin Luther, for example, is quite mediaeval in his concepts and, in his writings, he does not mince his words in upholding the just price and in decrying usury and monopolies.⁴ Even in England, there was no sudden break, and scholastic doctrines continued to exert considerable influence until well into the seventeenth century. This is particularly true of such writers as William Ames,⁵ Philippus Caesar,⁶ Thomas Rogers,⁷ Dr. Thomas Wilson,⁸ and even the celebrated Richard Baxter,⁹ whose writings, according to Max Weber, are typical manifestations of the contamination of Protestant ethics by the spirit of capitalism!¹ But the truth is that these Anglican and Puritan divines, despite their Reformatory zeal, were frequently preaching the traditional Catholic

4. Especially in his tract, *Vom Kauffshandlung und Wucher* (Wittenberg 1524). Cf. Piotrowski, *Cartels and Trusts*, pp. 216-17.

5. William Ames (1576-1633) was a Protestant theologian and casuist, who wrote a book entitled *De conscientiae ejus jure et casibus* (London, 1632). For a summary of his doctrine, see Joseph Dorfman, *The Economic Mind in American Civilization* (1606-1865), I (New York: The Viking Press, 1946), pp. 12-13. Professor Dorfman states that "on both the 'just price' and usury, the Puritan were clearly attuned to the commercial needs of the times." In my opinion, they followed the traditional pattern, especially in the matter of price, and their approach to economic problems was entirely scholastic.

6. Philippus Caesar, probably a brother of Sir Julius Caesar, the lawyer wrote, in Latin, a book on usury, which was translated by Thomas Rogers under the title, *A General Discourse against the Damnable Sect of Usurers* (London, 1578).

7. Thomas Rogers (d. 1616) was an Anglican who wrote chiefly on religious matters.

8. Thomas Wilson (c. 1525-1581) published in 1572 a *Discourse upon Usury* republished in 1925 (New York: Harcourt, Brace) with a historical introduction by R. H. Tawney.

9. Richard Baxter (1615-1691) was a non-conformist preacher whose sermon drew huge audiences. He poured out so many books that it is impossible to list them here.

1. Max Weber, *The Protestant Ethic and the Spirit of Capitalism*, translated by Talcott Parsons (New York, 1930), pp. 155 ff.

doctrine. Far from relaxing the rules, some of them, and this is the case of Dr. Thomas Wilson, were even stricter on certain points than the most orthodox theologians.²

In the matter of just price, there was little, if any, change. In accordance with tradition, Thomas Rogers, for example, in 1578 defined the just price as the one "whiche is either appointed by indifferent and wise men in auctoritie or paied according to the common estimation of the thyng at such tyme as the bargaine is made."³ On the subject of monopolies, he takes the usual view that they are extortions and that it is illicit if a seller "makes other men to paie extremely for his ware."⁴ Baxter, in the next century, continues to expound the same principles.⁵ For both authors common estimation is equivalent to the market price. Contrary to prevailing opinion, there is, consequently, no departure whatsoever from the norms formulated long before by mediaeval scholasticism.

From England, Puritan and Congregational divines brought the doctrine of the just price to the shores of America. It is expounded by the Reverend John Cotton who, following tradition, identifies just price with current price. In Massachusetts and Connecticut, it was an accepted principle of law that to make a monopoly of any trade was against the public good and the liberty of the people. Why would it be otherwise, since the theologians and the leading laymen derived their knowledge of economic principles from theological treatises, like that of Ames, and from the standard works of Jean Bodin, Hugo Grotius, and Gerard de Malynes?⁶

It may not be surprising that the Protestant divines continued to preach the Christian ethics first developed by the Universal Church. What is more surprising is that scholasticism left its stamp on English mercantilism. The fact has been noted and emphasized by Professor Heckscher.⁷

The early mercantilists, especially, were preoccupied with preserving the ideal of economic liberty. Restrictions were only to be imposed — as the lesser of two evils — in order to prevent the overthrow of a trade. Among the writers prior to, and including, Mun, there is not a single one who unreservedly defends monopoly. Scho-

2. R. de Roover, *Gresham*, p. 106.

3. *A Godlie Treatise concerning the lawfull use of Ritches* (London, 1578), fol. 7^v. In this quotation, "indifferent" means "impartial." Rogers also states that consideration must be given to the scarcity or plenty of things.

4. *Ibid.*, fol. 8^r.

5. The pertinent texts are quoted *verbatim* by H. M. Robertson, *Aspects of the Rise of Economic Individualism* (Cambridge, 1935), p. 17.

6. Dorfman, *op. cit.*, I, 41, 47–50.

7. *Mercantilism*, II, 277.

lastic tradition was still too strong.⁸ Even Wheeler, in taking the defense of the Merchant Adventurers, denied vigorously that this company was in any way a monopoly and argued strenuously that its purpose was only to maintain what would be called today fair standards of competition.⁹ The same is true of Mun. He does not defend the East India Company purely on the ground of business considerations, and he fails to call attention to the fact that the risks were so great that, without a charter granting exclusive privileges, it would have been impossible to attract the necessary capital.¹ Instead, he cautiously avoids the issue. Reading his *Discourse of Trade*, one almost gets the impression that the East India Company must have been a philanthropic society dedicated to such humanitarian projects as the training of mariners, the relief of unemployment, the support of preachers, and in general to the welfare of the commonwealth. About the ticklish subject of monopoly, not an iota.

Other mercantilists are less reticent and generously furnish a definition.² The wording varies a little from one author to another, but the gist is the same. As with the Doctors, the definition is generally so worded that it includes oligopoly, because "the name of monopoly, though taken originally for personal unity, yet is fitly extended to all improportionable paucity of the sellers in regard of the ware which is sold."³

One of the best definitions is that given by Edward Misselden. It reads:

Monopoly is a kinde of commerce, in buying, selling, changing or bartering usurped by a few and sometimes but by one person, and forestalled

8. R. de Roover, *Gresham*, p. 284.

9. John Wheeler, *A Treatise of Commerce*, ed. George B. Hotchkiss (New York, 1931), pp. 363, 426-36; Middelburg, 1601, pp. 51, 142-52. The good faith of Wheeler is seriously open to question. His tract is a piece of clever propaganda. For example, his definition of monopoly is so worded that it is susceptible of strict interpretation only, and does not include oligopoly. Then he contends that the definition does not apply to the Merchant Adventurers and that they are not a monopoly. In the strict sense of the term, they were not. However, had Wheeler given a broader definition, it would have been more difficult to prove that it did not apply to Merchant Adventurers and that the charges of oligopoly levelled against them were entirely unfounded.

1. On similar grounds, Luis Molina had justified the monopoly of the East India trade by the King of Portugal. The text is in Strieder, *Studien*, pp. 90-91. Even Adam Smith justifies the granting of a temporary monopoly under those circumstances (*The Wealth of Nations*, Book V, chap. 1, part III, art. 1, §2: For facilitating particular branches of Commerce).

2. "A Discourse of Corporations, 1587-89?," *Tudor Economic Documents*, III, 266; Wheeler, *Treatise*, Hotchkiss ed., pp. 73, 427 and Middelburg ed., p. 143 and *T. E. D.*, III, 299; Gerard de Malynes, *The Maintenance of Free Trade* (London, 1622), p. 69; *Cambium Regis or the Office of His Majestie's Exchange Royall* (London, 1628), p. A3.

3. *English Economic History, Select Documents*, p. 446.

from all others, to the gain of the monopolist and the detriment of other men. The parts then of a monopoly are twaine: the restraint of the liberty of commerce to some one or a few; and the setting of the price at the pleasure of the monopolian to his private benefit and the prejudice of the publike. Upon which two hinges every monopoly turneth.⁴

One must admit that it would be difficult to be more complete. The principal point is that monopoly was a "restraint of freedom," since, by definition, the monopolists or the oligopolists were the only dealers and could exclude all others from the exercise of a trade.

Nothing is likely to create more confusion than misunderstanding about the meaning of words. In the history of economic thought misunderstandings of this kind have repeatedly led to misinterpretations. One should not forget that a language does not remain static: new words are added, others become obsolete, and still others change their meaning or acquire a new connotation. Moreover, changes in terminology often correspond to change in habits of thought. Thus it happens that the word "competition" was never used by the mercantilists. In its economic signification, it probably does not antedate the eighteenth century.⁵ Prior to that time, it does not occur. To designate competition, the mercantilists used the expression "freedom of trade" or "free trade." Consequently, in their parlance, "freedom of trade" was not the opposite of protectionism—which was not yet an issue—and had nothing to do with the absence of trade barriers between countries. "Freedom of trade" was the antithesis of "restraint of trade" and of monopoly.⁶ The accen-

4. Edward Misselden, *Free Trade or the Meanes to Make Trade Florish* (London, 1622), p. 57.

5. In support of my interpretation, I should like to quote the following declaration made to the House of Commons in 1604: "All free subjects are born inheritable, as to their land, so also to the free exercise of their industry in those trades, whereto they apply themselves and whereby they are to live. Merchandise being the chief and richest of all other, and of greater extent and importance than all the rest, it is against the natural right and liberty of the subjects of England to restrain it into the hands of some few, as now it is." *Engl. Econ. Hist., Selected Documents*, pp. 443-44 and *Journals of the House of Commons*, I, 218. R. I. Tawney (*Religion and the Rise of Capitalism*, London: Pelican Books, 1939), pp. 166-67, places on this text a different interpretation, but he assumes that there was a change in outlook on this matter between the Middle Ages and the sixteenth century. I question such a view very much. The statement belongs to the mercantilist period only because it insists that trade is more important than agriculture or industry.

6. Adam Smith uses the word "competition," but always preceded by the article and not yet as an abstract concept (*Wealth of Nations*, Book I, chap. Modern Libr. ed., p. 56). But he continues to use the expression "perfect liberty to designate what would be called today "perfect competition" (see chaps. 7 and 10, pp. 56, 62, 99). However, "competition" in a modern sense is used earlier by Sir James Steuart, whose treatise appeared in 1767 (*An Inquiry into the Principles of Political Oeconomy*, Vol. I, p. 200).

instead of being on rivalry, as in "competition," was on the freedom of ingress into a profession or a trade and, more than that, on the absence of all hindrances to traffic.⁷

Such a way of thinking is quite understandable in an age of privileges and restrictions. To receive the freedom of a guild, for example, meant to become a member and to acquire consequently the right or freedom to practice a given trade. The tract of Edward Misselden, entitled *Free Trade or the Meanes to Make Trade Flourish*, was not, as one may suppose, an attack on protectionism, but a plea in favor of the preservation of competition — as understood by the author. As a matter of fact, Misselden was the spokesman of the Merchant Adventurers and wanted to prove that this company had been unjustly accused of monopolistic practices. Its purpose was to regulate trade, and Misselden spent much of his eloquence in trying to convince his readers that regulation or "government in trade" was necessary to avoid unfair competition or "disorderly trade."⁸ In other words, he argued along the same lines as many business men today, who contend that quotas and other devices are necessary to avoid the disastrous results of cutthroat competition. Whether Misselden was right or wrong is not the point. I simply want to show that the problem is not new.

Since we are on the subject, it may be well to point out that the French word *concurrence* is not much older than competition, its English equivalent. Apparently, in the seventeenth century, *concurrence* had not yet acquired the special meaning which economists now give to it.⁹ At that time, the expression used was *liberté du commerce* or simply *liberté*.¹ Even Colbert paid lip service to the principle of competition and wrote to his *intendants* that "la liberté est l'âme du commerce," although, as is well known, he attempted to revive trade by multiplying monopolies.² Presumably, Montes-

7. It had the same meaning in colonial America (Dorfman, *Economic Mind*, I, 50). What is more startling, "free trade" is still used with this meaning by Adam Smith (*Wealth of Nations*, Book V, chap. 1, part 3, art. 1, §2, Mod. Libr. ed., p. 712), although he uses "freedom of trade" in a more modern sense in his chapter on restraints of trade.

8. The same point of view is taken by Henry Parker, *Of a Free Trade. A Discourse Seriously Recommending to Our Nation the Wonderfull Benefits of Trade, Especially of a Rightly Governed and Ordered Trade* (London, 1648). Cf. Dorfman, *Economic Mind*, I, 8.

9. Alwin Kuhn, *Die französische Handelssprache im 17. Jahrhundert* (Leipziger romanistische Studien, Sprachwissenschaftliche Reihe, Heft 1, Leipzig, 1931), p. 79. *Concurrence* occurs in one text of 1648, but not quite in an economic sense. The reference is "to the competition" of English and Dutch drapery. *En concurrence avec* ("in competition with") was common usage.

1. *Ibid.*, p. 207.

2. Heckscher, *Mercantilism*, II, 274.

quieu (1689–1755) is one of the first to use the word “competition” in the modern sense when he writes: “C’est la *concurrence* qui met un *prix juste* aux marchandises et qui établit les vrais rapports entre elles.”³ The juxtaposition of *concurrence* and *prix juste* is significant: scholasticism had not lost its hold, even on Montesquieu.

Misselden’s definition is not original with him. He himself gives as his source Althusius, or Johann Althaus (1557–1638), syndic of Emden from 1604 until his death. For a while the Merchant Adventurers kept their mart in that town, a circumstance that explains why Althusius’ writings were known to Misselden. Probably the two men met in an official capacity, or possibly on a more friendly basis. Althusius is by no means a second-rate figure: Professor Friedrich of Harvard would rank him with Machiavelli, Bodin, Grotius, and Hobbes, as one of the five foremost political thinkers of the period from 1500 to 1650.⁴ Althusius may be termed an Aristotelian whose sources of inspiration were the Bible, Roman law, classical philosophy and history, and contemporary political controversy.⁵ He also quotes from the mediaeval canonists and civilians. His major work is a treatise on government, entitled *Politica Methodice Digesta*. The later and revised editions of this work take on, more and more, a practical tinge, the result of his experience as an administrator.

On monopoly, Althusius has much more than Misselden leads us to suppose. Besides the definition which the latter reproduces in an English translation, there is a long description of sundry monopolistic practices.⁶ Althusius is even less favorable to monopoly than the scholastics, and he reveals himself as a staunch defender of “free trade” and even of individual bargaining and freedom of contract.⁷ In Althusius’ opinion, there is only one case in which monopoly is justifiable: in a national emergency, it may be imposed by the State

3. *Esprit des lois* (first published in 1748), Book XX, chap. 9. In the next chapter, however, Montesquieu uses the more common expression *liberté du commerce*, which is placed in contraposition to the *privileges exclusifs* granted to a trading company.

4. Johannes Althusius (Althaus), *Politica Methodice Digesta*, ed. Carl Joachim Friedrich (Harvard Political Classics, Vol. II; Cambridge, Mass., 1932), p. xv. The authoritative study on Althusius is that of Otto von Gierke, *Johannes Althusius und die Entwicklung der natürlichen Staatstheorien* (1st ed., Breslau, 1902; 4th ed., 1929).

5. Althusius, *op. cit.*, p. xx. Cf. George R. Sabine, *A History of Political Theory* (New York, 1937), p. 417.

6. *Politica Methodice Digesta*, cap. XXXII, §20–25, pp. 306–308 (Friedrich ed.).

7. However, he admits that public authorities have the right to set prices taking into consideration all attending circumstances (*ibid.*, cap. XXXII, §15, p. 305).

in order to provide revenue, if it is impossible to raise enough by taxation or other means, or if communications are disrupted by enemy action. In all other cases, public and private monopolies are illicit. Althusius gives three reasons. First, it would be tyrannical for the supply of the necessities of life to depend upon the whim or the discretion of a few, and, furthermore, to create dearth by restrictions on trade is against charity. Secondly, free commercial intercourse is a principle of public law which gives every one the right, in any legitimate way, to barter, to buy and sell, to acquire and alienate. And, finally, commerce has been justly introduced so that men from all parts may exchange what is necessary for their subsistence. To take away this right, is it not like robbing them of life itself?

According to Althusius, monopoly can be perpetrated in many ways, and he proceeds to give an impressive list of nineteen different restraints. They fall into three categories: (1) commercial, (2) industrial, and (3) political. The abuses laid at the door of merchants include chiefly practices which may be labelled as engrossing, forestalling, and regrating, and which were designed to prevent the operation of free competition in an open market. In most cases, this aim is achieved by means of illicit agreements, secret pacts, or conspiracies; these are the words used by Althusius.

More interesting, since other authors remain vague on the subject, are the details which he gives about the monopolistic practices of the guilds. Thus he considers as monopolistic any guild rules restricting membership. Such are, for example, those by which artificers agree that they will not teach their art except to their sons or grandsons, or that they will require apprentices to pay excessive entrance fees or to serve an exceedingly long time before becoming masters. In the same class are regulations which provide that nobody will be admitted as member of a guild unless he is from a certain family or from a certain town.

Another abuse of the guild system is when bakers, taverners, innkeepers, and the like connive to make rules for their own benefit, but to the detriment of the common weal. If he were living today, Althusius would not be in favor of labor unions. This phrase is not used by him, but he disapproves of artificers agreeing together that they will not hire themselves out unless they receive the minimum wage set by themselves. Wages are not the only issue; freedom of hiring or firing is another. The workers in the building trades are censured for making agreements that no one of them will accept a job already started or contracted by a fellow-worker. Apparently, even

strikes are not modern phenomena. Althusius, at any rate, regards it as a monopoly for craftsmen or journeymen to band together and refuse to work for the citizenry of any city or town, presumably in order to obtain better wages. In my opinion, it would be wrong to attribute Althusius' economic individualism to his Calvinism.⁸ Let us not forget that in mediaeval Florence, long before the Reformation, it was a capital offense to organize a labor union, let alone a strike.

In the political field, Althusius condemns any class legislation as apt to foment strife, as, for example, when one group attempts to obtain the enactment of a statute advantageous to itself but harmful to other groups. In short, lobbies, too, are monopolies. Political power is also abused when no one is permitted to grind at any mill other than that of the lord. Evidently, Althusius has no use for oppressive feudal customs.

One form of monopoly described by him is rather amusing: it is that of any soothsayers or fortune-tellers who collect large sums of money from people who consult them before they embark upon a business venture.⁹ That such a practice was still prevalent at the time of Althusius, I doubt very much. It must be a practice reported in a classical work: Althusius, like other learned men of his time, had the pedantic habit of quoting from Greek or Latin whenever there was the least opportunity.

On the whole, Althusius does not make much of a contribution. On the matter of monopolies, as on other subjects, he is more outspoken than profound.¹ His approach to the problem is entirely legal: there is the same lack of economic analysis, the same dogmatism, and the same reliance upon authority, as in scholastic works. Perhaps the only difference is that Althusius was more specific in his criticism. His attitude reflects the growing impatience with the narrow, restrictive, and particularistic tactics of the guilds; it was a sign of the times.² A comparison, perhaps, is not out of order: for the same reasons which moved Althusius, there is today a disposition in certain quarters to extend the application of the anti-trust laws to

8. According to Professor Friedrich, Althusius was the political theorist of Calvinism *par excellence*.

9. I have never found any mention of it in the numerous mediaeval business records that I have examined.

1. Sabine, *op. cit.*, p. 417.

2. The same trend is observable in Catholic countries. At Liège, one Mathias de Grati, in 1676, complains that the town is full of monopolies, and yet this detestable crime goes unpunished. J. Lejeune, "Religion, morale et capitalisme dans la société liégeoise du XVII^e siècle," *Revue belge de philologie et d'histoire*, XXII (1943), 117.

the monopolistic restraints of labor unions, especially in the building trades, already singled out by him more than three centuries ago.³

Althusius was a German, a Calvinist, and a political theorist. But the same doctrines with regard to monopoly were professed by Giovanni Domenico Peri, who was an Italian, a Catholic, and a practical man. Instead of a treatise on the art of government, he wrote a popular handbook on business, that contains a valuable description of the so-called fairs of Besançon, which were actually held in Piacenza and Novi, in Peri's time. These fairs were the international clearing house of the time, that is, during the period between the decline of Antwerp and the rise of Amsterdam to the rank of the world's financial center, and were dominated by the all-powerful Genoese bankers.

For Peri, as for Althusius, as for the Doctors before them, monopoly is the sum of all perversity and may be practiced by one or a few who buy or sell at an unjust price in the hope of illicit gain.⁴ One of the main characteristics of monopoly, Peri insists, is that of being a conspiracy. Merchants are not the only ones who may be guilty, but also artificers who contrive to exact more than the just wage, that is, the current or the opportunity wage.⁵ One of the worst forms of monopoly is that committed by bankers who, by their manoeuvres, manipulate the exchange rates in order to create artificial stringency in the money market.⁶ As a matter of fact, such manoeuvres had been formally condemned by Pope Pius V in 1571.⁷ Another reprehensible fraud is when dealers drive prices up by spreading false rumors that ships bringing supplies have been wrecked, delayed by bad weather, or seized by pirates.⁸ On the whole, there is nothing in Peri that deviates in the least from the traditional teachings of the Doctors. In another connection — the legitimacy of certain exchange

3. Corwin Edwards, "Public Policy toward Restraints of Trade by Labor Unions: an Economic Appraisal," *American Economic Review, Supplement*, XXII (1942), 432-448, esp. 440.

4. Giovanni Domenico Peri, *Il Negotiante* (rev. ed., Venice, 1707), Part III, cap. xx, pp. 74-75. The date of the first edition is 1638.

5. It is impossible to discuss here the just wage. As evidence, I should like to refer to the passages from Cardinal Juan de Lugo (1583-1660) quoted by J. Brodrick, S.J., *The Economic Morals of the Jesuits* (London, 1934), pp. 89-90.

6. At that time, "exchange-dealer" and "banker" were synonymous expressions, and the credit system, because of the usury prohibition, was tied to foreign exchange.

7. R. de Roover, *Gresham*, p. 164.

8. This was common practice even in as large a center as Venice. Market fluctuations were very sensitive to news. Pierre Sardella, *Nouvelles et spéculations à Venise au début du XVI^e siècle* (Cahiers des Annales, No. 1, Paris, 1948), pp. 27, 81.

transactions — Peri does not question their principles, either; he argues only that they do not apply to certain specific business practices.

In the course of the seventeenth century, criticism was more and more directed at the collective monopolies of the guilds and the exclusive privileges of the trading companies. The Dutch writer, Pieter de la Court (1618–1685) — his real name was van den Hove — especially represents this new trend.⁹ Because of his liberalism, he was hailed in the nineteenth century as the greatest of the early Dutch economists.¹ De la Court's main work, however, is nothing more than a political pamphlet which contains a passionate plea for freedom in matters of religion and for freedom of trade and of occupation (*vrijheid van negotie en van nering*). The main argument is that select or "closed" (*beslotene*) guilds and companies, because they were in the secure possession of exclusive rights, promoted inefficiency, blocked any innovations, and discouraged initiative.² Their restrictions were all the more dangerous because Holland's prosperity, which depended upon the exportation of the products of its fisheries and manufactures, was already threatened by foreign competition and discriminatory duties. In particular, de la Court deems it a mistaken policy to disregard the tastes of foreign customers and to expect them to buy, not what they wanted, but what the guilds, in their wisdom, permitted their members to produce. Such a presupposition, according to de la Court, is simply ridiculous (*bespottelijk*), and one can hardly disagree with him if his diagnosis is correct. Another of his

9. His major work is entitled *Aenwysing der heilsame politieke gronden en maximen van de Republike van Holland en West-Vriesland* (Leyden-Rotterdam, 1669). An earlier edition, under the title *Interest van Holland* (Amsterdam, 1662), gives only the initials V.D.H. as a clue to the author's name. In the preface of the *Aenwysing*, de la Court claims that the earlier edition was published without his knowledge or permission. This imperfect edition was translated into French, English and German. The English edition bears the title: *The True Interest and Political Maxims of the Republick of Holland and West Friesland* (London, 1702). It gives as author, John de Witt, the leader of the Dutch republican party, who was assassinated by supporters of the House of Orange, but this is a deliberate error. Pieter de la Court is the author of another tract, *'t Welwaren der Stad Leiden, anno 1659*, which remained in manuscript until 1845 when the most important sections were printed. It was not published completely until 1911 (ed. Felix Driessen).

1. Etienne Laspeyres, "Mittheilungen aus Pieter de la Court's Schriften, ein Beitrag zur Geschichte der niederländischen Nationalökonomie des 17. Jahrhunderts," *Zeitschrift für die gesamte Staatswissenschaft*, XVIII (1862), 330; O. van Rees, *Geschiedenis der Staatshuishoudkunde in Nederland tot het einde der achttiende eeuw* (Utrecht, 1865), I, 362; Cossa, *Introduction*, p. 219.

2. *Aenwysing*, Part I, chap. 16, p. 72.

criticisms is that the high prices charged by the guilds were a tax imposed upon the consumer.³

With regard to the Dutch East India Company, he contends that its administration was wasteful and inefficient, because of unmanageable size, lack of control, corruption among its personnel, and excessive salaries:⁴ all abuses which, according to Adam Smith, were the scourge of chartered companies.⁵ The Dutch East India Company was also accused of restricting the supply of raw silk and spices when, thereby, it could increase its profits.⁶ Finally, de la Court complains of the expense incurred by maintaining military establishments in the colonies and fears that the Dutch Republic might lose its vital European trade, because, in order to preserve the far less important East India trade, it had become entangled in recurrent commercial wars with foreign powers.⁷ Nevertheless, Pieter de la Court does not advocate the abolition of the East India Company, but demands only that it be required to enlarge and "open" its trade to all Hollanders.⁸

On the whole, the writings of de la Court are tracts in favor of an economic policy designed to improve Holland's competitive position by removing internal restrictions. No attempt is made to give an analysis of price determination, although there is an accurate description of monopolistic practices.⁹ In contrast with Scholastic writers, de la Court condemns monopoly for reasons of inefficiency and not on the basis of moral principles or a just-price theory. This was a new approach to the problem.

3. *Ibid.*, Part I, chap. 20, p. 89.

4. *Ibid.*, Part I, chap. 16, p. 74. The English edition uses the expression "vast and consequently unmanageable designs" (*The True Interest*, p. 73). The Dutch original uses the words *niet wel beheerbaren omslag*. *Omslag* is best translatable as "volume of business," hence "size."

5. *The Wealth of Nations*, Book IV, chap. 7 ("Of Colonies"), part 3, and Book 5, chap. 2 (pp. 557 ff. and 771 ff. of Mod. Libr. ed.)

6. *Aenwysing*, Part I, chap. 19, p. 86.

7. *Aenwysing*, Part I, chap. 7, pp. 32-34. The statement corresponds to the facts. All Dutch economic historians now agree that the East India trade, although spectacular, was far less important than the Baltic and other trades. In the seventeenth century, the East India trade was never more than ten per cent of the total.

8. *Aenwysing*, Part I, chap. 7, p. 32.

9. Dutch economics in the age of mercantilism has been very much neglected. The only study is that of Etienne Laspeyres and it dates from 1863 (*Geschichte der volkswirtschaftlichen Anschauungen der Niederländer und ihrer Litteratur zur Zeit der Republik*, Preisschriften gekrönt und herausgegeben von der Fürstlich Jablonski'schen Gesellschaft, Vol. XI (Leipzig, 1863). Laspeyres lists several eighteenth-century doctoral dissertations on monopoly and free trade (competition), manuscripts preserved in the Municipal Library of Amsterdam. Whether they contain any thing of value, I do not know.

From the theoretical point of view, a more significant author is the German cameralist, Johann Joachim Becher (1635-1682).¹ He was a man of no mean attainments, proficient in many arts, and yet he was what the French call *un génie raté* or what we may call a crank. Despite his vast learning, his proposals were often far from sound. Besides being a physician and a pseudo-scientist, he was a typical projector, whose fertile imagination devised all kinds of schemes for social reform and economic improvement. During his lifetime, he moved from one German court to another, offering his recipes for the cure of individual and social ailments. In Austria, he tried to find gold by washing the sands of the Danube. Probably because several of his projects miscarried, he eventually fell into disgrace and was compelled to seek refuge in England, where he died.²

Becher, the son of a Lutheran minister, was still strongly influenced by the venerable Aristotelian tradition.³ In connection with our topic, he made a minor contribution in proposing a new terminology for various kinds of market situations: monopolium, propolium, and polypolium. Monopolium has the familiar meaning and refers to any situation in which the supply of a commodity is controlled either by one individual or collectively by a corporation, such as a guild.⁴ Propolium appears to be the same as *Fürkauf*, or forestalling in English.⁵ By polypolium, Becher means that there are a great many sellers.⁶ Perhaps his concept can best be described as unrestricted competition.

According to Becher, all three "polia" are detrimental to society, because they distort the equilibrium which should exist between population and means of subsistence. Monopoly is bad, since it leads to

1. I am grateful to Professor Emil Kauder, of the University of Wyoming, for calling my attention to Becher, whom I had overlooked in the first draft of this article.

2. Emil Kauder, "Johann Joachim Becher als Wirtschafts- und Sozialpolitiker," *Schmoller's Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft im Deutschen Reiche*, XLVIII (1924), 811-841, esp. p. 814. Cf. Louise Sommer, *Die österreichischen Kameralisten in dogmengeschichtlicher Darstellung*, II (Vienna, 1925), 49-63; Kurt Zielenziger, *Die alten deutschen Kameralisten*, Vol. II of *Beiträge zur Geschichte der Nationalökonomie* (Jena, 1914), pp. 235 ff.; Albion Small, *The Cameralists, the Pioneers of German Social Policy* (Chicago, 1909), pp. 107 ff.

3. Kauder, *op. cit.*, p. 819.

4. Johann Joachim Becher, *Politische Discurs von den eigentlichen Ursachen des Auf- und Abnehmens der Stadt, Länder und Republicken . . . Von dem Monopolio, Polypolio und Propolio* (Frankfort-on-the-Main, 1672), Part II, chap. 2, pp. 110 ff.

5. *Discurs*, Part II, chap. 21, p. 206.

6. *Ibid.*, Part II, chap. 2, p. 111.

an undesirable concentration of wealth, is responsible for high prices, and reduces the opportunities for employment.⁷ Polypolium, the opposite of monopolium, is equally bad: when a trade is overcrowded, it ceases to afford a decent livelihood. The guilds had been originally created to prevent this evil, but they abused their power and became monopolistic organizations.⁸ Still, Becher does not suggest that they be abolished, but they should be placed under strict government supervision.

To redress social and economic maladjustments, Becher relies on government action. He distrusts the individual and puts his faith in the state.⁹ The chief aim of economic policy, he contends, should be to maintain a proper balance between human resources and employment opportunities.¹ As remedies against the evils resulting from monopolium and propolium, Becher recommends the creation of public granaries, public workhouses, and market-halls, or commodity exchanges.² With regard to the first, Becher expected to kill two birds with one stone. The public warehouses, or granaries, would be used to store the oversupply of grain and other produce in years of plenty and the stocks thus accumulated would be sold at a reasonable price in years of crop failure. Thus Becher hoped to stabilize the price of grain, which, in his time, was subject to violent fluctuations in response to good or bad harvests. In other words, he anticipated in some ways the ever-normal-granary program. Becher's anti-monopoly program also called for the encouragement of manufactures, the erection of banks, and the appointment of market supervisors.

As Becher was also a supporter of autarchy, one can see why his system based on government regulation and paternalism would appeal to the enlightened despots of the eighteenth century. Some of his more practical suggestions were actually carried out. Even his project for an ever-normal granary found practical application in the *Magazinpolitik* initiated by Frederick William I, King of Prussia (1713-1740), and developed by his son and successor, Frederick the Great (1740-1786).³ Becher's terminology is not used today.

7. Sommer, *op. cit.*, pp. 49 ff.

8. *Discurs*, Part II, chap. 2, pp. 113-114, 119. Polypolium also enables the manufacturers to keep their workers in constant poverty and toil.

9. Kauder, *op. cit.*, p. 829.

1. *Discurs*, Part II, chap. 2, p. 115.

2. *Ibid.*, Part II, chap. 25, pp. 236 ff.

3. Wilhelm Naudé and Gustav Schmoller, *Getreidehandelspolitik*, Vol. II, *Die Getreidehandelspolitik und Kriegsmagazinverwaltung Brandenburg-Preussens bis 1740* (Acta Borussica, ed. G. Schmoller, Berlin, 1901), pp. 91-92, 271-334.

However, it was adopted in Germany by later authors of the eighteenth century.⁴

Although Becher considerably modified the scholastic views, his work exerted little influence outside of Germany. Elsewhere, the traditional doctrines still lingered on, especially in the handbooks on commerce of the eighteenth century.⁵ One even finds them in the work of the English mercantilist, Sir James Steuart (1712–1780),⁶ and, what is more surprising, in the *Encyclopédie* of Diderot. The latter calls monopoly “un trafic odieux et illicite” and states that it is illegal by virtue of the ordinances of Francis I and subsequent regulations.⁷ According to Savary des Bruslons, a particularly dangerous kind of monopoly is that obtained by deceit or trickery from a well-meaning sovereign, because it evades the law with the acquiescence of the legislator himself.⁸ Postlethwayt in his *Universal Dictionary of Commerce* also has an article on monopoly. It gives the English point of view: monopolies granted by the King are null and void, but not those established by act of Parliament.⁹ The text of the definition given is word for word the same as that of Malynes in his *Lex Mercatoria*, a century earlier.

It is improbable that Adam Smith went back to the ponderous treatises of the Doctors, that he was acquainted with the work of Althusius or of Becher, or that he attached much importance to the brief articles in Postlethwayt's *Dictionary* or in Diderot's *Encyclopédie*. How, then, were the mediaeval doctrines transmitted to Adam Smith? In my opinion, the connecting link is in the writings of Hugo Grotius (1583–1645) and Samuel Pufendorf (1622–94). At least, there is evidence. Adam Smith refers to both authors in the *Wealth of Nations* and we know that he had copies of their books in his library.¹ Grotius and Pufendorf each has a chapter on value and price. Both chapters bear all the earmarks of scholastic influence and accordingly stress the fact that utility and scarcity are the two

4. Carl Günther Ludovici (1707–1778), *Grundriss eines vollständigen Kaufmanns-Systems* (Stuttgart, 1932, reprint of 2nd ed., 1778), p. 251, §496.

5. For example, Antonio Maria Triulzi, *Bilancio de' pesi e misura* (Venice, 1766), p. 190.

6. *An Inquiry into the Principles of Political Oeconomy* (1767), I, 200. Sir James does not even overlook the penalty of restitution.

7. “Monopole,” *Encyclopédie ou Dictionnaire raisonné des sciences, des arts et des métiers* (Geneva, 1778), XXII, 161.

8. “Monopole,” Jacques Savary des Bruslons, *Dictionnaire universel du commerce* (Paris, 1723).

9. Malachi Postlethwayt, “Monopolies,” *The Universal Dictionary of Trade and Commerce* (London, 1755), II, 290.

1. James Bonar, *A Catalogue of the Library of Adam Smith* (2nd ed., London, 1932), pp. 78, 151.

sources of value. Pufendorf's analysis is the more acute. Although Adam Smith must have read those chapters, it is regrettable that he made no better use of them.² Instead, he became entangled in the contradiction between "value in use" and "value in exchange," a paradox which had been solved more felicitously by some of the Doctors.

To both Grotius and Pufendorf, monopoly theory is only an appendix to their theory on the just price. Pufendorf still clings to the principle that the just price is either the legal price or the natural or market price.³ Monopoly is an anomaly. According to Grotius, it is contrary to natural law. Only those monopolies are excepted that are permitted by the sovereign power for a just cause and with a fixed price, or that are established by private persons, "if only with a fair price."⁴ In all other cases, monopolies are illegal, and the monopolists are bound to make good the loss. Pufendorf has the peculiar notion that "a monopoly in the proper sense cannot be established by private citizens, because it has the force of a privilege."⁵ Private citizens, therefore, can only carry on spurious monopolies which are generally maintained "by clandestine frauds and conspiracies."

V. CONCLUSIONS

This study is only what the French call *une mise au point*. It is based on a preliminary investigation and it does not pretend to exhaust the subject. Its aim is simply to correct some misconceptions and to dispel some prejudices. On the topic of value and price, the contributions of the Schoolmen and their successors, the casuists and the jurists, up to the eighteenth century have been far greater than those of the mercantilists. The economists have overlooked a current of thought which runs parallel to mercantilism and connects Adam Smith directly with the mediaeval Doctors.

In the field of economics, the scholastic doctrines do not mature and receive their final formulation until the seventeenth century. Later authors, such as Grotius and Pufendorf, added little or nothing; they only passed on the legacy which they had received from the great thinkers of the preceding age.

2. Moreover, this material was used by Francis Hutcheson, Adam Smith's teacher and predecessor in the chair of Moral Philosophy at Glasgow College, for the preparation of his lectures. Cossa, *Introduction*, p. 251.

3. *De jure naturae et gentium, libri octo* (Oxford: Clarendon Press, 1934), Book V, chap. 1, §8; Vol. II, pp. 665-686.

4. *De jure belli ac pacis, libri tres* (Oxford: Clarendon Press, 1925), Book II, chap. 12, §16; II, 353; I, 233-234.

5. *De jure naturae*, Book V, chap. 6, §7; II, 739.

On some crucial points, the theory of the Schoolmen is sometimes equal to that of Adam Smith and sometimes even superior. Monopoly is a good example. Adam Smith states that monopolists keep the market constantly understocked, that is, limit the supply, in order to sell their commodities above the natural price, or cost of production. He then goes on: "the price of monopoly is upon every occasion the highest which can be got."⁶ This latter statement is ambiguous, since it neglects the elasticity of demand. The Doctors do not fall into the same error. They say that the monopolist can set the price at his pleasure (which is correct in so far as he can regulate the price by regulating the supply) and that this price will normally be above the level of the just, or competitive, price (which is also correct, since the monopolist seeks to increase the price at the expense of the consumers). The Doctors do not carry their analysis further and do not explain how the monopoly price is determined, assuming that the monopolist tries to maximize his profits. As is known, this problem was finally solved by Augustin Cournot. With regard to the limitation of supply, the Doctors remain a little bit vague, although they state repeatedly that monopolists restrain trade and create artificial scarcity. One should not expect to find the rigor of analysis to which we are accustomed.

This investigation fully confirms what Schumpeter has said on the subject: the economists and moralists from Aristotle to Adam Smith were consistent in their condemnation of monopoly.⁷ There is hardly a dissenting voice. Perhaps there was some reason for this attitude: the advantages of large-scale production were practically nil prior to the introduction of machinery. Most monopolies were the effect of collusion, which was favored either by the guild system or by the small extent of the market. Or else they were common in branches of trade dominated by regulated or joint-stock companies. Reread Adam Smith: his blast against monopolies is aimed at the exclusive privileges, first, of the guilds or corporations and, next, of the regulated and joint-stock companies.⁸ It may be trite, but I wish to remind the reader that the *Wealth of Nations* was written before the Industrial Revolution had made much headway. Conditions in 1776 were closer to those existing in the sixteenth century than to those existing today.

In view of the fact that the anti-trust laws declare illegal any

6. *Wealth of Nations*, Book I, chap. 7 (Mod. Libr. ed., p. 61).

7. Schumpeter, "Science and Ideology," *op. cit.*, p. 357.

8. Especially Book I, chap. 10, part II, and Book V, chap. 1, part III, art. 1, §2 (Modern Libr. ed., pp. 118 ff., 690 ff.).

"conspiracies in restraint of trade," I wish to stress that such a concept is very old. In connection with monopoly, the word "conspiracy" occurs again and again, both in the text of statutes and in the treatises of moralists and jurists, from the Middle Ages down to Adam Smith. The latter, we should not forget, was a professor of Moral Philosophy.

This study is based on the premise that the just price was either the legal price or the market price. If this is so — and the texts leave no room for doubt — it follows that both a black-market price and a monopoly price must be unjust.⁹ This was also the conclusion of the Doctors. Why have their theories been misinterpreted? Part of the explanation is that modern scholars have been misled by an antiquated terminology, by an unfamiliar method of analysis, and by their own prejudices.¹ As a result, the Doctors have not received a fair deal. Their theory of value and price, especially, deserves reconsideration: it is much closer to modern theory than one may suspect.

RAYMOND DE ROOVER.

WELLS COLLEGE

9. I use the expression "black-market price" only for want of a more satisfactory term. Of course, it was never used by the Doctors. According to them, the legal price was definite; any price deviating from it was *ipso facto* unjust.

1. Since this article was completed, I have had the privilege of glancing at the manuscript of the late Professor Schumpeter's *magnum opus* on the history of economic analysis. Professor Schumpeter does not repeat any of the old errors, and his interpretation of just price corresponds to mine. I am grateful to Dr. Elizabeth Boody Schumpeter for permitting me to examine the typescript of her husband's forthcoming book.