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Quality rules : what for ? Consumers' vs lobbies protection, the case of France, 19th early 20 century

In recent years, a huge literature has been produced on the history of consumer movements in the late 19th and 20th centuries. In several countries, consumer leagues and societies have been described as playing a central role in the battle for pure food and in the emergence of citizenship and civil society. This approach has largely challenged a more traditional analysis in terms of classes or social groups. A consumers' republic has even been identified as a paradigm for "modernity".¹

To some extent, this analysis connects with nowadays mainstream approaches developed by sociologists and economists who stress the fact that producers' strategies mostly respond to consumers' needs and that traditional "supply approaches" can be no longer be justified.

Within this general tendency, two main arguments have been developed as regards quality and consumers' defence; according to one approach, market institutions can perfectly ensure competition and protect consumers. A rational firm would have no interest in cheating, above all because this will lead to a loss of its capital (mostly the brand). In other words, quality investments as represented in a brand or a firm reputation are self-enforcing.

A second approach is more critical and it maintains that market rules and institutions fails in guaranteeing quality and consumers' defence and that regulation is necessary for that. This argument has been widely advanced in both economics, sociology of quality², and history. According to these approaches, quality rules, mainly rules against cheating, counterfeiting and adulteration testify of the increasing strength of consumers and their associations on the political and economic arena.³

¹ Important works include: Frank Trentmann, ed., *Paradoxes of civil society: new perspectives on modern British and German history*, (New York, 2000); Susan Strasser, Charles McGovern,, Matthias Judt, eds., *Getting and spending: European and American societies in the 20th century* (Cambridge, Cambridge Univ. press,1998); Peter Gurney, *Co-operative culture and the politics of consumption in England, 1870-1930*, (Manchester, Manchester Univ. press, 1996); Victoria De Grazia, Ellen Furlough eds., *The sex of things: gender and consumption in historical perspective* (London, 1996); Elizabeth Cohen, *A consumers' republic:the politics of mass consumption in postwar America* (New York, A. Knopf, 2003); Marie-Emmanuelle Chessel, "From America to Europe: educating consumers", *Contemporary European history*, 11 (2002), 165-175; Ellen Furlough and Carl Strikwerda, eds, *Consumers against Capitalism? Consumer Cooperation in Europe, North America, and Japan, 1840-1990*, (Lanham: Rowman & Littlefield Publishers, 1999).

² Edward Glaeser, and Andrei Shleifer , "The rise of the regulatory State", *Journal of Economic Literature*, 41, 2 (2003): 401-425.

³ Marc Law, "The origin of State pure food regulation", *Journal of Economic History*, 63, 4 (2003): 1103-1130.

In the following pages we are going to challenge both these statements; we shall study the French case in the 19th century; at first, we will verify whether the market forces were able to guarantee quality; we shall show that cheating, counterfeiting and adulteration were widely practised and that no valid solution was found in contractual and market solutions as defined in law, institutions and society between 1791 and 1875. Regulation in this period was either strictly administrative and criminal or respectful of free will in contract. This is to say that free market was unable to solve quality problems for the reasons we shall detail later. In a second time, we shall focus on quality rules and their increasing development during the last quarter of the 19th century. This is a period in which special rules on adulteration and generally speaking on food quality are adopted. This will allow us to discuss of the regulation: once admitted that market cannot solve the problem of quality identification, which kind of rules and institutions can be adopted to “correct” the market?

We shall show that the question: do these rules integrate or limit the market is biased. We shall question these rules in order to understand which groups appealed to them and who mostly benefited of them. We shall show that, despite the fact the “the consumer” was constantly evoked, the adopted rules could hardly benefit it as its protection was mostly subordinated to the detailed formulation of rules and their implementation.

This is not the same of saying that economic lobbies controlled the market and its institutional foundations; quite the contrary, lobbies did not constitute a homogenous group confronted to an equally homogenous consumers’ movement. Case by case, alliances were made between different economic lobbies as well as some lobbies and other pressure groups (consumers, elected officials, etc.) to make the rules passed. However, despite this complexity of alliances and interests, in the historical context we study, we can show that the final issue was quite often more favourable to the professional groups than to consumers’. This was so for several reasons we are going to detail in the following pages and that reflect the institutional weakness of the consumers’ movement of that time. This last would not be confused with nowadays consumers’ movement as most of the recent historiography does.

A liberal market with no information on product? The raising of a liberal order of food, 1789-1875

In a perfect information world, with perfect competition, there is no justification for a minimum quality standard (Shapiro, 1982). The adulteration problem is a particular case of asymmetric information. The two factors leading to market failure are moral hazard and adverse selection. If producers cannot convincingly communicate to consumers the level of quality of their product, they do not have the possibility to build up reputations or goodwill with them (Rubin, 2000). As a result, consumers cannot be sure of obtaining the higher quality and so will not pay a higher price in order to obtain it (Ungern-Stenberg, Weizsäcker, 1985, Stiglitz, 1987, Shapiro, Varian, 1998). Repeat purchases and the reputation mechanism contribute to overcoming these difficulties; but we still have to identify the conditions under which this outcome is reached.

The idea of reputation makes sense only in an imperfect information world (Shapiro, 1982). A firm has a good reputation if consumers believe its products to be of high quality. When

product attributes are difficult to observe prior to purchase, consumers may use the past quality of the firm's products as an indicator of present or future quality (Nelson, 1970, 1974). For this, consumers are required to communicate with each other and share information about the product; in such circumstances a market sanction of adulteration is effective (Klein, Leffler, 1981; Leffler, 1982; Spence 1975). If the firm decides to cheat, then it will experience a capital loss equal to its anticipated future profit stream. However, several forces can weaken this mechanism. To start with, there is the fact that even perfect inter-consumer communication conditions are not sufficient to assure a high quality supply. Another cause of weakness of the reputation mechanism is that the quality level can vary over time, and, as such, quality at a given period cannot be fully anticipated (Tirole, 1988). According to some scholars, this kind of market failure can be successfully overcome if the producer supplied a very good quality product in the first place; and she should be encouraged to continue to produce a high quality in the future (Raynaud and Sauvee, 2000). This performance is more likely if the firm's reputation is anchored to a trademark, because, in this case labelling makes price an accurate decision variable (Milgrom and Roberts, 1986). Trademark protection has thus a positive impact on quality: the holder of a valuable trademark would be reluctant to lower the quality because it would suffer from a capital loss on its investment in the trademark (Shapiro, 1983; Landes and Posner, 1987). The generally accepted view has been that where producers are identified by trademark, high product quality and high industry competitiveness are quite compatible.

To which extent French historical experience confirm these statements?

Complaints about food quality were developed soon after the end of the Napoleonic wars. In the early 1820, forms of food adulteration were evoked as a consequence of the development of ersatz during the war years, on the one hand, of extending economic spaces on the other hand (national, international and transatlantic trade). Some other forces specific to a given market and product equally mattered. For example, on the wine market, increasing investments were achieved during the 1820 in response to increasing demand for both ordinary and luxury wines. However, the time-lag required for vineyard offered marketable produce led to full increase of supply at the turn of the 1820s and the 1830s, precisely when demand started to fall. All over the 1830s, producers, traders, officials and elected complained about the "crisis", mostly due, according to them, to fraud and counterfeiting practised by foreign and domestic producers as well. Handbooks on food expertise were published and some of them (*dictionnaire des frauds*" by Chevallier above all) met a wide success over

decades.

This movement did not stop with the July monarchy, but it even strengthened under the Second Republic and the Second Empire, when local committees for hygiene and food security were settled in the main municipalities. During the 1850 a first "hygienist movement" developed and scientists were appealed to play an increasing role in both consultative governmental institutions and public debate.

The history of food adulteration and the debates it raised during the first three quarters of the 19th century seem to challenge the optimistic view of liberal economists of that time who, as Say or Chevallier and several others stressed the benefits of free-market in allowing both efficiency and quality. Even if empirical analysis seems to confirm this gap between economic theory and practises, two main arguments may leads us to nuancer this conclusion. First, liberal economists did not enjoy popularity among French political leaders at least until the 1870s. Considered as "radical liberals", their views were considered as dogmatic and unable to take into account the complexity of food questions, above all the intrinsic link between market and the social order. This leads to a second argument, that is: once admitted that "pure" market was not able to guarantee quality, what about rules and market institutions? Why did they not ensure quality?

From a legal point of view, rules about food quality need to be distinguished from rules about counterfeiting (a brand, a trade-mark) and both are different from rules on food safety.

In post revolutionary France, rules on food safety were either administrative or criminal rules. As such they were mostly implemented by official representative and much less by economic actors and consumers. Products dangerous for health could be listed either before or after the exchange. In the first case, a special committee at the conseil d'Etat and at the government, mostly made of scientists, was supposed to list the substances and practises which were considered as being "nuisibles à la santé". Once this advice was accepted, it could be turned into a rule. The implication of this was that the defendant and not the prosecutor had to prove her/his good faith or innocence. This also explains the strong opposition economic actors and their lobbies made against any attempt to include a product or a substance in the list of harmful products. They were quite successful for this principle was practised only for defining the list of contagious diseases on the meat market. This list was a heritage of the Ancient Regime; post-revolutionary rules maintained the previous distinction between contagious diseases and "ordinary" latent defects (*vices rédhibitoires*). The former automatically led to the slaughtering of the whole herd, while the already passed sale

contracts were "nuls de droit". Any sale of forbidden meats because of contagious diseases constituted a criminal act. On the contrary, latent defects might lead to a civil action in "dommages et interest" as required by the plaintiff. Quite curiously, despite its civil law qualification, latent defects regulation was equally based upon a list of animal diseases for which defects might be evoked. It thus happened that the same disease appeared on both the lists; in such a case, the plaintiff had the choice between a criminal and a civil action in justice. However, contrary to what one may conclude at a first sight, this was not the main problem with these rules. Discussions rose at two different levels, to start with the identification of the list of animal diseases to be put in one or another list. Because of the strong economic implications of such a decision, debates involved scientists, public and economic lobbies' representatives. In most cases, these discussions went on for several years, for stockbreeders and merchants could easily contest scientific advice as the scientific community was itself divided on most dossiers. As a result, difficulties in adopting and implementing rules on food safety, mostly concerning animal diseases, turned judicial procedures into political negotiations among pressure groups.

To which extent might this conclusion be extended to other quality rules we mentioned, that is contract rules and adulteration on the one hand, brand protection on the other hand?

As regard adulteration, post-revolutionary rules defined it as a criminal act and, as such, it was mostly regulated by criminal laws and the criminal code. This choice is still criticized, nowadays, within the EC, where the French approach is contested by German, British and Scandinavian orientations consisting in regulate adulteration mostly by civil and commercial rules. In the 19th century, French choice was motivated by the argument according to which, food quality and adulteration in particular was not only a contractual question but it was a matter for public order. This argument was a heritage of the Ancient regime, with the difference that, in the 19th century, adulteration and food quality was not only a police, administrative matter, but also and above all a criminal, judicial affair. This means that defendants had the right to a process where their responsibilities had to be proved. This actually was the main limit of the French regulation: in criminal process, the plaintiff had to prove and the judge had to be sure of the facts and of responsibilities before condemning the defendant. This inevitably led to a rare application of the rules. Even the reform of criminal rules on food adulteration (law of 1851 on food adulteration) did not solve the problem insofar this still was a criminal law and only the sale, and not the attempt to sale adulterated products was condemned.

To sum up, if we focus on the particular field that is food and food adulteration, the period

going from the revolution to the third republic, widely known as that of the raising and the apogée of a liberal economic order in France, actually was that of increasing difficulties of market and market rules in certifying quality. Adulteration was widely developed while criminal, rather than contractual rules unsuccessfully tried to face it. To which extent this issue was related to market inefficiency and not to the specific form of the regulation? After all, one may argue that it was the accent France put on criminal rules that limited contractual arrangements or, said broader, that the limits of the market were the consequences of a "bad" regulation. In order to answer this question, we may analyse one of the main market institutions economists evoke in order to justify the necessity for either "pure market" organization or for limited to contract form of regulation, that is trademarks and brands.

Brands and collective brands

According to the leading economic theory, brands and trademark can successfully solve asymmetry information problems. Conditions for this are that free-riding is excluded and, thus, that monitoring is at work. Were these conditions present in France?

Since the revolution, the main problem with wine trademark in France was the lack of specific rules protecting the so-called collective trademarks (for example: Bordeaux or Champagne); first laws on brands and trademarks (1824, 1857) refused to consider collective brands considered as a heritage of the Ancient Regime guilds. The producers' main effort was thus to avoid that prevent a given name became a generic name. Number of case-law and jurisprudential cases testify of this attempt made by French producers of Bordeaux, Armagnac, Champagne, etc. French producers making this attempt incurred legal penalties (AN F 12 6844, court of Grenoble 31/12/1852, Rendu, 1857, 12-15). Two related problems were raised: on the one hand, the relationship between the place where an agent was legally settled and/or registered and that of her product; on the other hand, the practice of "mélanges" (blending). The question was whether not only a producer but also a trader could benefit of a territorial identified trade name (for example: Bordeaux). A trader could be registered in Bordeaux but he made his grapes come from outside the Gironde; conversely, he could work in Montpellier while buying his grapes in Gironde (individual histories of cheaters available in the ministry of Justice archives BB 18 6023,6024, 6025, 6026,6030).

These cases were actually differently widespread in different areas; in Champagne, since the beginning of the 19th century négociants dominated the market : they manufactured the products and mixed them.

In Gironde, it was much more complicated; if, in the 18th and in the early 19th century traders led the market, at the middle of the century the strength of the winegrowers increased. Châteaux and individual brands were increasingly successful. But this did not prevent traders from exerting increasing control over the producers, in particular at the end of the 19th century because of the economic crisis (Roudié, 1988; Lachiver 1988).

Law of 1824 on trademarks and intellectual property didn't protect the tradesman's mark, nor the collective mark. Litigations on these aspects were thus extremely widespread despite their uncertain issue. When the name belonged to a city or a region, for example Gironde, Champagne, the false name could also be pursued. The Supreme Court repeatedly declared that one had to interpret the name of a place as the place of manufacture, for industrial

products, and as that of the harvest for “natural” produce (Cour de Cassation, June 16 July 1847 and 12, 1845, Sirey 47.1.521, 45.1.842).

Following the decisions of the Cour de Cassation in 1845 and 1847 on Champagne, several judicial decisions (Aix, may 27, 1862, Cassation July 15, 1863 ; Grenoble, February, 11, 1870, Dalloz 71,2,120 ; Bordeaux, Juin the first, 1887, Dalloz 89,2,27, Cassation, may the first, 1889, Dalloz 90,1,470) confirmed that the name of a locality belonged to all the inhabitants that had interest to exploit it to make the situation of their establishment known, and the place of origin or of manufacturing of their products (Lacour, 1904, 24).

During all the 19th century judicial interpretations guaranteed the protection of individual trade-marks and brands but they refused to take in consideration collective marks and generic names. At the same time, this position was relatively uncertain insofar as the *terroir* appeared among the arguments assuring the protection of individual marks, and, indeed, trademarks were registered locally.

Moreover, product characteristics were hardly mentioned. Quality of wine and protection of the mark were not synonymous. As a result, rules on trademark could not avoid free-riding attitudes which in turn lead to a reduction of the quality of the concerned product with a negative impact on the reputation of the whole group.

We may attempt to generalize this conclusion: if we take the French market for wine and food during the 19th century, we may observe increasing and generalized problems of adulteration, cheating on quality, counterfeiting, etc. Market itself was unable to solve these problems, neither the main rules were successful. According to the leading economic theory, this should lead to a generalized market failure. But this was not the case. Despite adulteration and counterfeiting, meat and wine markets, and generally speaking food and drink market, did not stop developing during all the studied period. Demand and supply both developed; producers and traders did not limit their investments because of cheating, nor consumers reduced their buying or sanctioned cheaters. Why was it so?

A first answer has already been provided by the seminal paper of Alsberg; according to him, imitations and adulterated articles are special types of substitute goods, the purchaser not having full knowledge of its character. This is why deception is the essence of adulteration. While falsification reduces the national well-being and economic efficiency (as a form of illegal competition and monopolistic organisation), one can admit that in some cases it causes considerable savings in the factors of production (which is particularly valuable, for instance, in war time). Adulterated goods, being cheap, may contribute to raising the standard of living and to creating new consumption habits (Alsberg 1931).

This last sentence is particularly interesting: adulteration is much less linked to a market failure than to innovation on the one hand, to income distribution on the other hand. But, if it is so, consumers, at least low income consumers should have no interest in fighting against “adulteration”, once they get the information concerning product characteristics. For example, in 19th century France, watered down wine was widely sold in most bistros and in workers areas this was perfectly known.

But if not consumers, so who spoke of “adulteration” and for which reasons?

In order to answer this question, we are going to move further in the 19th century, in order to seize the role technical progress and innovation on the one hand, urbanization and long distance trade played into this “adulteration game”.

Towards new rules of the game: innovation, cheating and the special legislation of food quality and safety, 1875-1914

In France, between 1870 and 1914, the business world was very concerned with the increase in “fraud” and “counterfeiting” in beverages and foodstuffs, notably in areas such as artificially coloured wines, wines made from raisins, margarine passed off as butter, or watered down milk. Faced with these phenomena, special criminal rules on wine, butter, and milk were adopted between 1887 and 1902; finally a general law on food adulteration was adopted in 1905.

This process can be easily interpreted by saying that adulteration was linked to an increasing demand for food among low-income classes in highly imperfect markets as these developments increased intermediation and raised information asymmetries. Such an argument is based upon long-standing assumptions, firstly that demand determines supply rather than the reverse; secondly that quality is an objective entity (although sometimes it may be difficult to observe because of information asymmetries); and thirdly that rules can complete imperfect markets. Against this, we adopt a radically different approach and question some usually unquestioned categories, starting with that of adulteration. Why and by whom are particular technical processes and the ensuing products qualified as adulteration? How is innovation defined and perceived in a market economy? Why does one speak of ‘innovation’ for manufactures but evoking ‘adulteration’ when food and drinks are concerned?

During the 1850s and more intensively during the last quarter of the 19th century, the debate on food and drink adulteration took place in a context marked by powerful economic, social and institutional shocks, starting with the formation of a national market, urbanization and the increasing role of intermediation.⁴ All these factors put the process of product quality definition at the core of public debates. This was a crucial question on the agro-food market where the second industrial revolution brought a radical, devastating novelty: the use of organic chemistry in food and drink production. This raised enthusiasms but also fears about ways of fixing the boundary between agriculture and industrial products. In this context, the idea of “natural” was increasingly opposed to that of “manufactured” but also to “adulterated”

⁴ Patrick Verley, *Nouvelle histoire économique de la France contemporaine. L’industrialisation, 1830-1914*, (Paris, La découverte 1995); Jean-Pierre Daviet, *La société industrielle en France* (Paris, Seuil, 1997); Patrick Fridenson, André Straus, *Le capitalisme français* (Paris, Fayard, 1987).

goods, these last two terms often being treated as synonymous (at least for foodstuffs). These debates dramatically raised the problem of power within the agro-food sector. Producers, traders and retailers accused each other of adulteration and fraud - actually a euphemism for saying that people did not respect anymore the “legitimate” rules of the game and that unfair competition was at work.

However, food adulteration could not have been made a public debate without the support of the hygienist movement. Mostly formed of scientists, but with an increasing participation of intellectuals and political activists, the hygienist movement emerged during the 1850s and the 1860s but it fully developed under the Third Republic because of the role of “specialists” among professional politicians and the ensuing attention devoted to health and sanitation problems in public debates⁵. This was also nourished by the increasing involvement of the French State and government in these matters. State and municipalities focused on public instruction, public health and sanitation.⁶ Meanwhile, debates on food adulteration developed in the context of a long-term fall in prices accompanied by rising protectionism⁷ and food quality concerns at times constituted a new form of non-tariff protectionism. International relations and domestic hierarchies among economic groups were closely linked and intervened in the institutional debate on food quality. In order to detail this point we are going to develop analysis about different products such as wine, butter and meat.

Adulteration on the wine market

On the wine market, plastering (adding plaster to wine) was a traditional practise widespread in the Midi, in Spain and Italy; it prevented wine spoiling on long trips or because of sharp shifts in temperature. Plastering thus particularly concerned the Midi production, which comprised between 25% and 40% of French production between 1875 and the 1910s⁸. The question is this: why does plastering become such a crucial issue on the public agenda since

⁵ Léon Murard, and Patrick Zylberman, , *L'hygiène dans la République*, (Paris, Fayard, 1996) ; Henri Paul, *From knowledge to power: the rise of the science empire in France, 1860-1939* (Cambridge, Cambridge University Press, 1985).

⁶ Pierre Rosanvallon, , *L'Etat en France de 1789 à nos jours*, (Paris, Seuil, 1990) ; Christian Topalov, (edit.), *Laboratoires du nouveau siècle*, (Paris, EHESS, 1999).

⁷ Just some references within an endless bibliography on this topic: Fernand Capie, *Protectionism in the World Economy* (Edward Elgar, 1992); Maurice Lévy-Leboyer, et François Bourguignon , *L'économie française au XIX siècle. Analyse macro-économique*, (Paris, Economica, 1985); John V. Nye, "The myth of Free-Trade Britain and Fortress France: Tariffs and Trade in the 19th Century", *The journal of economic history*, 51,1 (march 1991) 23-46.

⁸ Lachiver, *Vins*, 453, Pech, *Entreprise*, 496-7.

the 1860s and through the 1890s plastering was mostly practised in the Midi, and, as such, it was strongly supported by winegrowers and traders of these areas, but also by their main buyers, the Parisian *négociants* and, more surprisingly, by some Bordeaux traders who blended local wines with Midi or with Spanish (equally plastered) wines⁹. In contrast, plastering was under attack by the hygienist movement. Despite the fact that it considered plastering dangerous to health¹⁰, the hygienist movement was unable to obtain a clear interdiction on plastering. It was banned above two grams per litre in 1880, but, because of the opposition of the Midi lobbies, the application of this rule was suspended until 1891, when it was definitely accepted. At this moment, the hygienist movement won the support of a majority of Bordeaux producers and traders. The rationale for this was not that Midi wines could compete with *vins fins* of Bordeaux, but that some Bordeaux traders had themselves begun blending local wines with plastered wines from Midi and Spain. According to a majority of local producers (both landowners and traders) this was a form of illegal competition which damaged the reputation of the whole area¹¹. The alliance between these groups (based upon a deep division within the Bordelais itself) and the hygienist movement led to the interdiction of plastering above two grams per litre in 1891. Such attacks against plastering targeted both internal and foreign competitors.

However, it would be misleading to identify the political economy of wine fraud and adulteration as a simple opposition between the Midi and the Gironde. In fact, within each area, strong conflicts opposed winegrowers to traders and, in some cases, winegrowers and traders to other traders. For example, in the Midi, in particular from the 1890s, winegrowers facing falling prices strongly criticized the economic power of wholesale traders who imposed on them contractual arrangements and low prices so that producer prices lagged behind retail prices. Winegrowers also accused retailers of watering down the wine and of contributing to the fall of prices. Finally, both wholesale traders and retailers accused winegrowers of continuing to use plaster and forbidden colorants which made their wine impossible to sell¹². These same complex alliances of interests occurred on the international market, where the general oppositions of French producers to foreign ones criss-crossed with alliances between

⁹ Roudié, *Vignobles*, Archives nationales (henceforth: AN) F 12 6873, 6874, several files.

¹⁰ Alessandro Stanziani, *Histoire de la qualité alimentaire, XIXe-XXe siècles* (Paris, Seuil, 2005); Comité Consultatif d'Hygiène Publique, *Recueil des travaux du comité consultatif d'hygiène publique de France et des actes officiels de l'administration sanitaire* (Paris, Librairie J.B. Baillière et Fils, 1879-1905).

¹¹ AN BB 18 6023, 6025; AN F 12 6969, several files.

¹² AN F12 7003, F 12 6969, AN F 12 7417, the President of the *Syndicat des négociants en vin* to the Minister of Commerce, 22/3/1883; AN BB 18 6023, *Syndicat du commerce en gros des vins et spiritueux de l'arrondissement de Narbonne* to the Ministry of Commerce, 27/4/1882; AN BB 18 6024.

French importers from Spain and Italy and some domestic traders and producers who were opposed to other winegrowers and traders who used only domestic grapes and wines. Nonetheless, the law of 1891 (interdiction of plastering beyond two grams) provoked a huge collapse of prices of Midi wines; accumulated stocks and current production did not find buyers¹³. On the contrary, imports from Spain slowly declined over a decade. This was so for both economic and legal reasons. Rules on plastered wine did not allow a French judge to condemn a Spanish producer; and even seizing imported plastered wines raised a sharp conflict between customs officials and judges, the latter being opposed to any seizure of foreign products. This question was ultimately solved only in 1900, when a new law extended to imported wines the rules adopted for French wines. However, by that time, the recovery of the French vineyards had been mostly achieved, while the demand stagnated. The new rule thus only accelerated the already significant decline of imports.

To sum up, between 1880 and 1900, wine lobbies talked of adulteration and fraud in order to obtain new rules to deal with increasing market uncertainty. It effectively excluded some of their domestic and foreign competitors from the market despite the fact that consumers might have been interested in a wider range of cheaper products.

Does this conclusion also apply to products in which innovation mainly concerned ersatz products and where there were not a similar plethora of regional lobbies and products as in the case of wine?

From ersatz to adulteration: the case of margarine

Let us take the case of butter and margarine. This last was invented in 1869 and in a few years it was largely produced in the urban areas close to Paris, as well as in Normandy and Brittany. The production of margarine was, according to butter producers, at the root of the fall in prices starting from the second half of the 1870s. However, the average price of exports only partly confirms this assertion: the price was 2.70 francs per kilo during the decade 1877-1887, and 2.90 francs during the successive decade, falling to 2.25 francs in 1904. Unlike wine, French producers of butter attacked margarine not to stop imports but to sustain exports. The production of margarine was, according to butter producers, at the root of the fall in prices starting from the second half of the 1870s. However, the average price of exports only partly confirms this assertion: the price was 2.70 francs per kilo during the decade 1877-1887, and

¹³ Further details in Stanziani, *Histoire*, 2005.

2.90 francs during the successive decade, falling to 2.25 francs in 1904. Unlike wine, French producers of butter attacked margarine not to stop imports but to sustain exports.

The Minister for Agriculture introduced a bill aimed at the prohibition of these practices. The special Law on butter of 14th March 1887 was rather radical; The Speaker of the Senate explained that ‘the dominant aim of the bill was exclusively to preserve the name of butter as a product of cow's milk made by more or less sophisticated processes, but to the absolute exclusion of any mixture. Its intention was to prohibit the sale of all products similar to butter, and all the substances and all mixtures intended to replace it, unless indicated under one of the three semi-official denominations, regulated by law, of margarine, oleomargarine and edible fat.’¹⁴

The reason was that rules on wine aimed to exclude a particular technique and product from the market; hence, rules basically defined wine (the product of fresh grape juice) while forbidding a given practise.

On the contrary, the aim of butter producers was not to exclude margarine from the market but to forbid its mixture with butter while pushing consumers to identify it as an ersatz of butter, a completely different product. This is why the law of 1887 did not give any definition of butter but just forbade mixing it with margarine.

Unfortunately, the law of 1887 was hardly enforceable for producers, and traders could mutually accuse each other and the prosecutor was unable to clearly allocate responsibilities. Between 1890 and 1897 eight bills reforming the law of 1887 were submitted, without success, until April 1897 when Viger, the Minister for Agriculture, successfully introduced a private bill which was promulgated into law.¹⁵ Article 9 specified that ‘margarine containers must carry on all their sides, in clear and indelible characters, the word margarine. The ingredients in the composition of the margarine will have also to be indicated by labels and on invoices.’ The other innovation compared to the Law of 1887 was that this time a legal definition of butter was offered. Article 1 affirmed that ‘the name butter must be reserved exclusively for the product made with milk or cream coming from milk or with one and the other, with or without salt, with or without dyes.’ Article 2 then listed, including margarine, all of the substances similar to butter and prepared for the same use.

¹⁴ V^{érin}, *La répression*, 48-50.

¹⁵ *Journal Officiel*, (henceforth : JO), 13 June 1896, Sénat, annexe 76, p. 147; JO, 7-8 August 1897, Documents Parlementaires, Sénat, annexe 25, p. 126, JO, 1 November 1894, Chambre, annexe 866, p. 1304.

To sum up, as it was already the case for wine, for butter too margarine and butter falsification are under attack insofar they are achieved in the main production areas. As such, they are qualified as disloyal competition by a majority of producers of these same areas. Once again, consumers' interests are evoked in order to make this law passed; beyond this rhetorical argument, consumers were presented as being hostile to margarine by....documents issued by butter associations speaking in the name of the consumer. What is sure, is that the new rules helped the price of butter to restore its course and invented a distinction between two products. The price of butter increased while quality rules encouraged its standardization, and this in turn increased the power of traders over the farmers within the filière. In response, producers concentrated either in co-operatives or in big units.¹⁶ In other words, the well known history of the increasing success of butter cooperatives at the eve of World War I was closely linked to new techniques and new quality rules on butter. These rules increased the costs of production and pushed producers to concentration.

Before reaching more general conclusions, we must also consider how an institutional definition of a product or the adulteration question applied in the case of products where medical factors played a more important part than for butter or wine. Were lobbies' actions equally effective when health concerns really mattered? We examine this through the case of meat.

Meat and disease: the case of trichinosis of pork

We have previously evoked the main quality rules on the meat market; we have now to understand the role they played on the real functioning of this market. Many texts of the time glorify the expansion and “democratisation” of the meat market between 1850 and 1880. Average annual consumption per stood at 24kg in 1856, 5.8kg of which was imported, and reached 35kg in 1877. However, this increase hid important differences between urban and rural areas. However, during the 1880's the quantity of meat consumed per head tended to shrink in Paris and the principal towns of France.¹⁷ This decrease was only partially compensated by a stability (and therefore an increase in relative weight) of canned meat,

¹⁶ *Lait. Production, conservation, vente* (Paris, Larousse, 1918) ; *Laiterie coopérative de Marville*, (Montmédy, imprim. Pierrot, 1899) ; Jean Bidaud,, *Les laiteries coopératives dans l'Ouest de la France*, (thèse, Poitiers, imprimerie Courrier de la Vienne, 1906) ; Emile Brouillac, , *Laiteries coopératives des Charentes et du Poitu*, (Angers, Germain et Grassin, 1907).

¹⁷ Armand Gautier, “Les viandes alimentaires fraîches et congelées”, *Revue d'hygiène et de police sanitaire*, 1897, 289-303; 394-415.

salted meat and poultry. This dynamic suggests the following hypothesis: the “crisis of trichinosis” climaxed at the precise moment (the end of 1870’s – start of 1880’s) when the meat market began to shrink after a long period of growth. The comparative chronology of the medical history of trichinosis and commercial politics regarding imported salted meats seems to confirm this hypothesis. Thus, although cases of trichinosis were identified during autopsies in Britain and Germany as early as the 1830’s, it was only in 1864, in Halberstadt, Germany, that the first epidemic was observed. 150 people were affected; twenty-eight died. The scientific and general press pounced on the subject¹⁸. However, even if some people blamed rearing methods and new culinary tendencies (the eating of raw or partially cooked meat)¹⁹, no concrete action was taken. The scientific uncertainty on the transmission of the disease in the absence of cases reported in France justified this attitude.

The situation changed in the middle of the 1870s. At this point, it was the economic sector which acted first because of the article 7 of the customs law of 21st March 1874 augmented the tariffs on importers of American salted meat. This measure was justified by the evidence that, before treaties of commerce, the exports of salted meats were large and the imports limited, but since 1869 a reversal of this situation was in process. This change mainly affected producers of salted meats in Normandy.

However, the adoption of the tariff quickly aroused protests from the British and American governments, as well as many French producers. In 1876, Guyot, the Deputy of Rhône, put forward an amendment targeted at reducing the tariffs accused of favoring certain French producers at the expense of the working class²⁰. In reality, it was not only a French tendency; in 1877-1879, when the debate on the tariff on salted meats was taking place in France, salted meats were also the cause of controversies in other countries. Cases of human trichinosis were recorded in the United States, Germany, Spain and Italy and the production of American salted meats was always blamed²¹.

It was in this context that the first trichinosis epidemic was recorded in France. In 1878, around twenty people were sick and one person died in Crépy-en-Valois (Department of the Oise). The medical world responded quickly. The *Revue d’hygiène* published several files on

¹⁸ For a history of trichinosis, see Henri Rodet, *De la trichine et de la trichinosis*, Paris, A. Delahaye, 1865; Joannes Chatin, *La trichine et la trichinosis* (Paris, J.-B. Baillière, 1883).

¹⁹ Rodet, *op.cit.*, 1865, 41-45.

²⁰ AN F 12 6873, extracts from *Journal officiel*, several issues, on the parliamentary debates between 1876 and 1878.

²¹ “Trichina in american pigs”, *The Lancet*, 22 Feb. 1879, 277; E. Perroncito, “La trichina spiralis in Italia”, *Accademia reale di agricoltura*, sessions of the 8 and 9 Feb. 1877, reproduced in *Revue d’hygiène et de police sanitaire*, 1880, revue des journaux, 255-60 (by A. Raillet); E. Perroncito, *On the tenacity of life and their larval forms in man and animals* (Boston, 1877).

trichinosis. Observations increased in number. At the end of the 1870s and the beginning of the 1880s, several countries (Austro-Hungary, Greece, Italy, Spain, Portugal and Germany) banned the importation of salted American meat. This measure seemed to find support when, in 1880 before the United States congress, Dr. Detmers presented a report showing the extent of the trichinosis epidemic defined as “virulent and serious for pigs”. According to this report, the only viable option consisted of the slaughter of pigs in the areas where the disease was present²². Thus in France many people demanded a ban on all American salted meats and the Minister of Commerce decided to activate the Consultative Committee for health. H. Bouley, president of the Academy of Medicine, and other members of the committee, published their “Note on trichinosis” on 4 August 1879. They judged that the conditions for a ban on American meat were not satisfied. However, the position of the Committee was tested in December 1880 and January 1881 when contaminated salted pork imported from America was seized by the special inspectorate of the towns of Lyon and Paris. Their conclusions were confirmed by the laboratory in Le Havre where practically the totality of American meat was imported²³. This was the context in which, on the 17 February 1881, the Minister of Agriculture and Commerce wrote a letter to the President of the Republic in which he necessitated a ban on the importation of American salted meats. Despite the fact that no certified case of human trichinosis had been recorded in France, the ban was prolonged, year by year until 1891. Several elements induced a change in 1891. Without doubt, the persistent absence of cases of trichinosis in France, added to the considerable decrease of cases in the United States, was a factor. At the same time, the position of the meat market changed. At the start of the 1890s, the price of pork meat stayed relatively stable, and even rose relative to other meats. The consumption of fresh meat declined, whereas canned meat, rather than salted meat, started to appear, at least potentially, to be the major competition.²⁴ The debate changed to the general problem of meat preservation practices, which was linked to urbanisation. In this context, the attention of animal farmers and hygienists moved from salted meats towards new methods of preservation, i. e. cans and later on freezing. In fact, many factors led to product standardization: the rise in canned goods primarily, but also the

²² AN F 12 4843, translation of the report of Dr. Detmers before the United States Congress, *Report on trichinae and trichinosis*.

²³ AN F 12 4843, Chambre des députés, 13 December 1881: proposition of law relative to the establishment of an inspection service of pork of foreign origin, be it salted, smoked or preserved by whatever method. By M. Gaudin, député.

²⁴ Armand Gautier, “Les viandes alimentaires fraîches et congelées”, *Revue d'hygiène et de police sanitaire*, 1897, 289-303; 394-415; *Annuaire statistique de la France*, 1890, 206-09; 1894, 332-33; 1905, 141; Ministère d'Agriculture, *Statistique agricole de la France, résultats généraux de l'enquête décennale de 1892* (Paris, Imprimerie nationale, 1897), 337-38.

attention given to the transmission of tuberculosis via meat. The possibility to cut chosen pieces from sick animals encouraged the adoption of uniform quality evaluation criteria. “Types” of meat, classed as a function of the amount of fat, were joined by well distinguished, physiological “categories”.²⁵

However, this evolution of the meat market may have had less importance on the trichinosis debate if it had not been for the simultaneous evolution of the balance of international trade. The abolition of the embargo on American salted meat was part of a more general agreement between “protectionists” and proponents of the free market. In particular, the increase in tariffs on agricultural products allowed industrialists to demand a decrease in tariffs for other articles necessary to the provisioning of workers, including salted meats.

Initially, it was the introduction in the United States of a certain protectionism (the MacKinley tariff) that obliged the French government to change its stance. The United States ambassador in Paris wrote to the Minister of Foreign Affairs that the MacKinley tariff led to a strong increase in tariffs on French products. “I fought to avoid this solution; however, France must change its attitude with regard to salted meats”²⁶.

A silent consumer?

Quality rules we have discussed in the previous sections essentially aimed to discipline the economy by ensuring legitimate transactions. Protection of public health was only an additional consequence of these measures. Rules were devised to ensure the circulation of product information, after which the consumer was free to buy what s/he wished. From this perspective, if the norms were clear and commercial fraud punished, the consumer would be automatically protected. Did consumers accept this outcome? Consumer evaluations and decisions do not operate in a “natural” economy but are subordinated to the concrete possibilities consumers have to express their preferences. In turn, this is subject to both monetary and institutional constraints. In a monetary economy consumers, by definition, can

²⁵ Villain recalls that “the premier category includes: the muscles of the rump area, ischion tibiale and sous-lombaire, known under the name of culotte, tranche grasse, tendre de tranche, gîte à la noix, aloyau, filet. These are the thicker muscles, the most infiltrated by fat, with the least intersections of tendons”. These parts constituted around 30% of the weight.

“The second category includes the shoulder and the region costale, in other words the paleron, the talon de collier, the train de côté, the bavette d’aloyau”. These parts constituted around 25% of the net weight.

Finally, the third category included the muscles of the neck and the head, the abdominal muscles, the lower part of the legs and the tail; these pieces were called the collier, poitrine, surlonge, gîte de devant or derrière. These pieces covered around 40% of weight (Villain, “La viande; introduction à l’étude des viandes impropres à la consommation; examen des cas spéciaux motivant la saisie des viandes”, in Villain, Bascou, *op. cit.*, 1890, 115-46).

²⁶ AN F 12 6837 ambassador of the United States in Paris to the Minister of Foreign Affairs, 3 July 1890.

eventually express what they dislike but not what they would have liked to buy if they had had a greater income at their disposal. This implies that income matters and that, from this point of view, we cannot speak of "consumers" in general as most of the recent historiography and sociology of consumption does.

However one could maintain that consumers can exercise their voice by civic and political action as expressed by leagues, cooperatives, etc. Once again, historians should escape anachronisms. At the turn of the century, these organizations were different from contemporary consumer associations in both their legal foundation and their scope. In France, associations were legally admitted only in 1884 but they could not appear in court in the name of their associates before 1913. Consumer co-operatives certainly played a major role in fighting against adulteration, but one should not forget that food quality was not their main aim and that it entered their program primarily in so far as it contributed to a redistribution of income between workers and capitalists through a reduction in prices and/or increase of quality. Even more important, in the perceptions and categories of the time, consumption regulation was inseparable from labour discipline. Most of the leagues and cooperatives, whether socialists, Christian socialists or others, aimed to intervene in the definition of quality standards in order to improve both labour conditions and workers' access to items.²⁷ In short, the fact that class perceptions were not as important as traditional Marxist history claimed should remind historians that many consumer co-operatives of that time called themselves "socialist", "Christian socialists" and not "citizen" or "civil society" associations.²⁸ To a certain extent, consumer cooperatives reacted against new quality rules that increased prices, particularly of cheap items. This confirms the gap between the aim of the mass of consumers and that of the hygienist movement speaking in the name of the consumer and starting from the hypothesis that adulteration mostly concerned cheap items for lower social classes.

Other consumer leagues certainly intervened in the battle for pure food, but their action had a different impact on different markets. For example, in the butter market, the presumed consumer hostility to margarine was more an argument raised by professional and hygienist sources than a goal of the consumer leagues. The latter criticized the mixture of butter with

²⁷ Lawrence Glickman, *A living wage : american workers and the making of consumer society* (Ithaca, Cornell Univ. Press, 1997); Charles Gide, *Coopération et économie sociale, 1886-1904* (Paris, L'Harmattan, 2001).

²⁸ Gide, *Coopération*.

margarine, not margarine in itself. The fact that consumers liked margarine is confirmed by the fact that, in order to stop its success, the butter lobbies were obliged to require special rules and an official definition of butter. In the wine market, the anti-alcohol leagues were extremely active at the turn of the century and they contributed to the fight against adulteration.²⁹ However, between 1880 and 1900 they tended to counterpose good wines to adulterated ones, the latter to be banished but not the former. It was only at the beginning of the 20th century that these leagues radicalized their argument and launched a general battle against alcohol and partially against wine. However, by that time, chemical adulteration had already been banned and this argument only supported the Midi's fight against watering.³⁰ It was mostly in the milk market that the consumer movements played the most active role, although uncertain about their aims, as the different and incompatible definitions of "natural" milk suggest. It is no coincidence that it was precisely in the milk market, where the consumer movement was strongest, that no official definition of this product and its components could be reached. This pessimistic image of the role of consumers in regulatory activity at the turn of the century is confirmed by the fact that even the expression "pure food", strongly supported by both hygienists and consumer leagues, was strongly criticized at both national and international levels. Critics included both business associations and official representatives. For example, at the International Conference of the White Cross held in Geneva in 1908, Rau, the French minister of Agriculture, firmly stressed that rules had to protect not the pure, but the legitimate product.³¹

Thus, historians should be careful in attributing to consumers and their movements at the turn of the century the same goals, institutional power and action familiar today. In fact, many actors claimed to act in the name of the consumer while actually benefiting other groups. It is not surprising that the formulation and enforcement of rules left few opportunities to individual consumers to win in courts. A further implication is that it does not make sense to speak of consumers as a homogenous group. The regulation of quality was frequently conceived by one economic lobby or another in order to increase its power in its sector, but the rules often resulted in a reduction in supply, mostly of low quality varieties, and an

²⁹ For an international analysis of this : Frank Trentmann, ed., *Paradoxes of civil society: new perspectives on modern British and German history* (New York, 2000); Landon Storrs, *Civilizing capitalism: the national consumers' league, women's activism and labor standards in the New deal Era* (North Carolina Press, 2000).

³⁰ Stanziani, *Histoire*.

³¹ AN F 12 6970, Président du conseil par intérim et ministre des affaires étrangères au ministre du Commerce, 25 July 1908. In this file, all the correspondence and papers concerning the Geneva conference of the White Cross devoted to pure food.

increase in prices which mostly affected low income groups. Had these groups clearly expressed their preference for this outcome? - certainly not in Leagues where business professionals played a major role alongside hygienists and bourgeois interests. Such an outcome was certainly not the aim of Socialists or of Gide's Co-operatives that rather targeted better goods at lower prices. In other words, in consumer markets at the turn of the century, for many groups of consumers, while voice was limited by legal constraints on associations, exit was not a choice but a necessity.