

**MEMOIR ON THE BOUNDARY
QUESTION PENDING BETWEEN
THE REPUBLIC OF COSTA RICA
AND THE STATE OF NICARAUGA**

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Memoir on the boundary question pending between the Republic of Costa Rica and the state of Nicaragua by F. Molina

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BOUNDARY QUESTION

PENDING BETWEEN

THE REPUBLIC OF COSTA RICA

AND THE

STATE OF NICARAUGA;

BY F. MOLINA,

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY OF COSTA RICA
TO THE GOVERNMENT OF THE UNITED STATES.

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1851.

MEMOIR

ON THE

BOUNDARY QUESTIONS PENDING BETWEEN THE REPUBLIC OF COSTA
RICA AND THE STATE OF NICARAGUA.

The scheme of opening a communication between the Atlantic and Pacific oceans, across the territory of the above mentioned countries, attracts at present towards them the attention of the civilized world, and renders the question of their respective boundaries a matter of general interest. In order to form a clear conception of those questions, it is necessary to go back to the origin of both countries, to investigate their history, and to examine the relations in which they have stood towards each other during the various periods of their existence.

This consideration, coupled with the fact of some reports on the state of this question having previously been circulated on behalf of Nicaragua, induced the author of these pages, in the discharge of his duties as representative of Costa Rica, to publish in Europe, above a year ago, the present account and history of the conflicting claims between the two countries. However, as the former editions were in the French and Spanish languages, and have not reached the American public at large, it has been deemed expedient to put forth an English version, throwing much additional light upon the subject, in order to set public opinion right, which we regret to observe has been, until now, somewhat unfavorably inclined towards Costa Rica.

Costa Rica and Nicaragua once formed an integral part of what, under the Spanish rule, was called "the Kingdom of Guatemala;" then embracing a vast territory, and a numerous population, entitled by its position to occupy a respectable rank amongst nations, but which, in consequence of internal dissensions, now presents the sad spectacle of several small communities, divided amongst themselves, and each striving to acquire a separate political organization. Unfortunately, the links which connected the provinces of the old kingdom with their colonial capital were never very firmly cemented, owing to the difficulties of communication, the want of

good roads, and the great distances intervening; whilst the circumstance of each province possessing a certain extent of sea coast, and most of them *ports* on both oceans, seemed to lessen the necessity for their remaining united. It is to the above mentioned causes, combined with the influence of the example of the prosperity of the United States, that we must ascribe the adoption of the federal system, which our country was not prepared for, and which transformed the *Provinces* into independent *States* or political bodies, each one having its own peculiar government. Soon their fatal separation took place, and its result has been their ultimately becoming what they now are—small independent *Republics*, completely isolated and at variance with each other. It should, however, in justice to all parties, be here noticed, as an important feature, that Nicaragua more than any one of the five provinces of Central America, signalized itself by disunionist tendencies, acting therein under the influence of her ancient jealousy of Guatemala, the late capital of the kingdom, and blinded by the expectation of securing for herself exclusively the advantages of the contemplated inter-oceanic canal. The accuracy of this statement will appear in the sequel of this essay.

Agreeably to our promise, we shall now proceed to lay before the public a detailed account of the case, with reference to the boundaries of Costa Rica and Nicaragua.

But, in the first place, let us concisely state what are the points at issue between these two Republics.

1st. Costa Rica maintains that her territory commences at the harbor of San Juan, and thence runs along the southern bank of the river of that name, up to within fifteen leagues of the Lake of Nicaragua, this being the boundary formerly belonging to the jurisdiction of the ancient province of Costa Rica; and she likewise claims the joint right of navigating the aforesaid river and lake. Nicaragua pretends that the division line ought to be traced from some point midway between San Juan and Matina to the river Salto, and claims an exclusive right over the river and lake.

2d. Costa Rica maintains that the district of Guanacaste has been finally incorporated with the Republic, and that consequently the fifteen leagues reserved as above stated, together with the shores of Lake Nicaragua, from San Carlos to a point opposite the river La Flor, on the Pacific, belong to the Costa Rican Republic. Nicaragua refuses to acknowledge the validity of the annexation of this district to Costa Rica, and claims Guanacaste as a part of her dominion.

Having thus acquainted the reader with the precise nature of the differences which we are about to discuss, it is time that we should begin our researches, dividing this labor into as many parts as the countries in question have experienced marked changes in their political condition.

The territories now known under the names of Costa Rica and Nicaragua, formerly inhabited by various small tribes of aborigines, were discovered and settled by different Spanish adventurers. In the course of time, the cabinet of Madrid thought proper to form one single province, by uniting the two, under the authority of an officer called the Intendant, (Intendente.) That functionary, like those of equal grade existing in Honduras, San Salvador, and Chiapas, was subordinate to the captain general of the so-called kingdom of Guatemala, who resided in the city of the same name. The amalgamation, nevertheless, of Costa Rica and Nicaragua was never complete, and the former province always maintained its own particular governor, independent of the Intendant, residing in Leon, in every thing relative to questions of *war* and the administration of *justice*, and was only subject to his authority in *financial* affairs. The intervening district, formerly called *Nicoya*, and now *Guanacaste*, from its chief towns being so named, was sometimes placed under the immediate jurisdiction of the authorities at Leon, and at other times under that of Cartago, the capital of Costa Rica. The traffic of those countries by the Atlantic ocean was at that period very insignificant, either through fear of the pirates or buccaneers, who infested the coast, or owing to the system of monopoly and sequestration observed by Spain. The San Juan, that magnificent river, was very little frequented. Military garrisons had only existed at San Carlos, where the river issues from the lake, and where a fort was constructed, as well as in the place now called Castillo Viejo, on account of a ruined fortress near that spot. It was not until the close of the last century, (1796,) that a detachment of troops was placed at the mouth of the San Juan. Such a garrison was naturally placed under the immediate control of the highest authority of the province, who ruled jointly over Costa Rica and Nicaragua, and who resided at Leon. All the aforesaid posts were often garrisoned with Costa Rican soldiers. No road existed then leading from the table lands of Costa Rica to the mouth of the river, while the intercourse between the towns of Nicaragua and the said port offered no difficulties, it being but necessary to traverse the lake and descend the river in boats. At certain periods of comparative prosperity for Costa Rica, the port of Matina, on the Atlantic, had satisfied the necessities of commerce; but frequent descents of pirates had caused that port to be neglected.

It was about that time that the Spanish Government issued a royal decree, dated Aranjuez, the 26th of February, 1796, to the following effect: "His Majesty, being desirous that the province of Nicaragua and the other provinces of the kingdom of Guatemala, which are situated more than

three hundred leagues distance from the capital, and from the ports of Omoa and Santo Tomas de Castilla, may be enabled to carry on a direct trade with the mother country, without being subject to the inconveniences of a long distance, has been pleased to declare that the harbor of San Juan de Nicaragua, on the river of the same name, shall be a port of the second class; and it is further provided, that, for the present, such a privilege shall be considered as extending to the city of Granada, on the Lake of Nicaragua, up to which lake said river is navigable; and consequently all the immunities and exemptions, to which San Juan is entitled, shall for the present be also enjoyed by the city of Granada." (a)

The perusal of this decree is sufficient to establish, beyond all question, the right of Costa Rica to the port of San Juan. The object of the privilege granted to San Juan was to benefit the province of Nicaragua, and other provinces, distant upwards of three hundred leagues from the capital. In whatever light we may consider this point, it will appear that Costa Rica was entitled to the privilege, both as a member of the Intendancy of Nicaragua, and by its ranking among the provinces distant more than three hundred leagues from the capital. Any one casting a glance over the map, will acknowledge at once that no country could more largely profit by the opening of the new port than Costa Rica. The extension of the grant to the city of Granada was but a common effect of the Spanish system of erecting interior custom-houses, or "dry ports." However, there is hardly any ground for the inference that it was intended by the royal decree to forbid the other provinces, alluded to in the same decree, from carrying on a commercial intercourse with Spain by any other route than that of Granada.

The Nicaraguans quote another royal decree of the Spanish King, granting ten leagues on each bank of the river for the purpose of their making settlements on those lands; but even waiving the doubt entertained as to the authenticity of the decree, (for no one had heard until lately of such a document,) it is evident that, since the persons to whom the supposed grant was made, never founded any settlements, they never acquired any title over the said lands, and that, if they never complied with the condition of the grant, they never became the legal owners of the soil in question; and, consequently, that such a decree does not confer on the city of Granada any peculiar right, either of jurisdiction or dominion, over the lands adjoining the banks of the river. Every thing remained as it had been before; that is, the river under the authority of the general governor of the

(a) See documents sent by the Government of Nicaragua to the Government of the United States; Ex. Doc. No. 75, printed by order of the House of Representatives, in 1850, pages 49 and 50.

province; the northern shore, reputed as a portion of the desert territories, occupied by a few wandering tribes, called Zambos and Moscos; and the southern shore considered as belonging to Costa Rica.

We can establish this point on the following authorities:

BOUNDARIES OF THE ANCIENT PROVINCE OF COSTA RICA.

CHARTER GRANTED TO GUTIERREZ. (a)

According to a charter granted by the King of Spain, under date Madrid, 29th November, 1540, to Don Diego Gutierrez, for the conquest and settlement of the then province of Cartago, the limits and jurisdiction of said province are described as extending from sea to sea, and from the frontier of Veragua, running to the westward to the great river (Rio Grande,) provided that the coast adjoining said river on the side of Honduras should remain under the government of Honduras, with power to Gutierrez to conquer and settle any island in said river which should not be previously located by Spaniards; and the right to the navigation, fisheries, and other advantages of said river; and provided that he (Gutierrez) should not approach within fifteen leagues of the Lake of Nicaragua, because these fifteen leagues reserved, as well as said lake, were to remain in the possession of the government of Nicaragua; but the navigation and fisheries, both in that part of the river granted to Gutierrez, as in the fifteen leagues reserved, and in the lake, should be possessed in common, or conjointly with the inhabitants of Nicaragua.

Diego Gutierrez having, in virtue of said charter, occupied the country, and assumed the title of governor and captain general of the province of Cartago, reported to the Emperor Charles V, in a letter dated Cartago, 30th November, 1543, that he had complied with his Majesty's injunctions not to approach within fifteen leagues of the Lake Nicaragua, but that the Desaguadero (b) outlet, issuing from said lake, held its course midway through the coast of his government; and that if the liberty to come within fifteen leagues of the lake were denied to him, the grant would be of little value, and he would have spent his fortune without due remuneration. He therefore requested that his Majesty would issue the necessary orders. The then governing prince, being at Valladolid, ordained, under date 9th May, 1545, "that every part should be explored and properly provided for, and that in the mean time he (Gutierrez) should be guided by his charter and instructions."

(a) Unpublished documents existing in the archives of Spain, of which a certified copy is in my possession. F. M.

(b) Name generally given to the San Juan river in old documents, and meaning the outlet.

CHARTER GRANTED TO ARTIEDA. (a)

Another charter was granted by King Philip II, to Don Diego de Artieda, under date Aranjuez, 18th February, 1574; according to which, the said Artieda was empowered to explore, settle, and pacify the province of Costa Rica, and other lands and provinces comprised within it, from the North Sea (Atlantic) to the South Sea (Pacific) in breadth, and from the frontier of Nicaragua, in the vicinity of Nicoya, to the valleys of Chiriqui, in the province of Veragua, in length.

He was appointed governor and captain general of Costa Rica, and of the other above mentioned lands, during his own life and that of his heir, and the boundary line of his jurisdiction is again described as extending "from the North sea (Atlantic) to the South sea (Pacific) in breadth, and from the frontier of Nicaragua, in the vicinity of Nicoya, to the valleys of Chiriqui, in the province of Veragua in length towards the south, and from the mouths of the *Desaguadero* (outlet) which is in the direction of Nicaragua, all the land running as far as the province of Veragur towards the north.

REPORT OF DE LA HAYA. (b)

Don Diego De la Haya, governor and captain general of Costa Rica, in a report addressed to the Spanish government, under date Cartago, 15th March, 1719, writes thus:

SIRE: This province is situated between those of Veragua and Nicaragua, and it is bounded, likewise, on the south by the small strip of land called "Partido de Nicoya." Its length is 160 leagues, beginning from the river Boruca, (which is the division line between it and the jurisdiction of the province of Veragua,) and running to the river called the Salto, (c) which separates this province from that of Nicaragua. Its width is 60 leagues, extending from the valley and coast of Matina on the north, to the port of Caldera, watered by the Pacific ocean. The River *Tempisque* (c) divides the jurisdiction of this province from the "*partido* (district) and jurisdiction of Nicoya."

From De la Haya's statement it appears that the Costa Ricans had subdued the tribe of Talamancas, occupying that part of the country which

(a) Unpublished documents existing in the archives of Spain, of which a certified copy is in my possession. F. M.

(b) Unpublished documents existing in the archives of Spain, of which a certified copy is in my possession. F. M.

(c) The river Salto takes the name of Tempisque when approaching the Pacific, where it discharges its waters into the Gulf of Nicoya, at its corner called *El Bolsón*, the large bag, from its shape.