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SUBJ: PORT ON THE AMAZON

1. IN ARMY DAY ADDRESS ON FEB 27, PRESIDENT AGAIN REFERRED TO NEED FOR "HONORABLE TRANSACTION" WITH PERU WHICH WOULD PROVIDE ECUADOR WITH PORT ON AMAZON.
2. COMMENT: PROPOSAL FOR PORT FIRST MADE PUBLICLY BY VELASCO ON ENTRY PRESENT TERM OFFICE. WHILE REPEATED SEVERAL TIMES BY PRESIDENT, NO EVIDENCE TO DATE THAT PROPOSAL HAS BEEN RAISED WITH PERUVIANS THROUGH GOVERNMENT CHANNELS. PROPOSAL WOULD COMPREHEND, AS BEST ECUADOREAN OFFICIALS CAN EXPLAIN PRESIDENT'S THINKING, PERUVIAN CESSATION STRIP OF LAND TO PORT (WHICH WOULD BE LOCATED ON NAVIGABLE REACH ONE OF PRINCIPAL AMAZON TRIBUTARIES, MOST PROBABLY NAPO).
3. PERUVIAN PUBLIC REACTION TO PORT PROPOSAL HAS BEEN NEGATIVE IN PAST, AND ECUADOREAN OFFICIALS SAY FRANKLY THEY EXPECT LITTLE IF ANY RESPONSE FROM PRESENT PERUVIAN GOVERNMENT. INDEED, CONCERN APPEARS BE BREWING HERE ABOUT INTENTIONS ITS PREDOMINANT SOUTHERN NEIGHBOR AS INFORMATION ACCUMULATES

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PAGE 02 QUITO 00831 022232Z

THAT 1) PERUVIANS CONTINUE UPGRADE QUALITY THEIR ARMED FORCES AND 2) MILITARY GOVERNMENT FACES INCREASING INTERNAL DIFFICULTIES. PRESIDENT'S SPEECH ON FEB 25 TO ENGINEER GRADUATES AND THAT OF MINDEF FOLLOWING DAY TO ARMY MILITARY ACADEMY GRADUATES BOTH EMPHASIZED NEED "INVIGORATE" ECUADOREAN ARMED FORCES. SOME NEW EQUIPMENT IS ON ORDER (E.G., NAVAL PATROL CRAFT), AND ADDITIONAL LARGE PURCHASES CAN BE ANTICIPATED. MOVES MODERNIZE ECUADOREAN MILITARY RELATED BOTH NECESSITY REPLACE OUTDATED EQUIPMENT USD IMPROVE NATIONAL MILITARY DEFENSEIVE CAPABILITY. THUS, WE MAY HEAR MORE OF "THREAT FROM SOUTH" OVER COMING MONTHS.
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American Journal of Intl. Law
Vol. 63, 1969, pp 28-46

(rebuttal to L.A. Wright's article, *Geographical Journal*,
Vol. 98 (1941) pp 253-272

THE BOUNDARY DISPUTE BETWEEN ECUADOR AND PERU

By Georg Maier *

There is a saying that when a dispute lasts for a long time, it must be about something small; for if it were not, it would be in the interest of the parties to settle it. This, however, is not the case in the boundary dispute between Ecuador and Peru. The dispute is not only one of the major international issues of Latin America, but it is also dangerous, because its long history has clothed it with considerations of national prestige and honor and because it involves a very considerable extent of territory with which neither country is willing to part. Up to the present day, the two countries have attempted to settle their differences through negotiations, treaties, arbitrations and wars—only to revive them again and again. Even the 1942 Protocol of Río de Janeiro, which seemed finally to have settled the dispute, was declared null and void by Ecuador in 1960.

The area involved in the boundary controversy is very extensive and can be considered in three distinct parts: the territories of Tumbez, Jaén, and the Oriente. The smallest of the three is the territory about *Tumbez* which faces the Pacific Ocean between the Tumbez and Zarumilla Rivers. Ecuador's claim to this region (which is under the Peruvian flag) is based on the Royal Cédula of 1740.¹ The area is estimated at only 513 square miles. Second in size is the province of *Jaén* or, as it is sometimes called, Jaén de Bracamoros. The region lies between the right bank of the Chinchipe River and the left bank of the Marañón or Amazon. This area contains about 3,242 square miles. During colonial days, it was first a part of the Viceroyalty of Peru, and, later, of the Viceroyalty of New Granada, upon the latter's formation in 1739.² The territories of Tumbez and Jaén have been subject to Peruvian sovereignty since 1822, the year Peru became an inde-

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¹ "Starting from the Tumbes on the Pacific Coast, the line follows along the ridges and other *cordilleras* of the Andes through the jurisdiction of Paita, and Piura to the Marañón, at 6 degrees, 30 minutes South Latitude, and on the interior, leaving to Peru the jurisdiction of Piura, Cajamarca, Moyobamba and Motilonos; and by the cordillera of Jeveros, crossing the river Ucayali, at 6 degrees of South Latitude, up to the Javari or Jauri river at its confluence with the Carpi; and on the waters of the latter to Solimoes or the Amazonas and from thence down to the most westerly mouth of the Caqueta or Yapura, where the boundaries with Brazil begin." N. Clemente Ponce, *Límites Entre Ecuador y el Peru*. Memorandum Para el Ministerio de Relaciones Exteriores de la República de Bolivia 13 (3rd ed., Washington, D. C.: Gibson Brothers, 1921).

² Fray Enrique Vacas Galindo, *Colección de Documentos Sobre los Límites Ecuatoriano-Peruanos*, Vol. I, p. 57 (Quito: Tipografía de la Escuela de Artes y Oficios por R. Jaramillo, 1902).

pendent state. Whatever *de jure* rights Ecuador may have to these regions, *de facto* it does not dispute either one of them.³

The *Oriente* is the third and largest of the parts in dispute and is estimated as having an area of 167,000 square miles. It is a triangular region between the head of navigation of tributaries to the Amazon on the west, the watershed between the Putumayo and Napo Rivers on the northeast, and the Chinchipe-Marañón-Amazon Rivers on the south. The original maximum claim of Ecuador in the southern part of the *Oriente* was far to the south of the Marañón River, a line running approximately parallel to it, and extending to the Javará River. This claim was based on colonial limits of the Viceroyalty of New Granada dated 1740, but was later changed to the more natural line of the Chinchipe-Marañón-Amazon claimed in the Treaty of Guayaquil in 1829.

The vast area of the *Oriente* has to a much larger extent been subject to the jurisdiction of Peru than to that of Ecuador. Parts of it have long continued under the military and political control of Peru, and have been organized into regular departments and districts of that republic. The far reaches of this region have been made more accessible to economic penetration by Peru than by Ecuador.

The inability of Ecuador to compete effectively in this territorial contest with Peru has been due to the fact that this small nation, ill prepared for independence, has had no surplus of men or money to enable it to undertake to occupy all of the vast *Oriente* claimed to be part of the national domain. If properly developed, the *Oriente* may well become Ecuador's economic salvation. However, attempts on the part of the Ecuadorean Government to colonize and develop the region have met with little success and a large and potentially rich territory has remained virtually useless.

Peru, on the other hand, the center of a rich and prosperous Spanish viceroyalty, possessed more resources, from independence to the present, to develop and exploit the disputed territories. The rubber boom at the turn of the century caused Peru to build more and better trails from the highland to the Amazon region, new communities were founded, commerce on the Amazon and its tributaries grew by leaps and bounds, and a flourishing international trade was under way. So marked has been the progress and development of the Amazon Basin, that it has become a very large factor in the economic life of Peru. To quote a Peruvian source:

The ties that bind the Peruvian Amazon Basin to the rest of Peru are strong. To contemplate in imagination the possibility of Maynas being possessed by Ecuador suggests a troubled picture, for the unanimous resistance from within Maynas itself against Ecuadorean sovereignty would be devastating. No minority would lessen the resistance, for there are no Ecuadoreans in the region. Maynas is Peruvian.⁴

³ There is evidence of this in President Velasco Ibarra's Message to Congress on Aug. 10, 1961. In it he speaks about the border problem but only refers to it as "our Amazonian region." Ecuador: Message addressed by His Excellency, Doctor José María Velasco Ibarra, Constitutional President of the Republic, to the Honorable National Congress, on August 10, 1961, p. 27.

⁴ Peru, *The Boundary Line Between Peru and Ecuador* 11 (Monograph from Peruvian Embassy, n.d.).

The actual occupation of the disputed Oriente for a long period lends much weight to the Peruvian claim to the region by the doctrine of prescription, recognized in international law and practical in international relations. Thus, while Ecuador appears to have a better *de jure* title to the Amazon region, Peru's claim rests on a strong *de facto* title. Somewhere between these two claims the solution to the almost one hundred and fifty-year-old boundary dispute may be found, and it is hoped that the two countries may soon solve their problem.

The conflicting territorial claims of Ecuador and Peru date back to colonial days and are due largely to the uncertainty as to the limits of colonial territorial divisions. In general, the territory of each of the Latin American countries is that of the immediately preceding colonial administrative unit.⁵ This general principle has many exceptions, due to the indefiniteness and overlapping of colonial jurisdiction and to inaccurate and insufficient surveys.

Under Spanish colonial administration, political authority was vested in the Viceroy (or captain general), the Audiencia (and its administrative subdivisions: the gobernaciones or gobiernos, alcaldías mayores, corregimientos and alcaldías ordinarias), and the Church, with no clearly defined divisions of power among these institutions.⁶ Consequently, the Spanish officials were uncertain as to where their territorial jurisdiction exactly started and where it ended, an uncertainty which has a direct bearing on the confusion of titles of territory of the republics.

The King of Spain, through the Council of the Indies, sent voluminous instructions to his overseas officials. These *cédulas* often involved the transfer of territory from one jurisdiction to another, but they were in many instances so ambiguous, inconsistent, or openly contradictory to other decrees that the royal officials were unable to reconcile their instructions and thus left them unexecuted.⁷ The confusion was especially prevalent in outlying regions such as the Amazon Basin, which forms the heart of the controversy between Ecuador and Peru. From a geographical point of view, this region lacks decisive natural boundaries which would facilitate the drawing of political frontiers.

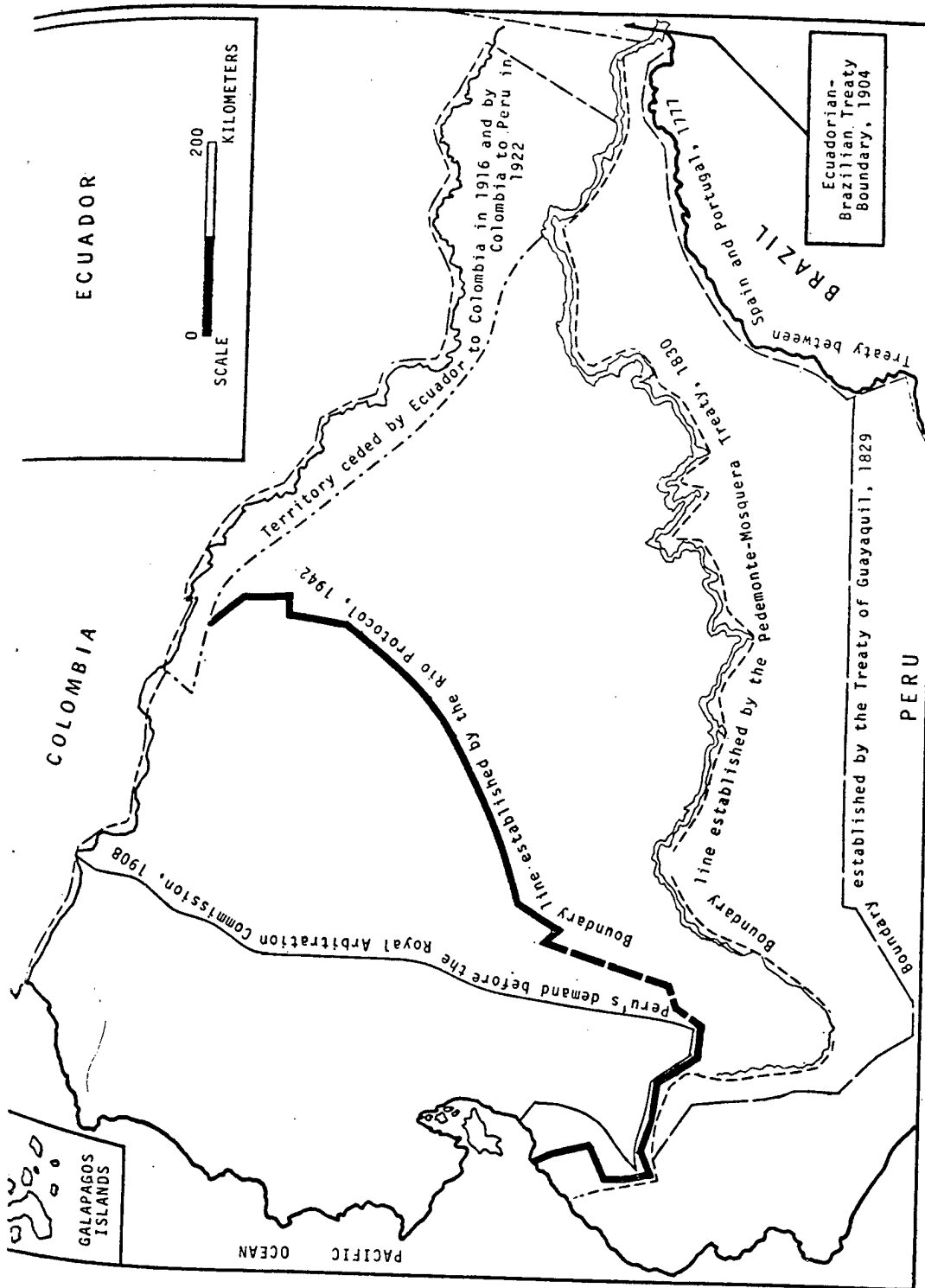
From this shadow-land of overlapping and involved colonial political administration and of uncertain territorial jurisdiction, it is necessary to attempt to draw in general lines, and without much exactness, the boundaries of the various colonial administrative units pertinent to the Ecuadorian-Peruvian controversy. This calls for an examination of the boundaries of the Viceroyalties of Peru and New Granada, and of the Audiencias of Lima and Quito.

The Spanish dominion in the New World was originally divided into two great administrative areas: the Viceroyalties of New Spain (Mexico),

⁵ Isaiah Bowman, "The Ecuador-Peru Boundary Dispute," 20 *Foreign Affairs* 759 (July, 1942).

⁶ Charles H. Cunningham, *The Audiencia in the Spanish Colonies*, "University of California Publications: History," Vol. 9, p. 5 (Berkeley, Calif.: University of California Press, 1919).

⁷ Ponce, *op. cit.* 22.



Source: Ecuador. *El Ecuador y el Amazonas*, Quito: Publicaciones del Ministerio de Relaciones Exteriores, 1961, and Peru. *El Fiel Cumplimiento de los Compromisos Contradados es Norma de Vida Civilizada*, Lima: Editorial Minerva, n.d.

established in 1535, and that of Peru, established in 1542. These viceroalties were subdivided into eleven audiencias: four in New Spain, and seven in Peru.⁸ At first, the Viceroyalty of Peru comprised the whole of South America except for the Portuguese colonies and the Comandancia General of Caracas, which was under the jurisdiction of the Audiencia of Santo Domingo.⁹ Of the seven audiencias, only the boundaries of the districts of Quito and that of Lima alone are pertinent to the study of the frontiers of Ecuador and Peru as they existed in colonial days. The Audiencia of Quito was given the following boundaries by the Cédula of November 29, 1563:

The Province of Quito shall have, as its districts, along the coast towards the city of Los Reyes, to the port of Paita exclusive, and on the interior to Piura, Cajamarca, Chachapoyas, Moyobamba and the Motilones exclusive, including towards the said port, the towns of Jaén, Valladolid, Loja, Zamora, Cuenca, La Zarza and Guayaquil, with all the other towns within their borders which form a part of their population; and towards the towns of Canela and Quijos, it shall have the said towns, *with any others that may be discovered*; and on the coast towards Panama, to the port of Buenaventura inclusive, and on the interior to Pasto, Popayán, Cali, Buga, Champanchica and Guarchicona . . . being bounded on the north by the Audiencia of Granada and Tierra Firme, on the south by the city of Los Reyes, on the west by the Southern Sea and on the east by provinces not yet discovered or civilized.¹⁰

The boundaries of the Audiencia of Lima were described as follows in the same Cédula of 1563:

It shall have all the territory on the coast, from the City of Los Reyes to the Kingdom of Chile exclusive, and to the port of Paita inclusive; and on the interior to San Miguel de Piura, Cajamarca, Chachapoyas, Moyobamba and Motilones inclusive, *and to Callao exclusive* by the boundaries fixed to the Royal Audiencia of La Plata and the City of Cuzco with their own inclusive, touching boundaries on the north with the Royal Audiencia of Quito, on the south with La Plata, on the west with the Southern Sea and on the east *with the undiscovered provinces*.¹¹

The frontiers of the districts of the Audiencias of Lima and Quito can be ascertained from the descriptions in various colonial *cédulas*. The Lima boundary was designated by the word "inclusive" as the northern line of the Corregimiento of Piura and Paita and of the Provinces of Cajamarca, Chachapoyas, Moyobamba, and Motilones, until the line becomes indistin-

⁸ The Viceroyalties of New Spain were Santo Domingo (1526), Mexico (1527), Guatemala (1543), and Guadalajara (1548); those under the Viceroyalty of Peru were Panama (1535, abolished in 1542 and re-established in 1563-64), Lima (1542), Santa Fé de Bogotá (1549), Charcas (1559), Quito (1563, abolished 1717, and re-established 1723), Chile (1609) and Buenos Aires (1661).

⁹ Vicente Santamaría de Paredes, *A Study of the Question of Boundaries Between Ecuador and Peru* 55 (Trans. by Harry Van Dyke; Washington, D. C.: Byron S. Adams, 1910).

¹⁰ Ponce, *op. cit.* 9.

¹¹ *Ibid.* 9-10.

guishable in the unknown lands of the Amazon Basin. It will be noted that the boundary was described to include these Amazonian regions by the use of the word "inclusive." By way of contrast, the southern boundary of the Audiencia of Quito is largely defined by the word "exclusive" referring to the same territories (Piura, Cajamarca, etc.). From the viewpoint of Quito, its Audiencia embraced on the south the regions of Guayaquil, Jaén, Loja, and Cuenca; and on the east, those of Canela and Quijos.

This boundary line from the Pacific Coast to its vanishing point in the jungles of Amazonia was not a rigid frontier, for although the political jurisdiction of each audiencia was clearly delimited, ecclesiastical jurisdiction overran it in both directions. For example, the Audiencia of Quito in political and administrative matters was first subject to the Viceroy of Peru but came later under the tutelage of the Viceroyalty of New Granada when the latter was created by order of the King of Spain in 1717; in ecclesiastical matters, however, it remained under the Archbishop of Lima. When the Viceroyalty of New Granada was abolished in 1722, Quito came under the jurisdiction of the Viceroyalty of Lima only to change hands for the third time upon the re-establishment of the former in 1739. A year later the boundaries between the two viceroyalties were fixed in a clear and accurate way. The southern boundary of the Viceroyalty of New Granada was delineated in the following terms:

Starting from Tumbez on the Pacific Coast, the line follows by the ridges and other cordilleras of the Andes through the jurisdiction of Paita, and Piura to the Marañón, at 6 degrees, 30 minutes South Latitude, and on the interior, leaving to Peru the jurisdiction of Piura, Cajamarca, Moyobamba and Motilones; and by the cordillera of Jeveros, crossing the river Ucayali, at 6 degrees of South Latitude, up to the Javari or Jauri river at its confluence with the Carpi; and on the waters of the latter to Solimoes or the Amazonas and from thence down to the most westernly mouth of the Caqueta or Yapurá, where the boundaries with Brazil begin.¹²

This boundary line of 1740 was maintained until the turn of the century, as evidenced in numerous general maps and descriptive memorials which were produced at the request of the Viceroyalties of New Granada and Peru.¹³

With the turn of the century, a new factor entered the controversy, and precipitated incessant and unmitigated debate. This disturbing element, the Cédula of July 15, 1802, issued by His Catholic Majesty Charles IV, separated for ecclesiastical purposes the provinces of Mainas and Quijos, except Papallacta, from the Viceroyalty of New Granada and transferred them to the Viceroyalty of Peru.¹⁴ This decree was intended for the im-

¹² *Ibid.* 13.

¹³ Santamaría de Paredes, *op. cit.* 62-63. The original Cédula of 1740 was discovered by Dr. N. Clemente Ponce in 1894, up to which time Peru claimed not to know anything of its existence. *El Comercio*, Quito, Dec. 18, 1960, p. 5.

¹⁴ The partial text of the Cédula reads thus:

"I am resolved to segregate, from the Viceroyalty of Santa Fé and the Province of Quito, and add to that Viceroyalty, the Government and Comandancia General of

provement of the Spanish missions in the upper Amazon Basin (the region which today is known to Peruvians as the "Departments of Amazonas and Loreto," and to Ecuadoreans as the "Oriente"). This historic document is highly important, for it is upon its existence and fulfillment that the Republic of Peru bases her legal claim to the disputed region.

The Cédula was a response to the result of two outstanding events: the banishment of the Jesuits by royal decree in 1767, and the advance of the Portuguese in the Upper Amazon.¹⁵ The expulsion of the Jesuits by Charles III in 1767 caused widespread deterioration in all the Jesuit missions, with the result that many parts of South America were less known and less civilized in 1850 than in 1750.¹⁶ It also caused a decline in Spanish authority in the Amazon regions and facilitated Portuguese penetration beyond the line of demarcation.¹⁷ This aggression was promptly reported in 1799 by the boundary commission sent out by the King of Spain to survey the boundary in the northern sector in a report prepared by Francisco Requeña y Herrera.

Francisco Requeña's report not only noted the Portuguese advance into Spanish territory but made recommendations accepted by the King, which have been interpreted by Peruvians as evidence of their claims to the territory. In the first part, Requeña suggested that the Gobierno of Maynas should become a part of the Viceroyalty of Peru because the region could be reached much easier from Lima than from Quito. In the second part, he charged the priests who had replaced the Jesuits as totally unfit to care for the missions and recommended that all the missions should be entrusted to the "Colegio Apostólico de Santa Rosa de Ocopa," whose missions on the Huallaga and Ucayali Rivers had been very successful.¹⁸ In order to effect a degree of unity necessary to the development of the missions, he proposed in the third part of his report the establishment of a new Bishopric of Maynas under the jurisdiction of the Bishopric of Lima. The report was approved by the Council of the Indies in 1801, and the King of Spain issued the Cédula a year later.

Mainas with the towns of the Government of Quijos (except Papallacta), they being all on the shores of the Napo River or in its immediate vicinity; thereby extending that Comandancia General, not only along the lower Marañón River to the frontiers of the Portuguese Colonies, but also on all the other rivers which empty into the Marañón from the north and south, such as the Morona Guallaga, Pastaza, Ucayali, Napo, Yavari, Putumayo, Yapurá and other small streams, as far as the point where these same rivers cease to be navigable on account of their waterfalls and inaccessible rapids; also the towns of Lomas and Moyobamba should remain in the possession of the same Comandancia General, in order to uphold, as far as possible, the ecclesiastical and military jurisdiction of those territories." Ponce, *op. cit.* 14.

¹⁵ Fray Enrique Vacas Galindo, *Exposición Sobre los Límites Ecuatoriano-Peruanos*, Vol. I, pp. 119-127 (Quito: Tipografía de la Escuela de Artes y Oficios por R. Jaramillo, 1903).

¹⁶ Vacas Galindo, *op. cit.* note 2 above, Vol. I, pp. 153-161.

¹⁷ Vacas Galindo, *Exposición Sobre los Límites Ecuatoriano-Peruanos*, cited note 15 above, Vol. I, p. 132.

¹⁸ By the Cédula of July 12, 1790, these were entrusted to the Franciscan Fathers of Quito. Vacas Galindo, *Colección de Documentos Sobre los Límites Ecuatoriano-Peruanos*, Vol. I, pp. 114-116.

The Ecuadoreans attack the claims of Peru based on the Cédula of 1802 on the ground that it did not separate the territory of Maynas from the Viceroyalty of New Granada and add it to that of Peru; for the decree was merely intended as an administrative measure for ecclesiastical purposes and did not signify formal transfer of political power. Furthermore, the decree merely "segregated" administrative "services," and not the territory *per se*.

In regard to the first contention (*i.e.*, that the Cédula was essentially ecclesiastical and not political), at first glance the argument appears plausible, as Spanish domination of the upper Amazon region consisted largely of missions. These missions had preceded the establishment of civil government, but transfer disposition of the "gobierno" from one administrative unit to another would obviously require a change of episcopal administration for the missions. Political and ecclesiastical organization in a province such as Maynas would naturally be so interrelated that a "political" decree (affecting the civil government) would necessarily appear as largely "ecclesiastical." The reference to "Gobierno and Comandancia General of Maynas" obviously means the civil branch of the government, and "jurisdiction without territory for its exercise is incomprehensible."¹⁹

The second contention (*i.e.*, that the decree merely "segregated" administrative "services" and not relevant territory) has more weight. It is alleged that in colonial days changes in jurisdiction were often made without involving alteration of territory.²⁰ It is further alleged that it was the custom of the Spanish Crown, when it ordered a change in territorial division, to be more definite about it.²¹ To quote the Peruvian Dr. Carlos Wiese:

a distinction should be made between the Royal Cédulas of *definite demarcation*, properly so-called, and those others which only separated the political government, administration, military defense or similar function, from a Viceroyalty or Captaincy General. That is to say, the King of Spain united some provinces in a royal union and others only in a *political union*.²²

It is clear that Minister Requeña in his report of 1799 requested two separations: that of the government and that of the territory. However, the King, after making mention of Requeña's request in the first part of the Cédula, only ordered that the first should be carried out.²³ "This should suffice to convince one that the Cédula of July 15, 1802, did not alter the territorial division between the two Viceroyalties."²⁴

¹⁹ Dictámenes Jurídicos Presentados a S. M. el Real Arbitro en la Memoria del Peru, Art. I, p. 48 (Madrid: 1906).

²⁰ Honorato Vázquez, Memoria Histórica-Jurídica Sobre los Límites Ecuatoriano-Peruanos 21 (2d ed., Quito: Imprenta Nacional, 1904).

²¹ L. A. Wright, "A Study of the Conflict Between the Republics of Peru and Ecuador," 98 Geographical Journal 258 (November-December, 1941).

²² Ponce, *op. cit.* 20-21.

²³ Modesto Chavez Franco, Cartilla Patria; Epítome de Historia y Geografía Referentes a las Fronteras entre Ecuador y Peru de 1531 a 1921, p. 63 (Quito: Imprenta de "El Dia," 1922).

²⁴ Ponce, *op. cit.* 16.

Additional evidence that the Cédula of 1802 was not intended to separate territory from New Granada is adduced from the cartography of the period. The eminent German scientist and geographer, Baron von Humboldt, defined the boundaries of Colombia in the terms of the Cédula of 1740.²⁵ It can be argued that when von Humboldt completed his survey of the equatorial regions by 1802, he may have been unaware of the existence of the Cédula issued in the same year; however, subsequent cartographers such as Restrepo (1827), Colton (1853), Blake (1854) and Villavicencio (1856), follow a demarcation similar to that of von Humboldt.

The winning of independence from Spain did not put an end to the boundary controversy between Ecuador and Peru. The long process of emancipation, from the "first cry" in 1809 to the capitulation in Callao in 1826, profoundly affected Hispanic-American international relations, especially in regard to boundaries. As all of Spanish America had been regarded as the personal estate of His Catholic Majesty, no definite boundaries had been surveyed and marked between the colonies. Consequently, the new Latin American Republics formed themselves in general along the lines of the preceding colonial administrative unit, which was the Audiencia. In some cases two or more units joined to form a new international personality, as is the case with the Republic of Gran Colombia formed from the Audiencias of Santa Fé, Quito, and the Captaincy General of Caracas. In the case of the provinces of Guayaquil and Jaén, the artificial bonds of Spanish administration were disregarded, and the emancipated territories gravitated to the new republic with which each possessed the more natural affinity.

To prevent fratricidal strife over what each republic believed to be its national boundaries, the doctrine of *uti possidetis juris*²⁶ of 1810, i.e., the possessory *status quo* of 1810, was drawn up. A corollary to this doctrine invoked the right of the provinces to attach themselves to whichever new republic they chose; and under this latter qualification of *uti possidetis*, Guayaquil became a part of Colombia, and Jaén of Peru.

The Treaty of Bogotá of 1811 is generally regarded as the origin of the principle of colonial *uti possidetis* in Latin America. By that treaty the United Provinces of Venezuela and the United Provinces of New Granada agreed to recognize and respect their boundaries as those possessed by the Captaincy General of Venezuela and the Viceroyalty of New Granada.²⁷ Colombia maintained the principle, applying it to the year 1810. The same principle was enunciated in the unratified Mosquera-Galdeano Treaty be-

²⁵ Alexander von Humboldt and Aimé Bonpland, *Personal Narratives of Travels to the Equinoctial Regions of America During the Years 1799-1804*, Vol. I, p. 125 (Trans. and ed. by Thomasina Ross; London: Bell and Daldy, 1871).

²⁶ The doctrine of *uti possidetis* is based upon Roman law and has been adopted in international law to designate the principle of the possessory status of territories. It is in this sense that the principle of *uti possidetis* has been adopted by all the Latin American nations as the basis for the settlement of their boundary disputes. The latter term is applied to peace treaties confirming conqueror's possession in absence of specific treaty provision.

²⁷ Santamaría de Paredes, *op. cit.* 270.

tween Colombia and Peru in 1823, in the Treaty of Girón, March 28, 1829, after the Peruvian defeat at Portete de Tarqui, and in the definitive treaty of peace, signed at Guayaquil on September 22, 1829. The doctrine of *uti possidetis* is contained in many other Hispanic-American documents, and even Simón Bolívar considered it inviolable.²⁸

The doctrine of "*Uti Possidetis* of 1810" is clear and reasonable; but its application has been a matter of extraordinary difficulty. In studying its application to the boundary controversy between Ecuador and Peru, one must be aware of widely divergent modes of interpretation adopted by the two countries. Publicists and protagonists of both nations unite to praise the general principle; but Peruvians interpret the doctrine as "subsequent to the gaining of independence"²⁹ and therefore in the light of the Cédula of 1802, while Ecuadoreans interpret it as "*uti possidetis* prior to independence,"³⁰ thereby bringing in the Cédulas of 1563, 1717, 1739, and 1740.

The period from 1822 to 1829 marked the consummation of the independence movement and the parting of ways between Colombia and Peru. Independence from Spain was gained by both nations in this period, but hopes of Simón Bolívar, the Liberator, for a federation never materialized. Subsequently, an exchange by the two nations of proposals on the boundary question not only failed to solve the problem, but the dispute intensified and war broke out in 1829. Colombia was the victor. The Treaty of Guayaquil which was the result of Colombia's victory over Peru brings us to the very core of the boundary controversy. It shares, along with the Cédula of July 15, 1802, the distinction of being the legal basis for claim to the disputed area. In Article V the treaty provided that "both parties acknowledge as the limits of their respective territories, those belonging to the ancient Viceroyalties of New Granada and Peru prior to their independence with such variations as they deem it convenient to agree upon . . .,"³¹ and in Article VI, that a boundary commission shall fix said limits.

In the second conference, Minister Gual of Colombia proposed that the boundary between the two countries be drawn according to those fixed by the Cédulas of 1717 and 1739.³² The Peruvian Plenipotentiary gave his consent to this proposal and suggested that it would be better for both parties if the boundary line were drawn along the Tumbez-Chinchipec-Marañón line. This proposal by Peru was a natural one and is in keeping

²⁸ In his letter of Feb. 21, 1825, to Marshal (then General) Sucre, regarding the five northern provinces of Argentina, he said: "Neither you, nor I, nor the Peruvian Congress itself, nor the Colombian, can break or violate the basis of public law which we have recognized in America. This basis is that the republican governments are founded within the bounds of the old viceroyalties, captaincies general, or presidencies as that of Chile." Vicente Lecuña, *Cartas del Libertador*, Vol. IV, p. 263 (Caracas: Litografía y Tipografía del Comercio, 1929).

²⁹ Santamaría de Paredes, *op. cit.* 275.

³⁰ *Ibid.*

³¹ L. H. Woolsey, "The Ecuador-Peru Boundary Controversy," 31 A.J.I.L. 98-99 (1937).

³² Ponce, *op. cit.* 48.

with the growing feeling that the Marañón was the logical boundary in the Amazon Basin. The Colombian Minister expressed his pleasure at the proposal and said that both countries were approaching the desired point of reconciliation. The Tumbez-Chinchipe-Marañón proposal was a diplomatic victory for Peru, as it gave that country more territory (as well as access to the Marañón River) than did the Cédulas of 1717 and 1739.³³

The treaty, duly drawn up and ratified by both countries, provides for a clear and unambiguous definition of the boundary as that of the Viceroyalties of Peru and New Granada in 1739, with reciprocal cessions to effect a most natural and easily defined frontier. That the boundary was understood to be that of "Tumbez-Chinchipe-Marañón" is clearly seen in the opinion (*dictamen*) rendered by the "Comisión Diplomática" of Peru in forwarding the treaty to the Congress for its approval (October 14, 1829).³⁴ This line is alleged by the Commission to be more advantageous to Peru than the "*Uti Possidetis* of 1809." With this in view, the Commission proposed that the treaty be approved without alteration. This was done by the Peruvian Congress on October 16, 1829.

No doubt exists as to the validity of the Treaty of Guayaquil. It was duly signed by the plenipotentiaries of the two countries and ratified by both governments. Serious doubts are alleged regarding its present validity and its pertinency in the present boundary controversy between Ecuador and Peru. The contention that the treaty is no longer in force rests upon three general points: first, that it provided no definite statement on boundaries, the exact definition being left to a Joint Boundary Commission which never met; second, that one party to the treaty has ceased to exist since the division of Colombia in 1830 into three independent republics, Venezuela, New Granada, and Ecuador; and third, that the treaty was superseded by the Treaty of July 12, 1832, between Peru and Ecuador.³⁵

As for the first point, it appears evident that the Joint Boundary Commission provided for in Article VI was to survey the line described in Article V, and that it was empowered to make such rectifications and variations as in its judgment would be necessary to create a natural frontier between the two countries. It is hard to conceive that the whole boundary question was referred to the Commission and that therefore the treaty's validity is affected.

In this connection, the Protocol of August 11, 1830, signed by the Peruvian Foreign Secretary Pedemonte and the Colombian Minister at Lima, General Mosquera, can be considered. Under the Protocol, Peru was given title to Maynas by virtue of the Cédula of 1802, a claim which was not allowed by the Colombian interpretation of Articles V-VII of the Treaty of Guayaquil. As a result, the Tumbez-Marañón line was agreed upon, with

³³ Present-day Ecuadorean maps erroneously show an identical boundary line for the Treaty of 1829 and that fixed by the Royal Cédulas of 1717 and 1739. Roberto Crespo Ordoñez, *El Descubrimiento del Amazonas y los Derechos Territoriales del Ecuador 5* (Cuenca :Nucleo del Azuay de la Casa de la Cultura Ecuatoriana, 1961).

³⁴ Vacas Galindo, *Colección de Documentos*, *op. cit.*, Vol. II, pp. 265-267.

³⁵ M. F. de Martens, *Mémoire Sur l'Arbitrage Entre le Pérou et l'Equateur* 53 (Paris: A. Pedone, 1906).

the issue unsettled as to whether the Chinchipe or Huancabamba River should be used for the middle section of the frontier.³⁶

The authenticity of this document is strongly defended and also strongly impugned. Its existence was not mentioned by Colombia until 1892 and only in 1904 was it disclosed to Ecuador.³⁷ From this date on, it has had an important bearing on Ecuador's case despite the fact that Peru calls it a forgery. As L. A. Wright says:

In effect, the Pedemonte-Mosquera Protocol is by no means essential to her case. Even if all that is claimed of it could be proved, it could do no more than give evidence for an intention on the part of Peru, and this intention is clearly established by other proofs. If it is clear on the one hand that Mosquera did not set his hand to any boundary arrangement binding on Peru, it is equally clear that his mission was a success in that it had the effect of showing what Peru thought and hoped for at that time, of showing that she was ready to give up Tumbes, that she was determined at all cost to hold on to Jaén, and that she was prepared to consent to an unfavorable division of Maynas, taking the Marañón as a boundary. And this is enough to upset the Peruvian contention "that Tumbes, Jaén, and Maynas were an integral part of Peru since the time of her Constitution in 1823."³⁸

The second allegation as to the validity of the Treaty of Guayaquil is based upon the fact that one of the parties to the contract ceased to exist when the Republic of Colombia disappeared as a national personality. According to the doctrine of the succession of states, however, Ecuador is without question the successor to the former Colombia boundary on the south. This is evidenced by her assumption of a portion of the debt of Colombia as of December 31, 1829, and by the fact that she received a pro rata share of the debt owed by Peru to Colombia as a consequence of Colombian expenditures on Peruvian soil in the campaign of 1822-1824.

NOTE

The third allegation is that the Treaty of 1829 was voided, at least as far as the Ecuadorean-Peruvian boundary is concerned, by the Treaty of Amity and Alliance of 1832. In Article XIV of this treaty, it was stated that "while negotiating a convention for the adjustment of boundaries between the two states, the present boundaries should be recognized."³⁹ Basing its contention on this article, Peru has tried to imply that the Treaty of 1832 nullified that of 1829, but no such statement is found in ^{that} the treaty. Furthermore, although it was duly ratified by both governments, the ratifications were never exchanged. It is therefore impossible to construe the Treaty of 1832 as rendering the Treaty of Guayaquil null and void. If it could be substantiated that the Treaty of 1832 was ever in force, its boundary provision contained in Article XIV would have to be interpreted as a confirmation of the boundary provided for in the Treaty of Guayaquil.

never exchanged!

³⁶ Ramón de Delmar y de Olivart, Marqués de Olivart, *La Frontera de la Antigua Colombia con el Perú: Contribución al Estudio de la Cuestión de Límites entre el Último y el Ecuador 137-138, 151-152, 161-162* (Madrid: Establecimiento Tipográfico "Sucesores de Rivadeneyra," 1906).

³⁷ Wright, *loc. cit.* 265.

³⁸ *Ibid.*

³⁹ *Ibid.* 266.

If, however, the Treaty of 1832 were never in force, it would have no bearing on the Treaty of Guayaquil which stands as a valid obligation between the Republic of Peru and the successors of Old Colombia.

Almost a century and a half has passed since the Treaty of July 12, 1832, provided a *status quo* recognition of boundaries between Ecuador and Peru pending the achievement of a definite settlement. It has been a century and a half of sporadic efforts and failures, of mutual suspicion and intermittent ill will, of strained relations and the clash of arms.

1850's

Although neither country was idle in its attempt to exercise jurisdiction over the territory that both claimed, no negotiations were carried on for a period of eight years. In 1840 Ecuador became suspicious of the long quiet and set up a demand that the boundaries should be fixed along the lines set by the Treaty of Guayaquil. Peru denied that the latter was in force: so far as she was concerned, only the Treaty of 1832 was valid. As a consequence, a set of conferences was arranged, not all of which tended to improve the relations of the two republics. In 1853 the Peruvians set up a political and military government in Loreto (Maynas). They quoted the Cédula of 1802 as the basis of the Peruvian claim to the entire region. Ecuador answered with a declaration of the Congress in Quito on November 26, 1853, which dealt with the freedom of navigation on a number of tributaries of the Amazon. Peru registered a protest claiming that the territory in question was part of Peru by the Cédula of 1802. Ecuador replied that it regarded the Cédula of 1802 as having no validity, and nothing more was said or done by either side until 1857.⁴⁰

In that year another diplomatic flurry was created by Ecuador, which attempted to liquidate its foreign debt by selling unused territory to some British bondholders. This met with resistance from Peru, as part of the territory in question was claimed by her under the Cédula of 1802. The move proved unsuccessful and the United States and Great Britain hurriedly withdrew from the transaction when they realized the controversial nature of the territory their nationals were to receive under the contracts.⁴¹

1858 embargo

The friction over the boundary question intensified the already bitter feelings between the two republics. On October 26, 1858, Peru declared a blockade along the entire coast of Ecuador. The war which lasted until 1860 was waged on a small scale, due to the Peruvian control of access to the sea and the chaotic conditions of Ecuadorean politics. The war was climaxed by the Treaty of Mapasingue, January 25, 1860, which emphasized the validity of the Peruvian title in accordance with the provisions of the Cédula of 1802, and likewise declared null and void the Ecuadorean adjudication of lands in the Oriente to British bondholders.⁴² The Treaty was ratified by President Castillo of Peru and General Franco of Ecuador. It was disapproved, however, by the Peruvian Congress, and the Constitutional Government of Ecuador, which replaced General Franco, did likewise.

⁴⁰ Vacas Galindo, Colección de Documentos, *op. cit.*, Vol. II, pp. 387-399.

⁴¹ Wright, *loc. cit.* 267.

⁴² Vacas Galindo, Colección de Documentos, *op. cit.*, Vol. II, pp. 417-437.

For a period of twenty-six years, comparative quiet and great politeness were maintained between the two countries. In 1887 the Espinoza-Bonifaz Convention was signed, and ratified a year later. This convention provided that "the pending questions of boundaries between both nations should be submitted to the King of Spain as 'Arbitrator of Points of Law' definitively and without appeal."⁴³ In case the King of Spain refused to act as arbitrator; the President of France, the King of Belgium, and the Council of the Swiss Federation, in the order named, were to be asked to serve as arbitrator. The two countries had to present their case before the arbitrator within a year of his acceptance.

Article VI provided that direct negotiations might be undertaken simultaneously with the arbitral proceedings, and as a result, the Garcia-Herrera Treaty was signed on May 2, 1890. In this treaty both countries attempted to reach an equitable settlement by modifying their extreme claims and recognizing their respective rights in the Amazon Basin. Under the arrangements made by the two plenipotentiaries, Peru was to receive Tumbes, Jaén and the parts of Maynas where she held establishments. To Ecuador were awarded the zones of the Maynas General Command which lay close to her, Macas, Quijos, and also the northern strip next to Colombia's frontier which usually goes by the name of Sucumbios Missions and which encloses Canelos.

Peru felt that her plenipotentiary had made too large concessions; nevertheless, she ratified the treaty with reservations. Ecuador, which had also ratified the treaty, insisted that Peru should do so unconditionally. This the Congress of Peru refused to do and Ecuador withdrew its ratification on July 25, 1894. It seems unfortunate that the treaty was not ratified as signed, for the compromise appeared to be an equitable settlement of this troublesome boundary question. The extreme claims of both sides were modified materially, and the rights of both countries in the Amazon Basin were recognized.

The provisions of the Garcia-Herrera Treaty caused Colombia's entrance into the dispute. She alleged that, if it were fulfilled, territory claimed by her would be affected. The three governments, therefore, signed the Supplemental Arbitral Convention of December 15, 1894.⁴⁴ By this convention Colombia became a party to the arbitration before the King of Spain, who was to consider the question not only as a matter of law, but also as one of accommodation between the contracting parties. Ecuador refused to approve the convention, feeling that Colombia and Peru would undergo irresistible temptations to settle their differences by dividing the Oriente between them.⁴⁵

In 1904 Ecuador and Peru agreed to ask the King of Spain to proceed with the arbitration, which had been suspended, and to appoint a commission to study the material bearing upon the boundary issue. The King

⁴³ Arbitrator of Points of Law serves as translation of "Arbitro de Derecho" which appears in the original text.

⁴⁴ Vacas Galindo, *Colección de Documentos*, *op. cit.*, Vol. II, pp. 468-601.

⁴⁵ Wright, *loc. cit.* 269.

accepted the rôle of arbitrator and sent Ramón Menéndez Pidal as his special commissioner to South America. On January 22, 1908, Menéndez Pidal presented the King of Spain with a report in which the proposed boundary changes were favorable to Peru.

In the year 1909 there was increasing uneasiness among Ecuadoreans that their case before the Royal Arbitrator was not going well. In his message to the National Congress on August 20, 1910, President Eloy Alfaro declared:

Since the time of my first administration, there have been rumors which were not favorable to us as regards the decision which Spain was going to pronounce; these were to such an extent that a notable Central American diplomat who came from Madrid was not afraid to state that the decision would be entirely adverse to Ecuador. I received this information in 1900 from General Leonidas Plaza, who came from Costa Rica, and I used it within my power to free the country from such a peril.⁴⁶

These fears were crystallized in a conversation between Spanish Minister of State Juan Pérez Caballero and Victor M. Rendón, Minister of Ecuador in Madrid. In this conversation, the Spanish Minister is alleged to have said that the natural boundaries of Ecuador were in the eastern range of the Andes, and that Ecuador should content herself with being the South American Switzerland.⁴⁷ Ecuadoreans became greatly alarmed by such information and the special plenipotentiary of the country, Honorato Vázquez, made great efforts to secure a copy of the dissenting opinion of Sánchez Román, one of the Spanish counselors. Upon procuring it, Mr. Vázquez had it printed and circulated.

A very unfortunate and embarrassing situation was created through such advance notice of the findings of the King's counselors. Uprisings occurred in both Ecuador and Peru, and war between the two countries seemed imminent. Actual hostilities were, however, averted by two factors: first, by the timely offer of mediation by the Governments of Argentina, Brazil, and the United States, who pointed out that it would be "Un-American" to fight about a cause which was still up for arbitration;⁴⁸ and second, by the indefinite postponement of the arbitral award on the part of the King of Spain.⁴⁹

The prolonged efforts on the part of the mediating Powers to reach a settlement proved disappointing, primarily because Ecuador and Peru did not share the confidence which the above-mentioned Powers were especially desirous to inspire through their friendly action. For more than a decade (1910-1924), there is no record of an attempt to settle the dispute. In 1924 the statesmen of both nations undertook to devise a new procedure by which the dispute might come to an end. Thus, the *mixed formula* came into being. It was conceived by the eminent Peruvian President Billing-

⁴⁶ 1910 U. S. Foreign Relations 434 (Washington, D. C.: Government Printing Office, 1915).

⁴⁷ *Ibid.* 430.

⁴⁸ Wright, *loc. cit.* 269.

⁴⁹ 1910 U. S. Foreign Relations 491.

hurst in 1913 and was crystallized and defined in the Ponce-Castro Oyanguren Protocol signed in Quito on June 21, 1924. This Protocol provided that direct negotiations be undertaken in Washington. In the event that the negotiations should fail, the Governments of Ecuador and Peru should determine by common accord the zones that were mutually recognized by each of the parties and that which should be submitted to the arbitral decision of the President of the United States.⁵⁰

In accordance with the provisions established in the Protocol of 1924, the two countries began direct negotiations in Lima in 1929. Internal difficulties caused by the fall of the Leguía government brought the negotiations to a standstill. In 1933 Peru proposed the resumption of the talks, but new difficulties ensued during the course of the conferences, and the negotiations were therefore transferred to Washington. Regular sessions were held at different intervals for a period of two and a half years, but a satisfactory outcome was not produced. Incredible as it may seem, the already long-standing controversy became more acute as the conference advanced, and a solution to the problem appeared more difficult than ever before.

The sessions in Washington were finally broken off October 4, 1938,⁵¹ and small-scale fighting was conducted by the border patrols of the two countries. On July 15, 1941, the skirmishes developed into an undeclared but real war. A brief and uneven struggle ensued between the well-equipped and highly trained Peruvian army and air force units and the almost defenseless Ecuadoreans. The climax of the war came in the battle of Zarumilla-Chacras in which the Peruvian Colonel Manuel Odría⁵² decisively defeated the Ecuadorean forces who soon thereafter laid down their arms.

Shortly after the outbreak of hostilities, the United States, Brazil, and Argentina offered their friendly services as mediators. At the Conference of Western Hemisphere Foreign Ministers which met in Rio de Janeiro in January, 1942, the so-called "Protocol of Peace, Friendship and Boundaries"⁵³ was drawn up and signed by the Foreign Ministers of the contracting parties and those of the mediatory Powers, to which Chile was added. Subsequently the Protocol was ratified, the Peruvian legislature voting for it unanimously, while an extraordinary Congress in Ecuador approved it on a plurality basis.

The boundary line which the Protocol provided for not only caused Ecuador to lose two-thirds of the Oriente she had previously considered hers but also deprived her of an outlet to the Amazon River. In spite of this loss, however, there grew the general feeling that the once insoluble

⁵⁰ Francisco Tudela, *The Controversy Between Peru and Ecuador* 41 (Trans. Lima: Imprenta Torres Aguirre, 1941).

⁵¹ Karl Keyerleber, "Last American Boundary Dispute," 105 *World Affairs* 128 (June, 1942).

⁵² Manuel Odría's successful military campaign against Ecuador gave him the greatest prestige in Peru. His wartime association proved useful to him seven years later, when he staged a military *coup d'état* and emerged as dictator of Peru. Tad Szulc, *Twilight of the Tyrants* 171-172 (New York: Henry Holt and Co., 1959).

⁵³ 56 Stat. 1821; 36 A.J.I.L. Supp. 168 (1942).

conflict had finally been settled to the satisfaction of both countries. But this was not to be so. For the past two and a half decades, Ecuador has continually revived the boundary question, claiming that as the weaker country it had little choice but to accept the outcome of the Conference. As all the sacrifices were unilaterally hers, Ecuador considers the 1942 Protocol an imposition and not a treaty. In the early fifties, Ecuadoreans were calling for a revision of the Protocol because it was unjust and imposed.⁵⁴ And even in 1953 Emilio Murillo Ordoñez called the Río Protocol "unexecutable and null."⁵⁵

On September 8, 1955, Ambassador José Chiriboga Villagomez of Ecuador submitted a note to the Council of the Organization of American States invoking the Río Treaty and requesting that the Council convoke a Meeting of Consultation of the Ministers of Foreign Affairs. Ecuador charged that the Government of Peru was endangering the territorial integrity, sovereignty, and independence of Ecuador by concentrating its forces on the border and by stationing naval vessels near the Ecuadorean coastline. The Council held a special meeting in which it was noted that Ecuador had already submitted the matter to the Governments of Argentina, Brazil, Chile, and the United States—the four guarantor states of the Río Protocol of 1942. It was informed that representatives of the guarantor states were planning to launch an on-the-spot investigation of the charges and therefore decided to defer to the guarantor states. Due to this development, the Río Treaty was not applied to the controversy and Ecuador withdraw its request.⁵⁶

On August 17, 1960, President José María Velasco Ibarra of Ecuador again revived the boundary issue. In an address in the city of Riobamba, he affirmed: "The Río de Janeiro Protocol is null. We do not want war. But we will never acknowledge the Treaty of Río de Janeiro."⁵⁷ On September 28, 1960, the head of the Ecuadorean Delegation to the United Nations, José Chiriboga Villagomez, addressed the General Assembly in order to create "an atmosphere of sympathetic understanding for Ecuador's just cause." In nullifying the Treaty,⁵⁸ Velasco Ibarra referred to the Pan American Pacts of 1933 and 1938, which "condemn the acquisition of territory by military occupation or any other means of force by another state, directly or indirectly, on any ground whatever." He even quoted the President of Peru as having recognized that the Treaty of Río de Janeiro was the result of a military victory in 1941 made with a strong hand.

While Ecuador has been attempting to attract world-wide attention to

⁵⁴ Lilo Linke, *Ecuador: Country of Contrasts* 180 (3rd ed., New York: Oxford University Press, 1960).

⁵⁵ Emilio Murillo Ordoñez, *El Protocolo de Río de Janeiro y sus Consecuencias en los Ríos Cenepa, Morona y Marañón* 8 (Cuenca: Casa de la Cultura Ecuatoriana, Nucleo del Azuay, 1953).

⁵⁶ J. Lloyd Mecham, *The United States and Inter-American Security: 1889-1960*, p. 407 (Austin: University of Texas Press, 1961).

⁵⁷ Demetrio Aguilera Malta, "El Problema Limitrofe Ecuatoriano-Peruano," 116 *Cuadernos Americanos* 38-40 (Mayo-Junio de 1961).

⁵⁸ Message to Congress, 1961, *op. cit.* 26.

the boundary dispute, Peru has remained comparatively calm.⁵⁹ As far as the latter country is concerned, the dispute was definitely settled by the Río Protocol of 1942. Peruvian sentiment on the subject was recently summed up by its Chargé d'Affaires in Washington, who, in referring to the Río Protocol, stated:

... This document constitutes a valid, current and binding international Treaty which is further guaranteed not only by Argentina, Chile and Brazil but also by the United States. These four Powers uphold the Treaty as they consider that it is fully within the terms of international law and that it furthermore reconciles the legitimate aspirations and the historic titles of both Peru and Ecuador. This Treaty confirmed the sovereignty of Peru on a land that has always been Peruvian and constitutes one of the pillars of peace and legal order in the Hemisphere.⁶⁰

Thus, Peru considers the whole affair settled and contends that there is no border dispute with Ecuador. This is reflected in the postwar literature on the subject. Peruvians have written comparatively little on the boundary controversy since 1942, and have in most cases contented themselves in defending their views whenever a particularly sharp verbal or written attack has been made by Ecuadoreans or those sympathetic to Ecuador's cause.

Ecuador, on the other hand, has continuously attacked the Protocol which it considers void. Ecuadoreans show particular resentment towards the United States. To them, the United States Government favored Peru in the settlement of the dispute in order to avoid an unfavorable impact on U.S. commercial interests in Peru, especially those in oil.⁶¹ As a result Ecuador has turned towards Brazil for support in its cause. Brazil is the only country bordering with Ecuador which has shown no desire to expand. Furthermore, Ecuador and Brazil signed an agreement in 1958 which calls for the construction of a combined vehicle and river-transportation route connecting the Pacific port of San Lorenzo with the Atlantic port of Belém. Although this so-called Inter-Oceanic Highway is still in the planning stage, it will open up hitherto unexploited land and enhance the economic position of both countries.

A similar project, the marginal forest highway, was proposed by Peru's President Fernando Belaunde Terry in 1963. This highway would run across the eastern slopes of the Andes and extend roughly from Cucutá, Colombia, to Santa Cruz, Bolivia, a distance of about 3,720 miles. The proposed highway will undoubtedly be of great economic significance to the four countries which it will cross. As it will run through the territory which Ecuador lost as a result of the Río Protocol, however, political repercussions will certainly develop. The highway, once completed, will

⁵⁹ According to Peru, the Protocol of Río de Janeiro gave her nothing that she did not own by virtue of her historical titles and it took away from Ecuador nothing that Ecuador possessed before the difficulties which led to the signing of the treaty. Peru, *The Boundary Line Between Peru and Ecuador*, *op. cit.* 4.

⁶⁰ The Washington Post, Jan. 26, 1967.

⁶¹ La Calle, Quito, No. 350, Nov. 22, 1963, p. 22.

help strengthen Peru's *de facto* title to this territory, thus further minimizing Ecuador's chances of eventually recovering it. Ecuadoreans are fearful of this possibility, although they approve of the project. They have shown further concern that, in the process of constructing the highway, Peru might use it as a "Corridor of Expansion" and that "the caterpillar tracks of tractors are mixed up with those of tanks."⁶² Such distrust is obviously not conducive to the construction of the highway but it does generally reflect Ecuadorean-Peruvian relations at present. As long as this distrust persists, little will and can be accomplished in bringing about a settlement which will be to the satisfaction of both countries.

From an historical perspective, the *de jure* title of Ecuador based upon the colonial decrees of 1563, 1739, and 1740, plus the Treaty of Guayaquil, appears to be better than that of Peru. Peru, on the other hand, has a strong *de facto* title to part of Tumbez and to all of Jaén by the adhesion of those regions to the country in the movement for independence, and in all subsequent national history, and to a large part of Maynas, due to long occupation and development of the regions. Somewhere between the extremes of these *de jure* and *de facto* claims lies an equitable solution of the boundary dispute. Instead of searching for an equitable solution, however, the two countries have shown greater interest in exploiting the issue both on the national and international level. As long as this persists, the boundary dispute will remain a vexatious issue in the lives of twentieth-century Ecuadoreans and Peruvians and will show Hemispheric solidarity to be only an expression of sentiment.

⁶² Revista Militar de las Fuerzas Armadas Ecuatorianas, No. 2 (June, 1965), pp. 60-61.