



Tribunaes de Arbitros-Avindores (Portuguese Edition)

Teixeira Bastos

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Entre as instituições que surgiram nos tempos modernos para satisfazer necessidades creadas pelo grande desenvolvimento industrial, uma das mais importantes é, sem dúvida, a dos tribunaes de árbitros-avindores. Corresponde esta instituição, propriamente da industria, á dos tribunaes do commercio, que teem jurisdição privativa sobre as causas que nasceram de actos ou de obrigações commerciaes. A acção dos tribunaes de árbitros-avindores estende-se a todas as controversias que se podem dar entre patrões e operarios ou empregados, ou só entre operarios, sobre assumptos concernentes ás industrias. As funcções d'esses tribunaes são judicarias, mas antes d'isso e principalmente são conciliadoras, como convém em especial a divergencias levantadas, quer entre patrões de uma parte, e operarios ou empregados de outra, quer apenas entre companheiros de trabalho. É sem duvida uma instituição nova, trazida pelas necessidades do regimen industrial, que foi uma consequencia do moderno desenvolvimento scientifico e da applicação das sciencias á producção de artefactos; mas descobrem-se os seus germens em instituições que desapareceram deante do camartello demolidor dos revolucionarios de 1789 em França, os quaes serviram de modelo aos nossos de 1820. A missão conciliadora dos árbitros-avindores é no fôro industrial o que é no fôro civil a dos juizes de paz, e uma e outra teem raizes na antiga organização judiciaria de Portugal, como notou o sr. Baptista de Sousa, no excellentel relatório da commissão que foi oficialmente encarregada de formular os regulamentos para os tribunaes de árbitros-avindores, e já anteriormente descobrira o notavel jurisconsulto Abel Maria Jordão. Nas côrtes de Elvas, em 1481, foram reclamados juizes-avindores, e D. Manuel satisfez o pedido dos povos em 1519, creando tres juizes e dando-lhes um regimento. O julgamento por homens bons, que data da Edade-Média, pode ser considerado ao mesmo tempo como antecedente do julgamento pelo jury nos tribunaes ordinarios e commerciaes e do julgamento pelos árbitros ou peritos no fôro industrial. Em França tambem a instituição encontra raizes historicas

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