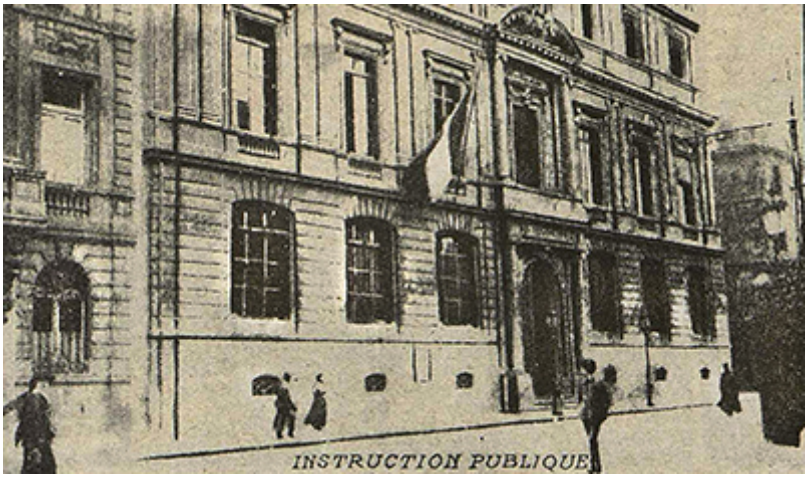
The perception of German science at the University of Bordeaux during the Great War

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On December 8, 1870, Bordeaux, a provincial city far from the fighting between France and the German powers, welcomed the government delegation within its walls for two months. Its distance from the front was an asset, on top of its good relations with England, which allowed it to procure equipment necessary for the war effort. It was during this period that the faculty of law of Bordeaux – “completely forgotten” by the Napoleonic Imperial University – opened its premises again after almost a century of total emptiness, from 1792 to 1870, and this, despite the repeated request of the Bordeaux Bar to obtain its reopening. But it did not really assume its functions until mid-1871, long after the government had left.

The war of 1870 quickly turned into a crushing defeat for France. The Second Reich, on the other hand, dominated by Prussia, emerged victorious and became an example to follow for all Europe, especially in scientific matters. French legal science was, therefore, strongly affected by the weakening of the national cultural influence. The

opposite situation had occurred at the beginning of the century, when Napoleon Bonaparte, following his brief campaign in Prussia and Poland (1806-1807), sought to impose his Civil Code on all German territories. In reaction, legal romanticism and German nationalism, particularly perceptible in the works of Friedrich Carl von Savigny's German Historical School, were opposed to the universalism and rationalism of the French Enlightenment, which were illustrated, according to them, in the Napoleonic Code. At the end of the century and the beginning of the 20th century, it was up to German science to become a model of rigor and realism, when the German Civil Code, the Bürgerliches Gesetzbuch, abbreviated BGB, appeared in 1900. As for France, its university model was considered partly responsible for the defeat of 1870. Many French jurists, such as Aubry and Rau, were therefore inspired by German work. French jurist Henri Capitant, for example, considered the German legal classification to be the simplest and most logical there was (*Introduction à l'étude du droit* [Introduction to the Study of Law], 1898). Things changed with the announcement of the Great War.

On August 4, 1914, German Chief of Staff Helmut von Moltke implemented the Schlieffen Plan. For its part, France failed in its maneuver of Plan XVII. All along the front line, the French, Belgian and British soldiers retreated. At the end of August, the German advance was such that the attack on the capital seemed imminent. This led to the hasty departure of the French government, which left Paris between August 29 and September 2, to settle in Bordeaux. At the beginning of September 1914, all ministries and parliamentarians reached the southwestern city, quickly followed by the Presidency of the Republic. To accomodate them as decently as possible, public buildings were requisitioned, including the Faculty of Law, which hosted the Ministry of Public Education. The Ministry of War, on the other hand, occupied the premises of the Faculty of Humanities. The latter saw its staff transferred to the Faculty of Law, as the Ministry of Public Instruction came with a reduced staff, unlike that of War. As for the Ministry of Finance, it moved into the premises of the Faculty of Medicine and Pharmacy. Finally, the Conseil d'Etat [Council of State] held its meetings in a concert hall. The University of Bordeaux became, *in fine*, the privileged theater of the encounter between the German sciences and the French academics, because of the indirect effects of this short passage of the government in the city, which facilitated relations and arrangements.

One of these arrangements is perceptible from the reading of the meetings of the library commission, in particular that of March 24, 1916. In it, the librarian referred to a letter

from the Minister of Finance, dated the 21st of the same month, addressed to the rector, seeking to lift the ban on the import of books of Austro-German origin “destinés aux grands établissements scientifiques [intended for large scientific establishments]”, despite the conflict. However, he stated that this could only be done under very specific conditions, referred to in the letter. Journals remained prohibited despite this authorization for works. It is also specified that the amount of these annual acquisitions was estimated at 1,000 francs (or €2,600) for the year 1916, a figure identical to that of the previous year. The commission thus debated these imports of works from the enemy camp, involving paying the opponents and therefore helping them financially in their armed struggle. This case of conscience was all the more sensitive as the prices of these acquisitions continued to increase and as the general budgets of the faculties were projected to decrease for the coming years. However, this moral and patriotic concern was surpassed during the conflict, since, in the same register, in a sitting of November 23, 1917, it was indicated that the sum granted for the annual acquisition of the works was raised to a little more than 1,100 francs. If the sum was then greater than at the beginning of the conflict, this is explained by the continuous decline in the value of the franc, which decreased by 15% between 1916 and 1917. Similarly, and on behalf of several professors from the Faculty of Law, the chairman of this committee, M. de Boeck, mentioned the wish to renew subscriptions to Austro-German journals, despite the minister’s ban dating back from the beginning of the conflict. This request thus reveals the keen interest of French teachers in acquiring precise and up-to-date knowledge of German science while guaranteeing the authenticity of the sources. In this regard, professors also indicated, through M. de Boeck, that it was possible to count on the help of the French embassy located in Bern, even if its exchanges represented a significant cost, firstly because the intermediary asked to be paid in advance, and then especially because these acquisitions were burdened by unfavorable exchange rates for a French buyer. It was also added in this register that this agreement only gave rise to an informal agreement on the part of the Minister of Foreign Affairs.

Regarding the war effort on the military level, as of August 1, the general order of mobilization was posted in all the major cities of France. The premises of the Bordeaux Faculty of Law were requisitioned the next day by a military company that quartered in it, before leaving for the border with the other mobilized soldiers. On August 2, colonial battalions settled in the premises of the Bordeaux Faculty of Humanities, before being replaced, on the 15th of the same month, by Zouave battalions from Morocco. In 1914,

the student population of the Faculty of Law was only one-fifth of that of the previous year. It fell from 1,600 students in 1913 to 320. Yet, nationally, despite this reduction in student numbers, there were no longer enough teachers. Some cities suffered, such as Lille for example, where only four of the sixteen teachers were present for the start of the school year. In Bordeaux, Professor Gustave Chéneaux even volunteered despite the exemption to which he was entitled. Of Martinican origin, it had been thirty years since he had returned to his island, not having the money to pay for the trip. However, when he finally managed to do so in the summer of 1914, he learned that France was entering the war. He then disembarked and left immediately after seeing his mother in order to enlist. This professor died at the Battle of Les Éparges on April 20, 1915, a strategic defensive sector for Verdun, after being shot in the head. His death gave rise to a tribute by Léon Duguit in the *Revue philomathique* of October-December 1920. Some Bordeaux teachers who stayed behind also lost a son. This was the case of Dean Henri Monnier and his assessor Léon Duguit. The latter lost his eldest son in Verdun, while Henri Monnier, a veteran of the war of 1870, witnessed the death of his child, who, despite an injury leading him back to the rear, was swept away by the Spanish flu before the Armistice. Finally, war also upset life at the back, within the faculties. Some professors participated in the war effort through more active academic and civic activity, demonstrating administrative commitment, in conjunction with their teaching function. This was the case of professor of public law Léon Duguit, who took charge of the temporary military hospital located on rue Ségalier, during the entire conflict.

In parallel with this military conflict, an intellectual struggle was taking place. German science appeared from the beginning of the conflict as the “enemy to be defeated” in the French academic and intellectual milieu. Although German legal science seemed inescapable since the Third Republic, the latter tried to make the issue of education a patriotic concern of primary importance, as evidenced for example by the Ferry laws of 1881-1882. Science and the scientific method evolved, as evidenced by the multiplication of law aggregations with the division of the examination in 1896 or the creation of the Free School of Political Science by Émile Boutmy in 1872. It was also in this context that the comparative method and comparative law appeared and developed, with the works for example of Édouard Lambert. The goal was first to heal the wounds of the defeat of 1870 and to recover from the trauma it had caused in people’s minds. While the academic field meant to draw inspiration from the German method, secondary school teachers, the “black hussars of the Republic”, considered

that it was however more a matter of awakening national pride and cultivating a spirit of revenge. With the conflict, the entire teaching staff, secondary as well as academic, moved in the same direction, that is to say a fierce opposition to the German model.

It was from 1914 that the idea of a “French” legal culture was developed. Opposition to German science and its method becoming systematic, it paradoxically contributed to the fact that French authors further deepened their knowledge of the opponent’s science, in order to better combat it. However, the Bordeaux university played a leading role in this ideological struggle, especially because of the presence of Germanophile Léon Duguit. Before the world conflict, the Bordeaux professor of public law had written that BGB and French jurisprudence were models of the “scientificité [scientificity]” of law, presenting in practice “nombreux et grands avantages [many and great advantages]” over the old exegetical method. However, to his opposition to the Code’s individualism was also added a sharp criticism of the theory of legal fiction, formulated by Prussian jurist Savigny. This dispute intensified with his article Jean-Jacques Rousseau, Kant et Hegel – Doctrine politique et juridique de Kant [Jean-Jacques Rousseau, Kant and Hegel – Kant’s Political and Legal Doctrine] (1918), in which he opposed the principles of “legal fiction” and the self-limitation of the state, defended by Jhering and Jellinek. The latter defined law as the grouping of the rules of the State, guaranteeing its binding force. However, this “fascination” of the State in German discourse contributed, according to the Bordeaux lawyer, to making it a dangerous weapon against the law. Similarly, he considers Hegel to be “responsable de l’idéalisme qui a fait naitre un Reich absolutiste et belliqueux ayant pour modèle la Prusse [responsible for the idealism that gave rise to an absolutist and belligerent Reich modeled on Prussia]”, the latter having systematized the Lutheran concepts of “just warfare” (*Gerechter Krieg*) and “history of salvation” (*Heilsgechichte*), in favor of a doctrine of State power.

Finally, and to finish with the elements that made the Bordeaux university a privileged place in this ideological conflict, there remains to mention two names of Bordeaux academics who, although they were not part of the circle of the legal study *stricto sensu* , remained close to it. They are Émile Durkheim and Pierre Duhem, both close to Léon Duguit. Both were particularly critical of German scientific theories. Sociologist Durkheim, who gave his first course in sociology in 1888 at the Bordeaux Faculty of Humanities, following the refusal of the Faculty of Law to welcome him, strongly influenced jurist Léon Duguit, who, from 1891 on, put his conceptions of sociology in

practice during a seminar. Durkheim, in his book *« L'Allemagne au- dessus de tout », La mentalité allemande et la guerre* ["Germany Above Everything", The German Mentality and the War] (1915), then presented German science as solely responsible for the outbreak of the Great War. Indeed, it was its heightened nationalism that was at the root of its violent hostility towards neighboring powers. Also, German science suffered from a profound pathology: it was "malade de sa volonté, car elle pratique l'idéalisme de manière abusif [sick of its will, because it practices idealism in an abusive way]". Like his lawyer friend Duguit, he openly criticized this ideological model that made the State an organ above laws whose sovereignty was unlimited and whose nature was self-sufficient. This State then depended on a multitude of "moral forces" which he denounced as dangerous, for everything superior was intolerable in its mind. He personified this State by presenting it as "susceptible, ombrageux même, [voire] jaloux [sensitive, proud, [even] jealous". Thus, without effective barriers or limits, this State was acting under the aegis of political moral laws, presented by the sociologist as being "too defensive of its honor" and "labeling" in its principles. In this logic, war did not appear to be inevitable and inescapable, but became moral and holy, serving to avenge the multiple affronts that the sociologist presented as being in reality trivial and insignificant on a human scale. In this scheme of thought, the state is described as "une personnalité impérieuse et ambitieuse, impatiente de toute sujétion même apparente [an imperious and ambitious personality, impatient of even apparent subjection]".

As for Pierre Duhem, a physicist, chemist and historian, fervent Catholic and close to the nationalist circles of the Action Française, he too led a virulent charge against the German scientific method, in the book *La Science allemande* [German Science], in which he repeated the lessons given in Bordeaux under the auspices of the Association of Catholic Students of the University, at the beginning of the year 1915. Duhem, although a fierce opponent of the Third Republic, participated in the ideological conflict between France and Germany, following in the footsteps of the French scholars who participated in the Sacred Union. Duhem describes German scientists as being endowed, it is true, with a strong capacity for reasoning and deduction, but above all remaining unable to resort to intuition, unlike French intellectuals, for whom it was one of the essential forces. In this caricatured approach, he presented the German scientist as being "patient, [ignorant] la fiévreuse précipitation [patient, [ignorant] of feverish precipitation]" and capable of "forger une longue chaîne de raisonnements dont chaque maillon a été minutieusement éprouvé [et] de déduire avec une impeccable rigueur

[forging a long chain of reasoning every link of which has been painstakingly tested [and] deducing with impeccable rigor]". This eulogy was nevertheless to be quickly nuanced, since it added to the attention of Hegel and more generally to the attention of German science: "ce qui mérite ici d'être noté, ce n'est pas qu'un Hegel se soit trouvé parmi les Allemands ; dans tous les temps et chez tous les peuples se rencontrent de malheureux maniaques qui raisonnent à perte de vue sur des principes absurdes. Ce qui est grave, c'est que les Universités allemandes, au lieu de tenir l'Hégélianisme pour le rêve d'un dément, y aient salué avec enthousiasme une doctrine dont la splendeur éclipsait toutes les philosophies de Platon ou d'Aristote, de Descartes ou de Leibniz. Le goût excessif pour la méthode déductive, le dédain du sens commun, ont vraiment rendu l'Allemagne pensante toute semblable à la maison de Chrysale, le raisonnement en a banni la raison [What deserves to be noted here is not that a Hegel was found among the Germans; in all times and among all peoples there have been unfortunate maniacs who wrote miles of text on absurd principles. What is serious is that the German universities, instead of treating Hegelianism as a madman's dream, enthusiastically hailed a doctrine whose splendor eclipsed all the philosophies of Plato or Aristotle, Descartes or Leibniz. The excessive taste for the deductive method, the disdain for common sense, have really made thinking Germany akin to the house of Chrysalus, reasoning having banished reason]". (*La science allemande*, 1915).

In short, the relationship between German and French legal science throughout the 19th and early 20th centuries, is that of an impossible love, worthy of the romantic works of this same period. The two great continental powers have, in fact, constantly "needed" the other, sometimes as a model, sometimes as a visceral opponent, in order to (re)construct or prove its originality, even its superiority. Thus, they formed a unique duo in Europe. This was still the case during the Great War, when Bordeaux lawyers became significant players on the "legal front". But in showing such a fierce hatred of German science and to prove that they were the exact opposite, French jurists sometimes lacked objectivity. However, this hatred, which found its justification in the horrors of war, nevertheless concealed a profound respect, certainly unbearable, but an inevitable consequence of profound earlier influences. A sentiment that we can recognize in the caricatured portraits of German scientists, or even in the demand of Bordeaux professors to obtain, "at all costs", the most recent works of their opponents. Also, as French novelist and politician Alphonse Esquiros wrote: "la haine, c'est encore de l'amour, mais c'est de l'amour aigri [Hatred is still love, if an embittered sort]". (

Histoire des Montagnards, 1847).

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