

Max Weber .

The History of Commercial Partnerships in the Middle Ages.

Translated and Introduced by Lutz Kaelber

Rowman & Littlefield, 2003, 196 pp.

\$US 35.00 hardcover (0-7425-2049-8)

For students of Weber as well as students of sociological economics, Lutz Kaelber's translation of Weber's *The History of Commercial Partnerships in the Middle Ages* is a most welcome contribution to the Anglo-American discussion of that body of work that Lawrence Scaff has called "Weber before Weberianism." The edition itself is well-translated and provides an extremely helpful explanation of the various legal forms of commercial contract discussed in this work. Further, Kaelber's introductory essay provides a meticulous account of the German debate over commercial law to which Weber was responding — a debate that was as much about the origins of the modern limited liability corporation as it was about the history of medieval property law. Untangling Weber's less than straight-forward exposition of laws governing trade in medieval Italy, Kaelber ably demonstrates how Weber refuted the claims of prior interpreters that modern general and limited commercial partnership derived from Roman law and that unilateral partnerships — commercial partnership with one party managing the capital provided by another — were the source of the modern limited liability partnership. Finally, Kaelber traces the way Weber incorporates his early historical interpretation of general and limited partnerships in his later writings, specifically in *The Protestant Ethic*, his lectures on Economic History, and portions of *Economy and Society*. On his reading, this early work has been unjustifiably neglected by interpreters, for it raises some of the central "themes" taken up in Weber's later accounts of the origins of modern capitalism. It is this latter claim I would like to address in this review. For on the face of it, this work, derived from his dissertation, seems by Weber's own admission (cited by Kaelber) to occupy a place within a rather narrow scholarly debate over the history of commercial law. Kaelber is indeed right to claim that this work has a broader significance than would first appear, but I think the relation of *The History of Commercial Partnerships* to Weber's later work is somewhat more indirect and asymmetrical than Kaelber's exposition would lead us to expect.

Turning first to the work itself, Weber's *History of Commercial Partnerships* provides an historical study of how, under the pressure of expanding trade in Italy and the Mediterranean during the 14th century, the legal concepts constituting the general commercial partnership and the limited commercial partnership come into being. Surveying trading documents and statutes from some of the central trading cities of Italy, Weber cobbles together piece by piece a narrative in which the different partnership laws come to contain features that will eventually separate personal wealth from pooled capital and render the partners liable only for the debts of the partnership itself. Central to this account are three kinds of partnerships: the unilateral *commenda* in which a participant in an economic undertaking advanced the capital and shared the risk while that person's agent carried out the commercial side of the enterprise without incurring liabilities; the *societa mares* (or bilateral maritime partnership) in which the investor and the agent engaged in the actual shipping and selling of the goods and both contribute capital and share the risk should the transaction fail — this partnership governed trade throughout the Mediterranean; and finally the joint household partnership in which

family members shared a common pool of capital and risk distinct from their personal wealth — this partnership was rooted in inland cities and was concerned with production not commerce. The last two partnership are the source of the partnerships with limited liability relative to one's contribution while the former is the source of a partnership of shared risk. But whatever the case, Weber tries to demonstrate how the modern legal notion of a corporate enterprise with its own fund distinct from the personal wealth of the individual participants did not follow a linear development but was slowly incubated in the variety of medieval trading societies of the Mediterranean as a response to the risks of a local transaction or of overseas trade or the need to preserve capital over generations.

Although Weber seems to be simply engaging in a scholarly contretemps with his contemporaries over the origins of some distinctions in German business law, he has a far larger issue in view: namely, he is demonstrating that two of the central legal fictions enabling the modern corporate firm to operate in a capitalist economy — the general partnership in which all the partners share equally in the liabilities of the enterprise, and the limited partnership in which the liability of a partner contributing to the original investment is restricted only to his/her capital invested — were in fact developed in precisely the period usually associated with severe restrictions on capitalist investment and credit: the medieval period. Moreover, Weber finds in this period the beginnings of the corporation possessing an independent fund of capital all its own and able to engage in commerce with third parties as if it were an individual distinct from the individuals who have invested in it. Finally, he discovers in these partnerships the separation of accounts of personal wealth from accounts of assets belonging to the corporate partnership itself. And this separation in turn prompts the first rational bookkeeping of corporate accounts. So while his *History* appears to be Weber's intervention in a local scholarly corrective to some interpretations of German commercial law, this work in fact represents Weber's earliest inquiry into the origins of modern capitalism — or at least a number of its central legal and institutional features.

In his introduction Kaelber quite rightly points to this larger project in Weber and relates it to his later work. He finds Weber's discussion of the commenda in his lectures on economic history, known to us as *The General Economic History*, to be entirely consistent with the analysis of *The History of Commercial Partnerships*. However, Kaelber does note that in the economic history lectures, Weber discusses the combination of investor's assets and traveling merchants expertise in medieval maritime trade under the topic of "precapitalist commerce." And he further mentions that Weber underscores the precapitalist nature of these partnerships when he claims that they lacked the continuous rational pursuit of business typical of the modern firm (pp. 30-31). Now in *The History of Commercial Partnerships*, Weber does not emphasize this lack of continuity with modern capitalism. Rather, he describes the containment of risk within the partnership, the development of an independent fund of capital separate from personal wealth, and the ability of the partnership to make contracts with outside parties as prefiguring the modern corporate enterprise. Indeed, he sees the difference between the medieval trading partnership and the modern corporate entity as being merely the difference between commerce and production — a difference that for his argument in this work is negligible. It would seem then that in the early work, Weber uses the same account to find the origins of modern capitalism while in the later one, he draws a firm distinction between traditional capitalism and modern capitalism in order to find the origin elsewhere, in this case in the systematic rational pursuit of accumulating profits.

This distinction is even more pronounced in Weber's treatment of medieval partnerships in the *The Protestant Ethic and the Spirit of Capitalism*. In *The History of Commercial Partnerships*, the Florentine merchant Leon Battista Alberti appears, but only as a member of one of the Florentine clans that constituted themselves into a joint partnership based on the household — the aim being to preserve their acquired wealth from generation to generation. Under pressure to maintain their wealth over long stretches of time, Weber points out, these family-centred partnerships adopted separate bookkeeping for family business and personal wealth of each member, contracted to sell their wares in the name of the partnership, and above all, rendered all the family members liable for debts made by one of the partners in his role as partner, but immunized themselves from responsibility for debts incurred by individual members. While this prefigures many of the legal claims of the modern firm, Weber suggests the concept of the firm acting in its own name is still quite primitive (pp. 156-159). Nonetheless, it is clear that Weber sees the legal claims of these family-centred partnerships as creating the legal form of the modern corporate entity aimed a production for a local market and capable of doing business as an entity unto itself. Now, Kaelber claims that in *The Protestant Ethic* Alberti also appears in a similar role to that of *The History*; and following Schluchter he argues that in the former work, Alberti represents the instrumental and calculating pursuit of capitalist profit while Franklin represents the value rational side in his ethic of saving. But once again things are not that symmetrical. For Weber makes explicit in a long series of footnotes that Alberti represents a kind of traditional capitalism in which wealth is pursued to acquire noble status and to live a life of luxury in contradistinction to the origins of modern capitalism in Franklin's ethos of self-denying systematic accumulation. Indeed he views Alberti as a typical exemplar of adventurist capitalism (this is noted by Kaelber on p. 36). As with the *General Economic History*, Weber uses his categories of traditional and modern capitalism between his earliest and later work in different ways — in *The History of Commercial Partnerships*, the Alberti family prefigures the modern model for a corporation based on joint ownership; in *The Protestant Ethic*, the figure of Leon Battista Alberti represents precisely the kind of commercial capitalism that has always existed, its agents lacking the motivation for rational accumulation and reinvestment typical of modern rational capitalism.

Needless to say, Kaelber is not wrong to relate this early work to Weber's more famous accounts of the origins and features of modern capitalism. Indeed, his discussion of this relationship at the thematic level is most insightful. But I would argue that beneath the commonality of themes there is a disjuncture both in style of theorizing and in mode of explanation. While *The History of Commercial Partnerships* seeks to provide an historically grounded narrative of the different types of medieval partnerships, and in particular, the ways the property of laws of Genoa, Pisa, and Florence developed different aspects of the modern partnership in shared economic risk, *The Protestant Ethic* is essayistic, experimental, speculative, and relentlessly hypothetical in its account of what would have to have happened for a rational accumulating capitalist to emerge in the West. It is therefore hardly surprising that Weber would sharpen distinctions between medieval and modern economic practices in the latter work while collapsing them in the former. The *General Economic History* while employing ideal types is closer to the narrative style of *The History* and so the difference is not as dramatic. Nevertheless, the *General Economic History* seeks the long sweep in a way that the earlier work does not and thus draws an epochal distinction between commercial and rationally organized capitalism.

As for the differences in mode of explanation, it would follow from his multi-causal approach that in one work Weber would find the origins modern capitalism in the Italian commerce of the medieval

period, in another work find these origins in Northern European Puritanism over and against Mediterranean trade, as in *The Protestant Ethic*, or yet in other works find them in the rational organization of production and rational capital accounting, as in *General Economic History* and *Economy and Society*. For modern capitalism according to Weber is the outcome of a series of contingently occurring features, and each of them has a different origin relative to the others. Hence, we get in Weber a constantly shifting discovery of capitalist anticipations depending on the feature being explained. So from one perspective *The History of Commercial Partnerships* is about the legal origins of the modern corporate enterprise and from another it is about pre-modern capitalist undertakings. Kaelber notices such discrepancies but more could be made of them.

This qualification of his interpretation aside, Kaelber has done an extraordinary job of translation both in the literal and interpretive sense. In doing so, he has made available to us a work of Weber that many of us overlook at our cost. Those of us who try to make sense of Weber as a political economist and economic sociologist owe him a huge debt.

Peter Breiner

State University of New York at Albany

breiner@albany.edu

Peter Breiner is an Associate Professor of Political Science. He is the author of *Max Weber and Democratic Politics* and a number of articles on Weber. He is currently working on a book on the role of examples in political theory.

<http://www.arts.ualberta.ca/cjscopy/reviews/weber.html>

June 2004

© Canadian Journal of Sociology Online