

Abstract of a Dissertation: Historical Development of Commercial Arbitration in the United States of America

The purpose of the thesis is to analyze the development of commercial arbitration in the United States of America from its origin to modern times.

Besides issues regarding commercial arbitration in the United States, the thesis contains necessary information about the English legal system, the beginnings of commercial law and international commercial arbitration.

The research was based on diversified sources. Primary historical and modern law sources include acts of international law, federal and state legislative acts and regulations, and case law. Historical sources, such as legal commentaries, reports of U.S. Congressional committees, brochures, newspapers, reports, declarations, and other documents were also used in the research. Other primary sources are websites, arbitration rules, and other organizations' internal rules. The research was based on contemporary secondary sources, such as academic journals and monographs.

There are two general objectives of the study. The first is to indicate on what stage of development is commercial arbitration in the United States. The second is to attempt to answer the question: did arbitration become a universal, global method of dispute resolution? The main field of research is the American legal system and its dispute resolution processes. The specific objectives of the dissertation are to elaborate the nature of common law and its relationship with commercial arbitration, the role of US courts in shaping American arbitration law, the relationship between the judiciary and arbitration society in the United States. Among these factors arises an essential question for the thesis: what conditions must be fulfilled for arbitration to become a popular method of dispute resolution fully accepted by the American society, and what factors help develop arbitration.

The first chapter discusses the origins of American commercial arbitration on the European continent and the first stage of implementing the idea of arbitration on American soil. This chapter points out what factors contributed to the beginnings of resolving disputes amicably on the American continent and how the legal institutions of arbitration created in the beginning of the United States developed. For a better understanding of the provenance of modern American arbitration, the first chapter outlines the main features of *common law*, merchant law, and the

beginnings of commercial law in England and Western Europe, the idea of arbitration and its main features. The final part of the chapter concludes with what factors affected the idea of arbitration in America.

The second chapter describes arbitration in the United States from the very end of the colonial period to the first decades of the 20th century. According to temporary legal thought this period is a separate era in America's arbitration history. It is called the "premodern" period and is a very important and influential time in the development of amicable dispute resolution. The most influential rules of law, acts of legislation, and rulings for this period are detailed in this chapter. Special attention has been paid to the relationship between the judiciary and arbitration, which emanated in judicial hostility towards arbitration in the process of the expansion of the United States. The chapter also highlights the beginnings of arbitration courts in North America and the formation of arbitration societies in the independent United States. Since the issues raised in the chapter regard the period of creating the essential principles of the American legal system, they influence following chapters of the dissertation.

The third chapter characterizes modern American arbitration - a term used to describe the era of American arbitration from the beginning of the 20th century to modern times. It points out two issues: the role of arbitration societies in forming the modern arbitration system and the most important legislative acts, rulings, and doctrines for modern American arbitration. A key element of the chapter is the Federal Arbitration Act, which happens to be a milestone for the development of arbitration in the United States. Due to the importance of the Federal Arbitration Act, the chapter analyzes its provisions and influence on American law. Later in the third chapter, the most important court rulings validating the arbitration clause as a result of the Federal Arbitration Act are discussed. The decisions mentioned were made between the middle of the 20th century and the end of the first decade of the 21st century.

The main topics of the fourth chapter include an analysis of court cases relating to the federalization of arbitration in the American legal system. Federalization of arbitration relates to examination by the Supreme Court of the scope and reach of the Federal Arbitration Act and federal arbitration case law. The chapter includes characteristics of arbitration laws in Florida, California, Illinois and Texas, observations concerning the following development of arbitration societies, and the ADR movement in the second part of the 20th century, and it points out factors that made it a popular and fully accepted form of dispute resolution among American society.

The last chapter concentrates on the correlation between the American arbitration system and international arbitration. The chapter describes treaties ratified by the United States, international commercial customs, the practice of international amicable dispute resolution, and international arbitration rules in the face of common law and the legal traditions of continental law. By exemplifying the role of the legal systems discussed in international commercial arbitration, the fifth chapter tries to answer the critical questions: how did American arbitration influence the system of modern international commercial arbitration and what can we learn from its development?

The conclusions summarize the main currents of the dissertation. As a result of the analysis, it has been found that arbitration became a form of resolving domestic and international commercial disputes popular among American society and supported by authorities. Such factors as freedom of contract, economic freedom, and legal consciousness in the range of dispute resolution methods affect the popularity and effectiveness of arbitration. The final considerations confirm that arbitration effectively supplements resolving commercial disputes in the common law system because of its informal character and concise rules. Concerning arbitration's features, it also adjusts to recent economical and social needs, adjusting to actual rules of law, which was proved in the face of its history in the 19th and second part of the 20th century.

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