

**BEFORE THE CENTRAL AMERICAN  
COURT OF JUSTICE: THE  
REPUBLIC OF COSTA RICA  
AGAINST THE REPUBLIC OF  
NICARAGUA**

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Before the Central American Court of Justice: The Republic of Costa Rica against the Republic of Nicaragua by Anonymous

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**THE REPUBLIC OF COSTA RICA**  
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**COMPLAINT**

OF THE REPUBLIC OF COSTA RICA GROWING OUT OF A CONVENTION ENTERED INTO BY THE REPUBLIC OF NICARAGUA WITH THE REPUBLIC OF THE UNITED STATES OF AMERICA FOR THE SALE OF THE SAN JUAN RIVER AND OTHER MATTERS.

**WITH APPENDICES**

(PRINTED AT THE NATIONAL PRINTING OFFICE  
SAN JOSÉ, COSTA RICA)

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**TRANSLATION**

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WASHINGTON  
PRESS OF GIBSON BROS., INC.  
1916

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## APPEARANCE OF COUNSEL.

THE MOST EXCELLENT,

THE CENTRAL AMERICAN COURT OF JUSTICE:

I, Luis Castro Ureña, attorney at law of Costa Rica and special counsel representing that country (Appendix "A"), respectfully represent before this Honorable Court as follows:

### LEGAL ANTECEDENTS.

#### I.

##### CAÑAS-JEREZ TREATY.

The Cañas-Jerez treaty (Appendix "B") which was entered into between Costa Rica and Nicaragua on the 15th day of April, 1858, stipulates:

"ART. 6. The Republic of Nicaragua shall have exclusive dominion and the highest sovereignty over the waters of the San Juan River from their issue out of the lake to their discharge into the Atlantic; but the Republic of Costa Rica shall have in those waters perpetual rights of free navigation from the said mouth of the river up to a point three English miles below Castillo Viejo, for purposes of commerce, whether with Nicaragua or with the interior of Costa Rica, over the San Carlos or Sarapiquí rivers or any other course starting from the part which has been established as belonging to that republic on the banks of the San Juan. The vessels of either country may touch at any part of the banks of the river where the navigation is common without paying any dues except such as may be established by agreement between the two governments.

"ART. 8. If the contracts for canalization or transit entered into before the Nicaraguan government had knowledge of this convention should for any cause cease to be in force, Nicaragua agrees not to conclude any others relating to the objects above

stated without first hearing the opinion of the Costa Rican government respecting the disadvantages that may result to the two countries, provided that opinion be given within thirty days after the request therefor shall have been received, in case that the Nicaraguan government should indicate that a decision is urgent; and in the event that the enterprise should cause no injury to the natural rights of Costa Rica, that opinion shall be advisory."

## II.

### ESQUIVEL-ROMÁN CONVENTION.

By the Esquivel-Román convention (Appendix "C") concluded between Costa Rica and Nicaragua on the 24th of December, 1886, both republics submitted the question of the validity of the Cañas-Jerez treaty, then pending between the parties, to the unappealable arbitral decision of His Excellency the President of the United States.

Article VII of that convention provides:

"The arbitral award, whatever it may be, shall be held as a perfect and obligatory treaty between the contracting parties; it shall admit of no appeal, and its execution shall commence within thirty days after each government, or their representatives, shall have received notification thereof."

## III.

### THE CLEVELAND AWARD.

The Cleveland award (Appendix "CH"), rendered on the 22nd of March, 1888, by His Excellency the President of the United States of America, by virtue of the Esquivel-Román convention, contains the following definite opinions and findings respecting the Cañas-Jerez treaty in general, and in particular respecting the two articles of that treaty above quoted:

"*First.*—The above-mentioned Treaty of Limits, signed on the 15th day of April, one thousand eight hundred and fifty-eight, is valid.

"*Second.*—The Republic of Costa Rica under said treaty and the stipulations contained in the sixth article thereof, has not the right of navigation of the River San Juan with vessels of war; but she may navigate said river with such vessels of the revenue service as may be related to and connected with her enjoyment of the 'purposes of commerce' accorded to her in said article, or as may be necessary to the protection of said enjoyment.

"*Third.*—With respect to the points of doubtful interpretation communicated as aforesaid by the Republic of Nicaragua, I decide as follows: \* \* \*."

"10. The Republic of Nicaragua remains bound not to make any grants for canal purposes across her territory without first asking the opinion of the Republic of Costa Rica, as provided in Article VIII of the Treaty of Limits of the 15th day of April, one thousand eight hundred and fifty-eight. The natural rights of the Republic of Costa Rica alluded to in the said stipulation are the rights which, in view of the boundaries fixed by the said Treaty of Limits, she possesses in the soil thereby recognized as belonging exclusively to her; the rights which she possesses in the harbors of San Juan del Norte and Salinas Bay; and the rights which she possesses in so much of the river San Juan as lies more than three English miles below Castillo Viejo, measuring from the exterior fortifications of the said castle as the same existed in the year 1858; and perhaps other rights not here particularly specified. These rights are to be deemed injured in any case where the territory belonging to the Republic of Costa Rica is occupied or flooded; where there is an encroachment upon either of the said harbors injurious to Costa Rica; or where there is such an obstruction or deviation of the River San Juan as to destroy or seriously impair the navigation of the said river or any of its branches at any point where Costa Rica is entitled to navigate the same.

"11. The Treaty of Limits of the 15th day of April, one thousand eight hundred and fifty-eight, does not give to the Republic of Costa Rica the right to be a