

TOBIAS BARRETO'S COMPETITION FOR THE FACULTY OF LAW OF RECIFE (1882): AN EVENT THAT CHALLENGED THE STRUCTURES?



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ABSTRACT

This article intends to focus on what is the most notable event in the legal career of Tobias Barreto: his competition for substitute professor at the Faculty of Law of Recife, held in 1882, seeking to measure, from the sources and the specialized bibliography, the impacts of this contest for the Brazilian and Recife legal establishment at the end of the nineteenth century. *The most appropriate way to apprehend the processual character of modern history is the reciprocal clarification of events by the structures and vice versa*", Reinhart Koselleck outlines, however, that this tension will never be resolved when a certain manifestation of historical time is apprehended (KOSELLECK, 2006, p. 139). This is what we intend to explore concretely in this *paper*. It is concluded that Tobias Barreto's main intellectual contribution was his intransigent struggle for the formation of an "intellectual climate" (LIMA, 1957, p. 236), of a university mentality more accustomed to scientific debate and research, which did not occur, as will be seen, without flagrant contradictions and paradoxes of Tobias himself and his thunderous intellectual and personal petulance.

Keywords: Tobias Barreto. Recife Law School.

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INTRODUCTION

"No thing succeeds if petulance is not present in it"
Friedrich Nietzsche (2006, p. 7).

Agripino Grieco stated, in a well-known literary review, that "*Castro Alves was not a man: he was a convulsion of nature*". If this metaphor is fully applicable to the poet of the slaves, the most prominent figure of Brazilian romanticism (BOSI, 2006, p. 120), it can be said, also without exaggeration, that the great opponent of the author of the *Slave Ship* also lives up, and with an even greater number of biographical and bibliographical examples, to the aforementioned epithet: it is the Sergipe intellectual Tobias Barreto (1839-1889).

Mestizo and poor, at a time when slavery was in full force and belonging to the national elites was a *sine qua non condition* for insertion in the narrow juridical-political world of the nascent Empire, Tobias demonstrated, from poetry to journalism, from legislative action to teaching, from personal controversies to scientific and philosophical struggles, that, in fact, As he liked to say, the fight was his element. This was not safe, however, from many contradictions, reactions and counterattacks from opponents and himself.

In addition to the already in-depth insertions through the various intricacies of this biography crowned with controversies, this article intends to focus on what is the most notable event in Tobias Barreto's legal career: his competition for substitute lecturer at the Faculty of Law of Recife, held in 1882, seeking to dimension, from the sources and the specialized bibliography, the impacts of this contest on the legal *establishment* at the end of the nineteenth century.

First, a short excursion will be made through the state of the art of Brazilian legal education and the main currents of legal thought in the country at the time of the aforementioned contest, as well as the intellectual background of Tobias and his critical views of this *status quo* then in force. Then, the theses and theoretical positions defended by him in the 1882 competition will be explored, in addition to his subsequent teaching performance and his academic production in the years that followed his entry into the Congregation of the Faculty of Law of Recife.

Finally, a critical reflection will be undertaken, in the light of the history of Reinhart Koselleck's concepts, on the impacts that the ideas and theoretical postures defended by Barreto in the contest and his subsequent performance as a lens had on the structures and

academic models then in force in that particular historical period, seeking to listen to contributions (often contradictory and paradoxical) of the intellectual figure of Tobias Barreto for the questioning and for the shaking of the legal, scientific and philosophical models predominant in the Academies of Law in Brazil at the end of the nineteenth century.

In fact, Koselleck states that the temporal dimensions contained in a historical process are multiple and diverse and that they are apprehended in an equally distinct way (KOSELLECK, 2006, p. 146). Exemplifying this thesis, which runs through every page of his *Future Past*, the German historian asks: can the significant *industrial boom* that followed the Revolution of 1848 be attributed to the revolutionary movement itself or to the reaction that followed it? (KOSELLECK, 2006, p. 137). Responding to his own provocation, he states that, "*If revolution and reaction can be, at the same time, indicators of one and the same dynamic, which feeds on both camps and was triggered by both*" (KOSELLECK, 2006, p. 137).

Well, in the same way, historically purifying the influence of Tobias Barreto on the academic-legal structures prevailing at the Faculty of Law of Recife at the time requires care to have into perspective this productive tension between event and structure, insofar as "*The most appropriate way to apprehend the processual character of modern history is the reciprocal clarification of events by the structures and vice versa*" (KOSELLECK, 2006, p. 139), "*without one dissolving into the other*" (KOSELLECK, 2006, p. 137).

Thus, this article does not intend to make a reheated biographical sketch of Tobias Barreto, nor a pure and simple ode to his vaunted genius and irreverence. Understanding the historical importance of the Sergipe jurist (and, more specifically, of his approval in the 1882 competition) requires confronting biographical-individual aspects with structural circumstances more or less lasting at the time of these same aspects: "*the temporal statistical sequences are nourished by concrete and individual events, endowed with their own time, but which only acquire meaning by virtue of a long-term structural perspective*" (KOSELLECK, 2006, p. 138). This is what follows.

THE LEGAL-ACADEMIC STRUCTURES OF THE LATE NINETEENTH CENTURY AND THE INTELLECTUAL FIGURE OF TOBIAS BARRETO

It is commonplace in Brazilian socio-political literature to make incursions into the role that bachelors played in the construction of national identity, and its development is full of contradictions, advances, setbacks and a lot of rhetoric.

Since the debates that took place in the National Constituent Assembly of 1823, specifically with regard to the project for the creation of legal courses in the country, there are "*several records of the appreciation that parliamentarians cultivated with regard to Lusitanian culture and of the political will to continue in Brazil the tendencies of Coimbra legal education contained in its statutes*" (APOSTOLOVA, 2014, p. 65).

At the same time, as pointed out by Bistra Apostolova, there was an attempt to innovate (in the wake of the educational reform undertaken in Coimbra from the Law of Good Reason, of 1769) of the legal curriculum: "*The greatest innovation of the Law of August 11, 1827 [which created legal courses in Brazil] was that it sought to move away from the tradition of Portuguese law and its teaching, organized predominantly around Romanist culture*" (APOSTOLOVA, 2014, p. 175).

In the following decades, legal conceptions began to be shaped by the growing influence of French legal positivism and its attachment to the law as a source of law (APOSTOLOVA, 2014, p. 168-169).

In fact, the intention behind the creation of legal academies (to train, from the elite, political and bureaucratic cadres for the nascent Brazilian State) took place in a different way throughout the nineteenth century.

As discussed by Hermes Lima, the Academy of São Paulo, at first, was more open to the cultural, literary and bohemian effervescence that the Faculty of Largo de São Francisco brought to the until then quiet and cold city in southeastern Brazil. This initial period of Largo de São Francisco counted, for example, with the remarkable presence of Álvares de Azevedo - the greatest Brazilian exponent of our ultra-romantic generation (BOSI, 2006, p. 110) - and was characterized by "*great literary flowering*" (LIMA, 1957, p. 196), the cult of the "evil of the century" and the *spleen* of Byron and Lamartine (LIMA, 1957, p. 197), for example.

Student unions, small newspapers run by students, poetic associations, soirées, cafes abounded. However, in São Paulo, this "*literary surge had much greater brilliance in the first Romantic period than in Recife*" (LIMA, 1957, p. 196). In fact, in Pernambuco, the impact of the Faculty of Law, originally located in Olinda and only transferred to Recife in 1854, was initially much more conservative: "*The political devil, in a land furrowed with revolutions, lived more with boys than the literary devil*" (LIMA, 1957, p. 198-199).

At this juncture, the Recife Law School served, in Pernambuco, as one of the institutions that perpetuated a conservative front of power (LIMA, 1957, p. 200), which

sought to maintain the structuring bases of the patriarchal and slave-owning order dominant in the country at the time.

However, as the nineteenth century unfolded, this state of affairs was gradually altered. In literature, the French and English ultra-romantics gave way, in the face of serious social crises and the reactions that followed them, to aesthetic and literary manifestations increasingly concerned with the social function of art and its denouncing mission. It is there that Victor Hugo's voice of protest emerges more and more heard.

In Brazil, the influence of French vate inaugurated the third phase of romanticism (LIMA, 1957, p. 203). Especially from the 1870s onwards, in the face of the consequences of the end of the Paraguayan War and the increasing corpulence of abolitionist and republican ideas. This socio-political effervescence was felt by the two Faculties of Law: in São Paulo, in the struggles for the Republic and for abolition; in Recife, by the apprehension of new and instigating modern scientific ideas (LIMA, 1957, p. 205).

It is in this second phase that the controversial intellectual figure of Tobias Barreto will emerge in the legal world (LIMA, 1957, p. 205). As already pointed out, he was a mestizo man, of humble origin and born in the poor interior of Sergipe, at a time when the privileges of the nobility, the influence of rural patriarchy, slavery and very little margin of social ascension through intellectual effort still predominated.

Barreto, however, sought, from an early age, to circumvent such obstacles and in 1854, at the age of only 15 (fifteen) years, he became a substitute teacher of Latin in Lagarto, Sergipe (LIMA, 1957, p. 2).

In 1961, he went to Bahia to continue his secondary studies. There, he studied philosophy with the well-known Friar Itaparica and came into contact with the work of Victor Hugo. This combination would forever mark his intellectual itinerary, coined with the radical and rigorous concern for understanding the great problems of reality, as well as the understanding of culture as a socio-historical human product.

Due to lack of financial resources, he returned to his hometown, Campos (SE), and, in 1963, left to study law in Recife, starting his legal studies only in 1964, at the age of 25 (twenty-five), well above the average age of other freshman students (Castro Alves died at the age of 24; Álvares de Azevedo, with 21).

It is a period, as mentioned above, of important social changes, driven, among others, by the end of the Paraguayan War and the increase in urbanization throughout the

country (LIMA, 1957, p. 9): *"The youth eagerly threw themselves into the books of philosophy, political doctrine and criticism of the old regime"* (LIMA, 1957, p. 16-17).

It is important to point out the intellectual blow that Barreto suffered during his law degree. As Hermes Lima points out, *"in Tobias culminated the tragedy of an educational system that, after subjecting the adolescent to a literate, erudite primary and secondary education, threw him into higher schools, where the horizons of that literary and humanist culture were abruptly closed"* (LIMA, 1957, p. 20).

In other words, if the colleges cultivated a humanistic and disinterested knowledge, the Faculties of Law took care to prepare *"the descendants of the rural aristocracy to whom, within the dominant social mechanism, the positions of government and direction would fall"* (LIMA, 1957, p. 21). Speaking of these, whom she calls *"the chosen ones of the nation"*, Lília Schwarcz discusses it as follows:

"Synonymous with social prestige, a mark of political power, the bachelor becomes a special figure in the midst of a country interested in creating its own elites of thought and political direction. [...] The bachelor became the great intellectual of the local society, drawing attention to the eclecticism of the ideas and the pragmatism of their definition" (SCHWARCZ, 1993, p. 142).

Faced with this model, one of the ways that Tobias found to circumvent the technical-pragmatic character of the teaching offered by the Faculty of Law of Recife was to work in academic journalism, which *"receives, from 1865 onwards, mainly due to Tobias, a fruitful breath, starting to debate doctrines that were no longer in line with the uninteresting rhetorical molds"* (LIMA, 1957, p. 19).

After graduating, another blow. Although widely seduced by the great philosophical systems, by the most intricate and disturbing social and scientific doctrines of the time, he did not have the economic conditions to dedicate himself exclusively to such abstract and academic reflections, having to engage in law to survive (LIMA, 1957, p. 21-22).

It is during this period, already around 30 (thirty) years of age, that Tobias, married, moves to the municipality of Escada, where he would live around his wife's family for about 10 (ten) years.

During this decade, some of the most outstanding intellectual traits of Tobias' personality emerge and/or solidify: Germanism, fierce political criticism, parliamentary and family controversies, the confrontation of the patriarchal structure and the *status quo* in the countryside, the cultivation of new philosophical ideas, among others.

In addition to running several small newspapers — including the *Deutscher Kämpfer* (published entirely in German) — with scientific publications, literary criticism, a philosophical incursion into modern ideas (BARRETO, 2012, v. 4, p. 223; LIMA, 1957, p. 209), Tobias works as General Curator of Orphans (BARRETO, 2012, v. 4, p. 51-92), as a militant lawyer (BARRETO, 2012, v. 4, p. 93-310), as an Alternate Municipal Judge (BARRETO, 2012, v. 4, p. 311-318), as a Provincial Deputy.

From 1869 (when he was still a student), he dedicated himself to the study of the German language (BARRETO, 2012, v. 4, p. 223), including corresponding with several Germanic intellectuals (BARRETO, 2012, v. 4, p. 224), entirely in the barbarian language of Goethe.

It is from this time, for example, that he made his famous *Speech in Sleeves of Shirt* (a metaphor for simplicity), given at the Clube Popular de Escada, in which he confronted the local powerful by denouncing the misery of the people and the anti-democratic oppression they suffered on a daily basis (BARRETO, 2012, v. 9, p. 131-141).

Due to several political confrontations of this nature, Tobias attracts animosities. And not only from local representatives, but also from the family itself. Due to a violent incident with his brother-in-law, motivated by the controversial emancipation of slaves belonging to his ex-father-in-law, which earned him an armed siege of his home and his family, Tobias decided to return to Recife to participate in the famous competition for substitute lecturer at the Faculty of Law of Recife, an occasion in which he would have the opportunity to fulfill his old desire to live purely from intellectual production and science (LIMA, 1957, p. 33).

3 THE 1882 CONTEST AND ITS DEVELOPMENTS

The novelist from Maranhão Graça Aranha narrates, in his memoirs, the facts that occurred around this contest in which Barreto was the winner. According to him, Tobias caused a "*great mental shock*" (ARANHA, 1931, p. 151) with his "*independent and sovereign personality*" (ARANHA, 1931, p. 151), tormenting the reactionary examiners of the contest with his "*thinking fearlessly, thinking boldly, thinking for himself, emancipated from the authorities and canons*" (ARANHA, 1931, p. 151).

As was customary at the time, the competitions for professors required the preparation of a written dissertation and, equally, written theses, only enunciated and that would be developed orally by the candidate in reciprocal arguments of the competing candidates, on all the disciplines that make up the academic curriculum (BARRETO, 2012,

v. 2, p. 56, footnote). According to Hermes Lima, *"This detail increased the sadistic and sensationalist character of the evidence. Tobias had been cut for such prizes. Convinced of his superiority, he was ruthless and theatrical. He got tired of exhibitionism. The adversaries became foolish"* (LIMA, 1957, p. 219-220).

Tobias was the favorite of the students. At a time when the Recife Academy was the largest recipient of philosophical and scientific ideas coming from Europe, a professor was sought who would transit and dialogue with such currents of thought seen as modern and progressive, in addition to the already worn and rotten lessons of Natural Law².

In the dissertation written for the competition, Barreto states that the *"conception of sociology, and especially the conception of law, still current among us today, are a piece of metaphysics, a remnant of mythology [...] in an embryonic state [...]"* (BARRETO, 1977, 54-140).

Developing the question that was proposed to him in the contest (*"Does the doctrine of the original natural rights of man conform to the principles of social science?"*), Tobias argues that *"the conception of a superior and prior right to society is an extravagance of human reason, which cannot be justified. Man is a historical being"* (BARRETO, 1977, 54-140). Herein lies one of his main criticisms of rationalist positivism.

In fact, he intended to *"build a curious and singular critique of the voracity of positivist reason and its impetus to reduce the universe of culture to nomothetic dimensions"* (FONTES BARBOSA, 2010, p. 205).

In fact, the French juridical-philosophical culture, then widely dominant in the Brazilian intellectual spectrum, was one of the great enemies (if not the main one) faced by the master from Recife, who fought hard against the ideas influenced by the scientific positivism of Auguste Comte (GODOY, 2014). And he did so from the intransigent defense of German culture, with Germanism being one of the most outstanding traits of Tobias' thought (GODOY, 2014).

On this point, Antonio Cândido recognizes the singular role of Tobias in the scientific sedimentation, for example, of legal sociology in Brazil (CÂNDIDO, 2006). This contribution

² "This is the man that the youth was waiting for. The youth did not want only a jurist, a connoisseur of texts, a truly illustrious professional of law, but a jurist-philosopher, a master of general ideas, a revealer of conceptions, a discoverer of currents of thought. His process of intellectual liberation was done piecemeal, through sparse, often contradictory readings. (It lacked a system. It lacked the joint vision of man and nature), of the way in which these two realities explained each other, complemented each other, communicated and moved, since dualism was dead, since the sky had become empty. Finally, he lacked someone to throw at him, to that youth, the symbolic word, the word in which his convictions, dreams, ideals would be fulfilled" (LIMA, 1957, p. 209-210).

is stamped on the work "*Glossesas heterodoxas a um dos motes do dia ou variações anti-sociológicas*" (BARRETO, 1977, 54-140), defended by him as a dissertation prepared on the occasion of the 1882 competition.

Furthermore, starting from this notion of Law as a historical and cultural phenomenon, which was directly influenced by the work of Rudolph Von Jhering, Barreto criticizes the social determinism that also populated a significant part of the Brazilian socio-legal imaginary. According to him, evolutionist theories, by seeking to link the legal phenomenon to natural laws, would have hidden this cultural face of Law, denying the idea of human freedom, since everything would be naturally determined by organic and biological conditions. For him, invoking neo-Kantian presuppositions of his Germanism, it would be inconceivable to think of man as a mere product arising from determinations alien to the cultural world.

In addition, especially at the end of the nineteenth century, deterministic and evolutionist ideas became more and more widespread in the Brazilian legal environment, based on the views, for example, of Cesare Lombroso and his criminalism, a thought that would later be disseminated and developed in Brazil by Nina Rodrigues (RODRIGUES, 2011).

In 1884, developing one of the theses defended in the 1882 contest on the criminal mandate, Tobias Barreto wrote his famous monograph "*Menores e loucos*" (BARRETO, 2012, v. 3, p. 43-107), in which he criticizes such biological determinism in the legal field, including appearing as the first Brazilian jurist to oppose the Italian penal school of Cesare Lombroso (LIMA, 1957, p. 243), since his thesis of biological predetermination of behaviors would be contrary to the very function of Law, as a cultural product, of directing and guiding behaviors (LIMA, 1957, p. 242).

Another notable example of Tobias' legal contribution directly linked to the contest was his avant-garde thesis on Copyright, an expression he created and to this day used as a specific branch of Civil Law. Tobias himself, while praising the originality of his own thesis, mocks the fact that his competitors, in the 1882 contest, did not problematize it as they should (BARRETO, 2012, v. 2, p. 279).

Once a member of the Faculty of Law, Tobias maintained his relentless intellectual confrontation with the ideas most disseminated by his colleagues in the Congregation, specifically in relation to two figures:

"The first was that of José Higino Duarte Pereira, who began to teach in 1876, dedicating himself to teaching until the Proclamation of the Republic, when elected deputy to the Constituent Assembly, he assumed the portfolio of Justice in the Floriano Government, later being part of the Federal Supreme Court. José Higino's works are mainly dedicated to Law and the study of the Dutch wars, and he represented a positivist thought, later adopting Spencerian evolutionism, to which Tobias had a particular aversion, having even, at the end of his life, engaged in a singular controversy with José Higino. The other was João Vieira de Araújo, who joined the faculty of the faculty in 1876, and was mainly a jurist who supported the evolutionism of Spencer and Ardigó. He specialized in Criminal Law, according to the guidance of the school of Lombroso, whose ideas Tobias Barreto was the first to fight in our country. João Vieira achieved, however, great penetration in foreign circles, especially in Italy" (LIMA, 1957, p. 102).

Such rivalry is expressed in several personal correspondences from Tobias Barreto to Sílvio Romero (BARRETO, 2012, v. 5, p. 228-246).

In the academic memoirs of the year 1883, his first as a professor at the house, Tobias begins by saying that he should limit himself, *"as is customary, I don't know well or badly established, to the simple narrative without critical appreciation of the remarkable events that took place in this Faculty during the year 1883"* (BARRETO, 2012, v. 5, p. 203).

However, as was to be expected from his personality, in addition to the bureaucratic academic records he was entrusted with making, Tobias does make veiled criticisms of the Faculty, defending, mainly, the freedom of professorship:

"That the lecturers have the right to teach fearlessly what seems to them most in accordance with the progress of science, to use the next expression of article 240 of the Rules of Procedure, that students have the right to accept, or fearlessly reject, what seems good to them or what seems bad to them, without causing scandal, without provoking the wrath of anyone who intends to make this Faculty a religious Institute, an appendix of the Holy Church, and things will certainly go better. Apart from this, and from what else is linked to this, the Faculty runs the risk of becoming simply an appendix of the treasury, a small distribution of the national tax authorities" (BARRETO. 2012, v. 5, p. 208).

Specifically about legal education, Tobias also had some very critical ideas:

"I do not give much, it is superfluous to say so, for the science of our faculties; but of still less value seems to me the rude and coarse trait of our courts, where Themis and Minerva do not kiss, but quarrel and slap each other. One of our professors of law, who, as a rule not very fertile in exceptions, are not minds who have the courage to give to the poor, or to shake all their old scientific furniture out of the window, and equip themselves with a new one, in taste and time of time, takes on gigantic features, compared with the majority of the magistracy, for which the most perfect specimens of the acephalophore class are recruited with preference. And this comes precisely from the kind of Chinese wall that our habits have thrown up between the men of science, as such, and the men of practice, of law in action; however, the former must bear most of the blame for this state of segregation, which is harmful to both. Because instead of continually reacting to the tree of science, which has been placed in their custody, instead of making the talents entrusted to them yield, the jurists of the chair sacrifice the interests of scientific

theory to the interests of speculative chicanery, which they exercise in common with routine turmoil" (BARRETO, Estudos Alemãos, 2012, p. 99).

It can be seen, from this enlightening excerpt, that Tobias Barreto was a profound critic not only of legal practice and the organization of the Courts, but of the model on which the country's law schools were centered, attached to tradition and resistant to the developments of modern theories, which — for Barreto — were essentially circumscribed to the Germanic world (GODOY, 2014).

This trait of his intellectual trajectory also affected the way he saw the teaching of Law and the receptivity of the national culture to comparative legal systems, notably the German one³. In the words of Hermes Lima: *"Together with the spiritual message, I inaugurated a new style of teacher. He breaks with the classic clothing of the lens, frock coat or black tailcoat and coconut hat, to wear a gray tailcoat, white pants and straw hat"* (LIMA, 1957, p. 245).

But, after all, what was the impact of Tobias Barreto's entry, through the 1882 competition, into the faculty of the Faculty of Law of Recife?

AN EVENT THAT CHALLENGED THE STRUCTURES?

With Reinhart Koselleck, the historical categories of the *space of experience* and the *horizon of expectation can be raised*. According to the historian, the dynamics of historical time can be explained through these two variables. By *experience*, one takes *"the current past, the one in which events were incorporated and can be remembered"* (KOSELLECK, 2006, p. 309). Expectation, in turn, *"is the present future, focused on the not-yet, on the unexperienced, on what can only be predicted"* (KOSELLECK, 2006, p. 310).

Koselleck states that his categories are not simple antithetical concepts, because they *"indicate unequal ways of being, and from the tension that results from this can be deduced something like historical time"* (KOSELLECK, 2006, p. 312).

³ "The German influence on Tobias Barreto is also captured with intensity in the theme of law school and legal education. In his work, this subject is found in some sparse passages, in a text on legal faculties as factors of national law and in a teaching program elaborated for the various disciplines then studied. Tobias Barreto's criticisms were primarily directed at the Faculty of Law of Recife, whose Congregation, for him alongside the notorious and Roman Congregation of the Index, he understood to be responsible for the resistance to German thought, adding that "the faculty should not be this kind of moral custom, instituted and raised on the frontier of civilization, to learn and fine foreign ideas". Tobias Barreto observed that he thought like the German historian Heinrich von Sybel (1817-1895)¹³³, in the sense that "(...) that colleges are not only establishments of instruction, but also and mainly (...) true laboratories, workshops of science" (GODOY, 2014).

The German professor maintains, therefore, that we cannot draw from this productive tension a linear conclusion in the sense of directly deducing expectations only from experiences. This is precisely because *"the difference between the two categories brings us to a structural characteristic of history. In history there is always a little more or less of what is contained in the premises. [...] the historical future is never the pure and simple result of the historical past"* (KOSELLECK, 2006, p. 312).

As already pointed out, according to Koselleck, the dynamics of historical time can also be due to the productive tension between events and structures.

Events, which are *"isolated ex post from the infinity of events"*, are understood as *"a set of facts, as a unit that can be narrated"* (KOSELLECK, 2006, p. 133). And he adds:

"The unity of meaning that makes the different events an event is composed of a minimum of 'before' and 'after'. The circumstances during which an event takes place, its before and its after, can be extended; its consistency remains, however, tied to temporal succession. Even the intersubjectivity of a conjuncture of events must, while the actors carry it out, remain adhered to the scheme of temporal sequences. [...].

The transposition of once immediate experiences into historical knowledge – understood as the rupture of a horizon of expectation, which reveals an unexpected meaning – always remains committed to the chronologically measurable sequence. [...].

The before and after constitute the horizon of meaning [Sinnhorizont] of a narrative – 'veni, vidi, vici' – but only because the historical experience that constitutes the event is necessarily inserted in the temporal succession" (KOSELLECK, 2006, p. 134).

For him, however, it only makes sense to speak of a historical chronology, insofar as it can be "structured": "In addition to such diachronic structures linked to events, there are also long-term structures", by which are meant "those circumstances that are not organized according to the strict succession of past events. They imply greater duration, greater stability, changing in longer terms" (KOSELLECK, 2006, p. 135).

Differentiating them from events, Koselleck states the following about structures:

"[...] All have in common the fact that their temporal constants go beyond the chronologically recordable field of experience of the individuals involved in an event. Events are provoked or suffered by certain subjects, but the structures remain supra-individual and intersubjective. They cannot be reduced to a single person and rarely to precisely determined groups. Methodologically, they require, for this reason, determinations of a functional nature. With this, structures do not become extratemporal magnitudes; on the contrary, they often acquire a processual character – which can also be integrated into the experiences of everyday events" (KOSELLECK, 2006, p. 136).

It should be noted, therefore, from this conceptual excursion undertaken so far, that Tobias Barreto's concurrence, as a specific event chronologically delimited, can be seen, according to Koselleck, as an event, as a unit of meaning that can be narrated.

On the other hand, the set of legal-philosophical conceptions and academic practices, organically conceived and prevailing at the time of the contest in which Tobias was the winner, can be understood as a structure, as a succession of medium and long-term temporal circumstances.

Koselleck points out that these dimensions of historical time "refer one to the other, without one dissolving into the other" (KOSELLECK, 2006, p. 137). That is:

"With regard to isolated events, it can be said that certain structural conditions make their course possible. It is possible to describe them. However, they can also be inserted in the narrative if, understood as causes independent of chronology, they contribute to the analysis of the event" (KOSELLECK, 2006, p. 138).

It should be noted, therefore, that the appearance of the intellectual figure of Tobias Barreto in the Brazilian legal context of the late nineteenth century and of the Faculty of Law of Recife, in particular, cannot be understood in a messianic, Sebastianist or Enlightenment way.

If, on the one hand, Tobias' contribution to the renewal of legal studies and to the questioning of the old Coimbra academic structures that still predominated in our academies at the time of his approval in the 1882 competition is remarkable, on the other hand, this remarkable event must be understood as directly influenced by these same structures, both with regard to its confrontation and the counter-resistance suffered, and with regard to the very breaches that the previous demonstrations of the Recife School had already begun to cause (at a slow pace, it must be said) in these same structures.

About these cracks that were gradually already affecting the old edifice of Brazilian legal ideas at the time and that Tobias knew how to handle like no one else to try to bring it down⁴.

⁴ Despite the orientation of the adopted manuals and the orientation of the professors, since 1854 the academic mentality had begun to change with the appearance of Troplong and then with that of the French version of Savigny. The latter's influence was profound, in the face of the conception of the old legal order based on rational data, to which he opposed the conception of law based on the data of history, subject to the laws of evolution and directly dependent on the conscience of the people. For the march of thought, towards a new philosophical sense, what was particularly important about Savigny was that, through his school, the Academy became aware of one of the most important ideas of the modern world – the idea of evolution. Although it appeared applied to law, it did not, however, lose its general meaning and certainly led minds to seek its repercussions in other domains of knowledge.

It should be noted, therefore, that the intellectual appearance of Tobias Barreto in the 1882 contest, as an event that represents his consecration in the national legal scenario, cannot be measured as a work of chance or exclusively due to his undeniable iconoclastic personality. If, on the one hand, he actually fought everything and everyone; on the other hand, this combat must be framed in the temporal succession of the School of Recife⁵, as well as being characterized as suffering from some of the same evils identifiable in the very ideas criticized by Tobias, such as conceptual generality and vagueness, making it difficult to grasp the law from the scientific canons then in force, notably influenced by the exact sciences (LIMA, 1957, p. 217-218).

As proof of this productive tension between the event and structures advocated by Koselleck, it should be noted that there was not a few resistances to his performance in teaching:

"What there was was that his colleagues did not like him, his contemptuous tone, the little regard for the knowledge of his companions. More men of legal texts, of positive law, than of philosophy and scientific doctrines, certainly did not feel equipped to measure forces with Tobias and did not want to be late. So that no one in the congregation opposed the course of the new thought, at least ostensibly" (LIMA, 1957, p. 223).

In fact, the reactions to Tobias took place much more in the personal and institutional field than in the confrontation and clash of ideas and theories. Proof of this is

Without schools of theoretical inquiry, without institutions of higher studies, it was through the Academy that intelligence and culture assimilated the tendencies of philosophical thought. Law schools have replaced, in some way, those educational establishments.

Although the natural law of Bellime and Ahrens officially reigned, which were already substitutes for the naïve theologism of Oudot and Taparelli, through the hands of the lecturers and students they were already passing, Clovis informs, 'books bearing healthier doctrines, such as Spencer and Costarria'. Among the students, 'the books of Auguste Comte, Littré, Dubois, which were being passed over by Huxley, Spencer and Haeckel, circulated for a long time, it is still Clovis who tells us'. In 1875, Silvio, defending his thesis to obtain the degree of doctor in legal and social sciences, had proclaimed to the beards of the congregation, at the same time that he was the first to quote Ihering within the Faculty, that metaphysics was dead. Tobias had attended his friend's trials, and then in the Jurisprudence of Daily Life he put the professors in trouble. But within the congregation itself, the new doctrines did not take long to find a valuable representative: José Higino. He was undoubtedly lacking in greater teaching skills. But his culture had already brought to the bosom of the free and capped gods the news of the modern currents of thought that transformed, from top to bottom, the vision of law, the philosophy of the legal world. This is proved by his own thesis, of his own initiative, which Tobias developed in the written test of the competition: 'Does the doctrine of the natural and original rights of man conform to the principles of social science?' (LIMA, 1957, p. 206-207).

⁵ The School of Recife can be succinctly divided, with the awareness of the historical simplification inherent in any synthesis, into three phases. The first of these, which took place between 1862 and 1870, is the one referring to condoreira criticism and was limited to poetic manifestations, with the figure of Castro Alves as its greatest example. The second, which took place between 1870 and 1877, was the one in which literary criticism of romanticism in general predominated, highlighting the work of Sílvio Romero. Finally, the third phase, developed from 1878 onwards, is the juridical-philosophical phase, in which the role played by Tobias Barreto and those who followed him stands out (LIMA, 1957, p. 228-229).

the rich and extensive correspondence exchanged between Barreto and Silvio Romero, in which the Sergipe jurist narrates, in an ironic and furious way, the ruses of colleagues (especially the aforementioned José Higino and João Vieira) regarding the approval of candidates in other competitions for substitute lecturer and remuneration of the professors of the house, for example, in a way that harms Tobias.

In a letter dated November 6, 1887 to Sílvio Romero, Tobias Barreto complains about the classification of Martins Júnior, a candidate of his preference and then protected by him before the Congregation, in 2nd place for the vacancy of substitute professor, stating that *"a certain academic cotterie employs all means for the appointment of the first classified, with the deprecation of a very intelligent young man like Martins"* (BARRETO, 2012, v. 5, p. 238). To this end, he asks, in the letter, for the support of Sílvio in the press to achieve the appointment of Martins Júnior.

In another letter, dated July 23, 1887 and also addressed to Sílvio Romero, Tobias Barreto complains about the *"iniquitous system of protection that the Directors of the Faculty are granting to certain professors, to the detriment of others"* (BARRETO, 2012, v. 5, p. 235). And he adds, speaking of a colleague, who *"came to receive monthly for four months, the salaries of Silveira de Sousa and those of Coelho Rodrigues, plus the salaries of a teacher at the College of Arts. Total: minister's salary, one contus de rés per month"* (BARRETO, 2012, v. 5, p. 235-236).

This denunciation of Tobias takes on more dramatic and personal contours when one considers his desperate financial situation. Earning much less than several of his colleagues and unable to establish himself as a lawyer, he taught private courses to his own students at the Faculty and published them in the press to try to keep his accounts up to date (LIMA, 1957, p. 39-40).

In addition, it is noted that Tobias Barreto was extremely concerned with the image he would have for posterity. Again addressing Sílvio Romero, in an epistle dated January 2, 1888, he demands a stance from his friend about his role for the Recife School:

"Put all this on clean plates with the mastery that characterizes him. I need a settlement in that regard. I am already bothered to see my name always mentioned in the company of José Higino and João Vieira (the clapper), as the three initiators of the legal reform among us!! What about! The clapper has dark, unconscious impulses, but it cannot; it is very weak. Higino, in my opinion, is even worse, because he is a spirit who lives full of his providential mission of studying the Dutch domination in Pernambuco, and thinks that this is a great thing... Of modern law, nothing. He is an administrative lens, who loves Conines Laxe! He is a researcher from Holland, who has never told us a word about the literature of that country" (BARRETO, 2012, v. 5, p. 240).

And he adds, also in another epistle addressed to Sílvio Romero and reproduced by Hermes Lima (LIMA, 1957, p. 238): *"When in your history [of Brazilian Literature] you deal with me, I ask you to try to make it clear with all objectivity, by means of dates, that it was I who first opened up to these people a new intuition of law. Accentuate this well. It is today for me a capital issue"*.

According to Hermes Lima:

"His colleagues do not suffer his arrogant supremacy with resigned patience, and they react. But they do not react ostensibly, in the intellectual field, opposing reasons to reasons, doctrine to doctrine. They react preferably by excluding him from their bonds of comradeship, avoiding him, cutting him from behind, making the official void around him, as if he were an agent provocateur of monism" (LIMA, 1957, p. 221).

Proof of this is the following episode, narrated by Alberto Venâncio Filho:

"Although, in the words of Antônio Paim, of the followers of Tobias Barreto 'the vast majority became jurists', also in the field of Law the reception was not smooth. And when Artur Orlando applied for the chair of substitute lecturer at the Faculty of Law of Recife, in 1885, presenting a work on monism, so great was the resistance of the faculty that he gave up the competition. Hence the comment of Paim and Marcadante: 'The kind of cordon sanitaire that was intended to be set up around the Faculty also extended, as in the past, to the competition for the admission of new professors'" (VENÂNCIO FILHO, 2011, p. 103).

About this general picture of animosity with colleagues, Tobias says, in a passage reproduced by Venâncio Filho (VENÂNCIO FILHO, 2011, p. 105):

"When I was sick, I was able to learn, for example, that in the faculty where I am a teacher, the sympathy I enjoy among students has very deep roots; but even deeper are the roots of hatred that my colleagues return to me... All those who knew the fact that my presence was denied, tried to talk to me, refer to their impressions and comment on the event. Of course: those who don't want me bad. However, the doctors of the Academy did not move. As I went there, in order to present my leave, I did not find a single colleague who dealt with the subject; and they did not ignore it. Only the Secretary, Dr. José Honório, when he saw me, closed his eyes with such an expression that I could read in them two contrary feelings, although equally religious, that is, the disgust that the news of my death was not accurate and the astonishment of finding myself perhaps alive, with my soul that was going to ask him for forgiveness of some offense"

The institutional reactions to the illness that affected Tobias, depriving him of the energy necessary for his usual intellectual struggles, give some measure of how the academic structures of the Faculty of Law of Recife were reluctant to accept the presence and the personal and intellectual posture of the iconoclast of the Sergipe jurist:

"During the period in which he was responsible for the chair of Natural Law, Tobias had prepared a program based on the idea that Law was a product of human culture, and covering themes that led to the debate of the main doctrines in vogue: positivism, Darwinism, Ihering's philosophy of Law. In the middle of the academic year of 1885, the faculty board handed over the chair, whose holder was absent, to another substitute professor, Dr. Albino Vieira, later, under the Republic, Governor of Pernambuco, who took upon himself the mission of reintroducing the old doctrines.

He teaches Political Economy, Philosophy of Law, Public Law and Procedural Law. With the retirement of Professor Bandeira de Melo, he was appointed full professor, as the oldest substitute, and was responsible for the chair of Theory and Practice of the Process. His state of health, however, worsened at the end of 1888, and he did not rise from his bed until he died, on August 26, 1889" (VENÂNCIO FILHO, 2011, p. 103-104).

As you can see, Tobias was not a messiah who came to save our Law. Nor was it a mere product arising from the growing cracks in the legal-academic structures then in force. It was, at the same time, cause and consequence of both perspectives and of neither. It was an event, but it was part of the structures. He was a man of his time and beyond. In short, it was a struggle.

CONCLUSION

As can be seen from the excursion undertaken here, the remarkable dimension of his intellectual figure is much more complex than possible Manichaeisms attributable to greater or lesser empathy with the Sergipe thinker.

A born polemicist, obstinate student and critic, Tobias was, throughout his life, really at the service of the intellectual struggle, which he often embraced by using theoretical and conceptual options more committed to the confrontation itself and to the ideals of "modernity" and "progress" than to the theoretical-doctrinal consistency itself.

Notwithstanding this, his approval in the 1882 competition for substitute lecturer at the Faculty of Law of Recife represents, in Koselleck's terminology, a remarkable event that, if it caused temporally identifiable tremors in personal and institutional vanities, hidden in essentially personalistic and conservative academic structures; on the other hand, the prospective effects of this event were intimately influenced by these same structures, which resisted as best they could (much more veiled and in a personal way than academically, by the clash of ideas and theories) the new ideas and academic positions brought by Tobias.

Perhaps his main intellectual contribution was, therefore, the contribution to the formation of an "intellectual climate" (LIMA, 1957, p. 236), of a university mentality more

accustomed to scientific debate, which did not occur, as seen, without flagrant contradictions of Tobias himself and his intellectual petulance.

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