A History of the Amistad Captives.

by

Marie Elizabeth Mickey

Submitted to the Department of

and the

Faculty of the Graduate School
of the University of Kansas
in partial fulfillment of the
requirements for the degree of
Master of Arts.

Approved by:

[Signature]

Department of

May 27, 1926.
Table of Contents

Introduction................................................................. 1
Chapter I. The Amistad Negroes Captured................................. 4
Chapter II. Early Diplomatic Correspondence............................ 22
Chapter III. The Case in the Inferior Courts............................ 37
Chapter IV. Before the Supreme Court.................................. 49
Chapter V. Diplomacy and Legislation or Political Developments...... 71
Chapter VI. Aftermath...................................................... 94
Introduction.

The story of the Amistad captures is one of those episodes in our History which has not been given any particular study because of its seeming unimportance. Just about the time when the Amistad case occurred, ships, loaded with slaves, were every day being brought into some port and claimed as prizes. This case was a little different from the others in that the Amistad was a foreign ship which was driven to American shores. After its capture, a long series of court proceedings, diplomatic correspondence and legislative investigations ensued.

But the real reason for making a study of the case is on account of the erroneous conception that has grown out of it and still prevails among historians. When the case was argued in the inferior courts, Roger Sherman Baldwin, an eminent lawyer of Connecticut acted as counsel for the negroes. After the case was appealed to the Supreme Court John Quincy Adams was secured as assistant council by some leading abolitionists of New York. While Historians have always attributed the final decision to Mr. Adam's forensic ability, the U.S. Supreme Courts make a definite and clear statement to the contrary.

A few quotations from the leading Historians will be given to set forth the prevalence of this misconception. Mr. McMaster in his "History of the People of the United States" says, "John Quincy Adams defended the negroes and Justice..."
Story delivered the opinion of the court, which sustained the lower court in all points save one—The negroes, it decreed, need not be returned to Africa." Mr. Schouler, in his "History of the United States" says, eloquently, "The Supreme Court granted freedom to the captives. John Quincy Adams stood before the tribunal of last appeal to plead the cause of these barbarian captives. It was thirty years since he had held a brief in that court of black robed dignitaries, most of whom gained their places in the interval by opposing him in politics."

Von Holst, in his "Constitutional History of the U.S.", follows the same trend of thought: "Despite the burthen of uninterrupted contests in the House of Representatives—Adams was induced to defend the cause of the blacks. The patriot—implored the court, which in accordance with the will of the fathers, should be the rampart of justice and therefore of freedom, in the free republic, not to surrender itself to the unholy spirit of the day. And his hope was not deceived. The Court pronounced its judgment on the 9th of March, 1841; the negroes of the Amistad were free."

Compare these glowing tributes to Adams with the note inserted in parenthesis, between Mr. Baldwin's defence and Mr. Gilpin's reply in the Supreme Court Reports: "It was the pur-

(a). McMaster-Vol.VI, pp 605-9;
(b). Schouler-Vol.IV, p. 246;
(c). It was at this time that Adams was making his fight to win the recognition of the Right of Petition in the House.
pose of the reporter to insert the able and interesting argument of Mr. Adams, for the African Appellees; and the publication of the "Reports" has been postponed in the hope of obtaining it, prepared by himself. It has not been received. As many of the points presented by Mr. Adams in the discussion of the case, were not considered by the Court essential to its decision, and were not taken notice of in the opinion of the Court delivered by Mr. Justice Story, the necessary omission of the argument is submitted to, with less regret." To be sure, Mr. Adams made an interesting and masterly defence of the negroes. Nevertheless, a careful study of the argument of Roger S. Baldwin and the opinion of the Court as delivered by Justice Story, show that the two correspond in practically every detail. The reason for the mis-statement in Historical works seems to be the age long inclination to allow the efforts of a man of wide reputation and standing to eclipse the accomplishments of a less notable man.

This mis-statement of fact makes a careful study of the case imperative. In pursuing this study use has been made of the U.S. Public Documents, Supreme and Federal Court Reports, the Diary of Mr. Adams, Congressional Globe, National Intelligence, Niles Register and the like. Much valuable material has been gathered from these sources.

(a). U.S. Supreme Court Reports-Peters 15.
Chapter 1.

The Amistad Negroes Captured.

From the very beginning, until its final extinction by means of the Civil War, Slavery had been a more or less important factor in our National History. At first, it was considered as an evil by every one—North and South alike. Later, when the economic advantage of the slave system became more and more apparent the South began to defend it as a necessary evil. When the Northern abolitionists undertook to attack slavery, the slave owners came out in favor of their system and declared it to be a positive good. It was only inevitable that two such diverse opinions and theories in the nation should result in conflict. Our History during the so-called Middle Period is the story of myriads of unsuccessful attempts to reconcile the opposing factions and to satisfactorily compromise the issue.

After the war of 1812, which freed us from European entanglements, our time was devoted to internal problems, and especially to slavery. From the Missouri Compromise (1820), which marks the definite beginning of the struggle, until the Civil War, we find practically every issue clouded by some connection that it had or might have with slavery. Political campaigns were unsettled by the great question and public men were forced to arrange their opinions to include a statement that would offend neither section of the country. In the Thirties and
early Forties the controversy over the Right of Petition, with Adams as champion was fought out in the House of Representatives. By 1840, Anti-Slavery Societies and newspapers, some violent in their methods, while others were more moderate, had been founded. It is necessary to mention that English influence played a large part in the shaping of public opinion. England had freed all the slaves in her colonies, English anti-slavery societies were doing effective work in creating a sentiment against slavery and the English Government was making a decided effort to make the slave trade piracy, internationally.

The extent to which Great Britain succeeded in suppressing the Slave Trade figures extensively in the Amistad Case. The United States were pledged by Great Britain in the Treaty of Ghent to use their influence to abolish the Slave Trade. England, in turn, bound herself to undertake a like project. After the Treaty of Ghent in 1814, Great Britain made a treaty (signed September 23, 1817) with Spain for the abolition of the Slave Trade throughout her dominions after May 30, 1820; (1) that neither Spanish ships nor subjects would carry on slave trade on any part of the coast of Africa after that date. (2) After the exchange of ratifications of the treaty (which exchange was made at Madras, November 22, 1817), Spain would not allow any of her subjects or ships to engage in the Slave Trade on the African Coast, North of the Equator. (3) Great Britain agreed to pay 400,000 pounds sterling to be "considered full compensation for all losses sustained by Spanish Subjects engaged in the Traffic,
on account of vessels captured previously to the exchange of Ratifications of the Treaty; and also for losses which are a necessary consequence of the abolition of the said Traffic." (4). The circumstances under which the Slave Trade would be considered illicit are enumerated so there could be no misunderstanding. (5). In order to make the treaty provisions effective, Great Britain and Spain guaranteed to each other the reciprocal right of search. (6). In order to put the treaty into force, mixed commissions, to reside on the coast of Africa and in British and Spanish Colonial possessions were provided for.

By Royal Cedula, issued December 19, 1817, the King of Spain proclaimed the abolition of the Slave Trade from that day on the coast of Africa-North of the Equator. If this proclamation should be evaded Slave ships were to be confiscated by the Government. Furthermore, no Slave Trade was to be carried on anywhere in the Dominions of Spain or on the African coast (anywhere) after May 30, 1820. If any negroes should be brought into Spanish ports in violation of this regulation, the owner of the slaves would forfeit all the negroes on board and they would be declared free in the first port of the Spanish Dominions at which the vessel arrived. The Spanish King enjoined the exact execution of this Cedula upon all Spanish Subjects, everywhere.

During 1817 and 1818, in addition to the concessions granted by Spain, Great Britain secured the right of search for slaves

(a). British State Papers-Volume IV-pages 33-68.
from Denmark, Portugal and the Netherlands. Denmark was paid 400,000 pounds for conferring this desired privilege. The amount paid to the other states is not definitely known. At the several international conferences in the first two decades of the Nineteenth Century, Great Britain proposed that the Slave Trade be made piracy, internationally. The other nations refused to accede to the proposal because they suspected British motives. Owing to British influence in 1818, 1819, 1821, the United States passed successive acts for the purpose of suppressing the Slave Trade. The Act of 1921 made the traffic piracy by Municipal Law. In compliance with Congressional resolutions, Rush tried to negotiate a treaty with Great Britain, making Slave Trade piracy by international law; but the Senate failed to ratify the treaty. In 1831 and 1833, Great Britain secured a treaty with France which provided for reciprocal search for the purpose of suppressing the Slave Trade. The United States was invited to accede to this treaty but, under Jackson, declined.

In 1839 we find the nations of the World holding the positions just described, with regard to the suppression of the Slave Trade. Also, in 1839, a "suspicious looking schooner" had been seen off the East coast of the United States. Newspapers printed the story of the appearance, disappearance and reappearance of the boat, and watched closely for all new material on the subject. Public interest, on the Seaboard, was greatly aroused by the strange sight. The National Intelligencer, pub-
lished in Washington, first mentions the ship on August 28, 1839: "A long, low, black looking 'schooner' has been off the coast, which the newspapers yesterday described. She is supposed to be a slave ship in which the slaves have risen upon the Captain and the crew. The United States steam ship, Fulton, and the United States schooner, Wane, have been sent out after her. The collector of this port has sent an account of her to the collectors at New Haven, New London, Newport, and Boston, requesting the cutters to be sent out after her by the way of Montauk Point; and information has also been given to the collectors of Philadelphia and Norfolk."

The stories that were printed until the ship was actually brought in were mere conjectures. Even after the schooner was captured greatly exaggerated tales were published. After all the material was gathered and the facts sifted out, we have the real story. At Havana, Cuba, on June 27, 1839, fifty four "Native Africans" three of whom were negro girls, the property of Don Pedro Montez and Don Jose Ruiz, were loaded on the schooner Amistad, owned by the Captain, Raymond Ferrer. The Amistad, with other cargo consisting of merchandise sailed from Havana, June 28, under color of two customs house permits authorizing certain Ladinos described only by Spanish names, and said to belong to Ruiz and Montez to go by Sea to Puerto Principe.

(a). According to the testimony of Robert Madden before the U.S. Circuit Court Ladino Negroes are those who are legal slaves in Cuba while Bozal negroes are those that are introduced into Cuba after 1820 and are, therefore, held in slavery, illegally.
These falsified permits were the means of making the discovery which lead to the eventual freedom of the negroes. The Africans conspired together, and on the night of June 30, rose upon the crew and killed the Captain and the cook. The remainder of the crew abandoned the schooner in the boat. The negroes took possession of the ship, spared Antonio—the Captain's slave—, Ruiz and Montez and ordered the Spaniards on pain of death to take them back to Africa. Don Pedro Montez availed himself of his Nautical knowledge and as nearly as he dared, attempted to sail the vessel to freedom. In the daytime under the direction of the negro leader, Joseph Cinquez, he sailed toward African shored; and, at night, when Cinquez could not ascertain the directions, he headed the schooner toward the north west.

Several ships were stopped in the open sea and induced by the erstwhile slaves to sell provisions. The Amistad drifted around for nearly two months without being permitted to land. Finally, on August 26 some of the negroes came ashore on Long Island Sound to take on wood and water. When the ship was first discovered Naval officers were ordered to bring it in, if possible. While several of the negroes were on shore, Lieutenant Gedney, in the United States brig, Washington, went to the schooner which was anchored off Culloden Point. The Amistad had no flag flying to indicate her national character. Antonio, a negro and the slave of Captain Ferrer, was the only survivor of the original crew. Ruiz and Montez showed signs of rough

(a). The material relating to the story of the sighting and capture of the Amistad was gathered from the National Intelligencer, Niles Register and the United States Public Documents relating to the subject.
and brutal treatment. After hearing their story, Lieutenant Gedney took possession of the boat, arrested the negroes on land and took them into the port at New London, Connecticut. The Africans could understand neither English nor Spanish and could only speak their native dialects which were not understood by their hearers. Therefore, it was impossible for them to make any defense of their conduct.

The official account of the capture of the Amistad by the brig Washington throws some interesting lights on the case:

"U.S. Brig Washington

"While this vessel was sounding this day between Gardner's and Montauk Points, a schooner was seen lying in shore off Culloden Point, under circumstances so suspicious as to authorize Lieut. Com, Gedney to stand into see what was her character—seeing a number of people on the beach with carts and horses, and a boat passing to and fro, a boat was armed and despatched with an officer, Lieut. R.W. Meade, to board her. On coming along side, a number of negroes were discovered on her deck, and twenty or thirty more were on the beach—two white men came forward and claimed the protection of the officer. The schooner proved to be the 'Amistad', Capt, Ramonflued, from the Havanah, bound to Guanajah, Fort Principe, with 54 blacks and two passengers on board; the former, four nights after they were out arose and murdered the Captain and three of the crew—they then took possession of the vessel, with the intention of returning to the coast of Africa. Pedro Montez, passenger, and Jose Ruiz, owner of the slaves and a part of the cargo were only saved to navigate the vessel. After boxing about for four days in the Bahama Channel, the vessel was steered for the Island of St. Andrews, near New Providence—from thence she went to Green Key, where the blacks laid in a supply of water. After leaving this place the vessel was steered by Pedro Montez, for New Providence, the negroes being under the impression that she was steering for the coast of Africa—they would not however permit her to enter the port, but anchored every night off the coast. The situation of the two whites was all this time truly deplorable, being treated with the greatest severity, and Pedro Montez, who had charge of the navigation, was suffering from two severe wounds, one on the head and one on the arm, their lives being threatened every instant. He was ordered to change the course so as to bring them back to their original place of destination. They remained three days off Long Island, to the
eastward of Providence, after which time they were two months on the ocean, sometimes steering to the eastward, and whenever an occasion would permit the whites would alter the course to the north and westward, always in hopes of falling in with some vessel of war, or being enabled to run into some port, when they would be relieved from their horrible situation. Several times they were boarded by vessels; once by an American Schooner from Kingston; on these occasions the whites were ordered below, while the negroes communicated and traded with the vessels; the schooner from Kingston supplied them with a demijon of water for the moderate sum of one doubloon—this schooner, whose name was not ascertained, finding that the negroes had plenty of money, remained lashed alongside the Amistad for twenty-four hours, though they must have been aware that all was not right on board, and probably suspected the character of the vessel—this was on the 18th of the present month; the vessel was steered to the north and westward, and on the 20th instant, distant from New York 25 miles, the Pilot Boat no. 3 came alongside and gave the negroes some apples. She was also hailed by no. 4; when the latter boat came near, the negroes armed themselves and would not permit her to board them; they were so exasperated with the two whites for bringing them so much out of their way, that they expected every minute to be murdered. On the 24th they made Montauk Light and steered for it in the hope of running the vessel ashore, but the tide drifted them up the bay and they anchored where they were found by the Brig Washington, off Culloden Point. The negroes were found in communication with the shore, where they laid in a fresh supply of water, and were on the point of sailing again for the coast of Africa. They had a good supply of money, some of which it is likely was taken by the people on the beach. After disarming and sending them on board from the beach, the leader jumped overboard with three hundred dubloons about him, the property of the Captain, all of which he succeeded in loosing from his person, and then submitted himself to be captured. The schooner was taken in tow by the brig and carried into New London." (a)

While the negroes were on shore to procure water and supplies, Captain Green of the Coast Defense discovered them. As soon as Cinquez found that they were discovered, he called his companions and prepared to resist Captain Green and his squad

(a). The foregoing report was taken from Mr. Barber's "History of the Amistad Captives." He, in turn, took it from the "New London Gazette" of the date of the happenings of the case. Also see Niles 1 Vii-p.28.
of men by force. But when the Captain showed that he had guns
and ammunition at his command, the blacks surrendered. I seems
that the blacks agreed to give up the schooner to Capt. Green
who explained to them that a vessel of war was in pursuit of
them; and that no Spaniards or slaves resided in that region.
The negroes wished to be carried back to their homes in Africa.
About this time Lieutenant Gedney dispatched a boat and an armed force to take possession. Cinquez was taken in charge and
put on board the Washington, while his followers were returned
to the Amistad. As soon as Lieutenant Gedney made the capture,
he notified the United States Marshall at New Haven. On Thursday morning (August 29th), he and A.T. Judson, U.S. District Judge arrived at New London and decided to conduct an investigation of the case on board the Washington. The investigation is given in full:

Judicial Investigation.

At anchor, on board the U.S. cutter Washington commanded
by Lieutenant Gedney.

New London, Aug.29,1839.

His honor Andrew T. Judson, U.S. District Judge, on the
bench; C. A. Ingersol, Esq. appearing for the U.S. District
Attorney. The court was opened by the U.S. Marshal. The clerk
then swore Don Pedro Montez, owner of part of the cargo and
three of the slaves, and Don Jose Ruiz, also owner of part of
the cargo, and forty nine of the slaves. These gentlemen then
lodged a complaint against Jo Martin, Manuel, Andrew, Edward,
Caledonia, Bartholomew, Raymond, Augustine, Evaristo, Casinuro, Stephen, Thowas, Corsino, Lewis, Bartolo, Julian, Frederick, Mercho, Gabriel, Santaria, Escalastio, Paschal, Estarulaus, Desiderio, Saturnio, Lardusolado, Celistinio, Eprfaino, Tevacio, Genancio, Philip, Francis, Hipiloto, Veinto, Tedoro, Vecinto, Dionecio, Apolonio, Ezidiquiel, Leon, Julius, Hipoloto, 2nd, and Zuian or such of the Abani as might be alive at that time. (a)

It was ascertained that Joseph Cinquez, and 38 others were alive, and on the complaint an indictment was framed charging them with murder and piracy on board the Spanish schooner Amistad.

Joseph Cinquez, the leader was brought in to the cabin manacled. He had a cord round his neck, to which a snuff box was suspended. He wore a red flannel shirt and duck pantaloons.

Lieut. R. W. Meade, who speaks the Spanish language fluently acted as an interpreter between the Spaniards and the court.

Several bundles of letters were produced, saved from the Amistad, and such as were unsealed, read. The contents being simply commercial can be of no interest to the reader. Among the papers were two licenses from the Governor of Havana, and General Ezpeleta, one for three slaves, owned by Senor Don Pedro Montez, and one of the men saved, and 49 owned by Senor Don Jose Ruiz, the other that has escaped, allowing the said slaves to be transported to Principe and commanding the said owners to report their arrival to the territorial Judge of the District in which Principe is situated. A license was found permitting Pedro Montez, a merchant of Principe, to proceed to Matarozas, and (a). The name of the negro leader is spelled in different ways—sometimes, Cinquez, and sometimes, Cingue.
transact business, which was endorsed by the Governor of Havana, and the officer of the port. Regular passports were produced, allowing the passengers to proceed to their destination. A license was found permitting Silestine, Ferrers, a Mulatto, owned by Captain Raymond Ferrers, and employed as a cook, to proceed on the voyage. Other licenses for each sailor were produced and read, all of which were regularly signed, and endorsed by the proper authorities.

The Custom House Clearance, dated the 18th of May, 1839, was produced. Also another dated the 27th of June, 1839, all regular. Several licenses permitting goods to be shipped on board the Amistad, were read, and decided to be regular.

Lieut. R.W. Meade testified that he was in the boat which boarded the Amistad, and demanded the papers; which were unhesitatingly delivered. Previous to this demand Senor Don Jose Ruiz had claimed protection for himself and Don Pedro Montez, the only two white men on board. The protection was immediately granted and the vessel brought to New London.

Many of the events which are detailed in the narrative, were omitted in the evidence as having no bearing on the guilt or innocence of the accused, in the present state of the proceedings.

Senor Don Ruiz was next sworn and testified as follows:

"I bought 49 slaves in Havana, and shipped them on board the schooner Amistad. We sailed for Guanaja, the intermediate port for Principe. For the four first days everything went on well. In the night heard a noise in the forecastle. All of us were asleep except the man at the helm. Do not know how things began; was awakened by the noise. This man Joseph, I saw—can not tell how many were engaged. There was no moon. It was very
dark. I took up an oar and tried to quell the mutiny; I cried No! No! I then heard one of the crew cry murder, and the Captain ordered the cabin boy to go below and get some bread to throw to them, in hopes to pacify the negroes. I went below and called on Montez to follow me and told them not to kill me. I did not see the Captain killed. They called me on deck, and told me I should not be hurt. I asked them as a favor to spare the old man—which they did. After this they went below and ransacked the trunks of the passengers. Before doing this, they tied our hands. We went on our course—don't know who was at the helm. Next day I missed Captain Ramon Ferrer, two sailors, Manuel Pagilla, and Yacinto—, and Selestina, the cook. We all slept on deck. The slaves told us next day that they had killed all; but the cabin boy said they killed only the Captain and cook. The other two, he said, had escaped in the canoe—a small boat. The cabin boy is an African by birth, but has lived a long time in Cuba. His name is Antonio, and belonged to the Captain. From this time we were compelled to steer east in the day; but sometimes the wind would not allow us to steer east, then they would threaten us with death. In the night we steered west, and kept to the northward as much as possible. We were six or seven leagues from land when the outbreak took place. Antonio is yet alive. They would have killed him, but he acted as interpreter between us, as he understood both languages. He is now on board the schooner. Principe is about 2 days sail from Havana, or 100 leagues, reckoning 3 miles to a league. Sometimes when the winds are adverse the passage occupies 15 days."

Senor Don Pedro Montez was next sworn. This witness testified altogether in Spanish, Lt. R.R. Meade, interpreter.

"We left Havana on the 28th of June. I owned four slaves, 3 females and 1 male. For three days the wind was ahead and all went well. Between 11 and 12 at night, just as the moon was rising, sky dark and cloudy, weather very rainy, on the fourth night, I layed down on my mattress. Between 3 and 4 was awakened by a noise which was caused by blows given to the mulatto cock. I went on deck and they attacked me. I seized a stick and a knife with a view to defend myself. I did not wish to hurt or kill them. At this time the prisoner wounded me severely with one of the sugar knives, also on the arm. I then ran below and stowed myself between two barrels, wrapped up in a sail. The prisoner rushed after me and attempted to kill me but was prevented by the interference of another man. I recollect who struck me, but was not sufficiently sensible to distinguish the man who saved me. I was faint from loss of blood. I then was taken on deck and tied to the hand of Ruiz. After this they commanded me to steer for their country. I told them I did not know the way. I was much afraid, and had lost my senses, so I can not recollect who tied me. On the second day after the mut-
iny, a heavy gale came on. I still steered, having once been master of a vessel. When recovered, I steered for Havana, in the night by the stars, but by the sun in the day, taking care to make no more way than possible. After sailing fifty leagues, we saw an American merchant ship, but did not speak to her. We were also passed by a schooner but were unnoticed. Every moment my life was threatened. I know nothing of the murder of the Captain. All I know of the murder of the Mulatto is that I heard the blows. He was asleep when attacked. The next morning the negroes washed the decks. During the rain the Captain was at the helm. They were glad, next day, at what had happened. The prisoners treated me harshly, and but for the interference of others, would have killed me several times every day. We kept no reckoning. I did not know how many days we had been out, nor what day of the week it was when the officers came on board. We anchored at least thirty times, and lost an anchor at New Providence. When at anchor we were treated well, but at sea they acted very cruelly towards me. They once wanted me to drop anchor in the high seas. I had no wish to kill any of them but prevented them from killing each other."

The prisoners were now sent to their quarters, and the court adjourned to the schooner, that she might be inspected, and that Antonio when making his deposition might recognize those who murdered the Captain and his mulatto cook.

Adjourned investigation on board the Amistad.

Antonio, the slave of the murdered Captain, was called before the court, and was addressed in Spanish by Lt. Meade, on the nature of an oath. He said he was a Christian, and being sworn, he thus testified:

"We had been out four days when the mutiny broke out. That night it had been raining very hard, and all hands been on deck. The rain ceased, but still it was very dark. Clouds covered the moon. After the rain, the Captain and mulatto lay down on some mattresses that they had brought on deck. Four of the slaves came aft, armed with those knives which are used to cut sugar cane; and they struck the Captain across the face twice or three times; and the mulatto oftener. Neither of them groaned. By this time the rest of the slaves had come on deck, all armed in the same way. The man at the wheel and another let down the small boat and escaped. I was awake and saw it all. The men escaped before Senor Ruiz and Senor Montez awoke. Joseph, the
man in irons was the leader; he attacked Senor Montez who fought them and wanted them to be still. The Captain ordered me to throw some bread among them. I did so, but they would not touch it. After killing the Captain and the cook, and wounding Senor Montez, they tied Montez and Ruiz by the hands till they had ransacked the cabin. After doing this, they loosed them and went below. Montez could scarcely walk. The bodies of the Captain and cook were thrown overboard and the decks washed. One of the slaves who attacked the Captain has since died. Joseph was one, two of them are now below.

The examination of the boy being finished the court returned by the conveyance which put it on board the Washington, and after being in consultation some time, came to the following decision: Joseph Cinquez, the leader, and 38 others as named in the indictment stand committed for trial before the next circuit court at Hartford, to be held on Sept. 17-1839.

Jose Ruiz and Pedro Montez were extremely grateful to the U.S. navy officers for their rescue from the hands of the blacks. Ruiz seemed to think that the Sovereign of Spain would reward them liberally for their kindness. The Spaniards inserted a card in the newspapers thanking Lt. Gedney and the other officers on board for their deliverance. Apparently, these two men confidently expected the ship, cargo and negroes to be returned to them.

When the negroes were taken to New Haven and put in the custody of the marshal there, large numbers of people came to see them. Part of this curiosity was due to some of the over drawn storied in the newspapers. Cinquez, the leader of the negroes

(a). The account of the Judicial Investigation is taken from the National Intelligencer for Sept. 4, 1839.
(b). Niles-LVII-p.29.
and the Master Spirit in the execution of the plans for mutiny had been described as a "man, horrible to look at—with a fierce, Cannibal like air." It was made to appear that the other negroes were of much the same type—but somewhat less savage. A man who went to the Africans testified that "it is nonsense that has been written about them; rather they are a likely lot of young negroes. Cinquez is no Cannibal and may be called a handsome negro. The jailer is New Haven turned the curiosity of the Public to his own account by taking a fee of the crowds who visited the negroes.

After the negroes were committed for trial before the next Circuit Court at Hartford to be held September 17, 1839, "Antonio and the three negro girls were ordered to give bonds in the sum of $100 each to appear and given evidence in the case when it should be demanded; and for want of such bonds to be committed to the county jail in the city of New Haven." These persons were not indicted. Lt. R.W. Meade, Don Pedro Montez and Don Jose Ruiz were ordered to appear and give evidence in the said case; and by way of guarantee for their appearance were ordered to give bond for $100. As soon as the Washington took its charges into port Lt. Gedney libelled the vessel, cargo and negroes for salvage. Libels for salvage were also presented by Mr. Green and Mr. Fordham, who alleged that they had aided in capturing the negroes on shore on Long Island,—and contributed to the vessel

(a). Niles-LVII-p.50
(b). National Intelligencer-Sept. 7, 1839
(c). Ibid-Sept. 4, 1839.
being taken into possession by the Brig, Washington. On Aug. 29, Ruiz and Montez, filed claims to the negroes as their slaves and asked that they and their parts of the cargo of the Amistad be delivered to them or to the representatives of the crown of Spain.

In accordance with his instructions from the Sec'y of State on Sept. 19, 1839, the U.S. Attorney for the District of Connecticut filed an information stating that the vessel, cargo, and slaves should be restored under the provisions of the treaty between Spain and the United States. The Information asked that the court make such an order as would enable the U.S. to comply with the treaty stipulations; or if the negroes had been brought from Africa in violation of the laws of the U.S. that the court make an order for the removal of the negroes to Africa according to the Laws of the U.S. The Spanish consul filed a claim for Antonio the slave of the Captain of the Amistad, in behalf of the representatives of Captain Ferrer. Claims were also filed by merchants of Cuba for parts of the cargo-denying salvage and asserting their rights to have the same delivered under the treaty. Finally, the negroes (Sept. 19), with the exception of Antonio, filed an answer, denying that they were the slaves or the property of Ruiz and Montez, and denying the right of the court to assert any jurisdiction over their persons. Ruiz and Montez were charged with cruelty and maltreatment of the negroes while on board the Amistad. It was on account of this last charge that Ruiz and Montez were arrested while in N.Y. and when they refused to give bail were imprisoned to await
trial. Their imprisonment afforded an additional excuse for (a) complaint on the part of the Spanish Minister.

The question of the freedom of the negroes turned upon the extent of their residence in Cuba. If they were Ladino negroes - that is, if they had been born in Cuba as slaves - there was no doubt that Ruiz and Montez could establish their title to them. But if they were Bozals - that is, if they had been brought into Cuba since 1820 - they were automatically freed upon entering a Spanish port, in accordance with the treaty of 1817 between Great Britain and Spain. Two passports issued to Ruiz and Montez provided for the transportation of Ladino negroes from Havana to Puerto Principe. But when the copy of the passports was reprinted in the U.S. Public Documents, the word Ladino was in some way changed to read that a certain number of "Sound" negroes was to be shipped in the Amistad.

On first thought, it would seem that this falsification was arranged by the Administration or other interested parties in order to eliminate the possibility of raising the question whether or not the negroes were recently from Africa. But J.Q. Adams discovered that the change was purely accidental and entirely unintentional. A review of the method by which he made this discovery will be given in another connection.

The international complications growing out of the case and their corresponding effect upon its judicial History make an

(a). Twenty Sixth Congress- First Session- House Doc. 185.
(b). For a study of the passports, see Twenty Sixth Congress, First Session- House Doc. 185.
interesting study. The readiness of Spain to defend her subjects in this case and the persistence of that defense, is an important, element in the study. From the early part of September, 1839, until nearly twenty years later, the Amistad Case occupied a place in the diplomatic correspondence between Spain and the U.S.
Chapter 11.
Early Diplomatic Correspondence.

During the years between 1830 and the Civil War, the difficulties arising on account of the slave trading ships were very common. Most of these ships were engaged in the coast-wise trade from Virginia to New Orleans or between other ports on the Atlantic Seaboard. During the winter season many of the ships would be driven by storms into the English ports in the West Indies where Great Britain, impelled by her desire to abolish slavery and the slave trade would emancipate the negroes on board. Many strained situations arose as a result of those circumstances. But the conditions and facts involved in the Amistad case mark an abrupt departure from the circumstances surrounding the conventional case of the period. In the first place, the Amistad was not an American owned vessel; again, the negroes on board were not claimed by American citizens; furthermore, the judicial history growing out of the event is beset on every hand with amazing and perplexing complications; and finally, the nation with which the U.S. had to deal as a result of the case was not England, but Spain thereby making the matter somewhat difficult.

No sooner was the case reported in Washington than the Spanish Minister began a correspondence with the American Secretary of State, in which communications he set forth the demands (a). See the cases of the Creole, Enterprise and others.
of Spain. This correspondence was continued by successive Ministeries and Secretaries of State during the two decades which followed. On September 6, 1839, Mr. Calderon, Spanish Minister to the U.S. wrote Mr. Forsyth, then Secretary of State for U.S., about the capture of the Schooner Amistad. Thus we see from the date that the Spanish Minister lost no time in making known to the U.S. government that he intended to interest himself in behalf of the Spanish subjects concerned in the case. In his letter he stated that previous to the departure of the Amistad from Havana on June 28, "she obtained her clearance from the Custom House, the necessary permit from authorities for the transportation of negroes, a passport, and all the other documents required by the laws of Spain for navigating a vessel and for proving ownership of the property; a circumstance particularly important in the opinion of the undersigned." He then proceeded to review the subsequent events in the case and concluded his presentation by making four demands, the substance which follows:

(1). That the vessel be immediately delivered up to owner, together with every article found on board at the time of her capture by the "Washington", without any payment being exacted on the score of salvage other than those specified in the treaty of 1795. (2). That it be declared that no tribunal in the U.S. has the right to institute proceedings against, or to impose penalties upon, the Subjects of Spain for crimes committed on board a Spanish vessel and in the waters of the Spanish territory. (3). That the negroes be conveyed to Havana, or be placed
at the disposal of the proper authorities in that part of Her Majesty's dominions, in order to permit their being tried by the Spanish laws which they have violated; and that in the meantime they may be kept in safe custody in order to prevent their evasion. (4). That if, in consequence of the intervention of the authorities in Connecticut, there should be any delay in the desired delivery of the vessel and the slaves, the owners: both of the latter and the former be indemnified for the injury that may accrue to them.

In support of his claims the Minister invoked the law of Nations, the stipulations of existing treaties—especially articles VIII, IX, and X of the Treaty of 1785—and "those good feelings so necessary to the friendly relations that subsist between the two countries and are so interesting to both." He further declares that the "crime in question, if permitted to

(a). Twenty Sixth Congress, First Session-H.Doc.185. In fact, all the correspondence included in this section is taken from the above mentioned Document.

(b). For a better understanding of Calderon's statements, it is necessary to quote articles 8, 9, and 10 from the treaty of 1795:

Article 8: In case the subjects and inhabitants of either party with their shipping, whether public and of war, or private and of merchants be forced, thru stress of weather, pursuit of pirates or enemies, or any other urgent necessity for seeking of shelter and harbor, to retreat into any of the rivers, bays, roads or ports belonging to the other party, they shall be received and treated with all humanity and enjoy all favor, protection and help, and they shall be permitted to refresh and provide themselves at reasonable rates, with victuals and all things needful for the subsistence of their persons, or reparation of their ships....and they shall no ways be hindered from returning out of the said ports or roads but may depart when and whether they please without let and hindrance.

Article 9: All ships and merchandise of what nature soever, which shall be rescued out of the hands of any pirates or robbers on the high seas, shall be brought into some port of either State, and shall be delivered to the custody of the officers of that
pass unpunished would bring undesirable results both to the U.S. and Spain. " In making his demands, Mr. Calderon protested that in the Spanish Islands the citizens of the U.S. had always been treated favorably and kindly. He requested Mr. Forsyth to submit his note to the consideration of the President of the U.S. Mr. Forsyth answered the note on Sept. 16 and told Calderon that his note had been forwarded to the President. He also assured him that as soon as the President communicated his desire to the State Department no time would be needlessly lost in explaining his views to Calderon. On September 23, Forsyth wrote to ask Calderon if there were any more authentic documents relating to the question or evidence of useful facts, since the only evidence consisted of the ships papers and proceedings of a court of inquiry held by a district judge of Connecticut on board the schooner at the time the negroes were imprisoned for the alleged murder of the Captain and Mate of the vessel. Calderon answered Forsyth's note on September 29, in which he stated that there were no other documents in the Spanish legation besides the declaration on oath of Ruiz and Montez in as much as the 

Article 10: When any vessel of either party shall be wrecked, foundered or otherwise damaged on the coasts or in the dominions of the other, their respective subjects or citizens shall receive as well for themselves as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the damage happens, and shall pay the same charge and dues only as the said inhabitants would be subject to pay in a like case; and if the operations of repair should require that the whole or part of the cargo be unladen, they shall pay no duties, charges, or fees on the part which they shall relade and carry away.
papers of the vessel were in the hands of the U.S. Court and since time enough had not yet elapsed for the news of the occurrence to have reached Havana. In the same note he informed Forsyth that Don Pedro de Argaiz was to become the new Envoy from Spain. On October 3, Argaiz sent a note to Forsyth in which he asked for the delivery of the Amistad and its cargo to the owners or to the agent (Vice Consul at Boston) of Spain. His reason for this request was that repairs were necessary to save the ship from destruction.

In another note from Argaiz received at the State Department October 22, Argaiz informed Forsyth that he felt obliged to make further address in addition to the request for restoration of the Amistad, its cargo and the captives. The new occurrence which made such address necessary was the arrest of Ruiz and Montez. Argaiz protested against the arrest and asked that the Executive Power of the U.S. use all the means derived from the laws—most especially from the laws of Habeas Corpus—and thus direct the said Spaniards to be liberated and to be indemnified for the losses and injuries which they have sustained from this act. Argaiz also expressed the hope that the United States would early consider Calderon's note of September 6 in regard to the restoration of the Amistad and quoted the 7th article (a) of the treaty of 1795, in order to show more clearly that the

(a). Article VII of Treaty of 1795: The subjects or citizens of each of the contracting parties, their vessels, or effects shall not be liable to any embargo or detention on the part of the other, for any military expedition or other public or private purpose whatever; and in all cases of seizure, detention, or arrest for debts contracted, or offences committed by any citizen or subject of the one party within the jurisdiction of the other
court of New York had no jurisdiction in the case of Ruiz and Montez. An answer to Argaiz's request that the Executive interpose in procuring the liberation of Ruiz and Montez and indemnity for the losses and injuries they might have sustained was presented on October 24 by Mr. Forsyth. He explained that since Ruiz and Montez were arrested on process issuing from the superior court of New York City at the suit and affidavit made by certain colored men, native of Africa, for the purpose of securing their appearance before the proper tribunal to answer for wrongs alleged to have been inflicted by them upon the persons of the said Africans and since the judicial courts are open to all without distinction—the agency of the U.S. to obtain the release of Ruiz and Montez all the necessary means to procure their release and to obtain any indemnity to which they might be justly entitled and therefore would render unnecessary any agency on the part of the State Department for those purposes. But since the imprisonment of those persons connected itself with another occurrence which had been brought under the President's consideration, Forsyth promised that instructions would be given to the U.S. Attorney for the Dist., of N.Y. to put himself in communication with those gentlemen and to offer them his advice as to any measure to procure the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceeding usual in such cases. The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries—as they may judge proper, in all their affairs, and in all their trials at law, in which they may be concerned, before tribunals of the other party, and such agents as shall have free access to be present at the proceedings in such causes, and at the taking of all examinations and evidence which may be exhibited in said trials.
their release and such indemnity as might be due them, under
the laws of the U.S. for their arrest and detention.

Argaiz's reply of November 5 to Forsyth's note of October
24, expressed great pleasure because Forsyth "did not refuse to
admit the reasons which the undersigned had the honor to state
in his note." He expressed his realization of the fact of the
incompetence of the United States courts to deal with the Amis-
tad case. In the course of giving further arguments why the
Federal government should grant the Spanish request, he remark-
ed,"It is allowed by the whole world that a court can not take
cognizance of crimes and delinquencies committed in other coun-
tries or other jurisdictions and under other laws, the applicat-
on of which is not entrusted to it; as, also, that petitions and
accusations of slaves against their masters can not be admitted
in a court." In conclusion, he asked whether or not the Secre-
tary of State possessed sufficient authority and force to carry
into fulfillment the treaty of 1795. If he had not, then there
could be no treaty binding on the other party.

When the fall term of the District Court adjourned until Jan-
uary 1840, without any decision regarding the Amistad case and
without any definite promises to Spain from the President, Ar-
gaiiz wrote again to Forsyth, November 26, and asked under what
law, act or statute the court based its right to take cognizance
of the case. He declared that the Amistad should have been tre-
ated as the Treaty of 1795 provided for the treatment of vessels
in distress. Instead, the treaty had not been executed and
public vengeance had not been satisfied (Spain was calling for the assassins that she might punish them and not merely for slaves); great injuries had been done to the owners of the vessel (not the least of which was the imprisonment which Ruiz was suffering—and all complaints on the subject had been disregarded); even the dignity of the Spanish Nation was thought to be offended. In addition, he urged that Spain had the right to demand indemnification. Argaiz closed his note with a veiled threat in which he said that if the decision of the President of the U.S. should not be such as Spain desired, the General Government of the Union would be responsible for all and every consequence which the delay might produce. Not having received any answer to the note just summarized, Argaiz again wrote Forsyth on November 29, reciting the whole history of the case and stating carefully that the imprisonment of Ruiz violated the treaty of 1795 and particularly articles VII and VIII of that treaty.

Argaiz then made the claim that if the delinquencies of which the negroes complained were committed, they were committed in Cuban waters and subject to the jurisdiction of Cuba. The Spanish Government was dissatisfied with the U.S. Government offering only a "gratis" attorney to Ruiz. The Spanish Minister thought that he could not avoid declaring that, according to his imperfect knowledge and understanding, the General Government of the U.S. was bound in compliance with the stipulations of the treaty to defend Ruiz officially, by giving him the bail required (which Ruiz had refused to attempt to furnish because he would not recognize the jurisdiction of the court), and by
setting him at liberty in order to place him in the position assured to him by the Treaty of 1795.

Mr. Forsyth answered the Spanish demands, Dec. 12, 1839 by protesting that his government had done all it could for the case, from the very first. The U.S. Government regretted to see that Argaiz had not formed an accurate conception of the true character of the question; nor the rules by which under the constitutional institutions of the country, the examination had to be conducted. The Secretary explained that the delay was only commensurate with the importance of the question and supported his government by claiming that the treaty of 1795 had not been violated. In order to prove the good faith of the U.S. he showed that the Gov't had proceeded upon the assumption that Ruiz and Montez alone were the parties aggrieved; and that their claims to the surrender of the property was founded in fact and justice. This circumstances alone should have been sufficient to convince Argaiz that the condition of Ruiz and Montez like the interposition of the Spanish Government in their behalf had found every proper degree of favor and consideration at the hands of the United States Government.

In spite of Forsyth's conciliatory note of December 12, Argaiz answered December 25, by making more demands. He seemed to understand Forsyth's reply as referring first, to the business of the demand for the delivery of the schooner Amistad; and second, to the actual situation of Ruiz. With regard to the first, if the crew of the Amistad had been composed of white men, Spain had not doubt that the court or corporation to which
the U.S. Government might have submitted the question would have observed rules by which it should be conducted under the Constitutional institutions of the country, and would have limited itself to the ascertainment of the facts of the murder committed June 30; the Spanish Minister did not comprehend the privileges enjoyed by negroes. With regard to the second, Ruiz could not have foreseen that, though respecting the laws and conducting himself honorably, he was not exempt from the persecutions of an atrocious intrigue. He believed that while infringing no law or police regulation he would enjoy his personal liberty in the American Republic. Argaiz thought that the complainants (negroes) should be considered morally and legally as not being in the United States, because the court of Connecticut had not declared whether or not it was competent to try them. Therefore, he asked the Secretary of State cause a protest founded on his argument to be officially addressed to the President of the United States. In conclusion, the Spanish Minister stated that had the conduct of Ruiz in the United States been such as to render his arrest just, the Spanish government would have abandoned him to his own means of defense. Not satisfied with pressing his demands thus far, Argaiz wrote to Forsyth December 30 in anticipation of the decision of the court upon the question of jurisdiction. If the court should declare itself incompetent or should order the restitution of the Amistad with its cargo and the negroes; and on consideration that the Amistad would be unfit for voyage, that the truth of the negroes' statement (that they were not slaves) might be tried in Havana, Argaiz
asked the President to transport the negroes to Cuba on a ship belonging to the United States! Instead of being astounded at such effrontery, Forsyth in reply on January 6, 1840, meekly promised to accede to the request and in addition to send a complete record of the proceedings to the Cuban tribunal and to sent Lt. Meade and Lt. Gedney for witnesses. Letters of introduction for Meade and Gedney were asked from the Spanish Government.

It is clearly evident from the foregoing review of the diplomatic correspondence between the Spanish Minister and the State Department that the Administration then in power in the United States was disposed to favor the stand taken by the Spanish Minister and to assist in the prosecution of the negroes. If an Envoy from a foreign country had sent communications, like the ones received from Calderon and Argaiz, to a State Department which opposed there viewpoints the replies would have been curt and meaningful. The failure of the Secretary of State to take offence at the tone which Arguiz, especially, employed in making his demands evinces a strong probability that the Executive Department was inclined to sympathize with these demands. If Mr. Forsyth had taken a strong and decided stand in the case and had made Spain realize the impossibility of granting her demands under a constitutionally limited form of government, many difficulties in later years would never have arisen to trouble the subsequent Secretaries of State. The course taken urges either a strong partiality on the part of the Administration or weakness on the part of the Secretary of State or, perhaps, both.
Perhaps a portion of the "sympathy" with the Spanish owners of the negroes on the part of the United States was due to the current opinion that the United States courts had no jurisdiction over the case. Mr. Halabird, U.S. Attorney for the district of Connecticut did not believe that a United States court had jurisdiction over the blacks as the offence committed was done on board a vessel belonging exclusively to citizens of a foreign State, on high seas, and on and against subjects of a Foreign State. He also held the opinion, put forth by Calderon and Añagaiz, that the treaty stipulations would authorize the United States Government to deliver the negroes up to the Spanish authorities. Further more, the U.S. Attorney General expressed the opinion that U.S. Courts had no jurisdiction over the case and that the vessel, cargo, and slaves should be restored entire, so far as practicable, to such persons as the Spanish Minister might designate since the case had become a matter of discussion between the two governments.

To set forth further the desires and expectations of the government of the U.S. in the Amistad Case, quotations from other documents can be given. Forsyth sent instructions to Halabird (Sept. 11) to see that nothing should be done by him or the court to place the vessel, cargo or slaves beyond the control of the Executive. Forsyth and Halabird managed to secure a copy of the ships paper in order that they might be better informed for the successful management of the case. Halabird was granted permission to draw upon the district Marshall for a reasonable sum to secure an assistant counsel in the case and
Ingersoll was chosen as that counsel. In accordance with Forsyth's promise to Argaiz in his note of Jan. 6, 1840 to send the negroes to Cuba and Lieutenants Gedney and Meade as witnesses—provided of course, the court should accord with the President's plans—Halabird was instructed to prepare authentic copy of the records of the court in the case, and of all the documents and evidence connected with it so as to have it ready for the commander of the vessel. The executive further planned that the Amistad was to be given to such persons as the Spanish Minister might appoint; subject, however, in case of its being sold in the U.S., to the legal demands of the Custom House. On January 12, 1840 Forsyth instructed Halabird to carry out the order of the President unless an appeal should be interposed. At that time, it seemed to first occur to Forsyth that the decision might be contrary to his expectations. Therefore, in the same set of instructions he told Halabird that if the decision of the court should be different than was expected that he should immediately take out an appeal on behalf of the United States. That the administration did not expect an unfavorable decision is clear from the fact that the Secretary of State asked the Secretary of the Navy to have a ship at New Haven in readiness to carry the negroes to Cuba; and that the Secretary of the Navy obeyed the orders by sending the "Grampus" under Paine to New Haven. Furthermore, Jan. 7, Pres. Van Buren gave an order to be served upon the marshal that she should give aid in conveying upon board all the negroes of the Amistad in his custody.
As far as can be discovered, the Administration had nothing to gain by taking the position that it did in regard to the Amistad Case. But when we realize that public opinion coincided with diplomatic procedure we can better understand the course taken by Pres. Van Buren and Mr. Forsyth. The National Intelligencer, which may be interpreted as a reflection, to a certain extent, of the opinion of the day, expressed the belief that the "United States in the actual case are bound to make such delivery as demanded by Spain without loss of time; and that everyone acquainted with the provisions of the 9th article of the Treaty of 1795 must admit that it seems to fit to a hair's breadth the circumstances of this capture". In the same article we find the remark that "it is difficult to perceive upon what possible reasoning or views of duty the Executive could refuse to comply with the National engagement and to preserve unsuspected the National faith". "we cannot imagine, indeed, any ground for such a refusal or delay, unless indeed that if political expediency, the unsanctified motive of too many of the acts of the late Administration." The same newspaper calls the proceedings at New York in connection with the arrest of Ruiz and Montez "Mockery of justice" and declares that such proceedings "seem a clear case of the abuse of the process of the court, for which all those actively concerned should be held to account at the bar of the Public."

But in spite of the demands of the Spanish Minister together

(a). National Intelligencer-October 29, 1839.
(b). Ibid.
with their refusal to recognize the jurisdiction of the U.S. courts; and in spite of the desires of the President and the State Department to grant the Spanish demands; and in spite of the contemporary public opinion the case of the Amistad proceeded to a hearing in the U.S. District court of Connecticut. A study of the proceedings in the inferior courts is necessary to an adequate understanding of the case and its later developments.
Chapter 111.

The Case in the Inferior Courts.

Before we begin an account of the proceedings in court it will be well to outline again the claims of the various parties who brought suit in the Amistad Case. After the judicial investigation on board the schooner, the thirty eight negroes who survived the hardships which they had to undergo after leaving Havana, were charged with the murder of Captain Ferrer and committed to trial before the Circuit Court at Hartford, September 17. Lieutenant Gedndy filed a libel for salvage. Other libels for salvage were presented had Capt. Green and Mr. Fordham who alleged that they had assisted in capturing the negroes on shore on Long Island and contributed to their being taken into possession by the Brig Washington. August 29, Ruiz and Montez filed claims to the negroes as their slaves—they and parts of the cargo to be delivered to them or to the representatives of the crown of Spain. It is curious fact that the negroes were claimed as property and yet were committed to trial for murder. At a special District Court held on September 19, the U.S. Attorney for the District of Connecticut filed an information stating that the Minister of Spain had claimed of the government of the U.S. that the vessel, cargo and slaves be restored under the provisions of the treaty between Spain and the U.S. The information asked that the Court should make such order as would enable U.S. to comply with treaty
or if the negroes had been brought from Africa according to the laws of the U.S. On the same day, a claim for Antonio, the slave of Captain Raymond Ferrer, was filed by the Spanish Consul on behalf of the representatives of Raymond Ferrer. Further claims were filed by merchants of Cuba for parts of the cargo, denying salvage and asserting their rights to have the same delivered under the treaty.

When the court opened, Monetz and Ruiz, Lieut. Meade and a "whole posse of counsel for both sides were in Hartford. In fact the case attracted an uncommon gathering. In accordance with the permission granted him to secure an assistant counsel, Mr. Halabird, the U.S. district attorney for Connecticut, called Mr. Ingersoll of New Haven to his aid. Mr. Staples and Mr. Sedgwick of N.Y. and, later, Roger Sherman Baldwin were obtained as counsel for the negroes. The men who served as counsel for the negroes were secured by the Northern abolitionists—especially by Mr. Loring of Boston and Mr. Lewis Tappan of New York. These same men induced J.Q. Adams to appear for the defence when the case went to the Supreme Court.

On Wednesday, September 18, the case was opened in the Circuit Court at Hartford. On that same day, Mr. Staples moved and obtained a Habeas Corpus to bring up the three African girls who were not implicated in the criminal charge and to have cause shown why they were detained. In the afternoon of September 19, the girls were brought into court on habeas corpus.

---

(a). Federal Cases-District and Circuit Reports-No.10.
(b). National Intelligencer-Sept.21,1839.
pus and appeared to be very frightened. Friday, September 20, at the opening of the court the matter of Habeas Corpus was called up, and Mr. Sedgwick read the answer to the return setting out at length the Spanish decrees suppressing the slave trade and alleging these Africans to have been born free and still of right to be free. Mr. Baldwin followed in a very elaborate argument, denying the jurisdiction of the court as the property was found at Long Island and in the district of New York. Therefore, the Court could not decide upon the right of Gedney as salvor; the claims of Ruiz and Montez as purchasers of slaves illegally imported into Cuba; and the authority of the U.S. district attorney to make any claim in behalf of the Spanish Government. In relation to the claim of Lieut. Gedney the court had remarked that under the decision of the District Judge, the negroes could not be held by any process under that libel. Thus two of the obstacles to their discharge were removed. There remained the libel of the alleged owner and the claim of the U.S. If the negroes should be desired for witnesses after their discharge, an offer was made to give security for them.

Mr. Ralph Ingersoll replied to Mr. Baldwin, insisting that the rights of the owners of the negroes were the proper subjects of the cognizance of the District Courts and that this court (circuit) could not interfere by this summary process to deprive them of the opportunity of establishing those rights.

(a). National Intelligencer-September 25, 1839.
He further insisted that by the treaty of 1795 with Spain, the rights of these owners were guaranteed and that the President was bound to surrender the blacks. Mr. Ingersoll's argument was interrupted by the Grand Jury coming in and requesting instructions respecting the murder alleged to have been committed on board the Amistad. Previously, the Grand Jury had been busy compiling evidence but had received no special charge from Judge Thompson, Judge of the U.S. Circuit Court at Hartford, except to ask instructions. At the reopening of the court at 2 P.M. the court delivered its charge to the Grand Jury instructing them that the offence of Cinquez and his associates, if offence it was, being committed on board a Spanish vessel, was not cognizable in our courts. The Grand Jury, having no further business before them, were discharged. Therefore, the points to be made had to turn upon the demands of the Spanish Ministers, the treaties and the like.

Saturday (September 21) Judge Thompson addressed the court and said he was not ready to dispose of the question finally. He remarked that under the peculiar circumstances of the case the court was desirous of having another argument of counsel, confined entirely to the point, "whether the District Court had jurisdiction in this case." The judge asked for the argument in the afternoon. Mr. Baldwin stated that the admiralty court had no jurisdiction; but that "they could only be tried before a common law court, by a jury."

---

(a). National Intelligencer-September 25, 1839.
(b). National Intelligencer-September 28, 1839.
(c), (d). Ibid.
Mr. Baldwin asked for the discharge of the negroes. Hungerford and Ingersoll argued for the jurisdiction of the District court.

Smith Thompson, Judge of the Second Circuit which includes Connecticut, gave his decision Monday Morning, September 23. He denied the motion to have the Africans discharged under the writ of habeas corpus. The question to be decided was whether or not the District Court had jurisdiction of the case. He decided that since it was a question of admiralty it was within the jurisdiction of the District Court. Since the seizure of the Amistad was made on the High Seas (off Montuck Point) any District court could take cognizance. Therefore, since the District Court of Connecticut has jurisdiction and consequently this court (the U.S. Circuit Court) cannot pass upon property, the parties must make their pleas to the District Court. The matter settled by the Grand Jury was that there had been no criminal offence cognizable by the courts of the U.S. If the offence of murder has been committed on board a foreign vessel with a foreign crew and with foreign papers, this is not an offence against the laws of the United States. This court does not undertake to say that the Africans have no right to their freedom but leave that matter in litigation in the District court, subject to appeal.

As soon as Judge Thompson gave his decision the U.S. District Court entered into session, but after sitting a day and

(a). National Intelligencer-September 28, 1839.
a half adjourned until November, so that the exact location of the Amistad, when captured by Lieutenant Gedney might be ascertained. The Africans were not taken back to jail to await the hearing in November.

While awaiting the sitting of the District Court in November, the negroes charged that they were kidnapped from Africa, taken to Cuba, purchased by Ruiz, hustled on board the Amistad after dark and were cruelly and brutally treated while on board that schooner. Whereupon, Mr. Sedgwick arranged for the arrest of the two Spaniards who were in New York, also awaiting the November term of court. The Spanish Subjects made application to Judge Inglis (Judge of one of the courts of New York State) for a writ of Habeas Corpus. The case came up for a hearing before Judge Inglis in pursuance of the order he had made. The counsel for the Spaniards read affidavits made by them in which they stated that Cinquez and his associates were purchased in Cuba where slavery was recognized; denied that they knew the negroes were recently from Africa and that they were "hustled on board after dark"; and declared that the slaves were not manacled while on board and were supplied with sufficient provisions."

Theodore Sedgwick, Junior, on the part of the plaintiffs read the affidavits on which the defendants were arrested. He also read affidavits of Mr. Leavitt and Mr. Lewis Tappan

(a) National Intelligencer-September 28, 1839.
(b) National Intelligencer-October 29, 1839.
stating that they had visited the colored men and believed they were recently from Africa. In addition he read the affidavit of the deputy sheriff who said that the defendants had refused to give bail. After securing permission, he also read the treaty of 1817 between Great Britain and Spain and offered to prove that slavery of men coming from Africa was no longer tolerable in Cuba; and that the least criminal position in which the defendants stood was that of buyers of contraband goods and aiders and abetters of the slave trade. Judge Inglis by his decision liberated the two Spaniards-Montez on common bail and Ruiz on justified bail. This distinction was made on the ground that Ruiz was the owner of the slaves on the Amistad.

The United States District Attorney filed another libel, November 19, in favor of the U.S. alleging that the Spanish Minister had in pursuance of the treaty between the United States and Spain, demanded of the government of the U.S. the schooner Amistad, her cargo, and the slaves on board—the owners being subjects of Spain. The Schooner, goods and Africans, alleged to be slaves were taken into custody by the marshall of the District for adjudication upon these various libels and claims. When the District Court met at Hartford, November 20, a part of these Africans, by their counsel, filed a plea to the jurisdiction of this court, alleging that they were born in Africa, that they were free, and that they seized with (a). National Intelligencer-October 29, 1839.
in the territorial jurisdiction of the State of N.Y., claiming to be set at liberty.

After the court met a day and a half at Hartford it adjourned to meet at New Haven on January 7, the interpreter Covey, being ill. The blacks were taken to the jail at New Haven. After the meeting at Hartford, the case stood exactly where Judge Thompson left it—the preliminary question of jurisdiction was not even settled. The whole time was consumed in the examination of witnesses as to the situation of the Amistad at the time of its capture, and the usual amount of altercation between the lawyers.

The case was finally tried before the U.S. District Court at New Haven on January 7, 1840. The decision handed down by Judge Judson, on January 23, was of very great interest to everyone and of very great importance to the parties concerned. After stating the facts of the case he gave a careful summary of the claims set forth by all parties concerned. He then stated that the case before them involved the questions of admiralty, High Seas, Jurisdiction, Salvage Service, Compensation, Spanish treaty and foreign vessels. The actual decision follows. (1). That the District court of Connecticut has jurisdiction, the schooner having been taken possession of, in a legal sense, on the "high seas". (2). That the libel of Thomas R. Gedney and others is properly filed in the District Court of Connecticut. (3). That the seizors are entitled to

(a). Federal Cases-District and Circuit Courts-No.10.
salvage, and on appraisement will be ordered, and one third of that amount and costs will be deemed just and reasonable. (4). That Green and Fordham, of Sag Harbor, who claim to have taken original possession of the vessel and cargo, can not sustain their claim, and therefore their libels be dismissed. (5). That Ruiz and Montez, thru the Spanish Minister, have established no title to the Africans, as they are undoubtedly Bozal negroes, or negroes recently imported from Africa in violation of the laws of Spain. (6). That the demand of restitution to have the question tried in Cuba, made by the Spanish Minister can not be complied with, as by their own laws, it is certain they can not enslave these Africans, and therefore can not properly demand them for trial. (7). That Antonio, being a Creole, and legally a slave, and expressing a strong wish to be returned to Havana, a resolution will be directed under the treaty of 1795. (8). That these Africans be delivered to the President of the United States under the 2nd section of the Act of March 3, 1839 and the 1st section of the law of 1818, still in force, to be transported to Africa, there to be delivered to the agents appointed to receive and conduct them home.

The Spanish Minister made an appeal to the United States Circuit Court, objecting to the decision of the District Court which surrendered the Africans and to the allowance of the salvage. From the decree of the District Court, the

(a). Federal Cases- District and Circuit Court-No.10.
(b). National Intelligencer-January 30, 1840.
District Attorney of the United States appealed to the Circuit except so far as the same related to Antonio. The owners of the Cargo of the Amistad appealed from the part of the decree which allowed salvage and their goods. The Circuit Court at New Haven affirmed the decree of the District pro forma; and the government of the U.S.; at the instance of the Spanish Minister, have appealed to the Supreme Court of the United States. The Africans therefore remained in the jail at New Haven to await the January term of the Supreme Court (1841).

As soon as the Circuit Court affirmed the District Court decision the Spanish Minister began to search for some further argument by which he could induce the State Department and the President to give the Amistad negroes into his custody or that of someone he might appoint. On March 20, 1840 Argaiz wrote to Mr. Forsyth asking that the same consideration be shown to his countrymen that Spain had given to Americans. He cited by way of example a certain instance when some American seamen committed an offence on a U.S. ship off the coast of Spain, were tried and sentenced to four years confinement in a fortress but were by royal order given over to the American consul upon request by the American Minister. Argaiz even enclosed the royal order for that delivery. Furthermore, he stated that a royal order, other than that of 1817, issued in 1820 provided that anyone who should attempt to fraudulently

(a) U.S. Supreme Court Reports. Peters 15.
(c), National Intelligencer—May 5, 1840.
introduce African slaves into the dominions of Spain should receive drastic punishment. The provisions of this order were quoted at some length. In the light of all those facts Argaiz deemed it to be only just that the negroes should be given over to Spanish jurisdiction.

Forsyth received another communication from Argaiz (April 24-1840) after Calhoun's resolutions had been adopted in the Senate (April 15). The resolutions provided: (1). That a ship or vessel on the high seas, in time of peace, engaged in a lawful voyage, is according to the laws of nations under the exclusive jurisdiction of the State to which her flag belongs as much as if constituting a part of its own domain. (2). That if such a ship or vessel, should be forced, by stress of weather, or other unavoidable cause into the port, and under the jurisdiction of a friendly power, she and her cargo, and persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the State to which they belong, would be placed under the protection which the laws of nations extend to the unfortunate under such circumstances. Argaiz claimed that the Amistad Case came directly under the provisions of these resolutions and that the United States should not have assumed jurisdiction of the case. Whereupon, he again demands that the negroes be returned in order that the proper treatment should be accorded Ruiz and Montez.

(a).26 Cong.,2 Session, Senate Doc. 179.  
(c).26 Cong., 2nd Session, Senate Doc. 179.
Mr. Forsyth replied to this last demand by stating that the President had decided "that the concurrence of the resolutions with the principles which he considered as founded in law and justice, does not alter, in any respect the determination he found himself obliged to make on the reclamation of the Chevalier de Argaiz for the restitution of the Amistad and the property found on board of her, when brought within the jurisdiction of the U.S." With this reply, Argaiz allowed the matter to rest until the following January.

"In pursuance of a decree of the Circuit Court, the famous Amistad together with her cargo, was, on Thursday last, sold by auction under the direction of the Marshal of the District, at the Custom House in this city (New London, Connecticut). An appraisal was had of vessel and cargo when the goods were first landed. We understand that the amount of the appraisal was about 6,600 dollars and that the gross sales will amount to within four or five hundred dollars of that sum. Her sails were all worn to shreds and a large expenditure would be necessary to render her seaworthy.

(a). 26th Cong., 2nd Session, Senate Doc.179.
Chapter IV.

Before the Supreme Court.

In the interval between the Circuit Court decision and the hearing in the U.S. Supreme Court, Roger Sherman Baldwin, while studying the passports and other documents taken from the Amistad discovered that a serious error had been made in printing the House Document in which this information appeared. The original passports privileged the two Spaniards, Ruiz and Montez, to ship a given number of Ladino negroes from one port in Cuba to another. Strangely enough the printed document had substituted the word "sound" for the word Ladino, thus making the passports convey the privilege of shipping fifty four sound negroes on board the Amistad. Now, as has been previously explained Ladino negroes in Cuba meant those who were legally slaves under the Anglo-Spanish treaty provisions. The testimony of the negroes declared themselves to be recently from Africa, or Bozal negroes, illegally held to slavery. Other investigations concurred in this viewpoint. Therefore, in order to secure the passports for the Bozal negroes as Ladinos the Spaniards themselves or the Cuban government had acted in a way that would permit them to go past the British, unsuspected. Such obvious fraud in the passports would have the effect of discrediting them entirely.

But instead of allowing the passports, containing the incriminating word, to be printed, the U.S. public documents had
substituted the word "sound". Naturally, Mr. Baldwin, eager to ascertain the motives for and the methods of substitution, communicated his discovery to Mr. Adams. Adams immediately took the matter up in the House, secured the passage of a resolution calling for a committee to investigate the matter, and obtained the Committee, with himself as chairman. Adams believed that the substitution was made by the Administration in order to favor the claims of the alleged Spanish owners. But his committee discovered that such was not the case. The change was made by John Trenholm, proof reader for the House printers. The proof reader thought that the word was an English word which he could not decipher. Therefore, he substituted the word that he decided most nearly supplied the meaning and resembled the appearance of the illegible word. The translator of the State Department had left the word "Ladino" in the manuscript because he could find no English word that translated it adequately. Thus the falsification was corrected in time so that the documents might be used by the defence before the Supreme Court to show that the negroes besides being illegally introduced into Cuba, were to have been conveyed from port to port under false pretences. But the most telling point, which the discovery of the falsification set forth, was that, since the passports were regularly documented, the illegal traffic in slaves was carried on with the permission of Cuban officials.

Just before the Supreme Court convened an event transpired which had very interesting consequences. Besides giving John

\[\text{(a). The evidence gathered by Mr. Adams and his committee is set forth in House Reports 51 of 26th Cong., 2nd Session.}\]
Q. Adams an additional talking point in his argument before the Court; it further served to inflame public opinion. I have reference to the semi-official and, later, official statement of the viewpoint of the British Government with regard to the Amistad Case. The Glasgow Emancipation Society had written to Downing Street asking that the British Government interpose in behalf of the negroes. The answer from the London office dictated by W. Fox Strangeways in some curious way was circulated in American papers. That reply stated the British Minister in Washington had been instructed to interpose his good offices in order that the negroes might be freed; and the charge d'affaires at Madrid had been instructed to demand that the Spanish Government issue strict orders to the Cuban authorities that if the request of the Spanish Minister in Washington be complied with that the negroes be given their liberty. The Spanish Government was to be further urged to cause the laws against the slave trade to be enforced against Ruiz and Montez and against all other Spanish Subjects concerned in the transaction. When the existence of this order became known the American papers immediately resented it as British interference. The National Intelligencer hoped however that "those who have the subject in charge will endeavor to rise above the feelings which such an interference is fitted to engender. It is, in fact, only a movement of the abolitionists in this country of whom the British Government appears to have been made the catspaw."

(a). National Intelligencer, Feb.27, 1840; Niles Register 57,417
(b). National Intelligencer, Feb.27, 1840.
The publication of this British communication also occasioned an impassioned outburst on the part of John C. Calhoun. His letter was published Jan. 9, 1841 on the very day that the Supreme Court convened. Small wonder that it has been considered an attempt to influence the opinion of the Court! Mr. Calhoun wrote, "Yes, Strangeways, indeed, if it might be permitted on so great an occasion to allude to a name. Strangeways—making millions of slaves in one hemisphere (referring to the dumping of opium into China by Great Britain), forcing by fire and sword the poisonous product of their labor on an old and civilized people; while, in another, interposing in a flood of sympathy in behalf of a band of barbarous slaves, with hands imbrued with blood! I trust such officious intermeddling will be met as it deserves.--- Has it come to this, that we can not touch a subject connected with an African, without the interference of another government; at the solicitation of a foreign society, instigated, no doubt, by a foreign faction among ourselves? I mean not a faction of foreigners but our own people, who in their fanatical zeal have lost every feeling belonging to an American, and transferred their allegiance to a foreign power."

That Calhoun's letter expressed the viewpoint of the Administration is demonstrated in the attitude that the State Department took toward British official interposition. About ten days after the appearance of the letter, Mr. Forsyth received (a). Niles Register 58, p.140.
a note from the British Minister in which he stated that the British Government had ascertained the facts of the Amistad Case. He explained that the slaves should be and were free on account of the royal Spanish order issued in compliance with a treaty obligation to Great Britain. The British Government was, therefore, moved by special and peculiar reasons to take an interest in the fate of those unfortunate Africans, who were known to have been illegally and feloniously reduced to slavery by the subjects of Spain. Mr. Fox then called attention to the reciprocal pledge, for the abolition of the Slave Trade, in the Treaty of Ghent. The unfortunate Africans had been thrown into the hands of the U.S. authorities, and it might probably depend on their action whether the negroes gained freedom. It was under these circumstances that the British Government anxiously hoped that the President of the U.S. would find himself empowered to take such measures in behalf of the aforesaid Africans as should secure to them the possession of their liberty, to which, without doubt, they were by law entitled.

Under the President's direction, Mr. Forsyth penned a very curt reply to this gracious note. He asserted that the statements of the British Minister gave satisfactory evidence that he was aware that the introduction of the negroes into the U.S. did not proceed from the wished or directions of the United States Government. He further stated that the subject was in discussion by the Supreme Court and no decision had yet been

rendered. The Executive had neither power nor disposition to control the proceedings of the legal tribunals when acting within their appropriate jurisdiction. The other facts stated by Mr. Fox were not admitted by the Spanish Minister. If the facts were established, they could not be without their force in the proper time and place. If the delivery of the negroes to the Spanish Government should be the order it is the intention to restore them to Cuba where the questions arising under the Spanish laws and treaties may be appropriately discussed and decided; and when a full opportunity will be presented to the British Government to appeal to the treaty stipulations applicable to the subject of the note.

When the United States appealed the case from the decision of the Circuit Court, Mr. Gilpin, United States Attorney General was appointed to plead the case for the appellants. Roger S. Baldwin of Connecticut was retained as counsel for the negroes and John Quincy Adams was secured as assistant counsel for the defence. Mr. Adams records in his diary that Mr. Loring of Boston and Mr. Lewis Tappan of New York called on him (October 27, 1840) and asked him to assume, as assistant counsel to Mr. Baldwin of Connecticut the defence of the Africans captured in the Amistad. Adams finally promised to undertake the task.

On November 17, Adams and Baldwin met to prepare their argument in the case. That Adams was much impressed with the case.

we find ample proof in his diary. At one place he writes that he has been studying the case "with deep anguish of heart and painful search of means to defeat the abominable conspiracy, Executive and Judicial, of this Government, against the lives of those wretched men." And a little further on-"How shall it be possible for me to comment upon the case with becoming temper------? Of all the dangers before me, that of losing my self-possession is the most formidable.

Certain depositions left by the Circuit Court were examined in the Supreme Court. The first concerned evidence set forth by Richard Madden, a British Subject who had resided in Cuba for three years in an official capacity: He had been Superintendent of Liberated Africans and had served on the mixed commission in Cuba provided for by Anglo-Spanish Treaty of 1817. Mr. Madden stated: "I have seen the Amistad Africans, have examined them and observed their language and appearance and manners; I have no doubt of their very recently having been brought from Africa.-----No law exists, or has existed since 1820, that sanctions the introduction of negroes into Cuba for the purpose of being held in slavery.---Slaves (ladinos) must have been imported before 1820. Therefore, the passports for the Amistad negroes were evidently a fraud.---Unfortunately, there is no interference on the part of the local authorities; they connive at it and collude with the slave traders—the governor alone, at Havana, receiving a bounty or impost on each negro thus illegally introduced of ten dollars a head. The

The mixed commission, once the negroes are clandestinely introduced or landed, no longer have cognizance of the violation of the treaty. The head money is called a voluntary contribution because it has not the sanction of any Spanish law for its imposition."

The second deposition was a statement made before Mr. Halabird, United States Attorney for the District of Connecticut, by the Spanish Consul A.G. Vega (January 10, 1840). The Consul had resided in Cuba and therefore knew the laws. He stated, "No law is considered in force in Cuba that prohibits bringing in of African Slaves; the court of Mixed Commission has no jurisdiction except in cases of capture on the seas; newly imported Africans are constantly brought into the Island and held by their owners and recognized as lawful property; slavery is recognized in Cuba by all laws and the native language of the slaves is kept up on some plantations for years.---- The papers of the Amistad are genuine; it is not necessary to practise fraud to obtain them." The statement of James Ray, a mariner on the Brig, Washington, describing the circumstances of taking possession of the Amistad and the Africans supported the allegations in the several libels in all essential circumstances. A certain Sullivan Haley, stated in his deposition that he had heard Ruiz say, "None of the negroes can speak Spanish; they are just from Africa." James Coney, the interpreter concluded that the negroes were just from Africa. The testimony of Cinque and the negroes of the Amistad supported the statements
in their answers. These depositions were taken into consideration in the arguments set forth by the counsel for both sides of the case.

Mr. Gilpin, on February 20, 1841, opened the argument in the case before the Supreme Court by reviewing events from the time the Amistad left Cuba until the appeal was carried to the Supreme Court. He stated that the Spanish Minister demanded that the vessel, cargo and negroes be restored in accordance with article IX of the treaty of 1795. Mr. Gilpin concluded that the only inquiried presenting themselves were:

1. Has "due and sufficient proof concerning the property thereof" been made?
2. If so, have the U.S. a right to interpose in the manner they have done, to obtain its restoration to the Spanish owners? If these inquiries result in the affirmative, then the decree of the Circuit Court was erroneous and should be reversed.

In answer to the first inquiry, it is submitted that there has been "due and sufficient proof concerning the property thereof" to authorize its restoration. Certificates of the Governor-General declare the negroes to be slaves and the property of the Spanish Subjects named—it is within the scope of his authority to declare what is property, and what are the rights of the subjects of Spain within his jurisdiction, in regard to property. Where property on board of a vessel is bro-

(a). U.S. Sup.Court Reports-Peters 15,p.533ff for all the depositions mentioned.
(b). The quotation is taken from Art.IX of Treaty of 1795.
(c). At this place, Gilpin inserts several decisions of the court in order to prove his contention.
ought into a foreign port, the documentary evidence, whether it be a judicial decree, or the ship's papers, accompanied by possession, is the best evidence of ownership, and that to which courts of justice invariably look. To prove this point, a great number of cases were cited wherein the courts have refused to receive further testimony than Ships Papers. The practice of International law was then brought to bear on the case by a statement that such law declares that when a vessel puts into port by reason of distress or any similar cause, she is not to be judged by Municipal law.

The question is then asked whether or not there is any difference between property in slaves and other property. Slaves existed as property at the time of the making of the treaty in perhaps every nation of the globe and they still exist as such in Spain and the U.S. If then the same law exists in regard to property in slaves as in other things; and if documentary evidence, from the highest authority of the country where property belonged, accompanied with possession, is produced, it follows that the title to the ownership of this property is as complete as is required by law. But it is said that this evidence is insufficient because it is in point of fact fraudulent and untrue. The ground of this assertion is that the slaves were not property in Cuba at the time of the date of the document signed by the Governor-General, because they had been lately introduced into that Island from Africa, and persons so (a). Gilpin cites several court decisions which regard negro slaves as property.

(a). Gilpin cites several court decisions which regard negro slaves as property.
introduced were free. To this it is answered that if it were so—(1). This court will not look beyond the authentic evidence under the official signature of the Governor-General; (2). That if it would, there is not such evidence as this court can regard as sufficient to overthrow the positive statement of that document; (3). That, if the evidence were deemed sufficient to show the recent introduction of the negroes, it does not establish that they were free at the date of the certificate.

In answer to the second inquiry, it is answered that the United States intervened to obtain the decree of the Court for the restoration of the property, in order that it might be delivered to the Spanish owners according to the stipulations of the treaty:—because property of foreigners thus brought under the cognizance of the United States is, of right, deliverable to the public functionaries of the government to which such foreigners belong; because—those functionaries have required the interposition of the United States in their behalf; and, because—the United States were authorized on that request to interpose, pursuant to their treaty obligations. It is, therefore, equally clear that the U.S. have, in this instance, pursued the course required by the law of Nations; and, if the court are satisfied on the first point, that "there is due and sufficient proof concerning the property thereof," then it ought to be restored to the Spanish owners. If this be so, the court below has erred, because it has not decreed any part of (a). Mr. Gilpin cites further court decisions to prove his statements.
the property to be delivered "entire" except the boy, Antonio. From the vessel and cargo it has deduced the salvage, diminishing them by that amount, and the negroes it has entirely refused to direct to be delivered. 

The Attorney General finished his argument on Monday, Feb., 22 and Roger S. Baldwin began his statement for the defence on the same day. After paying his respects to the court, he declared the case to be of world interest, because it presents, for the first time the question whether the government, which was established for the formation of justice, which was founded on the great principles of the Revolution, as proclaimed in the Declaration of Independence, can, consistently with the genius of our institutions become a party to proceedings for the enslavement of human beings cast upon our shores, and found in the condition of freemen within the territorial limits of a Free and Sovereign State." Mr. Baldwin then made a motion to dismiss the appeal on the ground that the U.S. had no right to become a party to the proceedings against the African as property, in the District Court, or to appeal from its decree. In support of this statement of reason for the motion he declared that it was an unauthorized interference of the Executive with the appropriate duties of the judiciary; that, even if the government of the United States could appear in any case as the representative of foreigners claiming property in the

(a). The foregoing summary of Mr. Gilpin's argument is derived from the U.S. Supreme Court Reports, Peters 15. 
(b). Exact quotation from Baldwin's speech.
Court of Admiralty it has no right to appear in their behalf to aid them in the recovery of fugitive slaves; that no Admiralty Court of the United States is competent to recognize as property the recent victims of the African slave trade; nor can the courts of the U.S. for such a purpose give extra territorial force to the municipal laws of a foreign State.

Mr. Baldwin then continues—The recently imported Africans, if they ever were slaves, which is denied, were in actual condition of freemen when they came within the jurisdiction limits of the State of New York. The government of the United States has no right to give extra territorial force to a foreign slave law. The obligation to surrender has not previously been deemed to exist unless provided for by treaty. It is then explained that Spain has demanded the negroes as slaves (property), themselves the recent victims of piracy and they the pirates. Mr. Baldwin asks how the negroes can at the same time be pirates and robbers and merchandise. When Lieutenant Gedney found the negroes they were free men. Therefore, the burden of proof rests on those who assert them to be slaves. To prove that the Africans were domiciled in Cuba and subject to its laws. It is further necessary to prove that some law existed whereby recently imported negroes could be held in slavery:

(a). The report in Peters 15 does not include the argument in favor of the motion to dismiss the appeal because no decision was given by the Court on the motion. The statement is taken from Mr. Baldwin's "Argument in the Amistad Case."
Baldwin assumes the burden of proof and reads the Spanish laws and the Anglo-Spanish treaty prohibiting the slave trade, in order to show that no laws existed to make the negroes slaves in Cuba; but rather to the contrary. The only evidence to prove the negroes, slaves is found in the papers of the Amistad calling them Ladinos. The argument further states that it is perfectly permissible to go behind the ship's papers because the Court had decided in the case of the Arredondo that obvious fraud made such an act valid. And there was fraud in this case because the Governor General violated the Ordinance of his kingdom in granting the permits to the Spaniards. Ruiz, at least, was concerned in illegal transportation of the negroes who were falsely represented to be passengers of the government for the purpose of evading British cruisers and for the purpose of legalizing the transfer of victims to the place of their ultimate destination. The defense of the negroes is concluded with the statement that "it is remarkable that though more than a year has elapsed since the decree in the District Court denying the title of Ruiz and Montez and pronouncing the Africans free, not a particle of evidence has been produced in support of their claims. And yet, strange as it may seem, during all this time, not only the sympathies of the Spanish Minister, but the powerful aid of our own government has been enlisted in their behalf." Mr. Baldwin then yielded the floor to John Quincy Adams whom he hoped would "vindicate the Honor of Our Country and the claims of humanity and justice."
Adams began his presentation before the Court on February 24th. He was unable to finish it until March 1, because the Court adjourned from February 25 until that day on account of the sudden death of Justice Barbour on the morning of the twenty fifth. In his argument, Adams undertook to prove that the negroes had been wronged by the course pursued by the executive. In order to demonstrate the validity of his charge, he made, before the Court, a minute examination of all the correspondence between the State Department and the Spanish Minister relative to the case. The point that Baldwin had made is further emphasized, viz. that the negroes could not have been pirates and robbers and at the same time, the merchandise rescued from the hands of those pirates and robbers. Therefore the Amistad Case was not a casus faederis. He further declared that Lieutenant Gedney had no right to take over the ship since it was flying no flag and was in the possession of free men. Another contention is that the decree ordering the delivery of Antonio to the Spanish Consul was not based on sound fact.

The Secretary of State was severely criticized for not immediately making clear to the Spanish Minister that his claims were not only inadmissible but offensive—they demanded what the executive could not do under the Constitution. Mr. Adams contrasts the gracious replies of the State Department to the preposterous demands of the Spanish Minister with the curt and almost unfriendly reply which Mr. Forsyth gave to the perfectly justifiable British request. Adams further holds
that the constitution of the United States does not recognize slaves as property, but as persons held to labor or service in a State, under the laws thereof. The executive orders to (a) Mr. Halabird and to the Secretary of the Navy are examined and criticised. Adams, in the next place complains that a paper purporting to be a review of the Amistad Case appeared in publication with official sanction on the very day of the meeting of the court. He charges that this "inflammatory" paper was issued for the purpose of arousing the passions of the South against the negroes. In the last instance, Adams carefully examines the Spanish passports found on board the schooner and demonstrated their fraudulent nature.

In a letter of March 17, 1841 to Messers Jacelyn, Leavitt and Lewis Tappan, Adams enumerated the questions, which his argument raised, that were passed over by the Supreme Court without any attempt at settlement. In order that we may understand fully that the Supreme Court did not base its opinion on the statement of Adams, the questions that he says were not considered, follow. (1). The Right of visitation or search by Lieutenant Gedney upon the High Seas over a Foreign vessel in time of peace. (2). By what right be seized the freemen in New York and transported them by sea to Connecticut. (3). Whether or not the Amistad and negroes should have been returned to Africa since they were free when found and the ship was

(b). Orders that the Navy Department have a ship ready at New Haven to carry the negroes to Cuba when a court decision could be obtained.
(c). Adams refers to Calhoun's letter, previously mentioned
(d). The argument of Adams was taken from a report compiled by himself and published independently.
in their possession. (4). Although Ruiz and Montez were prisoners they had the right of Habeas Corpus upon entering the United States. But since Antonio was a slave should he not have been given to the negroes since he was found in their possession. (5). The right of the United States to appeal from the judgment of the lower courts. (6). What would the court have done with an officer of the lower court conspiring to spirit away thirty six prisoners in the judicial authority of the court and ship them off to the public vengeance of the barra­coons of Cuba? (7). Why should not salvage have been allowed for Antonio if allowed for the capture of the schooner and cargo? (8). The Supreme Court gave no decision on the fraudulent passports produced by Ruiz and Montez. (9). The Supreme Court gave no opinion on the neglect of the Secretary of State to contest the claims of the Spanish Minister. (10). The Court also passed over Van Buren's order to have a ship ready at New Haven; and also the inflammatory semi-official publication in the Globe, Jan.7,1841 tending to arouse the passions of the South.

When John Quincy Adams concluded his "Appeal to justice," Mr. Gilpin began his reply. The first part of his answer was devoted to an attempt to justify the action of the U.S. He objected to Mr. Baldwin's designation of the U.S. appeal and support as "executive interference." He further remarked that the fact that the U.S. had no right to interfere was not made a

point of before the District Court; and, therefore it was too late now even if there were anything in his objection. The claim was made that the Executive was bound to take the proper steps for having the treaty executed since that duty devolves upon the executive branch of the government. The Attorney General stated that he could not see that there was any conflict in the demands for the negroes as criminals and as property. The Secretary of State considered the request for the delivery of the negroes as property as perfectly proper and legitimate.

The next point was made in answer to Baldwin's appeal for dismissal of the case. It was stated that the highest tribunal should pronounce upon the facts set forth in this case was all that the executive could ask. Gilpin said that the appeal was in accordance with the laws governing appeals and, therefore, should not be dismissed.

The last argument in reply declares that the decree of the lower courts was erroneous, because, the vessel, cargo and negroes were all property of Spanish Subjects rescued from robbers and brought into a port of the United States, and due proof concerning the property in them was made; and that, therefore, the decree should have been, that they be delivered to the Spanish owners, or to the Spanish Minister for the owners, according to the stipulations of the ninth article of the treaty of 1795 which was renewed in 1819 after the slave trade was abolished but while slave property was held in both countries. The answer further states that if the documents were fraudulently

(a). The Court took no action on the appeal.
obtained by Ruiz and Montez still the fraud should be punished and the error rectified in the courts of Spain rather than in our courts. For this court to say that the acts of the negroes constituted a release from slavery would be to establish for another country municipal regulations in regard to her property; and, not that only, but to establish them directly at variance with our own laws in analogous cases. If the negroes were free, it was because they were not slaves when placed on board the Amistad, not because of the acts there committed by them. Therefore, the decision of the lower courts should be reversed.

Mr. Gilpin, concluded his reply on Tuesday, March 2. On the following Tuesday, March 9, Justice Story delivered the opinion of the Court, Justice Baldwin alone dissenting, and rendered the decision. A digest of the opinion follows. The "actual posture of the case as it now stands" is that the U.S. is intervening for the sole purpose of procuring the restitution of property as Spanish property pursuant to the treaty, upon grounds stated by other parties claiming the property in their respective libels. The Parties before the court on the other side as appellees are Lieut. Gedney, his libel for salvage, and the negroes asserting themselves in their answer, not to be slaves, but free native Africans, kidnapped in their own country, and illegally transported by force from that country and now entitled to maintain their freedom.

To bring the case within the 9th article of the Treaty of (a). Mr. Gilpin's reply is taken from United States Supreme Court Reports, Peters 15.
1795 it is essential to establish, first, that these negroes, under all circumstances fall within the description of merchandise, in the sense of the treaty; second, that there has been a rescue of them on the high seas out of the hands of pirates and robbers; which, in the present case, can only be by showing that they themselves are pirates and robbers; and, third, that Ruiz and Montez are the asserted proprietors, and have established their title by competent proof. If these negroes were, at the time, lawfully held as slaves under those laws as property capable of being lawfully bought and sold, we see no reason why they may not justly be deemed within the intent of the treaty to be included under the denomination of merchandise and, as sure, ought to be restored to the claimants; for, upon that point the laws of Spain would seem to furnish the proper rule of interpretation.

But, admitting this, it is clear in our opinion, that neither of the other essential facts and requisites has been established in proof; and the onus probandi of both lies upon the claimants to give rise to the casus foederis. It is plain beyond controversy if we examine the evidence that these negroes never were the lawful slaves of Ruiz and Montez or of any other Spanish Subject. Although, the public documents of the government accompanying the property found on board of a private ship of a foreign nation certainly are deemed to be prima facie evidence of the facts which, they purport to state, yet they are always open to be impugned for fraud; and whether that fraud be in the
original document, or in the subsequent fraudulent and illegal use of them, where once it is satisfactorily established, it overthrows all their sanctity and destroys them as proof. Fraud will vitiate any, even the most solemn transactions, and an asserted title to property, founded upon it, is utterly void.

The treaty with Spain never could have intended to take away the equal rights of all foreigners who should contest their claims before any of our courts of equal justice; or to deprive such foreigners of the protection given them by other treaties, or by the general law of nations upon the merits of the case, then there does not seem to be any ground for doubt that these negroes ought to be deemed free; and that the Spanish Treaty interposes no obstacles to the just asserting of their rights.

There is no ground to assert that the case comes within the purview of the act of 1819, or of any other of our prohibiting slave trade acts (those requiring negroes to be returned to Africa). In this view of the matter, that part of the decree of the District Court is unmaintainable, and must be reversed. We dismiss the point of whether or not the United States had a right to intervene. As to the claim of Lt. Gedney for the salvage service, it is understood that the U.S. do not now desire to interpose any obstacle to the allowance of it, if it is deemed reasonable by the court. It was a highly meritorious and useful service to the proprietors of the ship and cargo; and, such as, by the general principles of maritime law, is always
deemed a just foundation for salvage.

Upon the whole, our opinion is that the decree of the Circuit Court, affirming that of the District Court, ought to be affirmed, except so far as it directs the negroes to be delivered to the President, to be transported to Africa, in pursuance of the Act of the 3rd of March, 1819; and, as to this it ought to be reversed; and that the said negroes be declared to be free, and be dismissed from the custody of this court, and go without delay. And thus the judicial struggle was ended. However, there immediately began a long series of attempts on the part of Spain to secure indemnification for the court decisions.

Soon after the opinion of the court was delivered, the negroes of the Amistad left New Haven for Farmington, Connecticut where they were to be placed on the farm of a certain Mr. Williams until they could take care of themselves. Antonio, the slave of Captain Ferrer, who according to the decree of the court was to have been delivered up to the Spanish authorities, suddenly disappeared from New Haven, about April 1, 1841. It was later discovered that he was in the hands of the anti-slavery party in New York.

\[(a). U.S. Supreme Court Reports, Peters 15.\]
\[(b). Niles Register 60-p.64.\]
\[(c). Ibid.p.96.\]
\[(d). 27 Congress, 3rd Session, House Doc.,191.\]
Chapter V.

Diplomacy and Legislation.

The opinion of the Supreme Court as delivered by Justice Story had scarcely been delivered when the Spanish Minister renewed his correspondence with the American Secretary of State. Judge Story's opinion was a surprise to everyone. The Administration confidently expected that, due to its influence, the Supreme Court would reverse the opinion of the lower courts. That Mr. Forsyth expected such a decision can be proved by examining his reply to Mr. Fox, the British Minister to the United States. Mr. Fox was told, in no uncertain terms that if the court determined that the negroes be delivered to the Spanish Government, it was the intention of the United States to carry out its instructions. That statement surely implied that such would probably be the outcome of the case. The Spanish Minister, Chevalier de Argaiz was more than surprised when the opinion of the Circuit Court was affirmed. He had ceased to make demands upon the United States and hopefully awaited a favorable decision. However, that decision was not forthcoming. The fact that Adams continually states in his Diary that a conspiracy of the Executive and Judiciary against the negroes had been formed leads one to believe that he did not fully expect that he and Mr. Baldwin would win their case.

Mr. Argaiz took occasion to enter his first protest with the United States Government when Antonio, whom the Court de-
creed should be delivered to the representatives of the Span­
ish Government, disappeared. On April the 5th 1841 the Gover­
ment of the United States is asked to help insure the safe ar­
ival of Antonio at the Island of Cuba. Not having received any answer he wrote again on April 11, to explain that the Mar­
shal of Connecticut had informed him that Antonio was in the hands of the abolitionists in New York. Again the assistance of the United States in procuring his return is requested. Flet­
cher Webster, the acting Secretary of State replied that the government was endeavoring to locate and retrieve possession of António.

On May 29 Argaiz wrote a third note to Daniel Webster who had replaced Mr. Forsyth as Secretary of State. In this commu­
unication he stated that he did not believe that articles 6, 8, and 10 of the treaty of 1795 had been carried into effect in the affair of the Amistad. Therefore, he demanded (1) indemnifi­
cation for the vessel; (2) Indemnification for her cargo in­
cluding the negroes found on board; (3) Indemnification for the losses and injured suffered by or inflicted upon Ruiz and Montez during their unjust imprisonment; (4) the assurance that the course given to this affair shall never serve as a preced­ent in analogous cases that may occur. Mr. Webster replied that both he and the Executive had hoped that the Supreme Court de­cision would settle the question satisfactorily to all. He could not see any treaty stipulations had been violated. An examin­ation of the facts showed that the Spanish Subjects were not en­titled to either the negroes on the ship; therefore, no indem­nification for the negroes on the ship; therefore, no indem­(a),(b). Diplomatic correspondence 27 Cong, 3 Session H. doc. 191.
ity was due. Even if Ruiz and Montez had been wronged the courts of the United States were open to all in which everyone was privileged to demand his rights. Mr. Webster hopes that no event will make a similar occurrence possible; but that the United States Government will always endeavor to discharge honorably its just obligations.

Such a reply could scarcely have failed to please even so stern a critic as Mr. Adams. In fact Adams states in his Diary that when Webster asked for information before answering the Spanish demands he advised him "not on this occasion to truckle to Spain." It is impossible to refrain from remarking in this connection that such a reply as the one just summarized, if delivered one or two years earlier would have convinced the Spanish Minister of the impossibility of having his demands granted and would have saved considerable difficulty both for future Secretaries of State and for Congress.

As Webster no doubt foresaw, Argaiz was not satisfied with his reply. Again on September 24, 1841 the Spanish Minister renewed his demands. He claimed that no courts "should assume the faculty of pronouncing judicially upon acts committed within the jurisdiction of another." He further charged that in order to prove the statement that neither the Amistad nor the negroes legally belonged to the Spaniards, the counsel for the negroes had exercised the right of search which had been denied from the beginning of American history. For these reasons and

on account of the treaty stipulations, Argaiz once more demanded indemnity. Webster did not reply until June, 1842. At that time he made a very patient endeavor to restate the case and explain the impossibility of acceding to any demands from Spain. He quoted from International law documents to prove his point. He also argued that the U.S. had carried the "principle of acquiscence as far as any nation upon earth, and in respect to the decision of Spanish tribunals quite as frequently, perhaps as in respect to the tribunals of any other nation. Mr. Webster closed his communication by expressing the hope that Argaiz would see that "this Government had violated none of its obligations to Spain, or done injustice, in any manner to any Spanish Subject."

On February 27, 1843, President Tyler transmitted to the House the correspondence that had just been received. In communicating this material Tyler remarked that, "It is left to Congress to consider, under these circumstances, whether, although in strictness salvage may have been lawfully due, it might not yet be wise to make provisions to refund it, as a proof of the entire good faith of the government and its disposition to fulfill all its treaty stipulations to their full extent under a fair and liberal construction." Notwithstanding this recommendation from the President, Congress took no action on the matter until further correspondence was communicated.

(a) 27 Cong., 3rd Session, House Doc.191.
(b) Richardson, Messages and Papers of the Presidents, v.4, p.639
ated in January, 1844. This report contained a letter and certain other communications from Argaiz.

In spite of the Supreme Court decision Argaiz continued to urge the claim, which he thought he had, under the treaty provisions of 1795. He quoted the opinion of Attorney General Grundy and of Mr. Halabird to support his claims. He then presented a detailed list of the valued of the Amistad, with sworn statements to prove the validity of his presentation, and claimed indemnity amounting to $75,000. He concluded his report by stating that if the United States Government should refuse to grant this indemnity to her National dignity, can not consent that while she discharges with religious scrupulousness the obligations she has contracted with the United States, they should disregard those which are imposed upon them by the stipulations of treaties; and that in consequence of this consideration, the Government of Spain con not deny to the subjects of her majesty the protection which they have the right to require from it".---"As it can not permit the property of these subjects to remain longer abandoned, it will consider the answer of the Secretary of State as conclusive and decisive of the matter."

Congress could no longer ignore the peremptory demands of the Spanish Minister. Since it was very, necessary that some action be taken the matter was referred to the House Committee

(a). 28 Congress, 1 Session, House Executive.Doc.83.
(b). See ante p.
(c). Ante p.
on Foreign Affairs. On April 10, 1844 Mr. Ingersoll the chairman of the committee returned the report of the committee. This report concurred with the intimation of the President that, as proof of the good faith of the government, the United States should pay the indemnity asked by Spain. Mr. Ingersoll's report agrees in practically every particular with the demands made by Spain. In one instance we find the remark, "Your committee, after repeated consultation of the record of this extraordinary ease, can find no evidence of the facts assumed by the Court." It was believed that the decision of the Court had been influenced by British interposition. Mr. Ingersoll expressed surprise that a descendant of John Adams, a signer of the constitution should take the position which John Quincy Adams assumed. He concluded his report by saying, "When the Federal Courts of Justice err, Congress alone can rectify the error. It is by an act of Congress alone that this debt of National honor to Spain can be paid, as it ought to be, by signal proof to the world that none shall be wronged-not even (a) by judicial authority-without redress in the U.S.

A bill providing for the recommended indemnity accompanied the report. Mr. Giddings of Ohio, one of the irreconcilables in the House at the time, used the discussion of the bill as an opportunity to discuss the evils of the slave trade. Among other remarks, he said that if the requested indemnity were

(b). 28 Congress, 1 Session, House Journal-p.763.
granted "the people of free States would become partakers of a crime against all laws, both human and divine." He declared it was unconstitutional to vote the money requested by Ingersoll in so doing there would be the effect of saying that the Supreme Court had erred in its decision and that the House of Representatives could erect itself into a court for correction of errors committed in the judicial branch of Government. It would be more than dangerous precedent to establish. Mr. Giddings then, in a long speech took up the Report and refuted it point by point. In conclusion he stated that he could not "vote away public money to publish errors of this kind, to be sent forth to mislead the public mind in favor of slave trading. The speech of the gentleman from Ohio had a profound effect upon the House. As a result the bill was lost in the House. The only action taken was to order that the report of committee of Foreign Affairs be printed.

One interesting outgrowth of the Report by Mr. Ingersoll is the note we find in the Memoirs of J.Q. Adams. He writes, "A baser and more profligate misapplication of public money was never made than that proposed by this bill; and seven years in a penitentiary cell would be strictly just retribution for the report------.There is in the report, a long, specious snakish argument against the decisions of the United States courts in the case of the Amistad captures." Mr. Adams prepared the

manuscript, used in his argument before the Supreme Court, for publication as a result of the attempt to grant indemnity to Spain.

On December 4, 1844 Calderon, who had replaced Argaiz as Spanish Minister wrote to Buchanan, as Secretary of State, saying that he considered the meeting of the new Congress an opportune time for urging the settlement of his claims. When he received no answer he allowed the matter to drop until January, 1849. At that time he again pressed for the recognition of his claims. When Buchanan received the second communication he sent them both to the House Committee of Foreign Affairs urging that the claims be recognized and given in full. Mr. Ingersoll who had continued as chairman of the Committee, on June 24, 1846, merely repeated his report of April 10, 1844. Correspondence between Buchanan and Calderon continued during 1846. It is characteristic of this correspondence that Buchanan, rather than Webster "not to truckle to Spain."

When consideration of Mr. Ingersoll's report came up in the House in March, 1847, Mr. Adams made, what is practically his last speech in Congress, in opposition to the report. He said that he did not believe the Secretary of State understood the case or he would not have recommended that the indemnity to Spain be granted. At the time of the case the negroes had not been demanded by the Spanish Minister as slaves but as

(a). 31 Cong., 2 Session, Senate Doc. 29.
assassins and robbers; and were demanded in order that justice might be meted out to them in Spanish Courts. Our Supreme Court had not recognized the demand. The only claim for them as property was put forth by Ruiz and Montez, which claim the Supreme Court did not recognize. Therefore, the Spanish demand for indemnity was a perversion of the whole subject. Adams asked Congress not to make the appropriation because it would be inconsistent with the Supreme Court findings in 1841. The yeas and nays were then taken on the appropriation. The measure was defeated by a vote of 95-28.

In spite of the action taken by the House, Calderon continued to urge his demands during the summer of 1847. Consequently, in his third annual Message of December 7, 1847, President Polk recommended to Congress that "an appropriation be made to be paid to the Spanish Government for the purpose of distribution among the claimants in Amistad Case. I entertain the conviction that this is due to Spain under the treaty of 1795; and, moreover, that from the earnest matter in which the claim continues to be urged so long as it shall remain unsettled it will be a source of irritation and discord between the two countries, which may prove highly prejudicial to the interests of the United States. Good policy, no less than a faithful compliance with our treaty obligations required that the inconsiderable appropriation demands be made." Mr. Polk's recommendation was first taken up in the Senate on August 3, (b). Richardson, Messages and Papers of the Presidents, Vol.4, page 551. (a). Niles Register, 72-p.5.
1848. The committee of Finance reported an amendment to be attached to the Civil and Diplomatic appropriations bill, providing for the appropriation of $50,000 for the extinguishment and adjustment of the claims of the Spanish Government against the United States in the Amistad Case. A debate ensued in which Messrs Baldwin, Johnson of Maryland, and Hale argued against the amendment; while Badger and Butler argued for it. The amendment was finally agreed to by a vote of 28-16.

The subject was taken up in the House on August 8, the House being in the Committee of the Whole on the State of the Union. Mr. Rockwell of Connecticut argued violently against the amendment as passed by the Senate. He held that the judicial decision had settled the question so as to make any appropriation for indemnity impossible. Any such appropriation would have the effect of discrediting the Judiciary. After this argument had had a telling effect when presented by Mr. Giddings, all the other men in disapproving of the indemnity appropriations reiterated it. When Mr. Rockwell declared that proof showed that Ruiz and Montez were never entitled to the possession of the negroes, Mr. Ingersoll took issue with him. Whereupon a heated and personal debate followed. Mr. Rockwell charged that the course of the President in recommending indemnity was "audacious and insulting." The committee of the Whole could not agree upon any recommendation to the House. However, when the House returned into regular session they struck out the indemnity amendment from the Senate appropriation bill, allowing the

matter to go over until a later session of Congress should take it up again.

This congressional action was a very bitter disappointment to Calderon who had been lead by Buchanan to believe that his demands would be favorably considered. Therefore, it is not a matter of very great surprise that on August 22, within two weeks after the contemplated action failed, he was again in communication with Mr. Buchanan. Mr. Calderon declared that the right in which the claim was founded "is considered, and will continue to be considered as subsisting full and entire, and in noway whatsoever invalidated." He renewed his demand for indemnity and insisted that "this claim is in fact, for Spain, the balance of a liquidated account, the payment of which is temporarily deferred." One is almost tempted to admire a man who could with such cool persistence ignore the judicial and legislative proceedings of the United States Government and continue, undauntedly, to press his claims. Small wonder that Congressmen thought his views were founded in truth and made an endeavor to have them respected!

The State Department had become weary of answering the claims and did not make a reply to this demand. The next year, Clayton replaced Buchanan as Secretary of State. Calderon accepted this cabinet change as the opportune time for reopening his Amistad claims. Once more no answer was presented to the

(b). Senate Document 29 of 31 Congress, 2 Session.
Spanish Government. When Webster again became Secretary of State in 1850, Calderon turned his attention to him. In his note of August 14 of that year Calderon asserted that Clayton had formed a favorable opinion of the claim and had "only delayed sending it to Congress with recommendations of the lamented General Taylor, in consequence of discussions, which, this year, have almost exclusively occupied the attention of the National legislature." Calderon had the foresight and delicate appreciation of a situation that makes a man a Statesman. He realized that Congress, while it was working out the Compromise of 1850 would have no time to give to his demands and would merely be antagonised if they were pressed. In the same note of August 14 Calderon "feels persuaded that the sagacity and uprightness of the honorable Secretary of State" would suggest the means for settling the claims. Perhaps the Spanish Minister thought a subtle tribute to Webster's ability would bring result. But he was again disappointed. Not in the least abashed by his failures he renewed his claim on January 8, 1851. In that note he suggested that "as the justice of his claim had been repeatedly acknowledged by several Presidents of the United States," he hoped that the matter would be settled during that session of Congress.

On account of this persistent correspondence various Senators determined that an inquiry, at least, should be made into the propriety of granting the demands. Therefore, on January (a). Senate Document 29, 31 Congress, 2 Session.
30, 1851 Mr. Mason, chairman of the Senate Committee on Foreign Relations submitted a resolution providing "that the Committee on Foreign Relations be instructed to inquire into the propriety of providing by law,-----for the payment of claims arising to certain Spanish claimants in the Amistad case." (a)

The next day the Senate proceeded to a consideration of the Subject. Mr. Chase of Ohio outlined the Spanish laws and treaties (1817,1820,1835)prohibiting the slave trade and thus proving the negroes free. He then reviewed the History of the case and brought to the attention of the Senate the discussion that would necessarily arise from an investigation of the subject. (b)

Mr. Hale of New Hampshire next took the floor and suggested that, as the slavery question had been settled by compromise, it was inexpedient to revive it by such a Resolution. He also expressed his absolute disapproval of any attempt to grant indemnity to Spain. Mr. Hale then went on to a discussion of the Compromise of 1850. It is a significant fact that all those Senators who opposed the payment of indemnity were representatives of Northern States.

After Mr. Hale had finished his tirade, Mr. Clay of Kentucky asserted that inquiry should be made out of respect to Polk who had recommended the indemnity. He also accused Hale of attempting to reagitate the country on a question already settled by the Compromise. Very bitter and personal remarks were

(c). Ibid.pp.401-402.
exchanged between the two Senators until they were restrained (a) by the President of the Senate. After further discussion by various Senators during which time it was clearly set forth that since the Resolution submitted by Mr. Mason was merely one of simple inquiry and hence should not be rejected, the Resolution was agreed to. As soon as this measure was taken, Mr. Hale offered a Resolution providing for a call upon the President for all the correspondence which had taken place between the Government of Spain and the Government of the United States touching the Amistad Case. The resolution was agreed to and the correspondence was communicated to the Senate by President Fillmore on February 12. (b)

In accordance with the Resolution that Mr. Mason had secured in the Senate, the Foreign Relations Committee of the Senate submitted a report on February 19, 1851. The report held that the treaty stipulations had been violated by not turning the ship over to the Spanish Subjects as soon as it was brought into port. It also asserted that in treaty relations the Judiciary should be subordinated to the Executive and Legislative departments in order to preserve the harmony of relations between Foreign Nations. In the light of these findings a bill, which provided for the payment of the $50,000 indemnity, was attached to the report. The bill passed to a second reading but was not considered again during that Session of Congress. (c) (d)

Mr. Mason was not to be thwarted in his attempt to secure the appropriation of the demanded indemnity. In the next year, on March 9, 1852, he submitted to the Senate another Resolution practically identical in form with the one of the previous year. The Resolution was agreed to and a report with a bill attached, both of which were identical with the ones of February 19, 1851, were submitted to the Senate, March 29, 1851.

The report was ordered to be printed and the bill was read and passed to a second reading. After considerable controversy Mason, succeeded in making the bill the special order for April 26. But when that day came the bill was allowed to lie over on the motion of Mr. Chase. It came up again in July. But when Mr. Seward intimated a wish to debate it it was passed over and was not considered again in that session.

During Mason's second attempt to get the matter before the Senate Calderon wrote to Webster to use his influence to secure the passage of the pending project of law. After the bill failed in the Senate Calderon wrote again stating that the queen wanted the matter brought to a speedy issue. He also called attention to the difficulties that might arise between the two nations if some "energetic voice were to be raised in the Spanish Parliament to denounce the unaccountable delay to which the claim has been subjected, notwithstanding that its justice has been recognized." All of Calderon's attempts to gain his ends

(b). Ibid. p. 902; also 32 Cong.-1Sess., Senate Report 158; Senate Journal for 32 Cong.-1Session, p. 315.
by praise of the United States Government and the ability of Webster having availed nothing, we find him turning to the use of veiled threats. Webster refused to make any reply. However, when he was replaced as Secretary of State by Mr. Everett, Calderon wrote to the new Secretary of State on January 6, 1853 mentioning the fact that four of his notes to Mr. Webster had not been answered and stating that recent instructions from Madrid had demanded an immediate settlement.

Mr. Everett submitted the communication, from the Spanish Minister, to the President, Mr. Fillmore, who immediately transmitted the communications to the Senate and the House and accompanied the correspondence with a statement by the President himself. He said that, "Respect to the Spanish Government demands that its urgent representation should be candidly and impartially weighed. If Congress should be of the opinion that the claim is just, every consideration points the propriety of its prompt recognition and payment, and if the two Houses should come to the opposite conclusion it is equally desirable that the result should be announced without unnecessary delay." Once again the Chief Executive of the United States was recommending that the Judicial opinion be overthrown and the demanded indemnity be granted.

After the communication to Congress of the correspondence between the Spanish Minister and the State Department, an attempt was made in the Senate to revive the Mason Bill. But upon motion of Mr. Chase it was allowed to lie over.

In his first annual message to Congress on December 5, 1853, President Pierce expressed regret that the indemnity to Spain for the claims in the Amistad case had received no final action by Congress. He further added, "I conceive that good faith required its prompt adjustment, and I present it to your early and favorable consideration." In this expression we have one more link in the chain of Presidential interposition that followed the precedent established by Van Buren at the very beginning of the case, in 1839.

The logical step which followed the Presidential recommendation was its consideration of it in Congress. Consequently, when the House had resolved itself into a committee of the whole on the State of Union, the question of the reference of the President's message to appropriate committees was discussed. On December 21, Mr. Giddings of Ohio arose to address the House. He declared that in order to make the desired appropriation, it would be necessary to reverse the decision of the courts and to prove that the Africans were not freemen. The President was reminded that Congress had refused six years before to make the appropriation—thus final action was taken. The executive could not conceive that any action would be final which did not make provision for the appropriation. Therefore, he was asking Congress not only to reverse the Judicial decision but also an earlier decision of its own body. Mr. Giddings charged that those who favored the claims were "actuated by that...

(a). Richardson, Messages and Papers of the Presidents, Vol.5, p. 209.
desire of man which has ever prompted men in power to seek self aggrandizement by degrading their fellow men. This remark and the closing eloquence of the speech show that the abolitionist members of Congress were always highly pleased to have an issue arise which might give them the opportunity to denounce slavery. One is lead to believe that they were not so much concerned about whether or not the $50,000 were appropriated as they were that Congressmen should be compelled to take a stand on the slavery question. The gentleman from Ohio concluded, "This, Sir is a great issue between the supporters of slavery and the advocates of liberty, and we are as willing to meet that issue on this Amistad case as on any other subject. Principles are uniform and universal and should guide statesmen in all cases. He who holds that all men are created equal, will never deny that these Africans were clothed with all the attributes inherent to our race; he who holds 'that all men are endowed by their Creator with the inalienable right to liberty,' will never vote to pay those Spanish slave dealers for their failure to enslave those to whom God had granted the inestimable boon of freedom; he who holds 'that this government was constituted to secure the right of life, liberty, and happiness' to the people will never vote to prostitute its power to encourage the slave trade to maintain oppression, and dishonor our race."

By these closing remarks, Mr. Giddings unwittingly confirms the

suspicions which have already arisen. The mere welfare of a few native Africans could never have induced a dignified member of Congress to indulge in such flights of oratory had there not been a deeper and more hidden, intrinsic interest in the case.

While the Kansas-Nebraska struggle was engrossing the interest of Congress, no attention was given to the Amistad Case. We find no further mention of it until Buchanan recalled it to mind in his first annual message December 8, 1857. Certain American citizens held claims against the Spanish Government for outrages committed on our flag by a Spanish war frigate off the coast of Cuba in 1855. Spain refused to acknowledge and redress the wrongs until the Amistad claims should be settled. The situation was so unpleasant at Madrid that the American Minister there had asked to be recalled. President Buchanan urged that Congress take some definitive action in the matter so that a new Minister might be sent to Spain with instructions which would lead to an amicable adjustment of all claims between the two Governments. When all attempts to secure indemnity thru the channels of diplomatic correspondence failed, Spain resorted to the ancient method of force to obtain a settlement of her claims. Had American citizens not held claims against the Spanish Government the question would probably never have been reviewed. But as soon as Americans were going to suffer in any

(a). The Spanish war frigate Ferrolona had fired into the American mail steamer El Dorado and had detained her and exercised the right of search.

(b). Richardson, Messages and Papers of the Presidents, V.5, p.445.
way, financially or otherwise, we find that a persistent attempt was made to meet the Spanish demands. We are prone to wonder if the Spanish "outrage" in Cuba were not perpetrated in order to have a real issue upon which to stand in making demands from the United States. Since we have no evidence either way all that we can do is to speculate upon the question.

That part of the President's message which related to the claims of the Spanish Government was referred, in the Senate, to the committee on Foreign Relations. Mr. Mason, February 2, 1858, chairman of that committee, brought back the same report which he had submitted in 1851. The report was accompanied by a bill, to indemnify the master and owners of the Amistad, which was read and passed to a second reading. The report was ordered to be printed. Mr. Seward, of New York, in behalf of himself and Mr. Foot (of Vermont), both of whom were members of the committee, submitted a minority report asserting that the claim in the Amistad Case was not supported by facts and law so as to authorize Congress to make provisions for its payment. The minority report was ordered to be printed with the majority report. Such dissension in the Committee itself should have indicated that an attempt to secure the passage of the bill would be unsuccessful. Nevertheless, the bill came up in the Senate in April. Mr. Foot objected to the bill and it was passed over.

A last attempt was made to secure the appropriation on May 20. But when this endeavor was defeated the bill was allowed to die of its own accord. We have no records to show that it was ever again introduced into the Senate or House of Representatives.

Buchanan, in his second annual message December 6, 1858 asked that an appropriation be made for the purpose of granting the indemnity to Spain. He justified his request by asserting that "an appropriation promptly made for this purpose could not fail to exert a favorable influence on our negotiations with Spain." Congress realizing the futility of any such attempt, took no notice of the recommendation. All during the following year Spain refused to settle the claims of the United States until the Amistad claims should be paid. Therefore we find Buchanan, in his third annual Message, December 19, 1859, true to the Presidential precedent, making another recommendation that the claims of Spain be recognized. Again his statement was taken no notice of by Congress.

The Spanish Government and the United States finally agreed to establish a joint commission for the adjustment of all claims and concluded a convention for that purpose March 5, 1860. The Spanish Government recognized the Cuban claims, amounting to $128,635.54 and agreed to pay $100,000 within three months after the ratification of the convention; the remaining $28,635

---

(b). Richardson, Messages and Papers of the Presidents, V.5, p.511.
was to be deducted as the Amistad Claim. Buchanan transmitted the convention to the Senate on May 3, 1860. On June 27 the Senate determined that they would not "advise and consent to its ratification" on account of the recognition of the claims of the Spanish Government in the Amistad Case.

We find a careful review of this negotiation in Buchanan's last annual Message, December 3, 1860. He closed his remarks on the subject by stating that the Senate proceedings placed our relations with Spain in an awkward and embarrassing position. He claimed that he had done all that he could to bring about an amicable adjustment between the two countries and regretted that the final settlement would have to devolve upon his successor. The Spanish situation was lost sight of in the great struggle, which immediately followed, between the Northern and Southern Sections of our country. Some years after the country had been brought back to peace and order, negotiations with Spain were renewed. In the treaty of February 12, 1871 which grew out of these negotiations and settled all outstanding difficulties conclusively, no mention was made of the Amistad claims. In the eleven years that had elapsed after 1860 the Spanish claimants of indemnification had ceased to press their claims. Both Governments had become weary of the long periods spent in trying to reach an agreeable settlement of difficulties and were anxious that some agreement might be effected.

---

(b). Richardson, Messages and Papers of the Presidents, V.5, pp.
Consequently, no indemnity was ever paid for the losses incurred by Spaniards on account of the judicial proceedings in the Amistad Case.

The propriety of an examination of the case in American Courts might be questioned. But, like the Congressmen of that day, it is better for us to consider the decision of the Supreme Court as final. The whole difficulty between the Spanish and American governments grew out of the fact that it is practically impossible for an autocratic Government to understand the machinery which controls the legislation in a Democracy. A Nation which was accustomed to effecting its desires by royal edicts could scarcely understand the necessary proceedings that must take place in a constitutional form of Government. This problem was made increasingly difficult by the apparent lack of understanding of the case which the Chief Executives of the United States displayed. As is always the case in American Government, politics, which centered in slavery agitation during that period, played a leading hand in the game. In consideration of these facts we must not criticize too severely the claims presented by Spain nor the subsequent action which those claims produced in the United States.
Chapter VI.

Aftermath.

It is a somewhat remarkable fact that the decision in the Amistad case was practically the only Judicial decision that was delivered, favoring the abolition cause, during the Middle Period. The History of the Period, both legislative and judicial, formed one continuous struggle between the pro and anti slavery forces with the anti slavery cause steadily losing ground. Some inexplicable combination of circumstances succeeded in inducing Judge Judson, who had assisted in the prosecution of Prudence Crandall for starting a school for negro (a) women in Connecticut, to start the opinion which culminated in the ultimate freedom of the negroes. Once started in that direction the momentum seemed too great to be brought to a halt by any extraneous force. The attitude that the Administration took at the beginning of the case was almost prophetic of the force that the Presidents, during the succeeding decades, would bring to bear upon related subjects.

That the introduction into the United States of a few harmless negroes, who devoutly wished themselves elsewhere, should occasion extended judicial proceedings, brilliant forensic contests and international difficulties is a fact of considerable interest. The best legal and oratorical ability that the nation afforded was enlisted in the struggle: the Attorney General of (a). New England Magazine, v.22,p.75.
the United States on one side; with Roger Sherman Baldwin, one of the ablest of all New England lawyers and later Governor of Connecticut and John Quincy Adams opposing him. Small wonder that the case was watched with remarkable interest here and abroad. It might be remarked that we can not be very greatly surprised that historians have given Adams credit for winning the Case when the negroes themselves were of that opinion. In token of their appreciation of his efforts in their behalf, the Amistad negroes presented Mr. Adams "with a splendidly bound quarto Bible, with an address in manuscript fronting the title-page signed by Cinque, Kinna, and Kale for the thirty five Africans who survived and were liberated." Adams refused to have the gift conferred with public ceremony.

Before leaving the case it will be well to tell something of the life of the negroes after they were granted their freedom. As has been said before, the negroes were from the Mendi Country of Sierra Leone, Africa. They were kidnapped by other negroes, who were trafficking with Spaniards and Portuguese on the African Coast, and conveyed to Cuba. When they reached the United States they could understand neither English nor Spanish. A Professor Gibbs of Yale undertook to communicate with the negroes while they were awaiting trial at New Haven. He discovered a few of their words and by this means secured from an English ship a negro who understood both English and the Mendi dialect. By means of this interpreter, James Covey, (a). Memoirs of J.Q. Adams, V.11, p.29.
conversation could be carried on between the captives and those interested in their welfare. With the assistance of Covey, Professor Gibbs worked out a Mendian alphabet and began instructing the negroes in the rudiments of learning. A knowledge of the degree of civilization and the habitual life of the Africans of Sierra Leona was obtained in the course of the eighteen and a half months that the judicial investigation consumed.

After the negroes were liberated they were sent to Farmington, Connecticut to the farm of a Mr. Williams, where the educational work was continued. The negroes learned very rapidly. They were also addressed by Ministers and other interested Christians and many were induced to adopt the Christian faith. A meeting was held at the Tabernacle in Farmington on the afternoon of May 29, 1841 at which the Africans were present and in which they took a prominent part. Mr. Lewis Tappan took occasion at the meeting to deny that the abolitionists had used the Amistad case and the attending circumstances to further their own ends. He declared that the purpose of the meeting was to show improvements that had been made by the negroes in two years; to excite interest in a mission to Africa which would probably grow out of the case; and to raise money for the support of the negroes. He also stated that the negroes would probably return to their own country within a year. After Mr. Tappan's talk, the negroes read portions of the Bible and one of the lads and Cinquez made addresses. They also sang
several songs in their native language and appeared highly pleased with the interest they excited.

Later in the year those who had charge of the crew of the Amistad, appealed to the public to lend financial aid so that they might be enabled to send them back to Sierra Leone and into Mendia. Two Missionaries had already been engaged to accompany them and it was expected that two more would go. Many contributions were sent in as the result of this appeal but the amount was not sufficient. Therefore, the President of the United States was applied to for the cooperation of the Federal Government. The President refused to give aid on the ground that no United States ship was then destined to the coast of Africa. When no help could be obtained from the Federal Government, the negroes were allowed to exhibit their proficiency in the use of the English language and their knowledge of writing and arithmetic in the principal cities of New England and to solicit contributions to return them to Africa.

Mr. Tappan, the Reverend and Mrs. William Raymond, Mr. and Mrs. Wilson and the Reverend Steele—-the Raymonds, Wilsons and the Reverend Mr. Steele were missionaries—-were put in charge of the negroes during this tour. Sufficient money was finally collected and passage was secured on board a boat shipping for Sierra Leone. The negroes, accompanied by the Reverend Mr. Steele, Reverend and Mrs. Raymond, missionaries and Mr. and

(a). Niles Register, 60-p.206.
(b). Ibid., 61-p.96.
(c). Ibid., p.144.
Mrs. Wilson, teachers, set sail from New York on November 25, 1841 for Africa.

The negroes arrived at Sierra Leone on January 15, 1842, fifty days from New York, and were well received by Dr. Ferguson, the Lieutenant Governor. Their implements of civilization were allowed to be landed duty free. The Africans found many of their Mendi countrymen whom they were overjoyed to see. With the assistance of the negroes a mission, which still exists under the control of the United Presbyterian Church, was established. It was the wish of their friends and patrons in America that the negroes should continue to live together. But, true to nature, when they reached their own country they desired for a time at least to go back to their own people. To the very great disappointment of the missionaries some of the negroes, and even Cinquez for a time relapsed into their old habits of licentiousness. However, Cinquez soon returned to the mission and spent the remainder of his life there, as an interpreter. The three girls, when they grew to womanhood, were valuable missionaries to their own people. The African officials were greatly interested in the Mendians and offered to them any aid or protection which they might require.

Therefore, the Amistad Case, besides being an episode in our National History and serving as an additional factor in involving the slavery question in America, was the means of be-

(b). The story of the activity of the negroes after their return to Africa is taken from Niles Register, 62—pp 17, 128 and 311.
ginning the education and Christianization of Africans along the coast of Sierra Leone.
Bibliography.

U.S. Government Publications
Congressional Globe.
U.S. Supreme Court Reports-Peters 15.
Federal Cases in District Courts.
Richardson, James Daniel, Compiler
Compilation of Messages and Papers of Presidents- 1789-1897.
Malloy, William M., Compiler
House Journals.
Senate Journals.
Senate Executive Journals.
U.S. Public Documents containing State Papers and Correspondence bearing upon the case.

British State Papers

Newspapers and Magazines.
National Intelligencer, 1839-1861.
Niles Register, Volumes 57-72.

General Authorities.
Calhoun, James C., Works of.
Adams, J.Q., His argument Before the Supreme Court of the U.S. in Amistad Case.
Baldwin, Roger Sherman: Argument in Amistad Case, Before U.S. Supreme Court.

Secondary Material.
Moore, John Basset: A Digest of International Law.
McMaster: A History of the American People.
Von Holst: Constitutional History of the U.S.