Additional resolutions on the Briand-Kellogg Pact of Paris were adopted as follows:

> 1. That a violation of the Pact, being a matter which concerns the interests of all the signatory States, should entitle them to insist that their interests be safeguarded in the subsequent treaty of peace.
> 2. That the signatories of the Pact should forthwith refuse and prohibit aid to any State commencing or threatening to commence recourse to armed force, and which refuses or fails, on the demand of any signatory State, to submit the matter in dispute to the Permanent Court of International Justice or to some other agreed Tribunal for final determination.

This action of the International Law Association indicates that there is a growing conviction among lawyers throughout the world that nineteenth century ideas cannot longer be allowed to dominate our legal thinking. Progress in international organization, in the development of international justice, and in the forging of new international legislation cannot be ignored by the legal profession, whatever estimate is placed on the value of recent changes. Some reasons may exist for saying that law must always be at the rear in the march of events; but if it is too far behind the vanguard, it ceases to serve the needs which have called it into being.

MANLEY O. HUDSON

THE LETICIA DISPUTE BETWEEN COLOMBIA AND PERU

On May 24, 1934, one year after the Geneva agreement, representatives of Colombia and Peru signed at Rio de Janeiro a Protocol of Peace, Friendship and Coöperation and an Additional Act, which brought about a settlement of the dispute over the so-called "Leticia trapezium" fronting on the Amazon River. It will be recalled that on the night of September 1, 1932, a party of Peruvian inhabitants and soldiers from the Peruvian province across the river attacked and took the town of Leticia in Colombian territory, imprisoned the Colombian authorities and police officers, and took over the administration of the town and district. Subsequently the Peruvian Government defended and justified the aspirations which prompted this action.[1] The only article of the Protocol relating directly to this incident is Article 1, reading as follows:

> Article 1. Perú sincerely deplores, as she has previously declared, the events which have taken place since September 1, 1932, which have disturbed her relations with Colombia. The two Republics having resolved to reëstablish their relations, Perú expresses the wish that these may be restored with the same intimate friendship as in the past, and the profound cordiality of two sister peoples. Colombia shares these sentiments and declares that it has an identical purpose.
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> In consequence, Perú and Colombia agree simultaneously to accredit their respective Legations in Bogotá and in Lima.

[1] See editorial this JOURNAL, Vol. 27 (1933), p. 317.

The bone of contention in this dispute was the Boundary Treaty of March 24, 1922, which transferred to Colombia the Leticia district, inhabited mostly by Peruvians, and gave Colombia access to the Amazon River. Moved by the aspirations of the Peruvian population,[2] Peru desired to obtain a modification of the treaty. The Protocol under discussion, however, in Article 2 provides:

> Article 2. The Boundary Treaty of March 24, 1922, ratified on January 23, 1928, constitutes one of the juridical ties which bind Colombia and Perú and may not be modified or affected except by mutual consent of the parties or by a decision of international justice within the terms below established in Article 7.

By Article 7 of the Protocol, the two countries obligate themselves "not to make war nor directly nor indirectly to employ force as a method for the settlement of their present problems or of any others which may arise in the future." In the event that diplomatic negotiations fail, they agree that either party may appeal to the procedure established by Article 36 of the Statute of the Permanent Court of International Justice, regardless of the reservations which they made on signing the Optional Clause. Should the parties not come to an agreement as to carrying out a decision of the court, they confer upon the court the powers necessary to carry out the decision.

Thus by an expression of regret on the part of Peru, a declaration that the Treaty of 1922 remains in force, and an agreement to arbitrate without reservation questions unsettled by diplomatic negotiations and to allow the Permanent Court to carry out its decision, the parties have happily settled the Leticia dispute in particular. This, however, is only a part of the general settlement. The remaining 23 articles of the Protocol and the Additional Act provide in detail for a régime of coöperation in the adjoining fluvial districts of the two countries in respect of customs, navigation, trade, and welfare of the inhabitants. Two mixed commissions are to be established to further these purposes.

This satisfactory termination of a controversy which at one time broke out in hostilities and threatened war between two neighboring republics, is a result of the first intervention of the League of Nations in the settlement of American problems. It may be interesting, therefore, to describe briefly the procedure followed by the League in accomplishing this result.

It will be recalled[3] that under Article 15, paragraph 4, of the Covenant, a Committee of Three, appointed by the Council, brought in a report on the dispute, which was debated and approved by the Council; and subsequently an Advisory Committee was appointed by the Council to assist in handling details. After full discussion and negotiation with the representatives of the disputants, a plan was agreed upon, which was signed by their

[2] The population of Leticia is preponderately Peruvian (due to its recent acquisition from Peru), Brazilians being next in number, and Colombians standing third.

[3] See editorial this JOURNAL, Vol. 27 (1933), p. 525.

representatives and by the President of the Council on May 25, 1933. Pursuant to this plan, a commission was sent to Leticia to take over and administer the district for one year, at the expense of Colombia, pending direct negotiations between the parties. The commission, consisting of an American, a Brazilian and a Spanish member, organized June 19, 1933, and took over the Leticia district four days later from the Peruvian forces, which immediately evacuated. At the same time Colombian forces evacuated the Peruvian posts taken by them. The commission was supported by a force of 50 Colombian soldiers, later increased to 75, which were for the time being under League control. The commission raised its own flag, which it flew in company with the Colombian flag. The Peruvian Government protested against the use of the Colombian flag, but the commission defended on the ground that the Council had found the Leticia district to be Colombian territory, and that the parties had agreed that it be administered on behalf of Colombia. The commission took over the direct and independent administration of the district and divided its work into maintenance of order and security, care of public works and public health, and examination and payment of claims in respect of property lost by inhabitants on account of the attack of September 1st. One commissioner was put in charge of each of these branches of administration.

Questions had been raised as to when the commission's term of office expired and the possibility of an extension, to whom the territory should be handed over at that time, and the augmentation of Colombia's forces in Leticia after the commission's departure. As the negotiations at Rio de Janeiro were concluded before the end of the commission's term, these questions became moot. The commission handed over the Leticia trapezium to Colombian civil authorities on June 19, 1934. The ceremony consisted of an exchange of speeches between General Moreno of Colombia, Governor of the Amazonian territory, to whom Leticia was turned over, and Commissioner Giraldez of Spain, in the name of the League. This was followed by the signing of the formal Act of Conveyance. Shortly prior to this event, the two governments had reëstablished diplomatic relations by the appointment of ambassadors, pursuant to the Protocol of May 24th.

Meanwhile, the parties, after considering Geneva and Panama, finally agreed to carry on their negotiations at Rio de Janeiro under the auspices of the Brazilian Government. The negotiations were finally opened there on October 26, 1933, and continued until May 24, 1934. During this period there was a recess of about two months, as it was necessary for the Peruvian Government to supply fresh powers to its delegation since the original powers were considered inadequate, and to iron out certain differences of opinion within the delegation itself.

In the beginning a great deal of time was spent in useless discussion of the agenda and the conditions precedent to negotiation. There were also differences of opinion as to the methods of procedure. The Peruvian delegation proposed to discuss first the interpretation and application of the 1922 treaty, and then to take up agreements to establish coöperation in the Amazonas region, and agreements to maintain perpetual peace and harmony; whereas the Colombian delegation proposed the following order: the recognition of the recommendations of the Council's report of March 18, 1933, as the basis of negotiations, the restoration of friendly and cordial relations on the initiative of Peru and on the explicit recognition of the validity of the 1922 treaty, the application of Articles 8 and 9 of the treaty to the Amazonas region, the consideration of practical agreements to insure coöperation and good neighborliness in that region, the consideration of agreements to insure peace, including demilitarization of the frontier and a pact of non-aggression. Colombia maintained that the 1922 treaty and the Leticia territory could not be regarded as in dispute.

As no agreement was reached, it was decided to dispense with an agenda and carry on informal conversations between the two delegations. The legal objections presented by Peru to the Salomon-Lozano Treaty were not only that it was concluded by a dictatorship unsupported by public opinion, which had not been consulted at home or in the territory ceded, but that the treaty was based upon an exchange of the Leticia trapezium for the Sucumbios triangle, which latter was not turned over to Peru.[4] Colombia refused to discuss these legal questions at the conference because the Council had laid down that the treaty was in effect and that the discussion of all problems was "on the basis of the treaties in force." Colombia was willing to discuss the outstanding problems and examine the legitimate interests of Peru which did not affect the validity of the treaty. All of the legal objections of Peru, she said, were aimed at invalidating the treaty and therefore could not be discussed. To discuss them would be to recognize that an act of violence would be a most effective means of bringing public treaties into legal controversy when none existed.

The Peruvians also asserted that Colombia's presence on the Amazon constitutes a danger to the economic and commercial future of Loreto and Iquitos in particular. Because of the difference in tariffs, trade will favor Leticia, particularly if Leticia is made a free port. Leticia will then become a center of smuggling. Besides, Colombia's severe regulations on navigation in Amazon waters under her jurisdiction hinders the development of Loreto trade and makes a perpetual cause of friction. The Colombians replied that this view was exaggerated; that Leticia, with under 200 inhabitants, could not set up a ruinous competition with Loreto; that it was not clear why Colombia's presence at Leticia should make smuggling easier, and that all navigation complaints had been promptly attended to. Nevertheless, Colombia was prepared to eliminate these difficulties by a series of agreements on customs union, freedom of navigation, and the like.

[4] Ecuador claimed rights in this triangle, and obviously Colombia could do no more than cede her own rights to Peru.

Peru further claimed that there were political objections to the treaty. Public opinion at Loreto had always regarded the treaty as dismembering its territory, which has given rise to a constant feeling of agitation and friction in the Amazon district. Besides, it places Colombia in a favorable strategic position to endanger the navigation of the Amazon by Peruvian shipping and to strangle the trade of Loreto. This situation creates a constant atmosphere of suspicion and hostility. In answer, Colombia did not regard these as sufficient reasons for modifying the treaty. The same things might be said of any boundary treaty. Any steps to separate this territory from Colombia would create a political problem of greater proportion in Colombia, where national feeling had already been wounded by the violence of September 1st. Colombia regarded the insecurity of Peruvian navigation on the Amazon as non-existent and unfounded. If there is feeling of resentment on the Amazon, the same feeling would make itself felt on the Putomayo. Colombia believed that a series of agreements of coöperation and good understanding would remove this tension and dispose of these political objections.

Colombia therefore regarded the modification of the frontier on these three grounds as unacceptable because the objections raised could be overcome by other means. The proposed exchange of territory on the River Putomayo would be open to the same objections. Besides, the territory on the Putomayo is of practically no value, while Colombia attaches great importance to its position as a riparian state on the Amazon.

Peru also suggested the possibility of special arbitration, should no agreement be reached in this conference. Colombia flatly rejected this proposal because the rise of feeling, if the conference broke down, would probably make an arbitration treaty impossible of approval and might lead to a conflict, and because no legal questions were involved since the conference proceeded on the basis of the existing treaties in force, including the Salomon-Lozano Treaty. Besides, arbitration as to the treaty because of the events of September 1st would give the advantage to the aggressor in upsetting treaties. Finally, either country through adherence to the Optional Clause, may bring any such legal claim before the Permanent Court without any further agreements.

Thus these discussions went on at Rio at least up to the middle of April, 1934. Meanwhile, Dr. Mello Franco had proposed a series of economic, commercial and cultural measures for a closer neighborly bond between the two countries. Apparently a discussion of these practical measures led away from differences as to objectives and principles and made possible the coöperative arrangement which was eventually signed. A tribute is due to Dr. Mello Franco, who patiently presided over the negotiations and brought them to a successful close. The Protocol and Additional Act ended a dispute which for nearly two years had been disturbing the long-standing friendship of Colombia and Peru, ending it upon the basis of the sanctity of treaties, a régime of frontier coöperation, and the renouncement of war in the settlement of present problems and future differences, substituting the Hague Court for the arbitrament of the sword.

L. H. Woolsey

THE UNITED STATES-PANAMA CLAIMS ARBITRATION

Mr. Hunt's Report as Agent of the United States-Panama Claims Commission under the treaty of 1926,[1] will take its place with the reports of Kane, Hale, Ashton, Boutwell, Fuller and Nielsen, American representatives on earlier claims commissions, as a useful contribution to international law. While the Panama Commission is not as important, in the light of the claims examined, as are some of the earlier commissions, Mr. Hunt's report, prepared with the aid of his competent Assistant Agent, Mr. E. Russell Lutz, and his Counsel, Mr. Benedict M. English, embodies certain features which deserve special commendation.

In an introduction to the report, Mr. Hunt sets out for the benefit of future negotiators, certain suggestions for the improvement of arbitration deduced from his experience with the Panama and other commissions, *e.g.*, a necessity for great clarity in the jurisdictional clauses, notably as to the time period for the origin of claims and for their submission to the commission; for the preparation of tentative rules of procedure before the commission formally meets; for limiting, by time and conditions, the submission of new evidence; for limiting the time within which pleadings must be filed in order to give the other side a fair opportunity for counterpleading, and to give the commission the longest opportunity possible under the treaty period to deliberate upon and decide the claims submitted; suggestions as to the time to be allowed after final hearing for the commission's decision and a preference for a flexible period based upon the number of claims to be decided rather than a rigid time limit, a restriction which compelled the Panama Commission to decide all its claims within a period of four months; clearer provisions for the filling of vacancies on the commission; better provisions for distinguishing the pleading and proving of facts from the briefing of cases on the facts and the law; better methods of overcoming the difficulties arising out of the use of two languages; and other suggestions for the improvement of arbitration by special commission.

Each of the 26 cases submitted by Panama and the United States is then reported by Mr. Hunt with considerable completeness. In addition to the full decision of the commission, he includes a headnote syllabus of the opinion and a statement of the facts in the case, supplemented by an extended abstract, with quotations, from the briefs of both parties and ending with

[1] Department of State, Arbitration Series, No. 6, American and Panamanian Claims Arbitration, under the Conventions of July 28, 1926, and Dec. 17, 1932, Report of Bert L. Hunt, Agent for the United States. (Washington, Government Printing Office, 1934, pp. 872.)