

2. Reform of capitalism

General principles – the law of association, responsibility

The law of association

To eradicate the flaws he described, Henri Lambert postulated the need to reform contractual association, which once reformed ought to meet four criteria, namely:

1. The contract must be set for a fixed term, which does not preclude the right to indefinitely renew the original contract.
2. The contractors must have given their consent and have the capacity to do so.
3. The purpose must be clearly determined in order to prevent the legal establishment of secret societies.
4. The purpose must be lawful, that is to say, it cannot be antisocial or harmful to the public or general interest.

Continuing to its logical conclusion, Henri Lambert wrote the text of a bill that would correspond to these requirements. He was not content merely to formulate principles, but he always gave them concrete expression. His engineering background probably had something to do with this.

ART. 1. – Any combination of two or more persons, pursuing a lawful purpose constitutes a moral being whose existence and civil capacity the law recognises under rights of "contractual association." Contractual association is the moral being, born in all fields, by virtue of the contract of association, existing, developing or even disappearing, a moral being capable of possessing and having the competence to defend the collective rights of the partners. The association is governed as to its validity, creation, operation, renewal or dissolution only by the principles of law common to all contracts and obligations.

ART. 2. – The agreements, in the form of social statutes, will be passed by deed. The statutes indicate the aim of the association, its conditions of association and mode of administration and management, the use of its resources, how it will be represented in court, the name of the company and its official address, as well as the names and contributions of its founders. They stipulate the conditions under which new partners may be admitted into the society and those whereby partners can leave and relinquish their participation. They also determine the mode of dissolution and final liquidation.

ART. 3. – Once a year at least there will be a meeting of shareholders at the registered office, at a day and time fixed by the statutes. The annual balance sheet and statement of income and expenditure will be presented to the AGM. There will be kept at the registered office a special book containing the names, occupations and domiciles of the members appointed to the administration of the association and all the associates with details of their respective shares in the assets. This book will be numbered and initialled by the officer designated for that purpose.

ART. 4. – Any agreement of association shall be formed for a definite time; in the absence of any stipulation regarding its duration, the association may be dissolved at any time by the will

of any one party. The duration of the associations created under this Act may not exceed ten years; upon expiration of this time, the association may be extended for a further term of ten years, and so on.

ART. 5. – The associations will not be dissolved as a matter of right by the death, prohibition, bankruptcy or insolvency of any partner, but his heirs or representatives can seek reimbursement of his share in the company's assets according to the latest accounts. They will not have seals affixed to the company's assets, nor require the inventory. They can choose someone to represent them.

ART. 6. – Any contract of association based on a cause or purpose that is illegal or unlawful shall be null and void, without prejudice, where appropriate, to the application of penal provisions.

ART. 7. – The contributions of partners may consist of real or personal property, or of intellectual or material cooperation in the social purpose. The property owned by the associations may consist of securities or property, without any limitation of extent or restriction as to form. Associations can receive gifts in the form of donations and bequests, according to the rules and conditions applicable to single individuals.

ART. 8. – Unless otherwise agreed, the shares of the partners in joint ownership shall be determined, upon dissolution, according to his contribution. In the event of a failure to do so, each partner will be entitled to a larger share.

ART. 9. – The rights to pay tax at the foundation, during the existence, upon dissolution or upon renewal of the association are those currently set for commercial companies.”

Responsibility

These general principles understood, in case of bankruptcy a private economic association cannot benefit from a limitation of the economic responsibility of its individual members, under cover of anonymity. Individual holders of shares of the association must therefore assume full responsibility for their shares. Their profits are not limited if successful, so their losses should not be limited in the event of failure and/or bankruptcy, nor should the identity of their holders be hidden. Only the eventual association under the of hybrid form of limited partnership may depart from this principle of full responsibility (full responsibility for partner-managers, but limited liability for partners in partnerships).

Current Analysis

The appearance of serious taxation, the introduction of certain complex regulations, improvements in public education and improvements in general living standards – these have mitigated the evils for which the capitalist system is largely responsible in advanced countries. But worldwide the fundamental flaw of irresponsible capitalism remains, along with its chronically negative excesses, imbalances and periodic profoundly disastrous, effects.