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**CORRIDORS OF TRADE AND HALLS OF JUSTICE:
LAW, COERCION AND LOYALTY IN THE RÍO DE LA PLATA
BORDERLANDS**

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Abstract: This work explores the establishment of property rights throughout commercial networks that crossed the borderlands between Rio Grande do Sul and Uruguay in the mid-19th century. In the first part, the essay explores the solutions to the problem of defining law in the absence of a single sovereignty, using institutions such as notaries to project property rights. The second part advances that the changing definitions of law and coercion were the key to define property rights in the context of the borderlands.

Keywords: Borderlands. Property. Law.

In early 1855, Manoel de Almeida Lima appeared in the district court in Alegrete, Brazil,² demanding the restitution from Manoel Rodrigues da Silva of four thousand head of cattle from his *estancia* across the border in Estado Oriental.³ According to his complaint, Lima had abandoned his ranch, along with the cattle in 1842 as a result the civil wars occurring on both sides of the porous border between Brazil and Uruguay. Lima now alleged that da Silva, taking advantage of his absence, openly had begun to pilfer his possessions by illegally marking and selling his cattle throughout Uruguay and Southern Brazil.

In response, da Silva pointed out that this was not the first proceeding Lima had brought against him. In 1847, Lima had requested a reconciliation proceeding between the two men in front of the Juiz de Paz in the Brazilian frontier town of Santa Anna do Livramento. When that failed to settle the issue of the missing cattle, Lima then filed suit against da Silva across the border in Salto, Uruguay in 1849. There, Lima's attorney entered into a settlement agreement with da Silva permitting Lima to remove

3,500 head of cattle from a designated area on his ranch over the next three months. Moreover, Lima had subsequently obtained an order from the Uruguayan frontier commander for the region, Colonel Diogo Lamas, permitting him to drive the disputed cattle across the frontier and into Brazil. On this point, da Silva argued that “only a person completely ignorant of the power then possessed by Colonel Lamas, and the terror his name caused, could believe . . . that [he and his ranch hands] would dare in any way resist such an order.”⁴ For da Silva, this was the end of the matter: the two Brazilian men possessed a judicially recognized settlement agreement, and had secured the approval of the region’s military commander to conclude their affairs.

Yet, Lima failed to remove his cattle within the designated period, repudiating the Uruguayan agreement. Instead, Lima brought yet another action, this time filing criminal charges against da Silva in the town São Gabriel, Brazil, located several hundred miles from the Uruguayan border, for cattle theft. Following the presentation of Lima’s evidence, the Juiz de Paz entered an order finding da Silva guilty. Having never appeared in the São Gabriel proceeding, da Silva appealed. Eventually, the Provincial President of Rio Grande do Sul vacated the judgment, arguing that the matter should be resolved in the civil courts given the essentially private nature of the dispute and the fact that Brazilian courts lacked jurisdiction to adjudicate crimes allegedly committed in other countries.

Finally bringing a civil suit in Alegrete, Lima argued that the Salto agreement was null and void because his attorney lacked the authority to enter into such an agreement. Moreover, rather than a judicial settlement, he argued that the agreement was the product of naked coercion. Ratified without his permission in a foreign court, Lima argued that it was “plain the insidious slyness with which it was obtained, and the bad faith with which the Respondent proceeded to make it valid.”⁵ In response, da Silva’s local attorney in Alegrete, Mathias Texeira de Almeida, alleged that it was Lima who had engaged in a consistent pattern of coercion, filing false criminal charges and allying with violent frontier military commanders in order to obtain cattle that patently were not his. The Alegrete court agreed, finding that the Salto covenant had settled the matter and that Lima should receive nothing under Brazilian law.

Using cases like *Lima c. da Silva* as a point of departure, this paper explores the relationship between such protean legal disputes and the broader process of securing national loyalty and sovereign legitimacy in the borderlands region between Brazil and Uruguay. At stake in the Lima case was the fundamental question of how cross-border

property rights could be defined, secured, and enforced. In turn, settling such questions hinged on not only establishing recognizable legal titles, but also locating valid legal forums across the full scope of commercial networks in which to assert claims. On each count, the central question was to place one's own claim and the variety of legal instruments and officials supporting it within the realm of the law. Conversely, as both Lima's and da Silva's legal arguments make clear, this equally meant framing competing claims as outside of the law and within the nebulous realm of coercion.

This paper explores these shifting definitions of law and coercion, ultimately seeking to offer some tentative suggestions regarding their relationship to processes of legal and later national bordering in the Río de la Plata region. It asserts that cases like *Lima c. da Silva* reveal a world in which the legal boundaries between law and outlaw, property and larceny, and judge and criminal were profoundly blurred. This paper suggests that by embedding national definitions into the variety of mechanisms intended to clarify these boundaries, states established their own sovereign authority in the Río de la Plata borderlands. This is say, the various nation-states emerging in the region were neither imagined into being nor invented in the minds of elite statesmen, but rather actively constructed through a myriad of legal conflicts in both formal and informal halls of justice along trans-national corridors of trade throughout the Río de la Plata basin.⁶

This paper will examine two interrelated legal issues prominent in the Lima case that arose again and again in Alegrete and in a variety of legal forums throughout the Río de la Plata borderlands, focusing particularly on questions of property rights. In order to do this, the first section of this paper briefly sketches the economic and political context in which Lima and da Silva contested their respective rights, painting a picture of a borderlands region characterized as much by economic and social connections as sovereign separation.

The second section then turns to a more specific examination of how, within this borderland environment, litigants located and deployed elements of law in support property claims. This paper argues that Lima's and da Silva's complex legal maneuverings, crossing and re-crossing both national and jurisdictional boundaries, reflected the often vexing search for legal authority for the region's inhabitants during the mid-nineteenth century. Operating in a borderlands region that was spatially integrated, but juridically heterogeneous, the residents of the Río da la Plata frequently faced basic questions of how and on what terms they could resolve their legal disputes

in a world in which no one sovereign entity exerted legal authority over entire trading networks. Yet, despite this search for law, the people-in-between equally rejected national solutions and their restrictive boundaries. As a result, litigants turned to local sources of authority, engaging in strategic forum shopping to locate law, and then using mechanisms like the public notary system to project legal pronouncements across international commercial space. This paper further posits that states ultimately secured the loyalty of such litigants by working to support these cross-border systems, not by suppressing them.

The third section of this paper then turns to the more substantive questions raised by the Lima case regarding the definition of property rights themselves. In particular, Lima's and da Silva's dispute and others like it presented judicial (and extra-judicial) authorities with the challenge of disentangling competing claims to property in situations in which nearly constant warfare had profoundly blurred the line between legal title and violent confiscation. As this paper reveals, this problem was only compounded by questions of the legal implications of foreign judicial decisions and contracts concerning Brazilian property on the other side of the imperial frontier, as well as the intervention of a host of competing legal and quasi-legal actors each claiming the authority to confer property rights. Once again, therefore, defining the boundary between what constituted legal title and law in lieu of larceny constituted one of the central challenges for the region's emerging nation-states. The answer to such questions frequently hinged on local power struggles over the right to determine the line between legality and coercion. Once again, states in the region secured loyalty to their own sovereign projects not so much by suppressing these local determinations, but by according them juridical force.

In examining these themes, this paper focuses on the search for and uses of law in a variety of formal and informal legal venues in and around the prominent frontier town of Alegrete, Brazil for an approximately thirty-year period between the outbreak of the Farrapos War in 1835 and the beginning of the Paraguayan War in 1865. For the judges in Alegrete's courts, cases like *Lima c. da Silva* were not unusual. Strategically situated near the borders of both the Argentine Confederation and Uruguay, Alegrete served as a focal point not only economically for the borderland region's growing cattle industry, but also judicially as seat for the frontier's district and appellate courts. Alegrete, therefore, offers an excellent vantage point for beginning to disentangle the competing definitions of law, property, and rights percolating throughout the Río de la

Plata for much of the nineteenth century.

I. The Río de la Plata Borderlands

As Lima and da Silva no doubt understood throughout their prolonged series of legal engagements, the dynamic, cross-border nature of commercial networks in the mid-century Río de la Plata complicated their quest to locate and control law because local or even national law could not fully govern every element of trading networks. This reflected the reality of the relationship between law and trade in the Río de la Plata borderlands. Situated on the ill-defined boundary between the Portuguese and Spanish Empires, the Río de la Plata river system had long been the site of intense imperial rivalries. Spain and Portugal recurrently sought to secure sovereign authority over the rich agricultural and ranching lands of the river network, along with the mining routes linking Potosí to the Atlantic world.

These borderland conflicts only deepened as the nineteenth century unfolded. In particular, the collapse of imperial authority along the Spanish side of the frontier in the decades following the 1808 May Revolution in Buenos Aires not only opened the door to new sovereign models, but also new trade relationships. Brazilians flooded across the porous frontier between what was then known as the Banda Oriental and Rio Grande do Sul in the wake of advancing Portuguese armies intent on realizing the dream of fixing the empire's boundaries at the mouth of the Río de la Plata estuary. After a decade of warfare, the Portuguese Empire ultimately succeeded in incorporating the Banda Oriental into the empire in 1820 as the Cisplatine Province.

As Brazilians settled in the northern half of the Cisplatine Province throughout the 1820s, the commercial linkages between the developing cattle ranching region and the population centers to the east in Rio Grande do Sul deepened. A remarkable letter to the President of the Rio Grande do Sul Province, Conde de Caxias in 1845 signed by over a hundred Brazilian landowners in the Estado Oriental offers a detailed history of this migration into the rich ranchlands between Alegrete and Salto, Uruguay.⁷ According to the men, Brazilians had begun to populate Cisplatine Province in 1820 at the behest of the crown. With Brazil's declaration of independence from the Portuguese in 1822, the new government had measured and confirmed Brazilian claims to Cisplatine land. The men wrote:

From then on, considering Brazilians to be the legitimate Masters and possessors of these lands, they began to dispose of them, coming in this way to sell them to third parties through bills of sale . . . More than two hundred Brazilians, attracted by the superiority of the pastures of those lands, moved their without possessing a home, moving themselves with their families and interests from the center of this Province [of Rio Grande do Sul], abandoning their old habitations for the new establishments that they would construct, such that in a short time, not even a *palmo* of land remained that was not occupied by Brazilians.⁸

Yet, even as the settlers successfully incorporated northern Uruguay into Brazil's commercial orbit, attempts to secure imperial authority over the borderlands foundered. By 1825, war had again broken out, ultimately resulting in Uruguayan independence from Brazil in 1828. Separated from Brazil, and exposed to "all sorts of barbarisms" many Brazilians fled back across the border.⁹ Yet, with the absence of Spanish settlers, Uruguayan forces in the northern borderlands under Fructuoso Rivera would no sooner drive them out then seek their return to the area. For the next thirty years, Brazilians (and from the opposite perspective Uruguayans) faced the challenge of preserving cross-border commercial relationships too valuable to abandon, but too unstable to exploit fully.¹⁰

In reading the Brazilian landowner's letter, it is easy to detect a strong desire for order and law. Yet, the imposition of law could equally threaten commercial ties. As Spencer Leitman has persuasively argued, the flow of cattle between Uruguay and Rio Grande was of central importance for Brazilian landowners in the borderlands.¹¹ According to Leitman, the Brazilian government's fiscal policies in the form of increased taxation of cross-border commerce tended to harm Rio Grande cattle interests, especially after 1828. For Leitman, this more than anything else, produced the revolutionary explosion in Rio Grande in 1835 that would result in the province's succession and decade long war.

In short, at the heart of borderlands commercial networks was a basic tension between the need for a sovereign system that could preserve order and property rights, and the threat from just such an order to commercial networks premised precisely on porous, open frontiers. As we will see, the inability of any single sovereign model to establish definitive control over the borderlands opened the door to fierce debates over the very boundaries of law itself, as well as over who possessed the right to determine and then police its content.

II. Locating Law in the Borderlands

Returning to the specific circumstances of the dispute between Lima and da Silva, the principal challenge for the litigants was not to obtain judicial or quasi-judicial recognition of their property rights. Rather, Lima and da Silva continuously had to confront the fact that they each could repeatedly establish their respective property claims, but only in separate legal forums. The basic tension between sovereign separation and commercial integration meant that borderlands litigants like Lima and da Silva had to locate mechanisms to assert legal claims over the full scope of trading networks. Within the context of cross-border litigation, therefore, the objective was to assemble sufficient legal recognition of rights in order to enhance one's bargaining position. As da Silva's attorney summed up nicely, the goal of Lima's various criminal actions was to make his client "sing" by assembling a series of coercive judgments against him.¹²

As Lauren Benton argued in her study of the role of foreigners in the consolidation of a state-centered Uruguayan legal system, "the challenge to the state was not so much to repress 'lawlessness' as it was to control 'other' law."¹³ Inverting Benton's observation from the prospective of the state to the prospective of borderlands litigants, establishing property rights often meant deploying a mixture of claims in a variety of formal and informal legal forums in order to not only situate your own rights within the realm of the law, but also to "control" the law of your opponent by defining it as the product of lawless coercion. In order to vindicate property rights, therefore, litigants like Lima and da Silva needed to develop strategies for selecting forums in which to enhance their own claims to legal authority.

Throughout their dispute, both Lima and da Silva engaged in versions of strategic forum shopping. Lima's decision to file criminal charges against da Silva in São Gabriel represented a particularly extreme example of seeking favorable local forums to enhance legal claims. Located hundreds of miles from the border in the interior of Rio Grande do Sul, São Gabriel was an odd choice for criminal proceedings concerning crimes occurring in Uruguay and supported by the testimony of Uruguayan witnesses. Nevertheless, the Juiz de la Paz (allegedly encouraged by commercial connections between himself and Lima) accepted jurisdiction over the matter and rendered a judgment in Lima's favor. Perhaps even more interesting, the district judge confirmed the judgment on appeal, forcing da Silva to use his own political connections in Porto Alegre to obtain a reversal from the Provincial President. The fact, however,

that the São Gabriel proceeding made it that far says a great deal about the broad possibilities, often transcending the black letter law of jurisdiction and sovereignty, for obtaining legal pronouncements to support property claims.¹⁴

Finding law in favorable local forums and from supportive officials, however, was only a start to establishing property rights over cross-border trading networks. In particular, the same local connections that facilitated obtaining judgments meant that those decisions were always open to the accusations that they were the product of extra-legal coercion. The challenge was to find a mechanism to transcend local connections, articulating a claim that could operate simultaneously at the local and international level.¹⁵ Put differently, locating law could not mean merely recognizing the absolute authority of one sovereign entity. Having established legal claims in strategically selected forums, the question then became how to project such claims across multiple sovereigns and in a multitude of legal forums purporting to control the physical space of commercial relationships.

The Alegrete Court's interpretation of the Salto proceeding in the Lima case offers a window into one such solution to the problem of locating law in the absence of a single sovereign. Ignoring the various criminal proceedings filed against da Silva for theft in Brazilian courts, the Alegrete tribunal framed the case as hinging simply on whether Lima's attorney, Francisco Escolle, possessed the valid authority to enter into a settlement agreement under Uruguayan law. This question in turn hinged upon the scope of Escolle's power of attorney. In arguing for its validity, da Silva placed great weight on the fact that the document had been notarized in Salto, arguing that the mere fact of notarization was presumptive proof of legality. Although lacking a copy of the actual document, the court concurred, finding that Lima had simply failed to prove the Salto contract was null and void.¹⁶

What da Silva explicitly and the Alegrete court implicitly recognized was the powerful relationship between the international system of notaries and the projection of law across borders. Put differently, the notary system offered borderlands residents a mechanism to project law across the full dimensions of international trading systems, offering one way to link-up local legal authority with systems of international trade. The system was not perfect. However, it provided landowners and merchants along the frontier with a means to establish legal claims that courts on both sides of the border could recognize at least as the product of law.

The chain of legal proceedings involving Francisco de Lemos Pinto and his

brother-in-law, Bernardino Matins de Menezes, demonstrates how litigants utilized notaries, alongside other legal forums, to project locally obtained legality across cross-border trading networks. The commercial relationship between the two men began in 1826 with a partnership agreement to operate a *charqueada*, or meat salting plant, in the city of Triumpho, Brazil in central Rio Grande do Sul. From this base, the two partners pushed their commercial network westwards over the next ten years, expanding its operations to include the purchase of slaves, cattle, and lands around Alegrete throughout the 1830s. Finally, in 1836, the men purchased land across the border in Uruguay, integrating their *charqueada* directly with the rich Uruguayan pasturelands that attracted so many Brazilian settlers to the borderlands.¹⁷

Yet, as soon as Lemos Pinto and Menezes constructed their cross-border partnership, it unraveled. While traveling along the frontier in 1838, Menezes was killed. Finding himself deprived of his partner in the middle of a civil war, Lemos Pinto struggled to manage the partnership's affairs. At the same time, however, Lemos Pinto alleged that Menezes's widow Maria Guedes de Menezes, apparently acted to seize control of as much of the partnership's assets as possible before Lemos Pinto could successfully unwind the business's affairs. In particular, Menezes arranged for her brother-in-law, Antonio Rodrigues da Fonseca Arango, to seize control of both the *charqueada* in Triumpho, as well as cattle in Uruguay. Fearing that the partnership's assets would be looted, Lemos Pinto sought to have the property declared his in Triumpho in 1846, only to have his legal action become bogged down in a prolonged probate proceeding over Menezes's estate.¹⁸

Faced with a dead-end in the Triumpho courts, Lemos Pinto employed his own version of forum shopping, turning to the merchant community in Porto Alegre and the borderlands notary system to protect his property rights. In 1849, Lemos Pinto appeared before the District Judge in Porto Alegre seeking to have the assets of the partnership frozen. In support of his claim, Lemos Pinto presented the testimony of several members of the merchant community in Porto Alegre, detailing the scope of the partnership and noting that its assets had yet to be liquidated. Not waiting for a final judgment in Porto Alegre, however, Lemos Pinto then took his petition and testimony and traversed his entire trade network, registering it first in Triumpho, and then in Alegrete along the frontier. Not satisfied with this, Lemos Pinto further presented his evidence to Bento José de Farias, the Vice-Counsel for the Uruguayan government in Porto Alegre, who then notarized it, apparently for use in the Estado Oriental's courts.¹⁹

In short, Lemos Pinto attempted to utilize the international notary system as a bridge between his local networks of support in Porto Alegre and the various forums in which the partnership's assets might remain. This did not mean that notaries offered a definitive solution to his legal issues. In particular, both parties could equally utilize the notary system to project favorable local judgments across borderland commercial space. Nevertheless, the notary system did accord litigants an important mechanism to extend the implications of their forum shopping to embrace the full physical scope of cross-border property arrangements that critically did not depend exclusively upon national law.

Lemos Pinto's use of the notary system in order to attempt to extend local law to cover to entire scope of his commercial network also suggests mechanisms by which states began to embed themselves in such transactions and in the process build their own sovereign legitimacy in the borderlands. In particular, Lemos Pinto's use of a national consulate to project local law across borders revealed one way that national legal entities could establish their own legitimacy by placing themselves in the service of projecting law. From the admittedly incomplete picture flowing from Alegrete's notary records, there is at least some evidence of the use of consulate registration to secure international transactions and property rights.²⁰

Moreover, courts proved willing to protect evidence secured through the notary system. The case of *Marcos Pradel c. João Preis* offers an example of how courts fostered the use of notaries to project law across borders.²¹ In the case, Pradel sought the recovery of a credit advance to Alfonso Sarasin & Brothers for the purchase of goods in Alegrete upon Sarasin's death. The case turned on whether Sarasin had incurred the particular debt on behalf of the partnership, or whether it was merely a personal obligation. Critically, demonstrating that the partnership owed the money meant that Pradel could seek recovery from the partnership's trading house in Montevideo, currently operated by Alfonso Sarasin's brother, João Sarasin.

To support his claim, Pradel attempted to introduce a copy of letter from João purporting to confirm the partnership's obligation to satisfy the debt. João Preis, another partner in the firm, challenged this use of evidence, claiming that original documents were required to prove the partnership's assumption of the debt. The court, however, flatly rejected this contention, noting that the letters were copied in "public form" and therefore were presumptively valid. In rendering such a verdict, the Alegrete court signaled its willingness to support the use of the notaries to establish cross-border

obligations. Further, in doing so, the court made clear judicial willingness to protect the mechanisms ensuring functional cross-border trading relationships.

The actions of consulates and courts, therefore, signal one mechanism by which states could embed national law into international trade relations. States could accord landowners and merchants with the means to project local legal decisions across borders. Further, courts could ensure that the public notary system, one of the principal tools to do so, would receive judicial protection. As such, it offers a tentative glimpse into how nation-states might utilize cross-border legal practices such as strategic forum shopping to secure loyalty in the borderlands, not by forcing national juridical boundaries upon litigants but by recognizing the inherent need for flexibility in moving across such frontiers. However, the question of how substantive property rights were defined in the borderlands remained unaddressed. The next section turns to this question.

III. The Blurred Boundaries of Property

The specific, substantive question in Lima's and da Silva's prolonged dispute ultimately hinged of who possessed property rights over cattle located across the border in Uruguay. We have seen how each man assembled various official declarations in support of his individual claims. The question then is how courts began to disentangle these competing rights in cases like Lima's and da Silva's in order to produce something that began to resemble stable property titles in the borderlands.

At the heart of the process of constructing legal borders around private property was the definition of the line between law and coercion. The assertion of property rights necessarily involves coercion. However, defining the scope of permissible coercion in a region in which, as Duncan Baretta and John Markoff declared, no one group possessed a "monopoly on violence," meant including a host of violent activities into the realm of permissible actions in defense of property, while equally declaring ostensibly "legal" actions to be coercive.²² Courts, *caudillos*, and claimants gradually forged property rights by gaining authority to dictate what conduct constituted law and what amounted to coercion. Correspondingly, in recognizing these inherently local exercises in forging the boundaries around property and law, states found another mechanism to link loyalty and authority together.

Outright violence was often at the heart of property claims.²³ The challenge for

officials and litigants again was to render their own recourse to violence legitimate in the eyes of the law, while framing their opponent's as the product of lawlessness. The property disputes between Uruguayan officials and Brazilian landowners in the Estado Oriental offer an example of how this process worked. Returning for a moment to the Brazilian landowners' 1845 letter to Conde de Caxias, the men painted a picture of property rights frequently violated by Uruguayan officials. In particular, the men claimed that as "foreigners and governed by foreigners," the Estado Oriental "extorted as much as it needed from Brazilians, without paying them, without even providing a sheet of paper . . . considering the Brazilian *fazendas* to be common goods."²⁴ Clearly, through Brazilian eyes, the actions of Uruguayan officials amounted to little more than institutionalized theft.

Despite their protests, however, Brazilians on the frontier were far from powerless or complacent in defense of their own property claims. Rather, Brazilians frequently resorted to their own coercive actions in the form of military incursions, commonly known as *Californias*, in order to vindicate their property claims in the Estado Oriental. The challenge then for Brazilians was to separate their own actions from those of hostile officials across the border. Obtaining a formal legal pronouncement offered a mechanism to accomplish this separation between law and coercion. In effect, a judgment could provide precisely the sheet of paper that the Brazilian landowners bitterly claimed Uruguayan officials lacked.²⁵

One interesting example of this process from Alegrete was a criminal proceeding filed against two Brazilian frontier commanders, Hypolito Firio Cardoso and Candido Figuero, for allegedly organizing a massive incursion of over three hundred Brazilians into Uruguay.²⁶ The proceeding began with a complaint from the Uruguayan frontier military commander Diogo Lamas. Recall that it was Lamas that had offered support for Lima's property claims by permitting him to extricate cattle from da Silva's lands. Described by da Silva as a terror, Lamas now petitioned Brazilian courts to defend Uruguayan sovereignty and property against the violent incursions of not only Brazilians from across the border, but also men from Corrientes, Argentina and "a considerable number of residents [vesinhos] of this frontier that cooperated for this end [of raiding property]."²⁷

Faced with Lamas's claims, Brazilian officials appeared to respond, filing criminal charges against the two frontier commanders for leading a cross-border assault in violation of the Brazilian policy of strict neutrality in Uruguayan affairs. Although

bringing charges against the men, however, Brazilian officials not surprisingly did not appear overly zealous in obtaining a conviction. Although Lama's letter actually accused Cardoso of leading the invasion, the charges against Cardoso were never formally brought to trial. Rather, the authorities proceeded against Figuero, apparently on much weaker evidence. In response, Figuero produced ample evidence that at the time of the invasion he was conducting operations around Santa Anna do Livramento, making it impossible for him to have participated. A Brazilian jury agreed, dismissing the case.²⁸

What is interesting about the Cardoso and Figuero case is not so much the outcome, but the fact that charges were filed against the men in the first place. One plausible reading of the case is that Brazilian officials were attempting to maintain peace along the frontier and buttress the official, national policy of neutrality in the face of complaints by a prominent Uruguayan official. At a deeper level, however, the carefully constructed criminal charges, essentially assuring an acquittal by a Brazilian jury, offered landowning elites along the frontier the opportunity declare the legality of their own actions in vindicating their property rights across the border.²⁹ By giving their conduct a veneer of legality, a seemingly violent *California* could become coercion in the service of law.

If the Figuero case offered an example of the ways in which coercive actions could be brought within the realm of law, the prolonged dispute between Joaquim dos Santos Prado Lima and Joaquim Machado Leão reveals the way the outcome of local power struggles could transform ostensibly legal actions into unlawful coercion. Prado Lima was a prominent local official in Alegrete. He served several terms as a municipal judge in Alegrete, and was President of the Municipal Counsel in 1837. During the war, he was the Chief of Police and Frontier Commander for the revolutionary government around the town. After the war, he continued to occupy a prominent place in local politics and the judiciary.³⁰

According to Leão, Prado Lima had used these positions of authority to eject him from land that was rightfully his. In his petition to the court, Leão claimed that he had originally purchased a tract of land located along the Quaray River in the far western portion of present-day Rio Grande do Sul from Antonio Ferreira da Cunha in 1833. Leão asserted that he remained in "peaceful possession" of the land until 1837 when "during this Province's revolution, he was violently stripped for his possession by armed force and expelled from said lands along with all of his cattle by Joaquim dos

Santos Prado Lima.”³¹ Faced with threats of violence and having already lost 3,000 head of cattle, Leão left the area, moving to the nearby town of Taquary. Given Prado Lima’s prominent local position, Leão was only now in 1861, nearly twenty-five years after he was ejected from his land, able to seek restitution for his losses.

Not surprisingly, Prado Lima offered a dramatically different interpretation of events in his response. As an initial matter, Prado Lima argued that Cunha, the man from whom Leão purportedly purchased the land, never possessed a valid title to the tract. Rather, he claimed that the land originally belonged to Valentin Bueno de Camargo as part of a *seismaria* grant from the Portuguese crown in 1814. Prado Lima alleged that Cunha had only managed to occupy the land illegally, taking advantage of the turmoil in the region produced by the invasion of Uruguayan General José Artigas in 1815. Although military authorities in the region had ordered Cunha off the lands repeatedly, he had taken advantage of a second war, this time against Argentina in 1825, to remain. It was only in 1830 that Prado Lima, having purchased the title to the land from Valentin’s estate, obtained a judgment from the local Justice of the Peace confirming his property rights and ejecting Cunha from the tract.

Upon learning that Leão had occupied the land in question, Prado Lima sought another ejectment action in 1833. Obtaining a judgment, Prado Lima then entered into a contract with Leão to rent the land, a copy of which Prado Lima produced for the court. Following the conclusion of the contract, however, Prado Lima again had to pursue judicial actions against Leão to remove him from his land in 1836. In short, possessing multiple legal judgments against Leão and a contract in which Leão himself appeared to recognize his property rights, Prado Lima concluded by arguing that “only through scorn [*irrisão*] can one classify such actions emanating from a legal authority as derisive, null, and a criminal assault upon property rights.”³²

The court disagreed. After concluding that Leão had purchased the legitimate title to the disputed lands in question in 1833, the court declared all prior judicial actions in the case to be the products of unlawful coercion. In discussing the contract between Leão and Prado Lima, the court made its reasoning particularly clear:

The coercion in which the respondents presented their titles, and the alternative to sign the agreement or be constrained to vacate within twenty-four hours that the aforementioned respondents subjected [Leão] demonstrates the lack of his own judgment, invalidating the act for not possessing within it the spontaneity and mutual exchange of real or presumed rights that is the basis of all agreements and rendering it null.³³

The court equally declared the 1833 and 1836 judgments against Leão to be “against clear law and in distain for all procedures, ” representing the product of Prado Lima’s substantial personal authority over the judges.³⁴ Taken together, the court concluded that Prado Lima’s numerous legal proceedings and documents, “[b]eing based upon patently void and ludicrous acts, the means by which the respondents ejected the claimants from their legitimate possession of the lands in question,” failed support any legally cognizable property right.³⁵

The dramatic reversal in Prado Lima’s fortunes with regard to his property claims against Leão again reveals how nebulous the line between law and coercion could be. In rendering its decision against Prado Lima, the court implicitly recognized the blurred boundaries between the coercive conduct of judicial officials and the quasi-legal actions of *caudillos*. What the court effectively declared was that multiple legal precedents and a seemingly valid contract were in many ways no more legal than the blatantly coercive practices employed by corrupt Uruguayan officials in usurping the lands of Brazilians across the frontier. This is not to say that the court was wrong in finding coercion: Leão was no doubt telling the truth that Prado Lima’s presence in the company of several soldiers under his command accorded him little real choice in entering into a contract. At the same, having obtaining multiple judgments in his favor, Prado Lima must have felt justified in utilizing the authority of the state to clear intruders off his lands. The question then is what transpired between 1836 and 1861 to render Prado Lima’s legal precedents illegal and his particular use of force to enforce them impermissible coercion in the eyes of the law.

The fact that Mathias Texeira de Almeida, the same attorney that represented da Silva in his successful litigation against Lima, appeared on Leão’s behalf provides a clue as to the answer. Perhaps more than any other person, Almeida embodied the blurred boundaries between law and violence in the frontier. On the one hand, Almeida was a prominent local lawyer and official.³⁶ Almeida appeared in dozens of cases in Alegrete, representing many prominent citizens in civil and criminal matters. He also served as the public prosecutor in the late 1840s, and later as the President of the Municipal Counsel in 1857. Well versed in both Brazilian and European law, he possessed a verbose legal style that frequently resulted in briefing exceeded fifty pages in length. At the time of his death in 1874, he possessed a substantial law library, including works by Vattel on International Law and commentaries on the French and

Portuguese civil codes.³⁷

At the same time, Almeida was also Prado Lima's bitter rival in an increasingly violent local dispute over the control of Alegrete's government and judicial machinery. Throughout the 1840s and 1850s, two major political factions developed in the frontier region around Alegrete in order to contest elections. The dominant party, of which Almeida was a member, centered on Colonel Severino Ribeiro d'Almeida, a powerful military commander and landowner in the region. Prado Lima adhered to a rival party lead by David Canabarro, a revolutionary general and commander of National Guard forces along the frontier. In general, Ribeiro d'Almeida's party won the bulk of elections, but Canabarro's faction remained powerful enough to exert substantial influence over the appointment of judicial personnel and other officials in the town.³⁸

The tensions between the two parties in general and Almeida and Prado Lima in particular came to a head in 1853 after the alleged political murder of Francisco Rocha, the local notary, by forces associated with Almeida's faction. Following the killing, José Vaz Alves de Castro Amaral, Prado Lima's son-in-law and municipal judge in Alegrete, launched an investigation resulting in criminal charges against Manoel de Freitas Valle, an officer in the Alegrete garrison, for apparently ordering the attack and sheltering the perpetrators. Retaining Almeida as his attorney, Freitas Valle responded by filing criminal charges against Amaral for abuse of authority. In particular, Freitas Valle accused Prado Lima and Amaral of filing false charges against him for political reasons. Specifically, he alleged that the men did so only to remove him from the local election counsel in order better their own faction's chances.³⁹

The case quickly escalated into a conflict directly between Almeida and Amaral. According to Amaral, Freitas Valle's allegations that his investigation into the murder was politically motivated were simply preposterous. Rather, they were the product of personal animosity between Almeida and himself. Almeida resented the fact that he had not been appointed to Amaral's judicial post. Moreover, Amaral alleged that the indemnity between the two men only deepened after he had refused a bribe from the lawyer in an unrelated criminal proceeding.

Almeida responded by arranging with the local garrison commander to convene a military tribunal against Amaral and Prado Lima. Eventually, after soldiers raided their house, Prado Lima and Amaral fled Alegrete.⁴⁰ Although tensions subsequently died down and Amaral was acquitted of the charges of abuse of authority, Almeida and his local faction emerged from the conflict in firm control of the town's political

apparatus. With political authority equally came the authority to declare law and police the line between legality and coercion. Almeida used this power to dictate the boundaries between property rights and illegal incursions against Prado Lima in the 1861 proceeding. In short, Almeida's conduct in the prolonged disputes between Prado Lima and his faction again reveals an intense intermingling of coercion and law, one that was critical in any strategy to control local officials and secure legal title.

This often-violent process of establishing control over the definitions inherent in the law may have equally accorded the region's emerging states with opportunities to consolidate their own authority. As Richard Graham demonstrated, elections in nineteenth century Brazil were spontaneous not expressions of popular will, but tests of the continuing strength of particular local factions.⁴¹ In winning an election, political factions like Almeida's effectively signaled to the state their continuing ability to rule. In securing their own authority in the borderlands, therefore, states could build upon the boundaries these triumphant local factions constructed between law and coercion, as well as between property and confiscation in order to forge national legal authority along the frontier. In short, the outcome of cases like *Justiça c. Figuero* and *Leão c. Prado Lima* offers another tentative explanation for how Brazil and the other states in the Río de la Plata borderlands gained legitimacy, authority, and ultimately sovereignty by recognizing local determinations of property rights, providing mechanisms to buttress locally-derived legal boundaries and ultimately the power to exclude rivals from law.

IV. Conclusion

Litigants like Lima and da Silva faced a sea of competing state projects, political alliances, and proposed national and ideological identities, each pulsating throughout the tumultuous environment of the Río de la Plata borderlands. Moving across these boundaries, borderlands inhabitants like Lima and da Silva fought to balance economic connections with the need for order. To do so, they engaged in prolonged searches for legal authority that frequently eschewed reliance on national legal systems, finding law locally and then projecting it internationally. They sought to utilize legal verdicts to enhance bargaining positions, strategically selecting forums in order to bolster their own legal position and control the use of law of others. By embedding themselves within these legal strategies and fostering local definitions of the boundary between law and

coercion, states slowly established their own sovereign authority in the region. In short, loyalty, law, and borders in the Río de la Plata borderlands emerged out of numerous halls of justice scattered along the trading routes connecting the vast river system together.

This working paper only sketches these connections between protean disputes, local compromises and legal boundaries to the broader processes of bordering in the Río de la Plata borderlands. Further research will connect regional and national legal developments more tightly to local outcomes than has been possible here. It will also look at the disillusion of old imperial compromises, and the consequences flowing from the fact that would-be states in the region failed to forge new ones as a prelude to the uses of law discussed here. Also absent from the picture are popular voices. Understanding the connections between legal pluralism and contested sovereignty necessarily will entail an examination of how popular groups utilized blurred national and juridical boundaries to construct alternative definitions of property and law more favorable to their own economic interests. Proving these connections will be difficult. However, the reward of more fully understanding how states secured loyalty to national projects, along with the profound limitations of national aspirations revealed by the compromises at the heart of this project, makes the effort worthwhile.

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² Arquivo Público de Rio Grande do Sul (APRGs), *Manoel da Almeida Lima c. Manoel Rodrigues da Silva*, Alegrete, Cartorio Civil, Ordinários, No. 848, Maço 35 (1855).

³ The “Estado Oriental” is the common name used during the period for what is today Uruguay. The two terms will be used interchangeably here.

⁴ *Lima c. da Silva*, p. 103bis.

⁵ *Lima c. da Silva*, at 93.

⁶ For the notion of imagined communities, see Benedict R. Anderson. *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London, 2006 [revised ed.]). For narratives of invention, see Nicolas Shumway. *The Invention of Argentina* (Berkeley, CA, 1991).

⁷ Arquivo Histórico de Rio Grande do Sul (AHRGS), Câmara de Alegrete, Correspondência Expediida, *Letter to Illmo. Exmo. Sor. Conde de Caixas, Presidente da Provincia do Rio Grande de S. Pedro do Sul*, No. 456 (June 25, 1845).

⁸ *Ibid.*, at 1.

⁹ *Ibid.*

¹⁰ For an excellent discussion of the tensions between separation and interconnection along the Brazilian frontier with Uruguay, see Mariana Flores da Cunha Thompson, *Contrabando e Contrabandistas na Fronteira Oeste do Rio Grande do Sul (1851-1864)*, Ph.d Diss., Universidade Federal do Rio Grande do Sul (Porto Alegre, 2007), at 34-50.

¹¹ Spencer Leitman. *Raízes Socio-Econômicos da Guerra dos Farrapos* (Rio de Janeiro: 1979).

¹² *Lima c. da Silva*, at 103.

¹³ Lauren Benton, “‘The Laws of this Country’: Foreigners and the Legal Construction of Sovereignty in Uruguay, 1830-1875,” *Law and History Review* 19:3 (Autumn 2001), 479-511. Recent works have particularly stressed the relationship between foreigners and forging definitions of sovereignty on the ground. An excellent example is Jordana Dym’s analysis the connection between citizenship and international law in the Central American context. Jordana Dym, “Citizen of which Republic?: Foreigners and the Construction of National Citizenship in Central America, 1823-1845, *The Americas* 64:4 (April 2008), 477-510.

¹⁴ Strategic forum shopping was especially important during war. One interesting example is the legal maneuvering regarding the property of Sebastião Barretos Pereira Pinto. Republican forces confiscated Barretos’s property in 1841 as punishment for supporting of imperial forces during the Farrapos War. In order to raise funds for the war effort, rebel commanders arranged for a French merchant, Fulgêncio Chevalier, to drive Barretos’s cattle from the ranch to Montevideo where they could be sold. However, Barretos apparently was able to arrange for his own legal representatives to contest the sale in Montevideo. Ultimately, Barretos utilized connections with the Uruguayan *caudillo* Fructuoso Rivera to prevent the sale and effectively re-confiscate his “stolen” cattle. AHRGS, *Anais do Arquivo Histórico do Rio Grande do Sul: Colección Varela*, vol. 8, CV-4326 (February 27, 1841), at 136 and CV-4327 (March 16, 1841), at 136.

¹⁵ In his study of the merchant community in Buenos Aires, Argentina, Jeremy Adelman advanced a similar argument that in the absence of definitive systems for securing property rights, merchants turned to older juridical concepts of “relational contracting,” status and reputation to secure bargains. Jeremy Adelman. *Republic of Capital: Buenos Aires and the Legal Transformation of the Atlantic World* (Stanford: 1999). One critical difference for *porteño* merchants and litigants in the borderlands, however, was the Buenos Aires merchants possessed generally possessed an agreed forum in which to resolve commercial disputes, eliminating some of the issues inherent in strategic forum shopping.

¹⁶ *Lima c. da Silva*, at 143bis.

¹⁷ APRGS, *Francisco de Lemos Pinto c. Maria Guedes de Menezes e outros*, Triumpho, Cartorio Cível, Ordinarios, No. 414, Maço 15 (1846). Pinto and Menezes purchased the land around Bella Union, Uruguay from Manuel José de Carvalho. In turn, Carvalho originally purchased the land from a Uruguayan merchant, Domingos Vasques in Montevideo. Carvalho and Vansquez themselves entered into a prolonged dispute over payments for the land in question, producing legal proceedings on both sides of the frontier as the men sought to disentangle their affairs. See APRGS, Alegrete Tabelionato, Registros Diversos, Libro 2, *Lançamento de hum papel a venda e compra particular entre partes como Comprador Bernardino Martins Munis e Francisco de Lemos Pinto como Vendedor Manuel José de Carvalho* (February 15, 1851), p. 59bis-60bis.

¹⁸ APRGS, Triumpho, Orphãos e Ausentes, Inventarios, N. 10, Maço 1 (1844).

¹⁹ APRGS, Alegrete Tabelionato, Registros Diversos, *Lançamento de huns de sociedade* (May 26, 1849), at 28-31.

²⁰ For example. Manoel Bathar received multiple powers of attorney from foreigners in Montevideo, Uruguay in order to dispose of property around Alegrete that in each case where registered and recognized by the Brazilian consulate. APRGS, Alegrete Tabelionato, Registros Diversos, Livro 3, *Lançamento d’uma Cópia de uma Procuração Bastante, passada em Montevideo pelo consulado geral do Brazil a Manuel Ferreira da Silva, e sua mulher* (June 7, 1854), at 75-6. More research on this point is needed.

²¹ APRGS. *Marcos Pradel c. João Preis*, Alegrete, Cartorio Civil, Ordinários, No. 777, Maço 33 (1846).

²² Silvio Rogério Duncan Baretta and John Markoff, “Civilization and Barbarism: Cattle Frontiers in Latin America,” *Comparati ve Studies in Society and History* 20 (1978), 587-620.

²³ For merchants and landowners around Alegrete, warfare and with it the confiscation of enemy property could also be big business. The correspondence between republican leaders José Domingos de Almeida and Antônio Vicente da Fontoura is full of examples of contracts between the rebel government and merchants to drive confiscated cattle across the Uruguayan border and sell it in Montevideo. AHRGS, *Anais do Arquivo Histórico do Rio Grande do Sul, Colección Varela*, vols 2, 3, 8 and 9 (Porto Alegre, 1984). With the outbreak of the Farrapos War, networks of merchants sprang up to move confiscated property from rebel territories to Montevideo, returning with badly needed supplies for Rio Grande republicans. By way of example, Alfonso Sarasin converted what had been a local merchant house in Alegrete handling “small quantities of goods” into a large-scale, international enterprise by exploiting his connections with the revolutionary government. By his death in 1847, the total value of the partnership’s assets exceeded 64,000 reais, with branches located in Alegrete, Montevideo, Salto, and Santa Anna do Livramento along the Brazilian border. In addition to contracts with the rebel government, the inventory further evidenced close connections with Uruguayan officials, noting that Fructuoso Rivera’s government

owed the partnership some 9,500 reais. APRGS, Alegrete, Orphãos e Austentes, Inventários, *Alfonso Sarasin*, No. 7, Maço 1 (1847).

²⁴ Câmara de Alegrete, *Letter to Illmo. Exmo. Sor. Conde de Caixas, Presidente da Provincia do Rio Grande de S. Pedro do Sul*, No. 456 (June 25, 1845).

²⁵ This observation, along with the pervasive use of notaries may also say something about the power and authority of the written word in asserting legal claims. See Angel Rama. *The Lettered City* (Durham, NC: 1996).

²⁶ APRGS, Cartorio Cível e Crime, Processos Crimes, *Justiça c. Hypolito Firio Cardoso e Candido Figuero*, No. 2669, Maço 77 (1847).

²⁷ *Ibid.*, at 10.

²⁸ *Ibid.* (the jury verdict in the case file was not numbered).

²⁹ Landownership was generally a requirement for jury service.

³⁰ APRGS, Alegrete, Cartorio Cível e Crime, Ordinários, *Joaquim Machado Leão c. Joaquim dos Santos Prado Lima*, No. 869, Maço 37 (1861).

³¹ *Ibid.*, at 2bis.

³² *Ibid.*, at 38bis.

³³ *Ibid.* (the judgment in the case file was not numbered).

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ Despite his apparently substantial education, however, Almeida did not earn a law degree. Rather, Almeida received a dispensation from the Counselor of State in Rio de Janeiro to practice law in Alegrete resulting from the “lack of lawyers” along the frontier. For granting the decree, Almeida paid the counselor 5,400 reais. Although the license was only for three years, there is no indication that he ceased practicing law when the license expired. APRGS, Alegrete, Tabelionato, Registros Diversos, *Registro de uma provirão de licença para advogado passado ao Advogado Mathias Texeira de Almeida* (February 1, 1856), at 14.

³⁷ APRGS, Alegrete, Orphãos e Ausentes, Inventários, *Mathias Texeira de Almeida*, No. 370, Maço 29 (1874).

³⁸ A letter from Almeida, acting as president of the Alegrete municipal counsel, to the provincial president described the tensions between the two groups over the appointment of judges. Almeida wrote protesting the appointment of Geminasio Antonio Vital de Oliveira to the position of Delegado de Policia. In the letter, Almeida further alleged that Canabarro’s party derived its strength only “by means of coercing votes from unfortunate National Guardsmen.” AHRGS, Câmara de Alegrete, Correspondência Expedida, *Letter to Illmo Exmo. Senhor Conselheiro Joaquim Antão Fernandes Leão, Digmo Presidente d’esta Provincia*, No. 1012 (August 25, 1860).

³⁹ APRGS, Alegrete, Cartorio Cível e Crime, Processos Crimes, *Manoel de Freitas Valle c. José Vaz Alves de Castro Amaral, Juiz Municipal*, No. 2760, Maço 79 (1853).

⁴⁰ *Ibid.*, at 293bis-294.

⁴¹ Richard Graham. *Patronage and Politics in Nineteenth-Century Brazil* (Stanford, CA: 1990).

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