

Amistad:
The Federal Courts and
the Challenge to Slavery

by

Bruce A. Ragsdale

*Director, Federal Judicial History Office,
Federal Judicial Center*

Prepared for inclusion in the project

Federal Trials and Great Debates in United States History

Federal Judicial Center
Federal Judicial History Office
2002

This Federal Judicial Center publication was undertaken in furtherance of the Center's statutory mission to "conduct, coordinate, and encourage programs relating to the history of the judicial branch of the United States government." The views expressed are those of the author and not necessarily those of the Federal Judicial Center.

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Contents

The <i>Amistad</i> Case: A Brief Narrative	1
Enslavement	1
Revolt on the <i>Amistad</i>	1
A court of inquiry	2
The U.S. circuit court: criminal charges and writs of habeas corpus	2
Admiralty proceedings in the U.S. district court	3
The district court trial	4
Appeal to the U.S. circuit court	4
Appeal to the Supreme Court	5
Arguments in the Supreme Court	5
Freedom for the Africans	6
Return to West Africa	6
The Federal Courts and their Jurisdiction	7
U.S. District Court for the District of Connecticut	7
U.S. Circuit Court for the District of Connecticut	7
Supreme Court of the United States	8
The Judicial Process: A Chronology	9
Legal Questions Before the Federal Courts	13
Did the federal courts have jurisdiction to try the Mende on criminal charges?	13
Did the federal courts have authority to hold the Mende in custody?	13
Which district court had jurisdiction over the salvage and property claims?	14
Was the Navy crew entitled to a salvage award for rescuing the <i>Amistad</i> ?	14
Did the treaty between Spain and the United States require the return of all Spanish property?	15
Were the Mende on the <i>Amistad</i> slaves?	15
If the Mende from the <i>Amistad</i> were not slaves, what authority could the federal courts exercise over them?	16
Could the federal courts protect slave property?	16
What had the federal courts decided in earlier cases involving the foreign slave trade?	17
Arguments in Court	19
Lawyers' arguments and strategies—the abolitionists	19
Lawyers' arguments and strategies—the U.S. government	20
Biographies	23
Judges and court officers	23
Andrew Judson	23
Smith Thompson	24
Joseph Story	25
Norris Willcox	27
Parties in the case	28
The Mende people aboard the <i>Amistad</i>	28

Amistad: The Federal Courts and the Challenge to Slavery

Cinque	29
Thomas Gedney	30
José Ruiz and Pedro Montes	31
Lewis Tappan	32
A witness	33
Antonio	33
Lawyers	34
John Quincy Adams	34
Roger Sherman Baldwin	36
Henry Gilpin	37
William S. Holabird	38
Other government officials	40
John Forsyth	40
Media Coverage and Public Debates	41
Prints and images	42
Newspaper articles	45
Historical Documents	51
The libel of Lieutenant Thomas R. Gedney	51
The U.S. attorney's advice on criminal prosecution	53
The libel of José Ruiz	55
The libel of William S. Holabird, U.S. Attorney	57
Justice Smith Thompson's remarks in the U.S. Circuit Court	59
The several plea of Cinque and the other Mende captives	60
Judge Andrew Judson's decision (excerpts)	63
The U.S. attorney responds to the district court decision (two letters). January – February 1840	68
Supreme Court arguments of John Quincy Adams (excerpts)	70
Supreme Court opinion (excerpts)	73
The treaty between Spain and the United States, 1795 (excerpts)	78
Anti-Slave Trade Act of 1819	79
"Appeal to the Friends of Liberty"	83
Select Bibliography	85
Links Related to the <i>Amistad</i> Case	87

The *Amistad* Case: A Brief Narrative

The *Amistad* case was one of the most famous federal cases of the nineteenth century and attracted great public attention at each stage of its movement through the nation's judiciary. The dramatic story of the enslaved Africans who freed themselves from their captors and then sought recognition of their freedom in the federal courts helps to explain the role of the judiciary in the first half of the nineteenth century. The case also transformed the courts into the forum for a national debate on the legal foundations of slavery.

The Africans from the *Amistad* testified in court and were represented by prominent lawyers, including former President John Quincy Adams. The role of the Africans as parties in the case drew attention to the personal tragedies of slavery and attracted new support for the growing anti-slavery movement in the United States.

Enslavement

The *Amistad* case had its origins in West Africa, far from the jurisdiction of the federal courts. In the spring of 1839, slave traders in the West African port of Lomboko transported more than 500 enslaved Africans to Spanish-ruled Cuba. Many of the captives on the slave ship were from the Mende region of West Africa, an area later incorporated in Sierra Leone. Spanish law, enacted in response to pressure from Great Britain, prohibited the transportation of African slaves to Cuba. Spanish officials in Cuba largely ignored that law, however, and a thriving slave market provided labor for sugar planters.

At a slave sale in Havana, Jose Ruiz purchased 49 of the Mende men, and Pedro Montes purchased three girls and a boy, also from the Mende country. These planters chartered space on the schooner *Amistad* to carry the enslaved Africans to plantations along the coast of Cuba. The planters carried passes signed by a Spanish official, attesting to the fact that the Mende were long-time inhabitants of Spanish territory and legally held as slaves. The passes even provided the Africans with Spanish names.

Revolt on the Amistad

Late one night at sea, a group of the Mende broke out of their irons and armed themselves with sugar cane knives. Led by Sengbe Pieh (known to the Spanish and Americans as Cinque), the Mende killed the captain and the ship's cook and took command of the *Amistad*. They then coerced Ruiz and Montes to sail the ship in the direction of the rising sun and West Africa. At night the planters turned to the north and west, hoping to cross paths with another ship. After two months, the *Amistad* reached Long Island Sound, desperately short of provisions. Cinque led a party onto the New York shore to gather supplies for their voyage back to Africa. While Cinque

and others were ashore, the crew of the Navy brig *Washington* spotted the badly damaged *Amistad*. When the naval officers boarded the *Amistad*, the Spanish planters told of the revolt and pleaded for their safety. The commanding officer of the *Washington*, Lieutenant Thomas Gedney, ordered his crew to take custody of the *Amistad* and the 42 surviving Mende, including those who had gone ashore. The Navy ship escorted the *Amistad* to New London, Connecticut, and Gedney contacted the U.S. marshal to request a court hearing.

A court of inquiry

The U.S. District Court for Connecticut, with Judge Andrew Judson presiding, convened a special session on August 29, 1839, on board the *Washington* in New London harbor. Gedney and his crew intended to submit a libel, or claim, for a salvage award following their recovery of the *Amistad* and the cargo on board. They asserted that the Mende were slaves worth an estimated \$25,000 and included the Africans in their list of recovered cargo. Judson set a date at which the district court would consider the claim for salvage and any related property claims. The marshal then issued a process of monition, by which the court advertised the subject of Gedney's claim and informed other interested parties of the date by which they needed to submit all claims related to the *Amistad*.

Judson also heard testimony from the Spanish planters, who offered their version of the slave sale in Havana and the revolt on the schooner. The court moved to the *Amistad*, where Antonio, a slave owned by the slain captain of the schooner, testified about the revolt. The U.S. attorney submitted an information and complaint, a legal form that described the criminal charges that would be brought against Cinque and the leaders of the revolt. Judson referred consideration of the criminal questions to the U.S. Circuit Court for Connecticut. The judge then ordered the marshal to take custody of the ship, its cargo, and the Mende on the *Amistad*.

The federal courts took custody of the Mende under the authority of two separate warrants. A warrant of seizure, typical of admiralty proceedings concerning a libel for salvage, authorized holding the Mende, the ship, and its cargo as property that was the subject of claims before the court. A warrant of arrest held all of the adult Mende who were the subject of an indictment for murder and piracy. The three young Mende girls and Antonio were also held as witnesses for the criminal case.

The U.S. circuit court: criminal charges and writs of habeas corpus

The U.S. Circuit Court for the District of Connecticut convened on September 17, 1839, and impaneled a grand jury to consider the U.S. attorney's indictment of the Mende on charges of piracy and murder. After the jury returned with a finding of

facts, U.S. Supreme Court Justice Smith Thompson, who served as the presiding judge in the circuit court, declared that the federal courts had no jurisdiction over an alleged crime that took place at sea on a foreign-owned vessel. The circuit court dismissed all criminal charges against the Mende.

During the same session, the circuit court considered two writs of habeas corpus calling for the release of the Mende in federal custody. These writs were brought by the abolitionist lawyers who had formed a committee to represent the Mende in the federal courts. The initial writ referred only to the three girls held as property and as witnesses, but not included in the criminal indictment. After the court dismissed the criminal charges, another writ of habeas corpus brought the adult Mende before the court with a similar request for their release. Justice Thompson declared that he could not order their release since they were all the subject of property claims pending before the U.S. district court. Thompson reminded the abolitionists that the Constitution and the laws of the nation protected the right to hold slave property. The district court's responsibility was to determine the legitimacy of the several property claims that alleged the Mende were slaves. The circuit court would have jurisdiction only if one of the parties appealed the decision of the district court.

Admiralty proceedings in the U.S. district court

The U.S. district courts had jurisdiction over cases in admiralty—that branch of law concerning maritime commerce and the nation's trade laws. At the September 1839 session of the district court in Connecticut, various parties submitted claims for property on the *Amistad*. The planters, Ruiz and Montes, asked the district court to return the Mende as their rightful property. The U.S. attorney, William Holabird, asked the court to consider Spain's request for the return of all property on the *Amistad*, with no deduction in its value for the salvage award claimed by Gedney and his crew. The Spanish ambassador insisted that the 1795 treaty between the two countries required the return on these terms. Several claims asserted that all of the Mende on the *Amistad* were slave property, thus forcing the court to determine whether or not these individuals were legally slaves or free. The court's decision rested solely with Judge Andrew Judson, since juries were not used in federal admiralty cases during the first half of the nineteenth century.

At the November session of the district court, the Mende formally entered the case as respondents to the several claims alleging that they were slaves. The plea submitted by their lawyers, Roger Sherman Baldwin and Seth Staples, requested the immediate release of the Mende in custody. The federal courts, they claimed, had no jurisdiction over these free persons who had taken control of the *Amistad* in an effort to return to their families. Based on interviews with Cinque and others, the plea explained that all of the Mende had been born free persons in Africa and had been kidnapped, illegally transported to Cuba, and enslaved for life. Staples and Baldwin

also claimed that it had been illegal for Lieutenant Gedney to seize the Africans in New York, a free state.

At the same session, the Spanish consul from Boston asked the court to order the return of Antonio to the heirs of the *Amistad*'s captain.

The district court trial

Judge Judson opened the trial in the *Amistad* case on January 7, 1840. One of the largest crowds ever gathered for a federal trial appeared in the New Haven, Connecticut, courtroom. Roger Sherman Baldwin argued that the Mende captives could not be returned as property because under Spanish law, any Africans introduced into Spanish territory after 1820 were free within that territory. The abolitionists' committee had found a native of the Mende region to serve as a translator, thus allowing Cinque and two other captives to testify that they had been recently transported to Cuba from Africa. Cinque's description of his enslavement and the horrors of the voyage across the Atlantic provided the dramatic high point of the five-day trial. Other witnesses testified that Spanish officials in Havana frequently falsified documents in order to admit enslaved Africans into Cuba.

Before the trial opened, President Van Buren was so confident that Judson would agree to the Spanish claims that he ordered a Navy ship to New Haven in preparation for a quick delivery of the Mende to Spanish officials in Cuba. Judson, however, surprised almost everyone when he announced that the Mende were not slaves under Spanish law and that he could not order their return to Cuba. Instead, the judge granted a motion filed by the U.S. attorney that the Mende be delivered to the President for return to their homes under the provisions of a federal law prohibiting the African slave trade in the United States. Judson acknowledged that the terms of the act did not apply precisely to the *Amistad* because no one had transported the Mende to the United States as slaves, but he said his decree was within the spirit of an act intended to facilitate the return of enslaved Africans to freedom in their homeland.

Judson also ordered that Gedney and his crew receive one-third of the value of the *Amistad* and its cargo as a salvage award. Judson's decision provided that the remaining property, including the slave Antonio, be returned to the several owners in Cuba. The Mende's return home and the delivery of the property were delayed when the Van Buren administration ordered the U.S. attorney to appeal Judson's decision to the U.S. Circuit Court.

Appeal to the U.S. circuit court

On April 29, 1840, the U.S. Circuit Court convened in Hartford to hear appeals of the district court decision. The U.S. attorney, representing the claims of the Span-

ish government, appealed that portion of the decision that declared the Africans on board were not slaves and the order to grant a salvage award to Lieutenant Gedney and his crew. The Spanish owners of the cargo on board the *Amistad* also appealed the salvage award. The lawyers for the Mende from the *Amistad* asked the court to dismiss the appeal on the grounds that the United States government had no right to represent the claims of a foreign nation. Justice Thompson denied the motion for dismissal and issued a pro forma decree upholding the district court decision. The use of the pro forma decree allowed Thompson to avoid a lengthy discussion of the merits of the case and helped to speed the appeal to the Supreme Court.

Appeal to the Supreme Court

The U.S. attorney responded to Thompson's decree with the expected appeal to the Supreme Court. The government's lawyer asked the Supreme Court to order the delivery to Spanish officials of all property claimed by Spanish owners. U.S. Attorney William Holabird repeated the arguments that the treaty between Spain and the United States required the return of all property, including the alleged slaves, with no deduction for a salvage award.

In the months leading up to the opening of the Supreme Court term in January 1841, former President John Quincy Adams agreed to join the lawyers representing the Mende. Adams was then serving in the U.S. House of Representatives, where he led an effort forcing the Van Buren administration to give Congress copies of *Amistad*-related correspondence with the Spanish government. Adams traveled to Connecticut to meet with the Mende, who remained in federal custody in a village outside of New Haven. In the weeks before the Supreme Court session, two of the Mende wrote Adams letters encouraging him in his efforts to secure their freedom.

Arguments in the Supreme Court

Attorney General Henry Gilpin presented the opening arguments in the *Amistad* case before the Supreme Court. He maintained that treaty obligations required the United States to return the Mende, as slave property, to the Spanish planters from Cuba. If the federal courts refused to accept documentation provided by another government, all foreign commerce would be threatened. Roger Sherman Baldwin argued in favor of upholding the earlier court decision that the Mende were not slaves. He asserted that the United States government could not represent the claims of a foreign government, and he repeated his arguments that under the laws of Spain, the Mende were free. John Quincy Adams then presented his dramatic condemnation of the Van Buren administration and its efforts to return the Mende to Cuba. Adams, with an appeal to the principles of the Declaration of Independence, called on the Court to recognize the natural rights of the captive Africans.

Chief Justice Roger Taney and the eight other justices were present at the opening arguments of the *Amistad* case on February 22, 1841. Several days later, Justice Philip Pendleton Barbour died. After a recess, the Court resumed hearing arguments in the case and on March 9, 1841, issued its decision. Justice Joseph Story was joined in his opinion by six justices, including Smith Thompson. One justice, Henry Baldwin, dissented without comment.

Freedom for the Africans

The Supreme Court upheld the circuit court's affirmation of Judson's decision that the Mende on the *Amistad* clearly were not slaves under Spanish law and that the federal courts could not order their delivery to Spanish officials. Story overturned the earlier decision to deliver the Mende to the President for transport to Africa. The *Amistad* had arrived in the United States in the possession of the Mende, not slave traders, and they could not be considered as slaves illegally imported into the United States. Cinque and the other surviving Mende were free persons, and the federal courts had no further authority over them. The Supreme Court issued a decree ordering the circuit court to free the Mende from federal custody.

Return to West Africa

The Supreme Court opinion granted unconditional freedom to the Mende, but, unlike Judson's decision in the district court, it left them with no provision for a return to their homes. In order to raise money for transportation, the abolitionists' committee organized a series of public appearances at which people paid admission to hear the Mende sing, recite from the Bible, and describe their stories of enslavement and the struggle for freedom. In November 1841, in the company of a group of American missionaries, the 35 surviving Mende left New York for the coast of Sierra Leone. Most returned to live with their families, while a few remained with a mission established by the American clergy.

The Federal Courts and Their Jurisdiction in the *Amistad* Case

U.S. District Court for the District of Connecticut

The *Amistad* case entered the federal judiciary through the district court of Connecticut, and it was the court's judge, Andrew Judson, who ruled that the Africans held in custody were not slaves under Spanish law and therefore could not be returned to the planters in Cuba.

The Judiciary Act of 1789 established the federal district courts as trial courts with jurisdiction over maritime commerce and the nation's trade laws—that branch of law known as admiralty. The district courts also exercised jurisdiction over minor criminal cases and small suits involving the government, although in the first half of the nineteenth century, most of the district court cases, particularly in a coastal state like Connecticut, concerned admiralty. The *Amistad* case was introduced into the federal courts as an admiralty matter.

U.S. Circuit Court for the District of Connecticut

The U.S. Circuit Court in Connecticut exercised jurisdiction over three separate components of the judicial proceedings related to the *Amistad*. It considered the indictment of the Mende on charges of piracy and murder, it ruled on the writs of habeas corpus requesting the release of the Mende from federal custody, and it heard the U.S. attorney's appeal of the district court's decision that the Mende were not slave property under the laws of Spain. After the circuit court issued a decree upholding the district court decision, the U.S. attorney appealed that decree to the Supreme Court. The circuit court also was responsible for issuing the decree that freed the Mende following the Supreme Court decision.

The U.S. circuit courts were established by the Judiciary Act of 1789 to serve as the most important trial courts in the federal judiciary. These courts, which operated until 1911, had jurisdiction over most federal crimes, over suits between citizens from different states (known as diversity jurisdiction), and over most cases in which the federal government was a party. The circuit courts also heard some appeals from the district courts, including appeals related to admiralty disputes concerning amounts greater than \$300. Prior to 1869, the circuit courts had no judges of their own. Each justice of the Supreme Court was assigned to a regional circuit and, along with the local district judge, presided over the circuit court that met in each district within the circuit.

Supreme Court of the United States

In the final stage of the *Amistad* case, the Supreme Court of the United States declared the Mende to be free and ordered their immediate release from federal custody. The *Amistad* case went before the Supreme Court on appeal from the circuit court's decree. The U.S. attorney in Connecticut challenged that decree, which upheld the district court decision that the Mende on the *Amistad* were not slaves under Spanish law. Justice Joseph Story's opinion for the Supreme Court agreed with the earlier courts' decisions that the Mende were not slaves and could not be returned to Cuba. The Court overturned that portion of the earlier decision that ordered the transfer of the Mende to the President for return to their homes in West Africa.

The Supreme Court was established by Article III of the Constitution, which granted the Court limited jurisdiction. The Constitution also authorized Congress to grant the Supreme Court jurisdiction over appeals, and Congress provided for various types of appeals from state and federal courts. According to the Judiciary Act of 1789, any U.S. circuit court decree in a civil case concerning a matter worth more than \$2,000 could be appealed to the Supreme Court.

From an initial authorization of six justices on the Supreme Court, Congress by 1837 had expanded the number of seats on the Court to nine.

The Judicial Process: A Chronology

August 29, 1839

U.S. District Court for the District of Connecticut

Judge Andrew Judson convened a special session of the U.S. District Court. The court allowed Lieutenant Gedney to submit his libel for a salvage award and heard testimony about the revolt on the *Amistad*.

Judson ordered the marshal to take the Africans on board the *Amistad* into custody. A warrant of arrest authorized holding the male Mende in custody on charges of murder and piracy, while the warrant of seizure authorized holding all of the Mende, pending determination of the salvage claim.

September 17, 1839

U.S. Circuit Court for the District of Connecticut

The circuit court impaneled a grand jury to consider the U.S. attorney's indictment of the Mende on charges of piracy and murder. Justice Smith Thompson later ruled that the federal courts had no jurisdiction over an alleged crime on a foreign vessel at sea and dismissed all criminal charges against the Mende.

Attorneys for the Mende asked the court to release their clients from federal custody. Thompson refused to release the Mende as long as the district court was considering property claims that alleged they were slaves. The circuit court adjourned on September 23.

September 18, 1839

U.S. District Court for the District of Connecticut

José Ruiz and Pedro Montes submitted libels requesting the district court to order the return of their property on the *Amistad*, including the Mende, whom these planters claimed as slaves.

September 19, 1839

U.S. District Court for the District of Connecticut

Judge Judson opened the district court session to consider the various libels filed in response to Gedney's libel for salvage. William Holabird, the U.S. attorney, asked the court to consider the Spanish ambassador's request for the return of all property on

the *Amistad*, with no deduction for salvage. Holabird alternatively requested that the court order the return of the Mende to Africa if it determined that they were not slave property. A group of men who gave provisions to the Mende on the New York shore submitted their own libel for a salvage award.

Judson ordered a panel of attorneys in the case to determine the precise location where the Navy crew seized the *Amistad*, so that he could establish which district court had jurisdiction. The district court adjourned on September 23.

November 19, 1839

U.S. District Court for the District of Connecticut

The Mende formally entered the district court proceedings as respondents to the several libels asserting that they were slaves. A lawyer for the Mende asked the court to dismiss the case for lack of jurisdiction, on the grounds that the Mende had arrived as free persons in the district of New York. The U.S. attorney presented the court with the claim that the Spanish ambassador had sent to the Secretary of State, asking for the return of all Spanish property on the *Amistad*. The Spanish consul from Boston asked the court to order the return of the slave Antonio to the heirs of Ramon Ferrer, the slain captain of the *Amistad*.

At this session of the district court, Judge Judson heard the first trial testimony. Judson postponed further testimony because of the illness of the translator for the Mende. The district court adjourned on November 21.

January 7, 1840

U.S. District Court for the District of Connecticut

Judson opened the *Amistad* trial and heard testimony for five days. Witnesses included three of the Mende: Cinque, Grabeau, and Fuliwa. At the opening of this session, the owners of a portion of the cargo on the *Amistad* submitted their request for the return of their goods.

On January 13, Judson delivered his decision that the Mende were not slaves under Spanish law and that he could not order their return to Cuba.

January 23, 1840

U.S. District Court for the District of Connecticut

Judson issued the decree ordering the delivery of the Mende to the President for return to Africa and granting an award of salvage in the ship and its cargo for Gedney and his crew. Judson also ordered that Antonio be delivered to the heirs of the captain of the *Amistad*.

The U.S. attorney, citing the Spanish ambassador's demand for the return of all property, immediately appealed every part of the decree except that relating to the slave Antonio. The owners of the goods on the *Amistad* appealed that portion of the decree ordering payment of a salvage award.

April 29, 1840

U.S. Circuit Court for the District of Connecticut

Justice Smith Thompson presided over the two appeals of the district court decree. He also considered a motion from the Mende's lawyers to dismiss the appeal of the U.S. attorney. Thompson denied the motion for dismissal and affirmed the district court's decree. Immediately following Thompson's decree, the U.S. attorney filed an appeal to the Supreme Court. Thompson granted that appeal to the next term of the Supreme Court, which would begin in January 1841.

September 17, 1840

U.S. Circuit Court for the District of Connecticut

The court ordered that the schooner *Amistad* and the goods on board be sold at public auction. The proceeds were delivered to the court pending final disposition of the case.

February 22, 1841

Supreme Court of the United States

Oral arguments in the *Amistad* case began. The Court suspended arguments after Justice Barbour died on February 25. Arguments in the case resumed on March 1, and closing arguments were heard on March 2.

March 9, 1841

Supreme Court of the United States

Justice Joseph Story delivered his opinion for the Supreme Court. The Court ordered the U.S. Circuit Court in Connecticut to free the Mende held in custody. Justice Thompson, as circuit justice for the district of Connecticut, subsequently ordered the release of the Mende.

April 28, 1841

U.S. Circuit Court for the District of Connecticut

The circuit court distributed the proceeds from the sale of the *Amistad* and its cargo. It awarded one-third of the value to Gedney and the others who submitted the libel for salvage.

Legal Questions Before the Federal Courts

Did the federal courts have jurisdiction to try the Mende on criminal charges?

No, said Justice Smith Thompson in the U.S. Circuit Court.

Following the Spanish planters' testimony about the revolt on the *Amistad*, the U.S. attorney for Connecticut prepared an indictment of the adult Mende on charges of murder and piracy. In the U.S. Circuit Court for Connecticut, a grand jury returned a finding of facts regarding the revolt on the schooner, the killing of the captain and cook, and the theft of goods on board. Justice Thompson denied that the federal courts had any jurisdiction over the alleged crimes. The crimes allegedly committed on a Spanish vessel sailing under a Spanish commander could only be tried in the courts of that nation. The federal courts did have jurisdiction over violations of the law of nations, including piracy, but earlier court decisions had established that the slave trade was not a violation of the customs and practices that made up the law of nations.

Even before the circuit court convened, the U.S. attorney privately admitted that the courts did not have criminal jurisdiction over the Mende, and few observers expected a criminal trial. The Mende never again faced any criminal charges in the United States.

Did the federal courts have authority to hold the Mende in custody?

Yes, said Justice Smith Thompson, as long as they were the object of property claims pending before the courts.

The lawyers representing the Mende used a writ of habeas corpus to seek the release of the three young girls detained as both witnesses and as objects of several property claims. Once the circuit court dismissed the criminal charges against the adult Mende, another lawyer used a separate writ of habeas corpus to seek the release of those men as well. The Africans' lawyers argued that their clients had been found in a state of freedom and that the district court's order to imprison them had the effect of reducing them to slavery. One of the lawyers, Roger Sherman Baldwin, insisted that the federal courts could not take custody of the Mende unless they determined that these individuals were the lawful property of the Spanish planters. At the same time, the lawyers presented their first evidence that the captives from the *Amistad* had been illegally enslaved in Cuba and could not be claimed as property.

Justice Thompson denied the motion for release of the Mende. He prefaced his

ruling with a statement of his own disapproval of slavery, but nevertheless determined that the district court had jurisdiction over the Mende just as it had jurisdiction over the schooner and its cargo. The Constitution recognized the right to hold slaves, and the Supreme Court had said that the federal courts had the power to decide the right to slave property.

Which district court had jurisdiction over the salvage and property claims?

The U.S. District Court of Connecticut, not that of the Southern District of New York, had jurisdiction over the admiralty case and its several property claims.

When a ship was rescued on the high seas, the rescuers could file a salvage claim in any judicial district to which they carried the disabled vessel. If the ship were taken within the boundaries of a judicial district, only the district court for that district could accept jurisdiction over a claim. Lieutenant Gedney and his crew carried the *Amistad* to New London, Connecticut, and filed their libel in the U.S. district court in that state. The lawyers for the Africans argued that the ship was taken not on the high seas, but within the state of New York, where the Mende shore party had landed to collect supplies. The lawyers expected that the district judge of the Southern District of New York would be more sympathetic to the Africans than would be Judge Judson of the district court in Connecticut.

Judson dispatched the U.S. attorney and lawyers for the Mende to investigate the location where the *Amistad* was taken into custody off Montauk Point, Long Island. The location, though close to the New York shore, met the criteria of being in the open ocean, "where the dominion of the winds and the waves prevail." Some of the Mende were on the New York shore when the Navy crew took them into custody, but according to guidelines provided by an earlier case, these Mende were still attached under a legal definition to the ship at sea. Judson thus determined that the U.S. District Court for Connecticut had jurisdiction in the case.

Was the Navy crew entitled to a salvage award for rescuing the Amistad?

Yes, said each of the courts that heard the case.

Lieutenant Gedney and the crew of the brig *Washington* submitted a libel, or claim, asking the district court to grant them a salvage award for rescuing the *Amistad*. The Spanish owners of the schooner and its cargo challenged Gedney's claim on the grounds that the treaty between the United States and Spain required each nation to return the property of the other, with no deduction for salvage. Judson ruled that the actions of the *Washington* crew qualified as meritorious service, a standard

qualification for salvage. Since the *Amistad* would otherwise have been lost at sea, Judson said, the salvage award was within the definition of “reasonable rates” that the treaty allowed for restoring the other nation’s property. The Supreme Court agreed that the salvage award was consistent with the general principles of maritime law.

A salvage award required the sale of the ship and goods so that a portion of the value could be paid to recipients of the award. Judson had no authority to order the sale of Mende, even if they were legally slaves; he therefore denied Gedney’s claim for a salvage award in the rescue of the alleged slaves. Judson also dismissed as without merit a salvage claim submitted by two men who sold the Mende supplies on the Long Island shore.

Did the treaty between Spain and the United States require the return of all Spanish property?

Yes, if the claimants had proper proof of ownership.

Judge Andrew Judson agreed that the treaty of 1795 obligated the United States to return lawfully held Spanish property, but he asserted the right of the federal courts to investigate the validity of any property claims. Judson’s review of the testimony and evidence in the district court trial established that the Spanish planters had produced no title to the enslaved Mende, only passes for their transportation. Those passes incorrectly stated that the Mende were long-time inhabitants of Spanish territory. In fact, they were recent arrivals in Cuba and under Spanish law were free, not slaves. When a claim to slave property was legitimately documented, as in the case of the captain’s slave, Antonio, Judson agreed that the courts must order the slaves’ return to the owners in Cuba.

Justice Story’s opinion for the Supreme Court also stated that if the Mende were legally the slaves of the Spanish planters, the Court would order their return just as they would for merchandise belonging to the planters. The Spanish-American treaty, however, called for “due and sufficient proof” of ownership, and Story insisted that the courts had an obligation to determine if the foreign government’s documents had been subject to fraud. In the case of the *Amistad*, the fraudulent origin of the passes for the Mende captives invalidated the planters’ claims of slave property.

Were the Mende on the Amistad slaves?

No, said each federal court that decided this question that lay at the center of the *Amistad* case.

The Spanish planters, José Ruiz and Pedro Montes, claimed the Mende on the *Amistad* as their slaves, legally purchased and owned in Cuba. They asked the U.S. district court to order the return of the alleged slaves, along with the planters’ other property on the *Amistad*.

Judge Andrew Judson decided that these Africans were not slaves under Spanish law, and could not be returned to the planters, who held no valid proof of ownership. Testimony in the district court trial proved that the Mende on the *Amistad* arrived in Cuba in June 1839, and under Spanish law, no Africans transported to Spanish territory after 1820 could be enslaved. The circuit court affirmed this decision. The Supreme Court agreed that it was clear “beyond controversy” that the Mende were never the lawful property of Ruiz or Montes or any other Spanish subjects. By the laws of Spain, the Mende were declared to be free.

If the Mende from the Amistad were not slaves, what authority could the federal courts exercise over them?

Judge Judson’s decision that the Mende were not slaves under Spanish law did not provide for the Africans’ release from federal custody. Judson ordered that custody of the Mende be transferred from the federal courts to the President. Under the provisions of an 1819 act, any enslaved Africans transported into the United States were to be delivered to the President for return to Africa at government expense. Judson acknowledged that the Mende arrived in command of the *Amistad* rather than as enslaved persons, but he thought the humanitarian objectives of the act called for a broad interpretation of its provisions. The circuit court decree upheld this part of Judson’s decision.

The Supreme Court disagreed, and decided that the federal courts had no authority to detain the Mende once they determined that the Africans were not slaves and that they had entered the United States as free individuals. The Supreme Court issued a decree ordering the U.S. Circuit Court in Connecticut to free the Mende.

Could the federal courts protect slave property?

Yes. Until the Civil War, the federal courts recognized and protected slave property when it was held in accordance with a nation’s laws.

If the properly enacted laws of a nation (so-called “positive law”) permitted slavery, the federal courts recognized the right to hold slave property. In the circuit court session of September 1839, Justice Smith Thompson reminded the abolitionist lawyers that the Constitution provided for the return of fugitive slaves within the United States and prohibited states from making any laws that would hinder the recovery of slave property. Thompson also emphasized that the Supreme Court had decided that foreign slave owners could recover slave property in federal custody if they could prove ownership under the laws of their own country. The federal courts had a responsibility to consider claims for slave property, regardless of state laws or the personal beliefs of an individual judge.

In the district court, Judge Andrew Judson determined that under Spanish law,

Antonio, the cabin boy from the *Amistad*, had been the slave property of the ship's captain. Judson ordered that Antonio be delivered to the captain's heirs. The African-born captives from the *Amistad* were not slave property under Spanish law, and Judson refused to order their return to the planters who had purchased them. Story, in his Supreme Court opinion, agreed that if any individuals were lawfully held as slaves under Spanish law, the Court would order their return to anyone who could prove title of ownership.

What had the federal courts decided in earlier cases involving the foreign slave trade?

Before *Amistad*, the federal courts had decided only a limited number of cases involving slavery or the slave trade. Two cases, the *Antelope* and *La Jeune Eugenie* were the subject of much speculation about how the courts might deal with the questions raised by the *Amistad* case. The oral arguments presented in each court included frequent references to these cases, and Judson relied in part on these cases to explain his decision in the district court trial.

The Antelope

In the *Antelope* case of 1825, the Supreme Court, in an opinion written by Chief Justice John Marshall, held that the federal courts must recognize a nation's right to engage in the slave trade if the laws of that nation did not prohibit the trade.

The *Antelope* case involved an American ship commander who raided Spanish, Portuguese, and American-owned ships along the West African coast and took possession of the slaves on board of each. Eventually he transferred nearly 300 slaves to the *Antelope* and headed for the Florida coast. A U.S. revenue cutter seized the *Antelope* and delivered all on board to Savannah. In the U.S. District Court for Georgia, the U.S. attorney sought an order that would have required the return to Africa of all the enslaved persons on board, under the provisions of the same the act of 1819 cited by Judson in the *Amistad* decision. The Spanish and Portuguese owners of the seized slaves filed claims for the recovery of their property. The slave trade was legal under Spanish and Portuguese law at the time these slaves were transported from Africa.

The U.S. attorney appealed the district and circuit court decisions to grant all foreign claims that could be documented. Marshall's opinion stated his personal belief that slavery violated natural law, but many nations had approved of the trade and therefore the Court could not rule that it was a violation of international law. The Court must recognize that citizens of nations that had not prohibited the slave trade had a right to engage in that trade. The Supreme Court ordered that the valid foreign claims be paid.

By the time the case was heard by the Supreme Court, many of the enslaved Af-

ricans from the *Antelope* had died, and no one had a record of which survivors originated on the different ships. A randomly selected group of the Africans, in numbers proportionate to the legitimate foreign claims, was sold by the federal government and the proceeds delivered to the foreign slave owners. The Court ordered that the remaining survivors, including all from the American-owned slave ship, be returned to Africa at the expense of the United States government.

Marshall's opinion in the *Antelope* made it difficult for the abolitionist lawyers to argue for the Mende's freedom on the basis of natural law, but it provided support for their claim that the Mende could not be delivered to Spanish officials because the Spanish planters did not hold valid proof of ownership.

United States v. La Jeune Eugenie

Justice Joseph Story ruled in a circuit court case of 1822 that the African slave trade violated natural law and international law, and that the federal courts had the authority to confiscate ships employed in that trade.

Story's decision came in a case before the U.S. Circuit Court for Massachusetts, where he presided as the circuit justice. The crew of a U.S. revenue cutter captured the ship *La Jeune Eugenie* off the coast of West Africa and transported it to Boston on the suspicion that it was an American ship engaged in the slave trade. The revenue cutter's crew claimed an award available under the law prohibiting the slave trade with Africa. The French consul in Boston and the French owners of the ship submitted claims for the return of the vessel.

Story determined that *La Jeune Eugenie* was French-owned, but he refused to return the ship to those owners because they clearly had been involved in the slave trade. Story declared that the African slave trade violated natural law, international law, and the enacted laws of almost every nation in Europe as well as those of the United States. Unless the African slave trade was specifically protected by a nation's laws, the federal courts had the authority to hear cases involving foreign citizens who participated in the trade and to order the confiscation of property used in the trade. Story agreed to President Monroe's request for delivery of *La Jeune Eugenie* to the French government so that the courts of that nation could examine the owners' involvement in the slave trade.

Judson's decision in the *Amistad* trial referred to *La Jeune Eugenie* in regard to requirements for proof of ownership, but he made no mention of Story's decision regarding natural and international law. Marshall's decision in the *Antelope* case of 1825 had restricted the ability of any federal judge to invoke principles of natural law in determining a case about the slave trade.

Arguments in Court

Lawyers' arguments and strategies—the abolitionists

The lawyers representing the Mende relied on these arguments to prevent the return of the captives to Spanish territory and to win their release from federal custody.

1. The Mende captives were not slaves under Spanish law and thus were not subject to property claims submitted under the provisions of the treaty between the United States and Spain.

Anyone transported to Spanish territories as a slave after 1820 was declared free in that territory, according to Spanish law. In the district court, the abolitionist lawyers submitted evidence and called witnesses to establish that the Mende from the *Amistad* had recently arrived in Cuba from Africa and thus were not legally slaves. Judge Judson in the district court and Justice Story in the Supreme Court agreed with this argument and decided that the federal courts could not order the return of the individuals claimed by the planters and the Spanish government.

2. The enslaved Africans on the *Amistad* held a natural right to resist their kidnappers and to reclaim their liberty.

The abolitionist lawyers repeatedly attempted to establish a legal recognition of the natural rights of the captives. In September 1839, while a grand jury in the U.S. Circuit Court considered an indictment for murder and piracy, the abolitionists publicly defended the revolt on the *Amistad* in terms of the natural rights of all humans to resist anyone who deprived them of their freedom. During the district court proceedings related to the several claims alleging the Mende were slave property, lawyers Roger Sherman Baldwin and Seth Staples submitted a response that asserted the Mende had a right to take control of the *Amistad* and seek their homeland or a free country. John Quincy Adams based much of his argument before the Supreme Court on the natural rights of all humans to personal liberty. The natural rights argument had great popular appeal among the anti-slavery community, but no federal court affirmed a natural right to resist enslavement.

3. The federal courts had no authority to detain the captives when no criminal charges were brought against them.

The lawyers for the Mende argued that holding the Africans in custody on the basis of property claims was the equivalent of enslaving individuals who had arrived in the United States as free persons. Justice Thompson ruled in the circuit court that

the federal courts had a responsibility to consider legitimate claims to slave property and thus had authority to detain the Mende.

Lawyers' arguments and strategies—the U.S. government

U.S. attorney William Holabird presented the government's case in the U.S. district and circuit courts, and Attorney General Henry Gilpin represented the government before the Supreme Court. They offered arguments in support of the Spanish demand for the return of all property, including the alleged slaves, from the *Amistad*. Holabird offered an alternative motion in case the court rejected the Spanish demand.

1. Spanish authorities submitted adequate proof of ownership of slave property, and therefore the United States had a treaty obligation to return the captives and all other Spanish property rescued from “pirates or robbers on the high seas.”

Holabird in the district court trial argued that the documents presented by Spanish officials proved that the *Amistad* captives were slaves under Spanish law and therefore must be returned along with other legally held property, according to the treaty of 1795. In arguments before the Supreme Court, Attorney General Henry Gilpin repeated this argument and asserted that the federal courts did not have the authority to challenge the validity of the passes signed by the governor-general of Cuba. (The passes indicated that the captives were legally held slaves and longtime residents of the island.)

2. The federal courts possessed the authority to protect slave property.

Holabird argued in the district court that unless the laws of a nation prohibited slavery, the federal courts must assume that slavery is permitted and thus protected under that nation's laws. In the Supreme Court, Gilpin argued that federal law made no distinction between demands for slave property and demands for other types of property, and he cited several federal cases in which the courts ordered the delivery of slave property.

3. The *Amistad* captives, if not legally held as slaves in Cuba, could be returned to Africa by the President under the authority of an act of 1819.

Holabird, who privately doubted that the captives were legally slaves, offered this suggestion in the libel he submitted to the district court in September 1839. The 1819 act was intended to give the President more effective authority to enforce the prohibition on slave importations into the United States. Holabird later dropped the suggestion and admitted that he had offered it only as an additional justification

for keeping the Mende in federal custody if the courts rejected the Spanish claim to slave property. Judge Judson, however, accepted the suggestion and ordered the delivery of the Mende to the President for return to their homeland. The Supreme Court overturned this part of Judson's decision.

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Biographies

Judges and court officers

Andrew Judson (1784–1853)

Judge of the U.S. District Court for the District of Connecticut, also served as a judge of the U.S. Circuit Court for the District of Connecticut

Judge Andrew Thompson Judson presided over the initial federal case related to the schooner *Amistad* and declared that the captives from West Africa had been illegally enslaved and should be returned to their homeland.

As a young man, Judson “read law,” which was the familiar practice by which an aspiring lawyer studied with an established attorney and prepared for admission to the bar. After briefly practicing law in Vermont, Judson settled in Canterbury, Connecticut, where he established a successful legal practice and entered politics. He served in the Connecticut legislature, was appointed state attorney and local justice of the peace, and won election to the U.S. House of Representatives in 1835. He was defeated as a candidate for the U.S. Senate in 1836, and shortly thereafter President Andrew Jackson appointed him to be judge of the U.S. District Court for the District of Connecticut. Judson was also involved in the temperance movement and was a member of the American Colonization Society, a group dedicated to the gradual emancipation of slaves and the transportation of free blacks from the United States to settlements in West Africa.

Before the *Amistad* case, Judson was best known for his role in the trial of Prudence Crandall, who in 1833 announced the opening of a school for African American girls in Judson’s hometown of Canterbury, Connecticut. In town meetings, Judson spoke against the school and declared that blacks in the United States should either be sent to Africa “or kept as they are.” He then urged the state legislature to pass an act prohibiting schools for African Americans who were not residents of the state.



Andrew Judson

Image courtesy of the Connecticut Historical Society, Hartford, Connecticut.

During Crandall's trial for violation of the subsequent law, Judson, as state attorney for the county, argued that blacks, even if legally free, were not citizens under the Constitution and were not entitled to the rights of white citizens. Judson's role in the Crandall affair was publicly criticized by some of the same abolitionists who later organized the committee to represent the legal interests of the Mende from the *Amistad*.

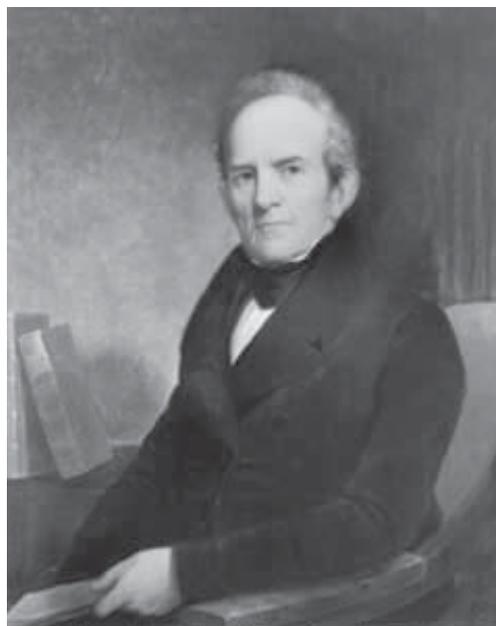
The judge's decision in the trial portion of the *Amistad* case surprised many people, especially the abolitionists, but his ruling was in many ways consistent with his earlier views and with the ideas shared by many members of the American Colonization Society. The decision read before the courtroom acknowledged the right of the Mende to challenge the claims against them and expressed sympathy for their prolonged suffering, but it also avoided any statement implying that they were free in the United States. According to Judson's order, the Mende were to remain in the custody of the federal government until the President provided for their transportation to West Africa.

Judson continued to serve as a federal judge until his death on March 17, 1853. The remainder of his career was devoted largely to the more routine admiralty cases that were the primary business of a federal district court in a coastal state.

Smith Thompson (1768–1843)

Associate justice of the Supreme Court and circuit justice on the U.S. Circuit Court for the District of Connecticut

Justice Smith Thompson participated in three separate stages of the *Amistad* case's passage through the federal court system. As the justice assigned to the circuit courts for the Second Circuit, Thompson presided over the brief hearing of criminal charges directed against the *Amistad* captives in September 1839, and he ruled that the Mende could not be prosecuted in the courts of the United States for alleged acts that occurred on a foreign vessel at sea. During this same session of the circuit court, Thompson presided over the abolitionists' appeal for release of the Mende under a writ of habeas corpus. He expressed his personal abhorrence of slavery, but reminded the lawyers that



Smith Thompson

Portrait by Asher B. Durand, courtesy of the Collection of the Supreme Court of the United States.

the Constitution and laws of the United States recognized the right of one person to control the labor of another. His duty, as he announced it to the court, was not to rule on the abstract right of slavery but on the proper jurisdiction of the district court. The justice denied the release of the Mende as long as they were the object of property claims pending before the district court.

Thompson again presided over the U.S. Circuit Court for the District of Connecticut in April 1840 when that court heard the U.S. attorney's appeal of the district court decision ordering that the Mende should be returned to Africa. Thompson affirmed the district court decision without comment, on the assumption that it would in any case be appealed to the Supreme Court. He also rejected the plea from the Mende's lawyers that the case be dismissed on the grounds that the United States had no interest in the Spanish property claims on which it based the appeal.

Justice Thompson then heard the arguments presented before the Supreme Court and joined the opinion written by his colleague Justice Story. In all of these proceedings, Thompson had little opportunity to comment on the merits of the various claims alleging that the captives from the *Amistad* were lawfully held property of the Spanish planters.

Smith Thompson was born in New York and attended the College of New Jersey (now Princeton University). He read law with James Kent, one of the most influential jurists and legal writers in the early republic. After a brief term in the state legislature, Thompson was appointed to the New York Supreme Court in 1802 and became chief justice of that court in 1814. He left the New York court in 1818 to accept President James Monroe's nomination to serve as secretary of the navy. During his tenure as a cabinet secretary, the navy was responsible for enforcing the prohibition on the international slave trade, and Thompson was directly involved in the cases of two slave ships, the *Antelope* and *La Jeune Eugenie*, both of which became the subjects of federal court cases that served as precedents for the *Amistad* case.

In 1823 Monroe appointed Thompson to the Supreme Court of the United States. Thompson was assigned circuit duties in the Second Circuit, which consisted of New York, Connecticut, and Vermont. On the Court, Thompson supported a state rights position that was often in opposition to the nationalist ideas of Chief Justice John Marshall. He served on the Supreme Court until his death on December 18, 1843.

Joseph Story (1779–1845)

Associate justice of the Supreme Court and author of the opinion in the Amistad case

In the latter years of his career on the Supreme Court, Justice Joseph Story was the author of two of the Court's most important decisions related to slavery. Both *Amistad* and *Prigg v. Pennsylvania* upheld the nationalists' consensus that the international slave trade should be strictly forbidden but that the Constitution protected domestic slavery and the private property rights of slaveholders. As one of the Court's

non-slaveholders and the leading authority on international law, Story was the likely choice to write the *Amistad* opinion. He upheld that portion of the circuit court decree that had affirmed that the Mende from the *Amistad* had been sold illegally into slavery in Cuba and could not be returned to the Spaniards who claimed them as property. Story, however, reversed the decision to return the Mende to Africa under the custody of the President of the United States. Since the Mende had arrived in the United States as free persons in possession of the ship, he maintained, they could not be considered illegally imported slaves and could not be returned to Africa under the terms of an act intended to prohibit the slave trade. Instead, Story declared that the Mende held in federal custody were free and should immediately be released from the custody of the court.



Joseph Story

Portrait by George P.A. Healy, courtesy of the Collection of the Supreme Court of the United States.

Story was born in Marblehead, Massachusetts, and attended Harvard College before reading law with Samuel Sewall. At the same time that he pursued a legal career, Story became involved in Republican politics. He served several terms in the Massachusetts legislature and a brief term in the U.S. House of Representatives. He also argued before the Supreme Court on the winning side in the famous case, *Fletcher v. Peck*, involving the Yazoo land claims.

The youngest person ever to serve on the Supreme Court, Joseph Story was nominated by James Madison in 1811. His appointment to the Court came after three other nominees, including John Quincy Adams, had either declined the offer or failed to win Senate confirmation. Despite his political ties to the Republicans, Story quickly became a judicial ally and close personal friend of Chief Justice John Marshall. Like Marshall, Story was deeply committed to a strong national union. By the time of the *Amistad* case, Story also was well known as one of the most important legal teachers and scholars in the country. While sitting as a justice of the Supreme Court, he began teaching at Harvard Law School in 1829 and in 1833 published his *Commentaries on the Constitution*, which became an essential guide for American lawyers.

In 1842, the year following the *Amistad* decision, Story's opinion in *Prigg v. Pennsylvania* declared that the Fugitive Slave Act of 1793 was constitutional and that individual states could not prevent the recapture of runaway slaves from other parts of the United States. Story served on the Supreme Court until his death on September 10, 1845.

Norris Willcox

U.S. marshal for the District of Connecticut

As federal marshal for the District of Connecticut, Norris Willcox was responsible for carrying out many of the courts' orders related to the captives on the *Amistad*. Willcox was first appointed to the office of marshal by President Andrew Jackson in 1831 and began his duties in 1832. The marshals of the early nineteenth century played an important role in the administration of the federal courts, and in this capacity Willcox was the court official who most frequently interacted with the Mende held in federal custody.

Willcox was the first to receive Lieutenant Gedney's request to file a libel for salvage in the district court, and it was the marshal who contacted Judge Judson and accompanied him to the court of inquiry that convened on shipboard in New London harbor. After Judson accepted Gedney's libel and heard the testimony of the Spanish planters, Willcox carried out the court's order to take custody of the Africans under authority of two separate warrants. Under a warrant of seizure, a typical action in an admiralty case, Willcox took custody of the *Amistad*, its cargo, and the Africans, pending the district court's decision about the property and salvage claims. Willcox also executed a warrant for arrest of the Africans in response to the criminal complaint submitted by the Spanish planters. In both warrants, Willcox reported that he read out the Spanish names listed on the court's order but heard no response, "it being the names given them at Havanna for the purpose of shipment." Willcox then recorded the West African names to which the captives did respond.

Willcox conveyed the Africans from the *Amistad* to a jail in New Haven, and he escorted them to and from Hartford for the court sessions there. As the officer responsible for maintaining the captives in custody, Willcox was frequently present when visitors interviewed the Mende. At the district court trial in January 1840, Willcox was called to testify in regard to several of the interviews he witnessed.

In March 1841, as soon as Willcox received a newspaper report of the Supreme Court's decision, he hurried to meet the Mende where they were living in Westville, Connecticut. Once Cinque gathered the group together, Willcox announced that the Court had declared they were all free individuals. Willcox's final responsibility with the Mende was to carry out the circuit justice's order for their release from custody. He also attempted to regain custody of the slave Antonio so that he might be delivered to Spanish authorities, but the abolitionists thwarted Willcox's efforts and assisted Antonio in his successful passage to Canada. The Whig President John Tyler removed Willcox as marshal of the district in June 1841. Four years later, President James K. Polk appointed Willcox as collector of customs for the district of New Haven.

Parties in the case

The Mende people aboard the *Amistad*

At the center of the federal court proceedings related to the *Amistad* were the West Africans who had been enslaved and sold to planters in Havana. These individuals from the Mende region first encountered the officials of the federal judiciary in August 1839, when Judge Judson moved the court of inquiry to the *Amistad* to hear testimony and to survey the scene of the revolt. On the orders of Judson, the U.S. marshal took the Mende into custody and conveyed them to a jail in New Haven. Three weeks later, the marshal transported them to Hartford for the sessions of the circuit and district courts. Justice Smith Thompson soon dismissed the indictment of the Mende for murder, but he also denied their release on a writ of habeas corpus.

The Mende remained in federal custody while the district court considered the several claims that alleged the captives were the legal property of the Spanish planters. The Mende, however, were not only the object of property claims. They also entered the case as respondents challenging the allegations that they were slave property. At the November session of the district court, the abolitionist lawyers submitted the special plea of Cinque and the others, asserting that the Mende had been carried into Cuba in violation of a Spanish treaty forbidding the slave trade from Africa after 1817. At the district court trial in January 1840, the testimony of three of the Mende—Cinque, Grabeau, and Fuliwa—helped to establish that all of the captives were recent arrivals in Cuba and thus could not be considered slave property under Spanish law.

After Judson declared that the Mende captives were not legally slaves and should be returned to Africa, they remained in federal custody pending the U.S. government's appeal of the district court decision. The Mende moved to Westville, Connecticut, where they lived under a more relaxed confinement than in the New Haven jail. At the April circuit court hearing of the government's appeal, the Mende were represented as appellees who asked for the dismissal of the appeal on the grounds that the government had no interest in the case. After Justice Thompson allowed the appeal to proceed to the Supreme Court, the Mende remained in Westville and there, in March 1841, learned of the Court's decision to free them. The Mende lived outside of Farmington, Connecticut, until they found the means to return to West Africa. Many of them participated in fundraising events at which they demonstrated their English language skills, read from the Bible, and sang songs. In November 1841, the 35 surviving Mende departed for West Africa in the company of American missionaries. Some maintained contact with the mission established in Sierra Leone, and Margru, one of the young girls, returned to the United States to attend Oberlin College.

The 42 Mende whom the navy crew took into custody off Long Island were the survivors of a larger group of 53 individuals sold as slaves in Havana and shipped

on the *Amistad*. The 49 adult men purchased by José Ruiz had arrived in Havana on the slave ship *Teçora*, which had embarked from the slave trading port of Lomboko in June 1839. The three young girls and one boy purchased by Pedro Montes also were from the Mende region of West Africa but arrived in Havana separately. Several of the men died during the revolt and on the subsequent voyage along the Atlantic coast. Seven more died in Connecticut.

The widely published stories of the Mende's enslavement and struggles to return home demonstrated the personal tragedies of the slave trade and attracted unprecedented public attention to the federal court case. Their appearance in court and representation by prominent lawyers also distinguished the *Amistad* case from earlier federal cases involving violations of the prohibitions on the African slave trade.

Cinque

Leader of the Mende revolt on the Amistad

The man who became known in the United States as Cinque was present in August 1839 at the first federal court session related to the *Amistad*. In person as well as in reputation, he became a dominant figure in all of the related court proceedings that followed over the next eighteen months. He called himself Sengbe Pieh and was from the Mende region of West Africa. As soon as the navy crew took custody of the schooner *Amistad*, they recognized him as the leader of the Africans on board. Cinque, though he understood neither English nor Spanish, was brought in manacles to the court of inquiry conducted by Judge Andrew Judson on board a ship in New London harbor. There he stood alone while the Spanish planters, José Ruiz and Pedro Montes, presented their accounts of the revolt on the *Amistad* and filed a complaint against the Mende. The resulting indictment drafted by the U.S. attorney recorded the case as *United States v. Cinque, et al.*



Cinque

Image courtesy of the Collections of the Library of Congress.

Although the criminal charges were soon dropped, the case title signified the

importance that court officials and the American public assigned to Cinque. Newspapers throughout the country described the young man who led the revolt on the *Amistad* and printed whatever scarce evidence they could find about his life in Africa. A host of printed images and portraits, many based on nothing but conjecture, further defined the public's image of a natural and charismatic leader. Some praised him as a classical hero and others described a violent savage, but all seemed to agree on the strength of his presence.

Cinque and most of the other Mende men were present in Hartford when the circuit court convened and a grand jury considered the criminal indictment. He also appeared before the court when the judges heard the abolitionist lawyers' appeal for release of all the captives on a writ of habeas corpus. When the court denied their release, Cinque and the others returned to the jail in New Haven. Translators soon enabled the abolitionists to learn more accurate details about the travail of these Mende, especially Cinque, who, in a deposition for a related state court proceeding, made his first formal testimony about his life among the Mende of West Africa and his enslavement by traders from a neighboring region.

At the district court trial in January 1840, Cinque galvanized the large audience with his testimony about enslavement in Africa, the voyage to Cuba, and his sale to the Spanish planters. Cinque spoke through the translator, James Covey, but his gestures and his reenactment of conditions on the slave ship as well as the brutal treatment at the hands of the slave sellers in Havana provided the assembled crowd with vivid images of himself and the ordeal of the slave trade. His description of the time spent at sea and in Havana helped to establish the fact that the Mende had recently arrived in Cuba and thus were not legally held as slaves there.

Cinque made no further court appearance, but he continued to represent the *Amistad* captives in the minds of most Americans. In the numerous public appearances of the freed Mende, Cinque's speeches, even though in the Mende language, proved to be the dramatic climax.

Cinque sailed for Sierra Leone with the other surviving Mende from the *Amistad* in November 1841. The missionaries who accompanied them reported that Cinque soon learned that his family had disappeared in the aftermath of local wars. He then set off to sell goods as a trader, and although Cinque was the subject of many rumors, no reliable evidence documents his life after returning to West Africa.

Thomas Gedney

U.S. Navy lieutenant and commanding officer of the brig Washington

Thomas Gedney's decision to file a libel for salvage in the schooner *Amistad* brought the case to the federal courts and set in motion the proceedings that eventually led to the Supreme Court's decision freeing the captive Africans. Without that libel, the court never would have ordered the arrest of the Mende on board, the Spanish

owners would have had no reason to file their own property claims, and the Spanish government's demand for the ship and its passengers might have been met by the Secretary of State without any participation of the federal courts. The admiralty claim of Gedney and his crew had the unintended effect of offering the abolitionists an opportunity to challenge the claims for slave property and forcing the federal courts to rule on a definition of legal slave property.

Gedney was the commanding officer of the *Washington*, a U.S. Navy brig that was conducting a coastal survey in Long Island Sound when the crew encountered the *Amistad*. The crew took custody of the ship and passengers and carried the *Amistad* to New London, Connecticut. Gedney immediately contacted Norris Willcox, the U.S. marshal in New Haven, and requested a court hearing so that he could submit a libel, or claim, for a salvage award. Gedney's libel provided a detailed description of the cargo, which along with the ship he estimated at a value of \$40,000. The libel also included a request for a salvage award based on the recovery of the enslaved Africans, whom he valued at \$25,000.

Early in the district court proceedings, Judge Andrew Judson declared that he would not approve a salvage award for the enslaved Africans, since the court could not order their sale and had no means to determine their value. In his decision of January 1840, Judson awarded Gedney and his crew salvage for one third of the value of the ship and its cargo of goods. The district court also ordered the sale of the *Amistad* and the goods on board so that the money could be divided between the owners and the navy crew commanded by Gedney. The U.S. attorney appealed the decision granting salvage, but the Supreme Court upheld the award.

Thomas Gedney was a resident of New York City and had served in the U.S. Navy since 1815. In 1841 he was promoted to commander, and he continued to serve until 1855. He died in November 1857.

José Ruiz and Pedro Montes

Spanish planters from Cuba who purchased enslaved Africans in Havana and transported them on the Amistad

At the court of inquiry in August 1839, José Ruiz and Pedro Montes provided court officers and reporters with the first eyewitness accounts of the *Amistad* revolt. The planters' testimony and their formal complaint set in motion the short-lived criminal proceedings against the *Amistad* captives. The Spanish planters, with their demand for the return of what they insisted was slave property, remained at the center of the admiralty case even after they left Connecticut in the fall of 1839.

Ruiz and Montes first told a Spanish-speaking officer on the U.S. brig *Washington* of the revolt of the enslaved Africans and their subsequent navigation along the Atlantic coast of the United States. At a slave market in Havana, Ruiz had purchased 49 enslaved African men; Montes purchased three girls and a boy at the same market.

The two planters chartered space on the *Amistad* to carry the enslaved Africans to Puerto Principe along the Cuban coast. During the voyage, a group of the enslaved men escaped their chains, took command of the ship, and then forced Ruiz and Montes to sail toward West Africa. Montes, an experienced sailor, set the eastward course during the day and then sailed northward or westward at night in hopes of finding a friendly vessel. This testimony convinced the U.S. attorney to draft an indictment of the adult Africans for piracy and murder, although the circuit justice dismissed these charges as being outside the jurisdiction of the federal courts. At the session of the district court that convened on September 19, 1839, Ruiz and Montes submitted separate libels, or claims, asking the court to return to them all the cargo and slaves they had shipped on the *Amistad*. The planters also asked the court not to award Lieutenant Gedney any portion of the value of the cargo as an award for rescuing the *Amistad*. Although Ruiz and Montes soon left Connecticut, the Spanish ministers continued to represent their claims and appealed Judge Judson's decision to grant salvage to Gedney.

When Ruiz and Montes traveled to New York City in October 1839, they became ensnared in Lewis Tappan's scheme to hold them responsible for illegally enslaving the Mende from the *Amistad*. Abolitionist attorneys representing the Mende secured from two New York courts warrants for arrest on charges of false imprisonment and assault and battery. Montes soon won release for lack of evidence, but Ruiz remained in jail until February 1840. Both planters returned to Cuba before the case went to the Supreme Court.

Lewis Tappan (1788–1873)

Abolitionist leader and founder of the Amistad committee

Although he was not an official party to any action in federal court, Lewis Tappan was more responsible than anyone for securing legal representation of the Africans from the *Amistad* and for drawing the nation's attention to the plight of the captives. Tappan was a member of a prominent family of New York merchants and in 1833 had been one of the founders of the American Anti-Slavery Society. As a member of the leading association of abolitionists, Tappan organized the petition campaign that sent Congress thousands of appeals for an end to slavery. This skilled publicist with extensive



Lewis Tappan

Library of Congress, Prints and Photographs Division [LC-USZ62-47919].

financial resources also earned the hatred of many pro-slavery Americans, and in 1834 mobs vandalized Tappan's house in New York City.

Within days of the *Amistad* Africans being taken into federal custody, Tappan, along with Joshua Leavitt and Simeon Jocelyn, formed the committee to secure the legal protection of the Africans. Tappan's commentaries and personal trial accounts, published in his family-owned newspapers, won popular support for the Mende captives. Throughout the proceedings in the federal courts, Tappan helped to devise the abolitionists' legal strategy and secure witnesses who could establish that the Mende had been illegally imported and enslaved in Cuba. When the case was appealed to the Supreme Court, he persuaded John Quincy Adams to join the legal team.

In the midst of hiring lawyers and funding their appeals, Tappan was equally concerned with what he perceived as the Mende's spiritual welfare and education. He met the Mende men during their first week in the New Haven jail and offered them a religious sermon, as well as a sample of ice. Even before he located translators who could communicate with the Africans, Tappan hired divinity students to deliver religious teachings in English. He contacted the famous educator of the deaf, Thomas Gallaudet, in an effort to devise some form of communication with the Africans, and he recruited linguistics professor Josiah Gibbs to locate a translator of West African languages. Tappan continued to supervise the Mende's education in English and Christianity throughout their time in Connecticut.

Following the Supreme Court decision freeing the Mende, Tappan led the effort to provide for transportation back to West Africa. Tappan and an African-American preacher, J.W.C. Pennington, organized a committee to raise money through a series of tours during which the Mende demonstrated their proficiency in English and sang hymns. In November 1841, Tappan accompanied the Mende to their ship in New York harbor and bid farewell as they left for West Africa and the freedom he had done so much to secure for them.

A witness

Antonio

Enslaved cabin boy of the Amistad captain

At the court of inquiry in August 1839, Antonio, the young slave of the slain Captain Ferrer, led district court Judge Andrew Judson and other court officers into the hold of the *Amistad* to identify the men who had led the revolt along with Cinque. Throughout the proceedings in the district and circuit courts, Antonio's testimony was crucial in establishing the judges' understanding of what happened the night of the revolt and in determining the status of the Mende. As the object of one of the property claims submitted in district court, Antonio and his legal fate also help to explain the courts' understanding of the law of slavery.

In September of 1839, Antonio told visiting abolitionists that he had been born in Havana more than fourteen years before and had served on his master's ship, the *Amistad*, for the past three years. At the November session of the district court, the Spanish consul from Boston submitted a claim for the return of Antonio as the legal property of Captain Ferrer's heirs. The acknowledgement of his birth in Spanish territory, where slavery was still legal, meant that Antonio's status was not affected by the laws prohibiting the slave trade in Cuba. None of the abolitionists' court arguments suggested Antonio was free, and in his district court decision, Judge Judson ordered that Antonio be restored to his Spanish owners. Judson pointed to his decision to return Antonio as evidence that he was eager to abide by the United States' treaty with Spain as long as any claimed property was legally held by the Spaniards making the claim. On a broader level, the decision regarding Antonio and the references to him in subsequent court actions indicated that the judges of the federal courts supported the right to hold slaves in bondage wherever laws supported that species of property.

Within a few days of Judson's decision, Secretary of State John Forsyth instructed the U.S. attorney in Connecticut to appeal the decision regarding the Mende, but added "that part which concerns the slave Antonio is not to be disturbed." The secretary of state expected soon to send instructions for the delivery of Antonio to Spanish officials. U.S. Attorney Holabird recommended that Antonio remain in the country until the April session of the circuit court heard the appeal of the district court decree. "His testimony in person would be much better than his deposition," according to Holabird, "he is rather an intelligent boy." Antonio continued to live with the Mende in Westville, Connecticut, where they remained in federal custody. Once the Supreme Court declared the Mende free and made no further mention of the decision regarding Antonio, the U.S. marshal in Connecticut attempted to take custody of Antonio for transfer to Spanish officials. Antonio, with the assistance of Lewis Tappan, boarded a steamboat for New York City and within a month was in Canada. President John Tyler assured the Spanish ambassador that he would attempt to find Antonio, but the young man was free from the reach of federal officials and Spanish claims.

Lawyers

John Quincy Adams (1767–1848)

Member of the House of Representatives and former President, representing the Amistad Mende before the Supreme Court

When the 73-year-old former President of the United States appeared before the Supreme Court to advocate the freedom of the *Amistad* captives, large crowds filled the chamber on the ground floor of the U.S. Capitol. Adams, who declined appoint-

ment as a justice in 1811, had argued many cases before the Court when he served in the Senate. He had not appeared as an advocate before the Court, however, since 1809. In the intervening years he served in various posts as an ambassador, as secretary of state from 1817 to 1825, as President from 1825 to 1829, and since 1831 as a member of the House of Representatives.

The prominence of Adams and his well-known opposition to slavery convinced the abolitionist committee to invite him to serve as an attorney for the Mende during the district court proceedings. Although Adams declined at that time, he acceded to Lewis Tappan's request to assist in representing the Mende before the Supreme Court. In the 1830s Adams had emerged as one of the strongest congressional opponents of slavery and led the fight against the so-called "Gag Rule" by which the House of Representatives disregarded thousands of anti-slavery petitions. In earlier stages of his career, Adams had exhibited little concern with the slave trade. As secretary of state, he had urged the return of slaves claimed by Spanish traders and challenged British attempts to search American vessels suspected of carrying slaves in international waters. Now, as "old-man eloquent," he was one of the most prominent American anti-slavery leaders, although his views were more moderate than those of the abolitionists.

When he joined the group of lawyers representing the *Amistad* captives, Adams already had taken a leading role in forcing the Van Buren administration to submit to Congress correspondence relating to the *Amistad* affair. His preparation focused on an examination of the role of the administration, especially the activities of Secretary of State John Forsyth. Adams also visited the Mende men whose fate depended on the Supreme Court decision. Just a few weeks before the Supreme Court heard arguments in the case, two of the Mende captives, Kale and Kinna, wrote Adams letters asking for his assistance in securing their freedom.

Adams' arguments before the Supreme Court lasted for more than seven hours over a period of two days. He devoted much of his time to what he saw as the administration's attempts to circumvent the judiciary and return the Mende captives to



John Quincy Adams

Brady-Handy Photograph Collection, Library of Congress, Prints and Photographs Division [reproduction number LC-DIG-cwpbh-02619].

Spanish authorities. Adams also appealed to natural rights, most dramatically when he called attention to copies of the Declaration of Independence hanging in the Court room. “The moment you come to the Declaration of Independence, that every man has a right to life and liberty, an inalienable right,” he said, “this case is decided. I ask nothing more in behalf of these unfortunate men, than this Declaration.”

Justice Joseph Story suggested that Adams’ arguments were largely unrelated to the legal questions before the Court, but Adams may have been more concerned with an audience well beyond the justices. He failed to offer a copy of his remarks for inclusion in the Supreme Court report and soon published a copy that he distributed to a large audience, including every member of Congress and every American in the diplomatic service. Adams’ censure of the Van Buren administration may have had no impact on the justices’ decision, but well into the following century it continued to frame most historical accounts of the *Amistad* case.

Roger Sherman Baldwin (1793–1863)

Principal lawyer representing the Mende of the Amistad in all federal court proceedings

The chief legal advocate for the Mende was the son of a prominent political family in Connecticut. Baldwin’s father, Simeon, served as the first clerk of the state’s federal courts, as a member of the U.S. House of Representatives, and as a judge on Connecticut’s highest court. Baldwin’s namesake and grandfather was Roger Sherman, a signer of the Declaration of Independence and framer of the Constitution. After attending college at Yale, Baldwin studied law at the prestigious Litchfield Law School and then practiced law in New Haven. At the same time, Baldwin embarked on a political career that in the years following the *Amistad* case would lead to service as Connecticut governor and U.S. senator. He also became involved in the anti-slavery movement, and in one of his early cases defended a runaway slave owned by Henry Clay.

The abolitionist committee approached Baldwin to represent the African captives held in the New Haven jail, and in early September Baldwin was among the first group to interview Cinque through an African translator. The legal



Roger Sherman Baldwin

Engraving by A.H. Ritchie after daguerreotype by Brady, Library of Congress, Prints and Photographs Division [reproduction number LC-USZ62-90730].

team included Seth Staples and Theodore Sedgwick, but Baldwin was the lead attorney for the Mende at each stage of the proceedings in the federal courts. Baldwin pursued a dual strategy that emphasized natural rights while at the same time arguing that under the laws governing slavery in Spanish territories and the United States, the Mende could not be considered slaves.

As soon as the court dropped all criminal charges against the *Amistad* captives in September 1839, Baldwin sought under a writ of habeas corpus to have the Mende released from federal custody. The abolitionist lawyers insisted that no federal court had authority to confine individuals based on a claim that they were slaves. Unless and until the courts decided otherwise, they should treat all humans, regardless of race, as free individuals. But Justice Smith Thompson in the circuit court reminded Baldwin of what he already knew: that the Constitution implicitly protected slavery, and there were many precedents for detaining individuals claimed as slaves.

In the admiralty proceedings in the district court and during the subsequent appeals, Baldwin continued to claim that the Mende were entitled by natural rights to protect their freedom and return to their homes, but he also was careful to respond to the precedents that said the federal courts must respect slave property in those jurisdictions where it was protected by law. Baldwin repeatedly argued that the Mende had been carried into Cuba in violation of the Spanish treaty prohibiting the African slave trade after 1817. Since the captives were considered free rather than slaves under Spanish law, the United States was not obligated to return them to Cuba as property.

In the Supreme Court, Baldwin urged the dismissal of the government's appeal of the district court's decision. He asserted that the executive branch of the U.S. government had no authority to represent the claims of a foreign government in an admiralty proceeding nor to return to slavery persons who arrived in the country as free individuals. Baldwin also repeated his arguments that there was no positive law of Spain by which these African natives could be deemed to be slaves. These arguments of Baldwin, rather than the more emotional appeals of Adams, largely supported the Supreme Court's decision to declare the Mende to be free.

Henry Gilpin (1801–1860)

United States attorney general who presented the government's case before the Supreme Court

Henry Gilpin was born in England and as a young boy immigrated to the United States with his parents. He attended the University of Pennsylvania and then read law. While practicing law in Philadelphia, Gilpin became involved in Democratic party politics and received a series of presidential appointments. Andrew Jackson nominated him as U.S. attorney for the Eastern District of Pennsylvania in 1831 and to the board of the Bank of the United States in 1833. Gilpin served as the district's U.S. attorney until

1837 when Martin Van Buren appointed him as solicitor of the Treasury Department. He joined Van Buren's cabinet as attorney general in 1840.

Appearing before the Supreme Court to defend the administration's appeal of the *Amistad* decision in the district and circuit courts, Gilpin urged the Court to order the return of the *Amistad* and all its cargo, including the enslaved Africans, to the Spanish government. Gilpin followed many of the arguments first set out in September 1839 by his predecessor as attorney general, Felix Grundy. The obligation of the United States was to observe the 1795 treaty with Spain and return all property that had been rescued from robbers. The treaty was intended to apply to slave property, which continued to be protected by the laws of the United States as well as those of Spain and its territories.

Gilpin asserted that under the terms of the treaty between Spain and the United States, no one was entitled to salvage rights, and thus the full value of the ship and its cargo should be returned to their Spanish owners. In response to Roger Sherman Baldwin's claim that the Mende had been enslaved illegally and should be considered free in Spanish territory, Gilpin argued that the owners of the slaves had presented documentation signed by the governor general of Cuba. Any errors in that documentation should be judged by Spanish authorities, not officers of the United States government. "If we were to refuse to give faith to the documents of public officers," Gilpin insisted, "All national intercourse, all commerce, would end."

Gilpin closed his arguments one day before the Van Buren administration and his term as attorney general came to an end. He held no further public office and retired to Philadelphia to pursue his long-standing interest in literature and the arts.



Henry Gilpin

Engraved by R.W. Dodson from a painting by H. Inman, Library of Congress, Prints and Photographs Division [reproduction number LC-USZ62-120317].

William S. Holabird (1794–1855)

U.S. attorney for the District of Connecticut, who represented the government's case in the district and circuit court

In 1834, President Andrew Jackson appointed William Holabird to serve as the attorney for the United States government in the District of Connecticut. The office of U.S. attorney, usually referred to as the "District Attorney" in the nineteenth century, was established by the Judiciary Act of 1789 to represent the government in business

before the federal courts. Holabird was unable to attend the special session of the district court that convened in New London, but he was represented by the clerk of court, Charles Ingersoll, and Holabird subsequently drafted an indictment of Cinque and the other Mende men on the basis of testimony at the court of inquiry. Holabird also wrote to Secretary of State John Forsyth for advice in responding to the Spanish planters' demand for the return of property, including the alleged slaves. The attorney informed Forsyth that when the circuit court met later in September, "I *suppose* it will be my duty to bring them to trial, unless they are in some other way disposed of." A few days later he concluded that the Mende could not be indicted in a federal court, and inquired of Forsyth if the Africans could be delivered to Spanish authorities before the courts met. When the circuit court opened, Holabird nevertheless presented the indictment, which was referred to a grand jury. Justice Smith Thompson soon ruled that the Mende could not be prosecuted in a federal court for murder or piracy on a foreign vessel in international waters.

Following Forsyth's instructions to ensure that the Mende not be released from the control of the federal executive, Holabird filed in the district court a libel with two separate requests. If the court determined that the Mende were legally held in slavery, Holabird asked that the court order their delivery to Spanish authorities. If the court held that the Mende had been enslaved in violation of Spanish law, Holabird requested that the court deliver the Africans to the President for return to Africa under the terms of a law enforcing the prohibition on the importation of slaves into the United States. In a separate proceeding related to a writ of habeas corpus, Holabird acknowledged that he believed the Mende had been illegally enslaved and would be returned to West Africa.

Holabird continued to represent the government and to defend the Spanish property claims throughout the proceedings in the district court. On the eve of the January trial, the secretary of state instructed Holabird to deliver the Mende captives to a navy vessel waiting off New Haven as soon as the judge made the expected ruling that the Africans must be returned to Cuba. When Judge Judson surprised nearly everyone and ruled that the Mende were not slaves and should be returned to their homes in West Africa, Holabird followed Forsyth's instructions to appeal the decision to the U.S. circuit court. In April 1840 he appeared before that court to defend the government's interest in demanding the return of Spanish property.

Holabird, who lost his office in 1841 after the Whig party gained the presidency, served as lieutenant governor of Connecticut in 1842 and 1844. He returned to the practice of law until his death in 1855.

Other government officials

John Forsyth (1780–1841)

Secretary of state in the Van Buren administration

John Forsyth had served as secretary of state under two Presidents and as the nation's minister to Spain by the time that he took the lead in coordinating the Van Buren administration's response to the *Amistad* case. Born in Virginia, Forsyth grew up in Georgia and returned to that state to study law after graduating from the College of New Jersey (now Princeton University). He soon embarked on a political career that included service as attorney general and governor of Georgia and several terms in the U.S. House of Representatives and the U.S. Senate. Forsyth was a strong supporter of Andrew Jackson, particularly during the Nullification crisis, and Jackson named him secretary of state in 1834. He continued in that office until the end of the Van Buren administration in 1841.

In Van Buren's absence, Forsyth led the first cabinet deliberations on the *Amistad* affair, and he subsequently directed both the diplomatic and legal strategy of the administration. The secretary of state was most concerned with avoiding a diplomatic crisis with Spain, and he quickly decided that the United States was obliged by the treaty of 1795 to return Spanish property. Forsyth was in regular communication with the U.S. attorney for Connecticut, William S. Holabird, and instructed him to file the claim for the return of the ship, its cargo, and the enslaved Africans to Spanish authorities, with no deductions for salvage awards. Even before Van Buren made any decision on the Spanish request, Forsyth ordered Holabird to "take care that no proceeding of your circuit court, or of any other judicial tribunal, places the vessel, cargo, or slaves beyond the control of the Federal Executive." In anticipation of a court order to return the Mende to Spanish authorities in Cuba, Forsyth informed Holabird that the President had authorized sending a naval ship to New Haven in order to carry the captives away as long as no one appealed the decision, and he requested that Holabird prepare copies of the court proceedings so that they could be sent to the courts in Cuba. When Judge Andrew Judson ruled against the Spanish claim, Forsyth conveyed Van Buren's request that Holabird appeal the decision, both as it related to the return of the Mende to Africa and the grant of salvage to the Navy crew.

Forsyth's communications with the U.S. attorney reflected not only the diplomatic implications of the *Amistad* affair but also the broader duties of early secretaries of state, who served as a kind of home secretary as well as the principal officer for foreign affairs. The secretary of state played an important role in screening judicial nominees, and judges and officials in the federal courts often contacted the State Department with requests for copies of the United States statutes or special expenditures. For example, Holabird turned to the secretary of state in November 1839 when he wanted to draw funds from the marshal's account in order to hire an assistant counsel.

Media Coverage and Public Debates

The *Amistad* court proceedings aroused greater public interest than any previous federal trial. Newspapers and popular entertainments responded to the demand for information about the Mende and their fate in the courts. Just a few days after the district judge held the court of inquiry, New York's Bowery Theater advertised performances of "The Black Schooner," a "nautical melodrama" that at least in the names of the cast reflected knowledge of the court proceedings. In the following months, a New Haven artist created life-size wax models of twenty-nine of the Mende, placed them on a reconstructed deck of the *Amistad*, and exhibited the display in major cities of the northeastern United States. Another exhibit toured New England with a 135-foot mural depicting the revolt. Popular, inexpensive prints offered the public images of the Mende. William H. Townsend, a Connecticut artist, drew pencil sketches of twenty-two of the Mende, and newspapers carried silhouette portraits of the captives. The greatest public interest always focused on Cinque, and the earliest prints recognized him as the leader of the Mende from the *Amistad*. By the time of the district court trial in January 1840, the public had a strong visual image of the Mende and the revolt on the *Amistad*.

At the same time that hundreds of visitors were paying to view the Mende held in the New Haven jail, publishers were providing a broader audience with biographical sketches of the West African captives, including details about their families and their abduction in Africa. Many of these accounts were compiled in collaboration with the abolitionist committee defending the Mende, and the intended effect was to humanize the people held in custody and to personalize the stories of enslavement.

Abolitionists were skilled publicists, and none more so than Lewis Tappan, who provided firsthand accounts of the court proceedings and interviews with the Mende for the newspaper that his family owned. New York's African American newspaper sent a reporter to cover proceedings in Connecticut and Washington. Not all of the press coverage was positive. Certain newspapers published ceaseless attacks on the abolitionists and the Mende themselves, claiming that the captives were being coddled in jail.

The *Amistad* case took place at a time of a new willingness in the North to discuss publicly the institution of slavery. In the 1830s, the abolitionists' massive petition campaign, which inundated the Congress with appeals to abolish slavery in the District of Columbia, had involved large groups of citizens in debates on the federal government's support of slavery. At the same time, many white southerners responded to the abolitionists and events such as the slave revolt of Nat Turner with a more assertive defense of slavery. It was in the context of these new debates over slavery that the public, both North and South, turned its attention to the *Amistad* case.

The media coverage and public familiarity with the case created an unusual

background for judicial proceedings at a time when the business of the federal courts normally received little attention. In each of the courts that heard a part of the proceedings, the judges took the unusual step of acknowledging the need to explain their decisions to an interested public.

Prints and images

First images of Cinque and the Mende

A New York newspaper commissioned a print of Cinque in late August and advertised the sale of copies. On August 31, just five days after the Navy took the Mende into custody, this print was submitted for a copyright at the clerk's office of the U.S. District Court for the Southern District of New York. Whether it was as “the brave Congolese chief who prefers death to slavery,” or as the inspiring orator reassuring his compatriots on the deck of the recently seized *Amistad*, Cinque repeatedly was portrayed as a natural and charismatic leader.



*“Joseph Cinquez, the brave
Congolese Chief”*

[Isaac?] Sheffield. New York: Moses Y. Beach, 1839. Prints and Photograph Division of the Library of Congress.



*“Joseph Cinquez Addressing His Compatriots on Board the Spanish Schooner,
Amistad, 26th August 1839”*

John Childs. 1839. Lithograph. In the Charles F. Gunther Collection, Chicago Historical Society.

Portrait of Cinque

The presentation of a noble Cinque culminated in the romanticized portrait commissioned by a wealthy African American abolitionist from Philadelphia. This most famous image of Cinque was also copied into a print format for sale. An important audience for these images was the free black community in New York City, where most of the images were printed. In the midst of the oral arguments before the Supreme Court, an African American newspaper in New York City advertised copies of this portrait, which were available for the price of \$1. The publishers announced “We shall be proud to have our apartments graced with the portrait of the noble Cinque, and shall regard it as a favor to our descendants, to transmit to them his likeness.” For at least some African Americans, Cinque already had become an inspiring legend.



Portrait of Cinque

Nathaniel Jocelyn. New Haven Colony Historical Society.

Anti-slavery images

Since the beginnings of the abolitionist movement in the late 1820s, these anti-slavery activists had worked to mobilize public opinion in opposition to slavery. They often relied on new technology that made possible the printing of inexpensive broadsides and images that could be distributed in large quantities to urban audiences. The crude but powerful



United States Slave Trade, 1830

Philadelphia (?), 1830. Prints and Photograph Division of the Library of Congress.

print of the “United States Slave Trade,” carried on in the shadow of the Capitol building, was typical of these efforts. So was the “American Anti-Slavery Almanac,” published at the same time as the *Amistad* proceedings, and presenting a series of violent images of slavery in the United States. These widely disseminated prints often relied on appeals to a sense of family and the dignity of free labor, and helped to cultivate anti-slavery support among people who did not necessarily share the abolitionists’ vision of an immediate end to slavery or of an integrated society.



Selling a Mother from her Child.



Hunting Slaves with dogs and guns. A Slave drowned by the dogs.



Paid.

Unpaid.

Illustrations of the American Anti-Slavery Almanac for 1840 (selections)

New York, 1840. Printed Ephemera Collection, Library of Congress.

Newspaper articles

Lewis Tappan “To the Committee on behalf of the African Prisoners.”
New York Journal of Commerce, September 10, 1839

Tappan’s communications from Connecticut always emphasized the condition of the Mende captives, whose fate depended on the outcome of the proceedings in the federal courts. In a typical report filed after his first visit to the jail in the company of a translator, Tappan emphasized the potential for educating the Mende and converting them to Christianity. He also wanted to cultivate popular sympathy for individuals whom he portrayed as sharing the basic family affections and sentiments of Protestant culture in the United States. His assurances that the Mende were “peaceable,” “docile,” and “intelligent” stood in sharp contrast to the racist attacks published in the Morning Herald and other penny press newspapers in New York City. Tappan’s descriptions of the Mende demonstrate the degree to which the abolitionists’ legal defense of the captives arose from a call to Christian charity and evangelism as well as from an attachment to natural rights.

... The African prisoners are orderly and peaceable among themselves. Some of them sing well, and appear to be in good spirits and grateful for the kindness shewn them. Col. Stanton Pendleton, at whose house I stop, is the jailer, and is kind and attentive to the prisoners. He provides them wholesome food in sufficient quantities, and gives every reasonable indulgence to the numerous visitors, from the neighboring towns and elsewhere, who throng the prison continually to see these interesting strangers from a distant land. ...

... I distributed some religious tracts, in the morning, to the convicts, and attempted to instruct the African prisoners, especially the children. They pronounce words in English very distinctly, and have already nearly the numerals. In showing them some books containing pictures of tropical animals, birds, &c., they seemed much pleased to recognize those with whose appearance they were acquainted, endeavoring to imitate their voices and actions. With suitable instruction these intelligent and docile Africans would soon learn to read and speak our language, and I cannot but hope that some of the benevolent inhabitants of this city will diligently continue to improve the opportunity to impart instruction to these pagans, brought by the providence of God to their very doors. Towards evening we made a visit to Shinquau [Cinque], and conversed with him a considerable time. He drew his hand across his throat, as his room mates said he had done frequently before, and asked whether the people here intended to kill him. He was assured that probably no harm would happen to him – that we were his friends – and that he would be sent across the ocean towards the rising sun, home to his friends. His countenance immediately lost the anxious

and distressed expression it had before, and beamed with joy. He says he was born about two days travelling from the ocean; that he purchased some goods, and being unable to pay for only two-thirds of the amount, he was seized by the traders, his own countrymen, and sold to king Sharka for the remaining third. "I don't tell a bit of a lie about it," he said. He says he left in Africa both his parents, a wife and three children. Two of the children, he remarked, are a little larger than the African girls who are prisoners, and the other about as large. We endeavored to ascertain what his ideas were about a Supreme Being, if he had any. He said, "God is good." His countrymen, he says, know nothing about reading or writing. . . .

Cingues

The Colored American, October 19, 1839

The Colored American was the nation's leading African American newspaper during its brief run from 1837 to 1841. The New York-based publication brought news of the Amistad court proceedings and accounts of the Mende captives to its African American readers throughout the northeastern United States. At the opening of the Supreme Court term in 1841, the newspaper sent a special correspondent to Washington to cover the arguments before the justices.

This essay on Cinque, or "Cingues," as the paper called him, placed the Mende leader in the company of great heroes of the era. In a fantasy of prominent men honoring Cinque, the writer imagined Daniel Webster representing the Mende in court, John Marshall (who died in 1835) conducting the trial that would lead to "acquittal and triumph," and Lord Nelson's first officer at the battle of Trafalgar providing escort to the Mende homeland. No ship of the United States was deemed worthy of the responsibility. By the time of the Amistad case, the British Navy was associated not with protection of that nation's once flourishing slave trade, but rather with its recent determination to rid the Atlantic world of all commerce in slaves.

We are inclined to call the noble African by this name, although he is called by as many different titles as our republicanism offers reasons for enslaving his people. We have seen a wood-cut representation of the royal fellow. It looks as we think it would. It answers well to his lion-like character. The head has the towering front of Webster, and though some shades darker than our great country-man, we are struck at first sight, with his resemblance to him. He has Webster's lion aspect. . . .
. . . We bid pro-slavery look upon Cingues and behold in him the race we are enslaving. He is a sample. Every Congolese or Mandingan is not, to be sure, a Cingues. Nor was every Corsican a Neapolitan, or every Yankee a Webster. "Giants are rare," said Ames, "and it is forbidden that there should be races of them." But call not the race *inferior*, which in now and then an age produces such men.

Our shameless people have made merchandise of the likeness of Cingues – as they have of the originals of his (and their own) countrymen. They had the effrontery to look him in the face long enough to delineate it, and at his eye long enough to copy its wonderful expression.

By the way, Webster ought to come home to defend Cingues. He ought to have no counsel short of his twin spirit. His defence were a nobler subject for Webster's giant intellect, than the Foote resolutions or Calhoun's nullification. There is indeed no defence to make. It would give Webster occasion to strike at the slave trade and at our people for imprisoning and trying a man admitted to have risen only against the worst of pirates, and for more than life – for liberty, for country and for home.

Webster should vindicate him if he must be tried. Old Marshall would be the man to try him. And after his most honorable acquittal and triumph, a ship should be sent to convey him to his country – not an American ship. They are all too near a kin to the “*low, long, black schooner.*” A British ship – old Nelson's line of battle, if it is yet afloat, the one he had at Trafalgar; and Hardy, Nelson's captain, were a worthy sailor to command it to Africa. He would steer more honestly than the treacherous old Spaniard. He would steer them toward the *sunrise*, by night as well as by day. An old British sea captain would have scorned to betray the noble Cingues. He would have been as faithful as the compass.

“The Captured Africans”

New York Morning Herald, September 17, 1839

Among the New York City newspapers that closely followed the Amistad trial, none was more tireless in its attacks on the abolitionists and the Mende captives than the Morning Herald. The paper announced in early September that it was sending two correspondents to Connecticut to challenge the “extraordinary fabrications” of the abolitionist-owned Journal of Commerce. Typical articles filed by the Morning Herald correspondents mocked the abolitionists' efforts at religious education and repeatedly described the Mende as savages. The coverage by the Morning Herald made clear that even as the anti-slavery movement found unprecedented public support during the Amistad trial, many readers in New York City preferred to read the racist stereotypes and sensationalism of “penny press” newspapers like the Morning Herald. Despite the denial of support for slavery, this article, like many others, expressed more concern for the slaveholders of the southern United States than for the Mende who faced reenslavement.

New Haven Sept. 13

... The excitement respecting the Africans is still on the increase here, and I notice by the prints from various sections of the country, that it is attracting great attention in every quarter. It is really a question of the gravest importance, and its settlement

is fraught with portentous consequences to the South. The papers are filled with preposterous twaddle, purporting to be argument on the subject, but it does neither good nor harm. My object has been, not to discuss the question, but to apprise you of such facts and circumstances as I could collect, that had a bearing on the case, and to recapitulate and expose the absurdities put forth by the Abolitionists. It is not to be denied that these infatuated and mischievous men have long been hard at work in the hope of producing a fatal schism between the free states and the slave states. In this nefarious design they are abetted by certain reckless politicians who fan the embers, in the hope of rendering the excitement subservient to their ulterior purposes. The affair of the Amistad is a godsend to these men. They have already told lies enough to jeopard the eternal welfare of half the negroes in Christendom (always supposing them to have souls worth looking after,) and they will, no doubt, tell twice as many more before the matter is settled. ...

... The fact is, those people who are making all this bustle and clamor about the “poor Africans” are entirely uninformed respecting their social and physical condition at home. They are slothful and thievish, and altogether are sunk in a state of ignorance, debasement and barbarism, of which no adequate conception can be formed. The history of the world presents no instance where the whites have been in a condition so degraded. They are a distinct and totally different race, and the God of nature never intended that they should live together in any other relation than that of master and slave. I am no advocate of slavery, but I am clear in the conviction that the blacks can never be raised to a footing of equality with the whites, and that effort directed to this end is worse than useless.

“Keep Cool”

The Colored American, November 2, 1839

The editors of the nation’s leading African American newspaper closely followed the coverage of other New York newspapers during the Amistad proceedings. The city’s papers presented a broad range of opinion about the case, although many, especially those among the “penny press,” expressed exaggerated prejudice against the Mende and their abolitionist supporters. The Colored American reserved special criticism for the “brothel Morning Herald,” which had sent a reporter to Connecticut and printed some of the cruelest and most vulgar accounts of the African captives. Here the Colored American explicitly linked the racist coverage in northern newspapers with the southern defenders of slavery.

We have been highly pleased, for some weeks past, with the independent and fearless tone of the N.Y. Sun, while discussing the rights and wrongs of the Amistad affair. It

views this matter as it ought, and reasons it with sound judgement and good sense. We are also happy to find a like spirit alive in several others of our most respectable penny papers, of which are the SIGNAL and the TATTLER. . . . These paper do not permit their columns to be disgraced, in this matter, with the low born and vulgar prejudice – the mean and contemptible spirit - the absurd and weak dogmas, and the fiend-like nature, which are the characteristics of a junto of infamous prints in this city ycleped [sic] as follows: the *N.Y. Star*, *N.Y. Gazette*, *Courier & Enquirer*, the brothel *Morning Herald*, and a few others equally detestable in character.

Ever since the capture of the *Amistad*, and the confinement of the Africans, the editors of these latter papers have been growling and firing volley upon volley of abuse from their *smut-machines* upon these men, because, forsooth, they had dared, after having been stolen from their native land, and torn from the arms of their wives and children, and forced on board a slave-ship, being bound in irons and otherwise cruelly treated, to break their shackles and assert their “inalienable rights to life, LIBERTY,” &c. Yes, because they had dared to this, they have been denounced as pirates, as murderers, and have had every epithet heaped upon them which these editors could cull from their natural vocabulary. Chiveralrous, high-minded editors, they! How valiantly – how corageously they fight those forty poor African prisoners!!! The South will owe them much – perhaps, grant them a pension!

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Historical Documents

The libel of Lieutenant Thomas R. Gedney, August 29, 1839, in the U.S. District Court for the District of Connecticut

Gedney's libel initiated the federal judicial proceedings related to the Amistad and the Africans on board. A libel was the form used to submit a claim to the district court in an admiralty proceeding. Gedney's libel asked the court to grant him and his crew a salvage award in recognition of their role in rescuing the Amistad and its cargo. (In a modern admiralty case, this form of action would be called a complaint.) In the typical form of a libel for salvage, this document listed the contents of the cargo and estimated the value of the ship and cargo at \$40,000. Following the detailed list of the dry goods on board, Gedney also claimed salvage in all fifty-four slaves originally transported on the Amistad, with an estimated value of \$25,000. In support of his claim, Gedney insisted that the Amistad and all its contents would have been lost at sea if the Navy crew had not intervened and brought the ship to New London.

The libel included the standard request for the court to issue a monition, by which it would print a public notice of Gedney's claim and advise any interested parties to submit their own libels when the district court held its next session. At the district court session that opened on September 19, 1839, the several owners of the Amistad and its cargo and the purchasers of the enslaved Africans submitted libels in opposition to the salvage claim. Gedney's claim and these responses offered the lawyers for the Africans the opportunity to present their own claim that the captive Africans in fact were not slaves.

[Document Source: *Thomas R. Gedney & c. v. The Schooner Amistad, &c.*, Case files, U.S. District Court, District of Connecticut, RG 21, National Archives and Records Administration – Northeast Region (Boston).]

To the Honorable Andrew T. Judson Esq. Judge of the District Court of the United States in & for the District of Connecticut-

The libel of Thomas R. Gedney Lieutenant in the United States Navy Commanding the United States Surveying Brig Washington employed in the service of the United States in the Coast Survey, And on behalf of Richard W. Meade a Lieutenant on board said Brig and the officers & Crew of said Brig Washington & all others interested or entitled - humbly Sheweth - that on the 26th day of August A.D. 1839 the said libellant being in and with said Brig, Surveying between Montauk Point & Gardiners Island in the State of New York discovered a Strange and Suspicious

looking vessel off Culloden point near said Montauk point, that they took possession of said vessel which proved to be a Spanish Schooner called the Amistad of Havanna in the Island of Cuba of about 120 Tons burthen, and the said libellants found said Schooner was manned by forty five negroes some of whom had landed near said point for water, & there were also on board two Spanish Gentlemen who represented and as the libellants verily believe were part owners of the Cargo & of the Negroes on board who were Slaves belonging to said Spanish Gentlemen, That said Schooner Amistad sailed on the 28th day of June A.D. 1839 from the Port of Havanna bound to a port in the Province of Principe both in said Island of Cuba under the command of Raymen Ferrer as master thereof, that said Schooner had on board & was laden with a large & valuable Cargo Consisting of and Amounting to as the libellants believe to be 1 Box with 4 fowling pieces 1 Crate 11 Boxes Crockery & Glassware 200 Boxes vermacelli 15 ps. linen Stuff. 1 Case Sugar 25 Bags Beans 20 Boxes Raisins 50 Horse equipments 10 doz. Morocco skins 5 doz. Calf skins 5 Saddles 2 doz. Bits 200 feet Rods 20 sides Sole Leather 6 iron Drums for warehouse 8 crowns 1 Box with 200 wedges 3 Iron Kettles 14 packages common linen 4 packages Holland linen 4 doz. parasolls or umbrellas 30 pieces muslin 10 yds each 2 doz. 1/2 Hose 3 doz. ovens 21 Ingots 10 ps. Silesia 2 ps. Victoria 9 ps. drilling 34 ps. Long lawn 54 ps. Calicoes 5 ps. Laces 14 ps. Muslins 67 pieces stripes 4 ps. stripes 148 ps. Ribbon 10 ps. linen Cambric 43 ps. Glazed linen 4 ps. Rouen Casemire 1 Doz. Shawls, fans, Gloves, Shirts, Tapes thread towels umbrellas, 29 muslin Dress patterns 16 Woolen shawls 4 silkes 15 Rugs Buttons Saddles 75 ps. Stripes 48 ps. Silesia 30 ps. Long lawn 1 ps. Black HKffs 7 ps. French Linens 8 doz. linen cambric HKffs, umbrellas. 42 ps. Striped Ribbins 2 ps. Ribbins 6 coloured Mantles 40 ps. linen Cambric 800 yds Striped linen 2 ps. Merino 30 Dress patterns 6 Musquito netts 5 ps. Satin 18 Blankets 1 Box Hardware 12 doz. HKffs 18 ps. Coarse linen 60 vols Books 2 Boxes Books 70 sheets of Copper Hardware 50 Demijohns Olive Oil 20 Boxes Vermacilli 20 Quintals Jerked Beef 15 sides Sole Leather 6 kegs Olives 2 Quintals Hams 190 ps. muslins 26 ps. Stripes 3 ps. Brown Drilling 4 ps. linens 21 ps. Coloured & fine linens 11 Doz. ladies Hose 2 Doz. Belts 10 Doz. linen Cambric HKffs 12 common D[itt]o and a large quantity of Silks Linens, Hardware & provisions to the Amount in all of \$ 40,000 Dollars - And also fifty four Slaves to wit, fifty one male Slaves & three young female Slaves who were worth twenty five thousand Dollars & while on said voyage from Havanna to Principe the said Slaves rose upon the Captain & Crew of said Schooner & Killed & murdered the Captain & one of said Crew & two more of said Crew escaped & got away from said Schooner, that the two Spaniards on board to wit, Pedro Montes and Jose Ruis, remained alive on board said Schooner after the murder of the Captain and after the said negroes had taken possession of said vessel & cargo that their lives were spared to assist in the sailing of said vessel & it was directed by said negroes that said Schooner should be navigated for the Coast of Africa, and said Pedro Montes & Jose Ruis did accord-

ingly steer as thus directed & compelled by said negroes at the peril of their lives in the Day time and in the night altered their Course and steered for the American Shore, but after more than two months on the Ocean they succeeded in coming round Montauk point, then they were discovered & boarded by the libellants and the said two Spanish Gentlemen begged for & claimed the aid and protection of the libellants, that said Schooner was accordingly taken possession of & recaptured from the hands and possession of the said negroes who had taken the same as aforesaid & that said Schooner was brought into port of New London in the District aforesaid where she now is, and said Schooner would with great difficulty exposure and danger have been taken by the libellants but for the surprise upon the said Blacks who had possession thereof a part of whom were on Shore - and but for the aid assistance and services of the Libellants the said vessel & said Cargo would have been wholly lost to the respective owners thereof that said Cargo belongs to divers Spanish merchants & others resident in said Island of Cuba and to the said Pedro Montes & Jose Ruis, the latter owning most of said Slaves.

Now inasmuch as the said Thomas R. Gedney & said officers and Crew have with so much difficulty & danger saved said Schooner Amistad and said Cargo and said Slaves which would otherwise in all human probability have been totally lost to the owners thereof respectively, will your Honor please to order the said vessel Cargo & Slaves now on board said vessel to be attached and taken by the process of this Honorable Court and that a Monition issue to all persons concerned to show cause if any they have why a reasonable Salvage should not be decreed thereon to the Libellants & all others entitled and that such further and other steps shall be taken as the course of this Honorable Court shall direct.

Thos R. Gedney Lieut. Comm. U.S. Brig Washington
R. W. Meade Lieut. U.S.N.
-by I. Isham his atty

The U.S. attorney's advice on criminal prosecution

William S. Holabird to John Forsyth, September 9, 1839

The United States district attorney for Connecticut, William S. Holabird, relied on Secretary of State John Forsyth for instructions related to the Amistad cases. Holabird also served as an important source of information for Forsyth, who directed the Van Buren administration's response to the Spanish government's request for the return of all property from the Amistad. On September 5, Holabird told Forsyth that when the circuit court convened, "I suppose it will be my duty to bring them [the African

captives] to trial, unless they are in some other way disposed of.” In this letter written five days later, Holabird cited several related cases and concluded that the federal courts could not exercise criminal jurisdiction over the captives from the Amistad. He also suggested that the abolitionists would be correct in arguing that the courts could not detain individuals who were not accused of a crime. Despite his doubts, Holabird presented an indictment of the captives on charges of murder and piracy, and when the court dismissed the criminal charges, Holabird presented the district court with the property claims of the Spanish government.

[Document Source: W.S. Holabird to John Forsyth, September 9, 1839, Miscellaneous Letters, May–September 1839, State Department, RG 59, National Archives and Records Administration (microfilm 179).]

Hartford Ct. Sept. 9 1839

Sir

I wrote you a few days since on the subject of the blacks taken on board the Spanish Schooner “Armistad,” since then I have made a further examination of the law on the subject of the Jurisdiction of our Courts, which has brought me fully to the conclusion, that the Courts of this, nor of any other district in the U.S. can take cog[n]izance of any offence they have committed, as the offence by them committed, was done, & committed on board a vessel, belonging exclusively to citizens of a foreign state, on the high seas, & on & against subjects of a foreign state, & they (the blacks) not being citizens of the U. States, the vessel having a national character at the time the offence committed, I refer you to the case of the U.S. v Palmer et al. 3 Wheat 610 — U.S. v Pirates 5 Wheat 195. & the more recent case of U.S. v Henry Kessler 1 Baldwins CC Rep 15.

The abolitionists here & in the adjoining districts are getting up an excitement in favor of the negroes, it presents a case well calculated to awaken the sickly sympathies of that class of fanaticks. Our next Circuit Court sits at this place on the 17th Inst. I conjecture that the abolitionists will get out a writ of Habeus Corpus, should they do so, I do not see but the Court would be obliged to set them at liberty, they would of course, should the Court entertain the same view of the law that I do.

I would respectfully inquire sir whether there is no treaty stipulations with the Govt of Spain, that would authorise our Govt to deliver them up to the Spanish Authorities. & If so, whether it could be done before our Court sits?

Your advice & instructions in the matter is anxiously solicited.

I am Sir very respectfully your obt Servant,

W.S. Holabird, U.S. Dist. Atty Dist. Cont

The libel of José Ruiz, September 18, 1839, in the U.S. District Court for the District of Connecticut

The young planter José Ruiz submitted this libel in response to Lieutenant Thomas Gedney's libel, in which Gedney claimed a right to a salvage award for bringing the Amistad to safety. Ruiz wanted the district court to return to him all of his claimed property, including the men he had purchased as slaves in Havana, without any deduction for a salvage award. His libel asserted that the treaty between Spain and the United States obligated the United States to return all Spanish property.

Although the lawyers for the African captives had not yet filed a challenge to the claims for slave property, Ruiz and his attorneys knew that the abolitionists intended to argue that the captives were never legally held as slaves in Cuba. The libel asserted that Ruiz legally purchased the slaves in a country where slavery was allowed by law. The Ruiz libel presented both the Spanish names applied to the African captives in the passes endorsed by Spanish officials and the African names by which they "are known at present." The four deleted names in the libel refer to the Mende who died between the time the document was written and the date it was introduced in court. Pedro Montes, the planter who purchased the four young Mende on the Amistad, submitted a similar libel requesting the return of the alleged slaves and his other property.

[Document Source: *Thomas R. Gedney & c. v. The Schooner Amistad, & c.*, Case files, U.S. District Court, District of Connecticut, RG 21, National Archives and Records Administration – Northeast Region (Boston).]

To the Honorable Andrew T. Judson Esquire, Judge of the District Court for said District.

The libel and complaint of José Ruiz of Puerto Principe in the island of Cuba, a subject of her Majesty the Queen of Spain humbly shows that on the 28th day of June last past this libellant embarked on board of the Spanish Schooner Amistad, whereof one Ramon Ferrer was master, and shipped on board of said schooner, which sailed from Havana aforesaid to the port of Guanaja, another port in the island of Cuba, the following goods and merchandize and property belonging to and owned by this libellant viz. 10 dozens glass knobs, 39 and a half thousand needles, 48 rolls of wire, 45 bottles of essence, 45 maps of the city of Puerto Principe, 13 maps of the city of Puerto Principe, 6 mill rollers, 8 cogg wheels, 6 pieces of iron, one box of iron wedges, 3 large iron pots, 1 Case containing several pieces of iron, 25 bags of spanish beans, 25 boxes of raisins, 20 boxes of Castile Soap, 2 bags of rice, 3 bales containing 500 pounds of jerked beef, 50 pairs of shirts and pantaloons, 200 boxes of vermicelli, 1 box containing 4 percussion guns, 1 box containing books, 5 boxes containing ribbands, one package of quills and other small articles of merchandize,

the whole being of the value of three thousand five hundred dollars – and likewise forty nine black male slaves, named and known in Havana aforesaid as follows Antonio, Simon, Lucas, Jose, Pedro, Martin, Manuel, Andres, Eduardo, Celedonio, Bartolono, Ramon, Agustin, Evaristo, Casimiro, Merchor, Gabriel, Santorion, Escolastico, Pascual, Estanislao, Desiderio, Nicolas, Estevan, Tomas, Cosme, Luis Bartolo, Julian, Federico, Salustiano, Ladislao, Celistino, Epifanio, Eduardo, Benancio, Felipe, Francisco Hipolito, Benito, Isidoro, Vicente, Dionisio, Apolonio, Esequies, Leon, Julio, Hipolito & Zenon - of whom several have died, as this deponent is informed and believes, and the survivors of them this libellant is informed are known at present by the names following viz. Cinque, Burnah 1st, Carpre, Dammah, Fourie 1st, Shumah, ~~Wolwah~~, ~~Fouah~~, Conomah, Choolay, Burnah 2d, Baah, Cabbah, Poomah, Kimbo, Peea, Bang-ye-ah, Saah, Carlee, Parele, Morrah, Yahouie, Narquoi, Quarto, Sesse, Con, Fourrie 2d, Kennah, Lammane, Fahjarrah, Faah, Yahboy, Fahquannah, Berrie, Fawnee, Chockammaw & Gabbow, ~~Casa~~ and ~~Faja~~, which said slaves were and are now the property of this libellant and are of the value of twenty-two thousand dollars;

That on the first day of July last past, as they were proceeding in the voyage aforesaid, the aforesaid slaves arose upon the aforesaid captain, the crew, this libellant and one Pedro Montez, they murdered the Captain, and the Cook, took possession of the aforesaid schooner and compelled this libellant and the said Pedro Montez to steer towards Africa; but this libellant and the said Montes contrived to bring them to the Coast of the United States -- That after having been at sea about two months and on the 26th day of August last past when said schooner was at anchor off Culloden Point near Montauk Point, they were taken by the United States Surveying Brig Washington commanded by Lieutenant Thomas R. Gedney and brought into New London in the District aforesaid, where said Schooner now is;

And this libellant further shows that a libel has been filed in this Honorable Court by the aforesaid Thomas R. Gedney, Lieutenant Richard W. Mead and others belonging to the aforesaid United States brig Washington;

And this libellant further shows that all of the aforesaid slaves were by him legally purchased and owned in Havana aforesaid where slavery is tolerated and allowed by law as in all parts of the said island of Cuba;

And this libellant humbly insists that the aforesaid slaves the property of this libellant and his other property above specified ought by the laws and usages of nations and of these United States of America and according to the treaties between Spain and these United States to be restored to this libellant, without diminution and entire;

Wherefore your libellant prays that the said Gedney, Mead and others belonging to said Brig Washington may be subjected to answer this libel, with Costs and that process of attachment and proceedings may be issued against the aforesaid slaves &

other property of these libellants, according to law, all this being within the jurisdiction of this Honorable Court; and that after proper process this Honorable Court should decree the aforesaid Slaves and other property of this libellant to be delivered to him or the representatives of Her Catholic Majesty in these United States, as may be most proper in the premises; And this libellant will ever pray &c.

José Ruiz

R.J. Ingersoll

Wm. Hungerford

J B Purroy

Attorneys and of Counsel for the Libellants

District of Connecticut

Special District Court at Hartford Sept. 18, 1839.

Personally appears Jose Ruiz the signer of the foregoing libel & made Oath to the truth of the allegations set forth in sd libel according to his best knowledge & belief.

Attest

Chas A. Ingersoll Clerk

And said Court made an order thereon in the words following to wit.

District of Connecticut

Special District Court at Hartford Sept. 18. 1839. This libel is allowed and the trial thereof is directed to be held at Hartford within and for the District aforesaid on the 19th day of September 1839 at 10 O Clock A.M. and the Clerk of this Court is directed to issue a warrant of seizure and other process according to law.

Attest.

Chas. A. Ingersoll Clerk

The libel of William S. Holabird, U.S. Attorney, September 19, 1839, in the U.S. District Court for the District of Connecticut

The U.S. government's attorney entered the admiralty proceedings in the district court with this libel containing two alternate claims. Secretary of State John Forsyth had ordered Holabird to take whatever action was necessary to keep the Mende in

the custody of the federal government. In the first part of the libel, Holabird presented the Spanish ambassador's demand that the Amistad, its cargo, and the alleged slaves be delivered to their Spanish owners. Holabird never endorsed this claim; he only requested that if the court found the Spanish demand to be legally valid, it should dispose of the claimed property in whatever manner was required by the 1795 treaty between Spain and the United States.

Holabird suggested the alternative that if the court decided that the Mende captives were not slaves and had been transported illegally from Africa to the United States, it should provide for their return to the coast of Africa in accordance with the laws prohibiting the African slave trade. Judge Judson's final decision in the district court granted this second claim of Holabird.

In the first draft of this libel, Holabird initially described the Mende as being either slave or free. He then crossed out the words "free persons" and replaced the phrase with "negroes and persons of color." Subsequent drafts of the libel used the latter phrase.

[Document Source: *Thomas R. Gedney & c. v. The Schooner Amistad, & c.*, Case files, U.S. District Court, District of Connecticut, Record Group 21, National Archives and Records Administration – Northeast Region (Boston).]

Thomas R. Gedney &c.
v.
Schooner Amistad &c. Libel

Be it remembered that on this the 19th day of September in the year of our Lord one thousand eight hundred and thirty nine into the District Court aforesaid comes Wm. S. Holabird attorney for the United States for the district aforesaid, who for the United States gives this Court to understand that since the Libel aforesaid of Thomas R. Gedney and others was filed in this Court, to wit, within the present month of September in the year of our Lord one thousand eight hundred and thirty nine, the duly accredited Minister to the United States, of her Catholic Majesty the Queen of Spain, has officially presented to the proper Department of the United States Government, a claim which is now pending upon the United States setting forth that the vessel aforesaid, called the Amistad, and her cargo aforesaid, together with certain slaves on board the same vessel, all of them being the same as described in the Libel aforesaid are the property of Spanish subjects and that said vessel cargo and slaves while so being the property of said Spanish subjects arrived within the jurisdictional limits of the United States, and were taken possession of by said public armed Brig of the United States under such circumstances as make it the duty of the United States, ~~being the property of~~ to cause the same vessel, cargo, and slaves, being the property of said Spanish subjects to be restored to the true proprietors and owners of the same without further hindrance or detention, as required by the treaty now

subsisting between the United States and Spain. Now the Attorney aforesaid in behalf of the United States prays this Hon. Court on its being made legally to appear, that the claim aforesaid of the Spanish Minister aforesaid is well founded and is conformable to the treaty aforesaid that this Court may make such order for the disposal of the said vessel cargo, and slaves, as may best enable the United States in all respects to comply with their treaty stipulations, and pursue the public faith inviolate.

But if it should be made to appear that the persons aforesaid described as slaves ~~are free persons~~ ^{are} negroes and persons of color ^{who} have been transported from Africa in violation of the laws of the United States and brought within the United States contrary to the same laws, the said Attorney in behalf of the United States claims that in such case this Hon. Court ~~would~~ will make such further order in the premises as may enable the United States if deemed expedient to remove such persons to the coast of Africa, to be delivered there to such agent or agents as may be authorised to receive and provide for them, pursuant to the laws of the United States in such case provided or to make any such other order as to this Hon. Court shall seem right & proper in the premises.

W. S. Holabird U. S. Dist. Atty for the Dist. of Connecticut

Justice Smith Thompson's remarks in the U.S. Circuit Court, September 23, 1839

Justice Smith Thompson presided in the U.S. Circuit Court session that considered the habeas corpus petitions for the release of the Mende from federal custody. He recognized that some people thought the matter before the court "was a question of LIBERTY," when in fact the judge was only ruling on the district court's jurisdiction to detain the Mende while it considered claims that they were slave property. As Thompson delivered his order denying the release of the Mende, he also addressed public interest in the case by carefully explaining that he was offering no opinion on the legal right to hold these individuals in slavery and that he personally found slavery "abhorrent." In the following remarks he suggested that public interest in the case imposed a special responsibility on the court. With no time to write a formal opinion, he urged the several reporters in the courtroom to be especially careful in recording his decision.

[Document Source: *The African Captives. Trial of the Prisoners of the Amistad on the Writ of Habeas Corpus, before the Circuit Court of the United States, for the District of Connecticut, At Hartford: Judges Thompson and Judson (1839)*, reprinted in *The African Slave Trade and American Courts: The Pamphlet Literature*, ed. Paul Finkelman (New York: Garland Publishing, 1988).]

On the opening of the Circuit Court, Monday, September 23d, Judge Thompson gave his decision with respect to the application of the prisoners' counsel, to have the Africans discharged under the writ of habeas corpus – and denied the motion. He said the question before the Court was simply as to the jurisdiction of the District Court over this subject matter. He regretted that the case had not been held up for further consideration, and that he had so little opportunity to examine the various important questions that are involved in it, with that thoroughness and deliberation that was desirable. He regretted this the more, as the case is a very peculiar and complicated one. It was one also difficult to be understood by the public. He could not be insensible to the fact, that the feelings of the community were deeply involved in the question, and he feared there might be misapprehensions of the real questions to be disposed of by the Court. It is possible, he said, that there may be some misrepresentation. He would therefore have preferred that time should have been allowed for him to give a written opinion. ...

... The Court said, that as they perceived there were note-takers present, they hoped they would be careful to make a true representation of the decision. The Court does not undertake to decide that these persons have no right to their freedom, but leave that matter in litigation in the District Court, subject to appeal. And for reasons assigned, *deny this motion*.

The several plea of Cinque and the other Mende captives, November 19, 1839, in the U.S. District Court for the District of Connecticut

The Mende held in federal custody formally entered the district court case as respondents in this plea submitted by their lawyers, Seth Staples and Roger Sherman Baldwin. The plea challenged the claims of Navy Lieutenant Gedney, U.S. Attorney Holabird, and the two Spanish planters—all of the claims alleged that the Mende were the slave property of the planters. Drawing from their interviews with Cinque and other captives, the lawyers for the Mende argued that their clients had been born free and by every right were still free individuals. They maintained that the Mende had been kidnapped in Africa, illegally transported to Cuba, and sold as slaves in knowing violation of Spanish laws.

Staples and Baldwin also challenged the jurisdiction of the district court of Connecticut, since the Navy crew had “forcibly & unlawfully” removed the Mende from New York in order to file their salvage claim in Connecticut. The plea of the Mende included an assertion of their natural right to secure their own liberty and return to their families or to seek asylum in a state where slavery was illegal. Their request for immediate release from federal custody, however, relied on their insistence that the

district court had no constitutional or legal authority to exercise jurisdiction over them. It was this argument that ultimately prevailed in the Supreme Court.

The deleted names in the plea refer to the Mende who died during the fall of 1839 while in federal custody.

[Document Source: *Thomas R. Gedney & c. v. The Schooner Amistad, & c.*, Case files, U.S. District Court, District of Connecticut, Record Group 21, National Archives and Records Administration – Northeast Region (Boston).]

United States of America

District of Connecticut

To the Honorable Andrew T. Judson Esqr., Judge of the District Court of the United States for the District of Connecticut.

The several plea of Sinqua, Burnah 1st, ~~Carpre~~, Dannah, Fourrie 1st, Shumah, ~~Fouttah~~, Conoma, Chooley, Burnah 2nd, Baah, Cabbah, Poomah, Kimbo, Peeah, Bangyeah, Saah, Carlee, Parle, Morrah, ~~Yahome~~, Nahquoi, Quato, Sesse, Con, Fourrie 2, Kennah, Lammame, Fajanah, ~~Faah~~, Yahbey, Faquannah, Berrie, Fawnee, Chockamaw, Gabbo, Carre, Teme, Kene, Mahgra,--Africans now in the custody of the Marshal of said District under color of process issued from this Honorable Court on the 29th day of August A.D. 1839, against the Schooner Amistad and the articles of personal property on board of her, then lying in the harbor of New London in said District, on the libel of Thomas R. Gedney a Lieut. in the United States Navy, commanding the United States Brig Washington, in the service of the United States in the coast survey, & on behalf of Richard W. Meade, a Lieut. on board said Brig & the officers & crew & all others interested or entitled, claiming salvage to be awarded them by this Honorable Court as for a meritorious service in seizing and securing the respondents & holding them as slaves to certain Spaniards belonging to the Island of Cuba, named in said libel; And also under process of this Honorable Court issued and served at Hartford on the 18th day of September 1839, while the Respondents were in custody of the Marshal of said District as aforesaid, & within the body of the county of Hartford, & within said District & State of Connecticut, on the libel & claim of Wm S. Hollabird Esqr., District Attorney of the United States for the District of Connecticut, and on the libels respectively of Pedro Montes & Jose Ruis;

The said Respondents severally, by protestation, not confessing or acknowledging any of the matters and things in said Several libels to be true, as therein alleged, for plea thereto respectively say that they are severally natives of Africa and were born free, and ever since have been, and still of right are and ought to be free, and not slaves, as is in said several libels pretended or surmised; that they were never domiciled in the Island of Cuba, or the dominions of the Queen of Spain, or subject to the laws

thereof; that on or about the 15th day of April 1839 they and each of them were, in the land of their nativity, unlawfully kidnapped & forcibly and wrongfully carried on board of a certain vessel, near the coast of Africa then & there unlawfully engaged in the slave trade, by certain persons to them unknown, and were thence in said vessel contrary to the will of the respondents, unlawfully transported to the Island of Cuba for the unlawful purpose of being there sold as slaves, and were there illegally landed for the purpose aforesaid:

That Jose Ruis, one of said libellants, well knowing all the premises, and confederating with the person by whom the Respondents were unlawfully held as aforesaid, and intending to deprive them of their liberty made a pretended purchase of the said Respondents, except the sd Carre, Teme, Kene, and Mahgra; and that the said Pedro Montes well knowing the premises and confederating in like manner with said persons, made a pretended purchase of the said Carre, Teme, Kene & Mahgra; that said pretended purchasers were made from persons who had no right whatever to the Respondents or any of them, and were null and void, and conferred no title on the said Ruis or Montes, or right of control over the respondents on either of them;

That afterwards on or about the 28th day of June 1839, the said Ruis and Montes, confederating with each other, and with one Raymon Ferrer, now deceased, Capt. of said Schooner Amistad, caused the respondents severally without law or right to be placed by force on board of said Schooner to be transported with said Ruis & Montes to some place unknown to these Respondents, and there severally enslaved for life;

That the respondents, being treated on board said vessel, by said Ruis & Montes, & the Capt. & crew thereof with great cruelty and oppression, and being of right free as aforesaid were incited by the love of liberty natural to all men, and by the desire of returning to their families and kindred, to take possession of said vessel, while navigating the high seas as aforesaid near said Island of Cuba, as they had right to do, with the intent to return therein to their native country, or to reach an asylum in some free State where Slavery did not exist, in order that they might enjoy their liberty under the protection of its government;

That the said Schooner, on or about the 26th day of August 1839, arrived in the possession of the Respondents at Culloden point near Montaug & was there anchored within about 3/4ths a mile of the shore and within the Territorial jurisdiction of the State of New York; that the respondents Jinqa, Carpre, Carlee, Dammah, Baboo, Morrah, Nahquoi, Qualto, Con, Fajanah, Berrie, Gabbo, Foola, & others, while said schooner lay out at anchor as aforesaid, went on shore within said State of New York to procure provisions and other necessaries, and while there, within the jurisdiction of a free state where slavery does not exist, and under the protection of its laws, the

respondents were severally seized, as well those who were on shore aforesaid, as those who were on board of & in possession of said Schooner, and were by the said Lieutenant Gedney, his officers & crew of said United States Brig Washington, forcibly & unlawfully taken at the instance of said Spaniards Ruis & Montes with intent to keep & secure them as slaves for the said Ruis & Montes respectively & to obtain an award of salvage therefor from this Honorable Court, as a meritorious act; that for that purpose the said Respondents were by said Lieut. Gedney & his crew forcibly & unlawfully withdrawn from the jurisdictional limits of the State & District of New York where they were seized as aforesaid, & brought to the Port of New London in the District of Connecticut, where they were taken into the custody of the Marshal on process issuing on the Libel of sd Lieut. Gedney as aforesaid, & were by said Marshal confined in the gaol in the City of New Haven in said District, & subsequently in the gaol of the City of Hartford and were while so confined within the body of said District & State of Connecticut subjected to the further process of this Honorable Court on the several libels & claims subsequently filed as aforesaid.

Wherefore the respondents severally say that neither by the constitution or laws of the United States, or any Treaty pursuant thereto, nor by the laws of nations doth it pertain to this Honorable Court to exercise any jurisdiction over the persons of these respondents or any of them by reason of any of the proceedings aforesaid and they severally pray to be hence dismissed and suffered to be and remain as they of right ought to be free & at liberty from the process of this Honorable court under which, or under color of which they are holden as aforesaid.

by Staples & Baldwin

Judge Andrew Judson's decision (excerpts), U.S. District Court for the District of Connecticut

On January 13, 1840, after five days of testimony in the district court, Judge Andrew Judson appeared before a crowded courtroom in New Haven to read his decision in the Amistad case. When he declared that the Mende were free under Spanish law and could not be returned to Cuba, Judson surprised nearly everyone involved in the case. The many reporters in the courtroom quickly sent word of the dramatic decision to return the Mende to their homeland, and within two days newspapers in New York printed the full text of the decision for an eager public. The following excerpts include the most important parts of the decision and convey Judson's awareness of the unusual responsibilities for a judge in this case.

[Document Source: *Gedney et al. v. L'Amistad*, 10 Fed. Cases 141–51.]

GEDNEY et al. v. L'AMISTAD.

Judson opened his decision with an acknowledgment of the importance of the case, an explanation of his management of the proceedings, and a defense of the treatment of the Mende held in custody. He also stated that a case of such significance should be reviewed by the Supreme Court.

In the discussion of this case have been involved numerous questions, of great importance, requiring, as we have seen, industrious examination and patient deliberation. It has been my endeavor to afford time for this investigation; and the ability with which these questions have been discussed at the bar must satisfy all, that everything which talent and learning could accomplish has been done. It devolved upon the court to dispose of these various and complicated questions, in such manner as will seem to be demanded by the laws of the land, and of this the responsibility rests on me. That responsibility will be met, and when discharged according to the dictates of my own conscience, I shall be relieved from its further perplexities. It will be a satisfaction, while doing this, that neither party or claimant can be prejudiced by my determination, because the laws secure an appeal to the highest tribunal in this country, where my decision may be reviewed, and if wrong corrected. It is then of little importance to the persons in interest, what may be the determination of this court, for a case like this will not and should not rest upon a single trial, without review before the supreme court, in whose decisions all would be satisfied. The case is not only important to those immediately interested, but there are involved principles important to the nation and the world. If a few months have elapsed since this cause has been pending, it has been owing to circumstances beyond my control, but this surely has produced no inconvenience or suffering to those in custody. They have all been humanely treated; liberally fed and clothed by the government, into whose hands they have been providentially cast. Whatever may be the final result of this case, so far it may be safely said that not one step has been taken which could have been avoided.

Judson declared that his court had proper jurisdiction over the Amistad case and then proceeded to the salvage claim that originally brought the case to the federal courts. He awarded Gedney and his crew a salvage award of one-third the value of the schooner and the goods on board, but denied the claim for salvage in the alleged slaves. Without revealing his decision about the status of the Mende, he explained why he could not order their sale or determine their monetary value.

The next question is, can salvage be allowed upon the slaves? There are insuperable objections to this portion of the claim. There is no foundation here laid for a decree in personam. The decree, if at all, must operate in rem. That is, the salvage must be

considered as a lien upon the slaves themselves, and the amount to be decreed must be raised out of them, as out of other property. Here, then, I find the claim hedged about by fixed and known laws, over which it would be impossible for me to leap. I have heretofore decided, in the very outset of this case, that these alleged slaves cannot be sold. There is no law of the United States nor of the state of Connecticut by which the title can be given to them under any decree of this court. I am still confirmed in that opinion. It is impossible. Can a decree be predicated upon a supposed valuation to be ascertained by an appraisal? There is no authority in this court to cause such an appraisal. Who can appoint the appraisers? Who can administer to them an oath? And above all, by what rule could their estimate be formed? Are they to be estimated by their value in the district of Connecticut? That is not one cent. The laws which I am bound to administer can recognize no value on them. Can the appraisers travel into other states or countries to seek their value? Surely not. If a decree should be framed, it would be wholly nugatory, inoperative and void. This the court is never called upon to do. When a decree is made, it always presupposes that the court making it, possesses the power of enforcing it. This part of the claim, therefore, will be passed over.

At the center of the Amistad case was the issue of whether or not the Mende were the slave property of the planters, Ruiz and Montes. Here Judson recognized that the unique nature of the case and the source of public interest rested in the fact that the Africans themselves came into court to challenge that property claim.

The two great questions still remain to be settled. Shall these Africans, by a decree of this court, be delivered over to the government of Spain, upon the demand of her minister, as the property of Don Pedro Montez and Don Jose Ruez? But if not, what ultimate disposition shall the government of the United States make of them? The other questions, in importance, cannot be compared with these. Here we have her majesty, the queen of Spain, by her resident minister, at the court of the United States, unequivocally demanding for her subjects these Africans, as their property in the fulfillment, as he says, of treaty stipulations, solemnly entered into by this nation. These Africans come in person, as our law permits them to do, denying this right. They say, that they are not the slaves of Spanish subjects, and are not amenable to Spanish laws. We have also the humanity of our own laws, ready to embrace them, provided we are not compelled by these treaty stipulations to deliver them up.

Judson's most important decision was that the Africans on board the Amistad were not slave property under the laws of Spain that were in force in Cuba. From this conclusion, Judson determined that the federal courts had no obligation or authority to return the Mende to Cuba.

I find, then, as a matter of fact, that in the month of June, 1839, the law of Spain did prohibit, under severe penalty, the importation into Cuba of negroes from Africa. These negroes were imported in violation of that law, and be it remembered that, by the same law of Spain, such imported negroes are declared to be free in Spain. ...
... If, by their own laws, they cannot enslave them, then it follows, of necessity, they cannot be demanded. When these facts are known by the Spanish minister, he cannot but discover that the subjects of his queen have acquired no rights in these men. They are not the property of Spain. His demand must be withdrawn. The very essence of his demand consists in the supposed Spanish right of property in the thing demanded. That being removed, by his own law there can no longer be cause for complaint. At all events, this cannot be expected at my hands, because the supreme court have already refused to surrender property, unless there was proof of title in the claimants. The same rule applies equally to foreign and domestic claimants. Title must be shown in the property claimed, as belonging to the claimant, or it cannot be surrendered.

Judson agreed that the treaty of 1795 between Spain and the United States required the return of all legally held Spanish property included in the Amistad claims, even if that property was a slave. Antonio was by his own admission, born into slavery in Spanish territory, and under Spanish law remained the property of his owner. Judson announced that he would order the return of Antonio to the heirs of Captain Ferrer, who had been killed on the Amistad.

... and to show that I abide by the treaty, and that authority, I take another branch of this case. Antonio is demanded, and the proof from him is that he is a Creole, born, as he believes, in Spain. He was, at the time his master was murdered by Cinquez, a slave, so recognized and known by the laws of Spain. The property in him was in Raymond Ferrer, a Spanish subject, at the time of his death on board the schooner, and now is in his legal heirs. Here is both right and property in Spanish subjects. I shall decree a restoration of this slave, under the treaty of 1795.

Judson accepted the proposal of U.S. attorney William Holabird that the court order the return of the Mende to Africa under the terms of a congressional act of 1819. Judson acknowledged that the law did not apply precisely to the Amistad case, but he asserted that the humanitarian goals of the act called for a broad interpretation of its provisions for return to Africa of victims of an illegal slave trade. In the most-

widely quoted portion of the decision, Judson referred to two of the Mende by name and recognized their poignant desire to return home.

The question remains: What disposition shall be made of these negroes by the government of the United States? There is a law of congress, passed the 3d of March, 1819 [3 Stat. 532], which renders it essential that all such Africans as these should be transported, under the direction of the president of the United States, to Africa. The humane and excellent provisions of this act, characterize the period when it was adopted. Among the prominent provisions of congress to ameliorate the condition of Africans brought away from their homes in this traffic, which is spoken of and believed to be odious, is this act of 1819. Considering the object embraced within these provisions, the statute itself must receive the most liberal and generous construction. The technicalities of construction, which pertain to another class of acts, do not belong to this act. Those rules which govern courts in deciding on penal acts, are to find no place by the side of this statute. They must govern no mind employed in carrying out the noble intentions of the framers of this law. What is the spirit of that act? It is to return to the land of their nativity all such Africans as may have been brought from thence wrongfully. This being the spirit of that act, I stop not in the mere forms of legislation. I do not want to consider whether every letter and syllable of that act has been followed by the officers of the law. When the spirit of goodness is hovering over us, just descending to bless, it is immaterial in what garments we are clad to receive the blessing. I do not maintain this construction upon my own mere suggestion, but I shall be able to show, by a recent determination of the supreme court of the United States, that the door has already been opened, and the passage already provided, to send these men back to their own Africa. That if the aspirations of these unfortunate beings have been heard to rise for Sierra Leone, the law of that country into which they have been cast has provided the means, and already the supreme court have, in their profoundest wisdom, given a construction to that law which bids them Godspeed. ...

Cinquez and Grabeau shall not sigh for Africa in vain. Bloody as may be their hands, they shall yet embrace their kindred. I shall put in form a decree of this court, that these Africans, excepting Antonio, be delivered to the president of the United States to be transported to Africa, there to be delivered to the agent, appointed to receive and conduct them home. To do it, we have ample authority, and ample means. What American can object to this decree? No one surely, when the case is correctly understood. It will indeed require the executive arm to carry out this decree. This may well be anticipated, because the facts which I have found and shall put upon record, will carry conviction to every mind. Antonio, falling clearly within the other principle, and in the presence of the court, expressing a strong wish to be returned, will be decreed to the government of Spain, with the vessel and goods, the vessel and

goods being alone subject to the lien which necessity of the case has thrown upon them, for the salvage service and the cost.

The U.S. attorney responds to the district court decision (two letters); January–February 1840

Shortly after Judson's decision in the district court case, U.S. Attorney William Holabird wrote to Secretary of State John Forsyth and Attorney General Henry Gilpin with his assessment of the decision and a discussion of plans for the appeal. Holabird was surprised Judson ordered the delivery of the captives to the President for return to Africa, since the government had dropped that motion when it resubmitted its libel in November. Although he expected the circuit court to reverse the decision, Holabird feared that he would be unable to demonstrate that the Spanish planters had the proof of property required by the treaty between Spain and the United States. From the secretary of state he requested further information on Spanish laws governing slave property, and from the attorney general he asked for copies of correspondence between the former ambassador to Great Britain and that country's foreign minister. That exchange between Andrew Stevenson and Lord Palmerston regarded American claims for slaves granted freedom by British officials when the ships transporting them were driven by storms into British territory. Holabird also warned the attorney general that the abolitionists were trying to implicate President Van Buren in improper interference in the judicial process.

William S. Holabird to John Forsyth, January 28, 1840.

[Document Source: Miscellaneous Letters, October 1839–March 1840, State Department, RG 59, National Archives and Records Administration (microfilm 179)]

Winchester 28th Jan. 1840

Sir

Your instructions in relation to the matter of the *Amistad* & negroes, of the 12th & 17th Inst, were duly recd, and in compliance of which, I have entered an appeal in all parts of the case, except that relating to the Slave Antonio. You remark that instructions will be forwarded me, designating the parties to whom he is to be delivered. I would suggest that Antonio's testimony will be material on the trial before the Circuit Court, which will sit in April next. If it is necessary that he should go out of the country before that time, I should like to know it in time, to procure his deposition, his testimony in person would be much better than his deposition, he is rather an intelligent boy. I hope the Spanish Minister will consent to have him remain unless there is some serious objection to it.

I send you herewith at the request of the District Judge, his published opinion. I suppose Mr. Willcox the Marshal gave you a full explanation. That Count of the Libel, upon which the decision is founded, was abandoned long before the trial, and originally filed only, for the purpose of holding the negroes in custody for the time.

Under the 9th Article of the Spanish Treaty (which is the one under which I claimed the surrendry) proof of property is contemplated “and restore entires to the true proprietor, as soon as due & sufficient proof shall be made concerning the property thereof.” Now Sir I fear that the Circuit Judge may hold that he will go back to the Ships papers, & inquire into the title of Montes & Ruiz to the blacks, or rather, that the permit of the Capt. General to transport the negroes from Havana to Guanaja, is not “due” & sufft proof of property in them. I have no other evidence of property except those permits. (the same as sent to your department) If the Spanish Minister can furnish any other evidence I wish he would. I also wish he would furnish me with the Spanish Laws relating to this subject, the Edict prohibiting the importation of slaves from Africa, and whether it had ever been adopted in Cuba.

I am Sir most respectfully Your Obt Servant

W.S. Holabird

William S. Holabird to Henry D. Gilpin, February 3, 1840

[Document Source: Letters Received by the Attorney General’s Office, 1809–1870; RG 60, National Archives and Records Administration (microfilm 2012)]

Winchester 3 Feby 1840

Dear Sir,

If you have a spare copy of the correspondence between Mr. Stevenson and Lord Palmers[t]on on the subject of the slaves set free at Bermuda you will much oblige me by sending me one.

The decision of the District Judge in case of the negroes of the Amistad I believe has surprised every body and no one more than myself. I do not believe that the Circuit Judge will sustain the decision, yet I have some fear he may hold, that there is not sufficient evidence of property in Ruiz & Montes to authorise a surrendry under the 9th Article of the Treaty with Spain.

The statement made in the “Emancipator” regarding the appeal of the case, “that it was made by the direction of the President, and [dictated?] by me” is entirely incorrect. I was fully aware that our New England abolitionists were anxious to place the President, in this matter, in an attitude, that they might attack him, and when I took the appeal, I stated to the Court, that the Spanish minister, through the Gov-

ernment took that appeal, and it was so announced in our papers. I should be very glad to have your views of the decision, which I presume you have seen before this.

I am Sir most respectfully Your Obedient Servant
W. S. Holabird

Supreme Court arguments of John Quincy Adams (excerpts)

John Quincy Adams declined to include his arguments for the Amistad case in the Supreme Court Reports and instead chose to publish them separately. The published arguments reached a large audience, just as Adams' appearance in the Supreme Court attracted a large crowd of listeners. Justice Joseph Story said the arguments were notable for their sarcasm and for their disregard of the legal questions at hand, but Adams understood the source of public interest in the Amistad case. The first excerpt emphasizes that the case was not just about property claims and treaty obligations, but would determine the fate of 36 individuals.

[Document Source: *Argument of John Quincy Adams, before the Supreme Court of the United States, in the case of the United States, appellants, vs. Cinque, and others, Africans, captured in the schooner Amistad, by Lieut. Gedney, delivered on the 24th of February and 1st of March, 1841, with a review of the case of the Antelope, reported in the 10th, 11th and 12th volumes of Wheaton's Reports* (New York: S.W. Benedict, 1841).]

And in a Court of Justice, where there are two parties present, justice demands that the rights of each party should be allowed to himself, as well as that each party has a right, to be secured and protected by the Court. This observation is important, because I appear here on the behalf of thirty-six individuals, the life and liberty of every one of whom depend on the decision of this Court. The Court, therefore, I trust, in deciding this case, will form no lumping judgment on these thirty-six individuals, but will act on the consideration that the life and the liberty of every one of them must be determined by its decision for himself alone.

They are here, individually, under very different circumstances, and in very different characters. Some are in one predicament, some in another. In some of the proceedings by which they have been brought into the custody and under the protection of this Court, thirty-two or three of them have been charged with the crime of murder. Three or four of them are female children, incapable, in the judgment of our laws, of the crime of murder or piracy, or, perhaps, of any other crime. Yet, from the day when the vessel was taken possession of by one of our naval officers, they have all been held as close prisoners, now for the period of eighteen long months, under custody and by authority of the Courts of the United States. I trust, therefore, that before the

ultimate decision of this Court is established, its honorable members will pay due attention to the circumstances and condition of every individual concerned.

Much of Adams' lengthy argument focused on the Van Buren administration and its support of the Spanish claims that the Mende were slave property. Here he charges the administration with preferring the interests of Spain over the demands of justice and strongly implies that the executive branch's actions were based on racial prejudice.

It is, therefore, peculiarly painful to me, under present circumstances, to be under the necessity of arraigning before this Court and before the civilized world, the course of the existing Administration in this case. But I must do it. That Government is still in power, and thus, subject to the control of the Court, the lives and liberties of all my clients are in its hands. And if I should pass over the course it has pursued, those who have not had an opportunity to examine the case and perhaps the Court itself, might decide that nothing improper had been done, and that the parties I represent had not been wronged by the course pursued by the Executive. ...

The charge I make against the present Executive administration is that in all their proceedings relating to these unfortunate men, instead of that *Justice*, which they were bound not less than this honorable Court itself to observe, they have substituted *Sympathy!*-sympathy with one of the parties in this conflict of justice, and *antipathy* to the other. Sympathy with the white, antipathy to the black.

The laws of a slave society, by recognizing a slave as both private property and a willful individual, created many inconsistencies, and as Adams pointed out, absurdities. Story, with none of the sarcasm evident here, agreed that it was illogical to suggest the Mende had stolen themselves.

But my clients are claimed under the treaty as merchandise, rescued from pirates and robbers. Who were the merchandise, and who were the robbers? According to the construction of the Spanish minister, the merchandise were the robbers, and the robbers were the merchandise. The merchandise was rescued out of its own hands, and the robbers were rescued out of the hands of the robbers. Is this the meaning of the treaty? Will this Court adopt a rule of construction in regard to solemn treaties that will sanction such conclusions.... Is any thing more absurd than to say these forty Africans are robbers, out of whose hands they have themselves been rescued? Can a greater absurdity be imagined in construction than this, which applies the double character of robbers and of merchandise to human beings?

Pointing to the two copies of the Declaration of Independence which hung on the walls of the Supreme Court chamber, Adams briefly summarized his argument that the fate of the Amistad captives should be decided on the basis of natural rights; the same natural rights that were the foundation of the American system of government. Because the Constitution protected slave property, Adams appealed to the principles of the Declaration, which he argued should guide the Court in interpreting the laws of the United States.

The moment you come, to the Declaration of Independence, that every man has a right to life and liberty, an inalienable right, this case is decided. I ask nothing more in behalf of these unfortunate men, than this Declaration.

Adams closed his two days of arguments with an emotional recollection of his earlier appearances before the Supreme Court and the great figures of the law during that era. History, he implied, would judge the actions of the current justices of the Court based on their determination of the Amistad case.

I said, when I began this plea, that my final reliance for success in this case was on this Court as a court of JUSTICE; and in the confidence this fact inspired, that, in the administration of justice, in a case of no less importance than the liberty and the life of a large number of persons, this Court would not decide but on a due consideration of all the rights, both natural and social, of *every one* of these individuals. I have endeavored to show that they are entitled to their liberty from this Court. I have avoided, purposely avoided, and this Court will do justice to the motive for which I have avoided, a recurrence to those first principles of liberty which might well have been invoked in the argument of this cause. I have shown that Ruiz and Montes, the only parties in interest here, for whose sole benefit this suit is carried on by the Government, were acting at the time in a way that is forbidden by the laws of Great Britain, of Spain, and of the United States, and that the mere signature of the Governor General of Cuba ought not to prevail over the ample evidence in the case that these Negroes were free and had a right to assert their liberty. I have shown that the papers in question are absolutely null and insufficient as passports for persons, and still more invalid to convey or prove a title to property. ...

May it please your Honors: On the 7th of February, 1804, now more than thirty-seven years past, my name was entered, and yet stands recorded, on both the rolls, as one of the Attorneys and Counsellors of this Court. Five years later, in February and March, 1809, I appeared for the last time before this Court, in defence of the cause of justice, and of important rights, in which many of my fellow-citizens had property to a large amount at stake. Very shortly afterwards, I was called to the discharge of other duties—first in distant lands, and in later years, within our own country, but in different departments of her Government.

Little did I imagine that I should ever again be required to claim the right of appearing in the capacity of an officer of this Court; yet such has been the dictate of my destiny—and I appear again to plead the cause of justice, and now of liberty and life, in behalf of many of my fellow men, before that same Court, which in a former age I had addressed in support of rights of property I stand again, I trust for the last time, before the same Court—“hic caestus, artemque repono.” I stand before the *same* Court, but not before the same judges—nor aided by the same associates—nor resisted by the same opponents. As I cast my eyes along those seats of honor and of public trust, now occupied by you, they seek in vain for one of those honored and honorable persons whose indulgence listened then to my voice. Marshall—Cushing—Chase—Washington—Johnson—Livingston—Todd—Where are they? Where is that eloquent statesman and learned lawyer who was my associate counsel in the management of that cause, Robert Goodloe Harper? Where is that brilliant luminary, so long the pride of Maryland and of the American Bar, then my opposing counsel, Luther Martin? Where is the excellent clerk of that day, whose name has been inscribed on the shores of Africa, as a monument of his abhorrence of the African slave-trade, Elias B. Caldwell? Where is the marshal—where are the criers of the Court? Alas! where is one of the very judges of the Court, arbiters of life and death, before whom I commenced this anxious argument, even now prematurely closed? Where are they all? Gone! Gone! All gone!—Gone from the services which, in their day and generation, they faithfully rendered to their country. From the excellent characters which they sustained in life, so far as I have had the means of knowing, I humbly hope, and fondly trust, that they have gone to receive the rewards of blessedness on high. In taking, then, my final leave of this Bar, and of this Honorable Court, I can only ejaculate a fervent petition to Heaven, that every member of it may go to his final account with as little of earthly frailty to answer for as those illustrious dead, and that you may, every one, after the close of a long and virtuous career in this world, be received at the portals of the next with the approving sentence—“Well done, good and faithful servant; enter thou into the joy of thy Lord.”

Supreme Court opinion (excerpts)

Justice Joseph Story delivered the Supreme Court’s opinion in the Amistad case on March 9, 1841, and instructed the circuit court in Connecticut to free the Mende captives. Story was joined by six other justices; Justice Henry Baldwin dissented without comment. (Justice Philip Pendleton Barbour died before oral arguments in the Amistad were complete.) In addition to the opinion of the Court, the nineteenth-century reports of Supreme Court cases included extensive summaries of the oral arguments, which were submitted to the Court reporter by the lawyers. The

following excerpts are from Story's opinion and explain the Court's rulings on the most important issues in the case.

THE AMISTAD, 40 U.S. 518 (1841)

(Text is from XV Peters 518)

The AMISTAD.

UNITED STATES, Appellants, v. The LIBELLANTS AND CLAIMANTS of the SCHOONER AMISTAD, her tackle, apparel and furniture, together with her cargo, and the AFRICANS mentioned and described in the several libels and claims, Appellees.

January Term, 1841

Justice Story offered a summary of the Amistad case as it stood before the Supreme Court. After a review of the proceedings in the district and circuit courts, Story wanted to emphasize the limited questions on which the Supreme Court would rule, and he made clear that the most important question was whether or not the Mende were slaves. At each stage of the Amistad case, the judges and justices recognized that the unusual popular interest in this federal case obliged them to explain their decisions to a broad audience.

Before entering upon the discussion of the main points involved in this interesting and important controversy, it may be necessary to say a few words as to the actual posture of the case as it now stands before us. In the first place, then, the only parties now before the court on one side, are the United States, intervening for the sole purpose of procuring restitution of the property as Spanish property, pursuant to the treaty, upon the grounds stated by the other parties claiming the property in their respective libels. The United States do not assert any property in themselves, or any violation of their own rights, or sovereignty or laws, by the acts complained of. They do not insist that these negroes have been imported into the United States, in contravention of our own slave trade acts. They do not seek to have these negroes delivered up for the purpose of being transported to Cuba as pirates or robbers, or as fugitive criminals found within our territories, who have been guilty of offences against the laws of Spain. They do not assert that the seizure, and bringing the vessel, and cargo, and negroes into port, by Lieutenant Gedney, for the purpose of adjudication, is a tortious act. They simply confine themselves to the right of the Spanish claimants to the restitution of their property, upon the facts asserted in their respective allegations.

In the next place, the parties before the Court, on the other side, as appellees, are Lieutenant Gedney, on his libel for salvage, and the negroes, (Cinque, and others,) asserting themselves, in their answer, not to be slaves, but free native Africans, kid-

napped in their own country, and illegally transported by force from that country; and now entitled to maintain their freedom.

No question has been here made, as to the proprietary interests in the vessel and cargo. It is admitted that they belong to Spanish subjects, and that they ought to be restored. The only point on this head is, whether the restitution ought to be upon the payment of salvage or not? The main controversy is, whether these negroes are the property of Ruiz and Montez, and ought to be delivered up; and to this, accordingly, we shall first direct our attention.

Story acknowledged that the treaty with Spain provided for the return of legally held slaves from Cuba, but in language even stronger than that of the district court decision, Story said that the evidence clearly established that the Mende had never been slaves under Spanish law. Even the U.S. attorney acknowledged in court that the Mende were recently arrived from West Africa, and thus under Spanish law must be free. Story also declared that kidnapped Africans who took possession of a vessel in an attempt to return home could not be considered pirates and thus could not be demanded by Spain under the treaty of 1795.

If these negroes were, at the time, lawfully held as slaves under the laws of Spain, and recognised by 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 such, 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 fœderis*. It is plain beyond controversy, if we examine the evidence, that these negroes never were the lawful slaves of Ruiz or Montez, or of any other Spanish subjects. They are natives of Africa, and were kidnapped there, and were unlawfully transported to Cuba, in violation of the laws and treaties of Spain, and the most solemn edicts and declarations of that government. By those laws and treaties, and edicts, the African slave trade is utterly abolished; the dealing in that trade is deemed a heinous crime; and the negroes thereby introduced into the dominions of Spain, are declared to be free. Ruiz and Montez are proved to have made the pretended purchase of these negroes, with a full knowledge of all the circumstances. And so cogent and irresistible is the evidence in this respect, that the District Attorney has admitted in open Court, upon the record, that these negroes were native Africans, and recently imported into Cuba, as alleged in their answers to the libels in the case. The supposed proprietary interest of Ruiz and Montez, is completely displaced, if we are at liberty to look at the evidence or the admissions of the District Attorney.

If then, these negroes are not slaves, but are kidnapped Africans, who, by the laws of Spain itself, are entitled to their freedom, and were kidnapped and illegally carried to Cuba, and illegally detained and restrained on board the Amistad; there is no pretence to say, that they are pirates or robbers. We may lament the dreadful acts, by which they asserted their liberty, and took possession of the Amistad, and endeavored to regain their native country; but they cannot be deemed pirates or robbers in the sense of the law of nations, or the treaty with Spain, or the laws of Spain itself; at least so far as those laws have been brought to our knowledge. ...

When the Mende in custody entered the district court proceedings as respondents to the property and salvage claims, it forced the courts to address their right to contest claims submitted in a federal case. Here Story explicitly states that the Africans are free, and, like all free foreigners, they may assert their rights in court. Story went a step further to announce that what applied to property claims was all the more important in a case centering on issues of human life and liberty.

It is also a most important consideration in the present case, which ought not to be lost sight of, that, supposing these African negroes not to be slaves, but kidnapped, and free negroes, the treaty with Spain cannot be obligatory upon them; and the United States are bound to respect their rights as much as those of Spanish subjects. The conflict of rights between the parties under such circumstances, becomes positive and inevitable, and must be decided upon the eternal principles of justice and international law. If the contest were about any goods on board of this ship, to which American citizens asserted a title, which was denied by the Spanish claimants, there could be no doubt of the right of such American citizens to litigate their claims before any competent American tribunal, notwithstanding the treaty with Spain. A fortiori, the doctrine must apply where human life and human liberty are in issue; and constitute the very essence of the controversy. 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, to 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 us to be any ground for doubt, that these negroes ought to be deemed free; and that the Spanish treaty interposes no obstacle to the just assertion of their rights.

The grant of freedom for the Mende of the Amistad followed the Supreme Court's decision to reverse the circuit court's affirmation of the order to deliver the captives to the President for return to Africa. Story said that the Act of 1819 authorizing that return did not apply to these individuals since they had not been transported to the United States in violation of the act. In fact, they arrived as individuals asserting their own freedom, not as enslaved people. Story went on to dismiss the government's claim on behalf of Spain and to uphold the award of salvage for Gedney and his crew.

Finally, the Supreme Court sent the case back to the circuit court and ordered that court to issue a decree declaring the Mende free.

There is another consideration growing out of this part of the case, which necessarily rises in judgment. It is observable, that the United States, in their original claim, filed it in the alternative, to have the negroes, if slaves and Spanish property, restored to the proprietors; or, if not slaves, but negroes who had been transported from Africa, in violation of the laws of the United States, and brought into the United States, contrary to the same laws, then the Court to pass an order to enable the United States to remove such persons to the coast of Africa, to be delivered there to such agent as may be authorized to receive and provide for them. At a subsequent period, this last alternative claim was not insisted on, and another claim was interposed, omitting it; from which the conclusion naturally arises that it was abandoned. The decree of the District Court, however, contained an order for the delivery of the negroes to the United States, to be transported to the coast of Africa, under the act of the 3d of March 1819, ch. 224. The United States do not now insist upon any affirmance of this part of the decree; and in our judgment, upon the admitted facts, there is no ground to assert that the case comes within the purview of the act of 1819, or of any other of our prohibitory slave trade acts. These negroes were never taken from Africa, or brought to the United States in contravention of those acts. When the *Amistad* arrived she was in possession of the negroes, asserting their freedom; and in no sense could they possibly intend to import themselves here, as slaves, or for sale as slaves. In this view of the matter, that part of the decree of the District Court is unmaintainable, and must be reversed.

The view which has been thus taken of this case, upon the merits, under the first point, renders it wholly unnecessary for us to give any opinion upon the other point, as to the right of the United States to intervene in this case in the manner already stated. We dismiss this, therefore, as well as several minor points made at the argument.

As to the claim of Lieutenant Gedney for the salvage service, it is understood that the United States 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. The rate allowed by the Court, does not seem to us to have been beyond the exercise of a sound discretion, under the very peculiar and embarrassing circumstances of the case.

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 3d 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 the Court, and go without day.

Mr. Justice BALDWIN dissented.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States, for the District of Connecticut, and was argued by counsel. On consideration whereof, it is the opinion of this Court, that there is error in that part of the decree of the Circuit Court, affirming the decree of the District Court, which ordered the said negroes to be delivered to the President of the United States, to be transported to Africa, in pursuance of the act of Congress, of the 3d of March 1819; and that, as to that part, it ought to be reversed: and, in all other respects, that the said decree of the Circuit Court ought to be affirmed. It is therefore ordered adjudged, and decreed by this Court, that the decree of the said Circuit Court be, and the same is hereby, affirmed, except as to the part aforesaid, and as to that part, that it be reversed; and that the cause be remanded to the Circuit Court, with directions to enter, in lieu of that part, a decree, that the said negroes be and are hereby declared to be free, and that they be dismissed from the custody of the court, and be discharged from the suit and go thereof quit without day.

The Treaty between Spain and the United States, 1795 (The Treaty of San Lorenzo, also known as Pinckney's Treaty) (excerpts)

The Spanish ambassador to the United States insisted that the treaty between the two countries required the United States to deliver the Amistad, its cargo, and the Mende captives to the proper Spanish authorities. In early September 1839, Calderón de la Barca informed Secretary of State John Forsyth that the Spanish government expected that all property would be returned to its owners and that the Africans would be delivered for trial in Cuba. According to the ambassador's reading of Articles VIII, IX, and X of the treaty, no court in the United States had authority to grant salvage or to try the Mende for crimes committed on a Spanish ship.

In an opinion written for the President's cabinet in October 1839, Attorney General Felix Grundy agreed that Article IX of the treaty obligated the United States to return the Mende captives and all property, but with the case already in federal court, the Van Buren administration waited for the outcome of the district court trial. Judge Judson ruled that the treaty did not prevent a salvage award in a case like the Amistad, since the award for the rescue of the threatened ship fell within the "reasonable rates" of compensation provided by Article VIII of the treaty. The Supreme Court denied that Article IX applied to this case. The Mende were not merchandise under Spanish law, kidnapped Africans who resisted their captors could not be considered pirates, and the planters had no proof of ownership of the property demanded.

[Document Source: *Statutes at Large of the United States of America, 1789–1873*
vol. 8 (1845): 138–53.]

Article VIII.

In case the subjects and inhabitants of either party, with their shipping, whether public and of war, or private and of merchants, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity, for seeking of shelter and harbour, to retreat and enter 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 sustenance of their persons or reparation of their ships and prosecution of their voyage; and they shall no ways be hindered from returning out of the said ports, or roads, but may remove and depart when and whither they please, without any let or hindrance.

Article IX.

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 Port, in order to be taken care of, and restored entire to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof.

Article X.

When any vessel of either party shall be wrecked, foundered, or otherwise damaged, on the coasts or within the dominion 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 charges and dues only as the said inhabitants would be subject to pay in a like case: And if the operations of repair would require that the whole or any part of the cargo be unladen, they shall pay not duties, charges or fees on the part which they shall relade and carry away.

Anti-Slave Trade Act of 1819

U.S. Attorney William Holabird first suggested that the Mende from the Amistad might be returned to their native country under the provisions of section two of this statute, which Congress enacted to enforce the prohibition on the foreign slave trade.

If the district court determined that the Mende were not legally held as slaves in Cuba, the judge could order their transfer to the custody of the President for return to Africa at the expense of the United States government. Judge Judson ordered this transfer to the executive in his decree following his decision that the Mende were not slaves in Spanish territory and could not be returned to the planters who claimed them. Judson's order was suspended while the case was on appeal. The Supreme Court, in the opinion written by Justice Joseph Story, overturned this part of Judson's decree. The Court said that the act of 1819 could not apply to the Mende, since they were not carried into the United States as enslaved persons, but rather they arrived as free individuals.

The Congress first prohibited the foreign slave trade in an act effective January 1, 1808, the earliest date permitted under the Constitution. Smugglers continued to transport enslaved Africans into the United States, and the Congress responded with a succession of acts intended to halt this illegal traffic. The act of 1819 was the first to grant the President significant authority to enforce the prohibition and was the first act to provide for the return to Africa of the illegally enslaved individuals. Earlier acts deferred to state laws, some of which permitted the public auction and enslavement of the newly arrived Africans.

[Document Source: *Statutes at Large of the United States of America, 1789–1873* vol. 3 (1845): 532–34.]

Chap. CI.—An Act in addition to the Acts prohibiting the slave trade.
3 Stat. 532

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and he is hereby, authorized, whenever he shall deem it expedient, to cause any of the armed vessels of the United States, to be employed to cruise on any of the coasts of the United States, or territories thereof, or of the coast of Africa, or elsewhere, where he may judge attempts may be made to carry on the slave trade by citizens or residents of the United States, in contravention of the acts of Congress prohibiting the same, and to instruct and direct the commanders of all armed vessels of the United States, to seize, take, and bring into any port of the United States, all ships or vessels of the United States, wheresoever found, which may have taken on board, or which may be intended for the purpose of taking on board, or of transporting, or may have transported, any negro, mulatto, or person of colour, in violation of any of the provisions of the act, entitled "An act in addition to an act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, and to repeal certain parts of the same," or of any other act or acts prohibiting the traffic in slaves, to be proceeded against according to law: And the proceeds of all

ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall seize, take or bring, the same into port for condemnation, whether such seizure be made by an armed vessel of the United States or revenue cutter thereof: And the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy. *Provided*, That the officers and men, to be entitled to one half of the proceeds aforesaid, shall safe keep every negro, mulatto, or person of colour, found on board of any ship or vessel so seized, taken, or brought into port, for condemnation, and shall deliver every such negro, mulatto or person of colour, to the marshal of the district into which they are brought, if into a port of the United States, or, if elsewhere, to such person or persons as shall be lawfully appointed by the President of the United States, in the manner hereinafter directed, transmitting to the President of the United States, as soon as may be after such delivery, a descriptive list of such negroes, mulattoes, or persons of colour, that he may give directions for the disposal of them. *And provided further*, That the commanders of such commissioned vessels, do cause to be apprehended, and taken into custody, every person found on board of such vessel, so seized and taken, being of the officers or crew thereof, and him or them convey, as soon as conveniently may be, to the civil authority of the United States, to be proceeded against, in due course of law, in some of the districts thereof.

Sec. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to make such regulations and arrangements as he may deem expedient for the safe keeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of colour, as may be so delivered and brought within their jurisdiction: And to appoint a proper person or persons, residing upon the coast of Africa, as agent or agents for receiving the negroes, mulattoes, or persons of colour, delivered from on board vessels, seized in the prosecution of the slave trade, by commanders of the United States' armed vessels.

Sec. 3. *And be it further enacted*, That a bounty of twenty-five dollars be paid to the officers and crews of the commissioned vessels of the United States, or revenue cutters, for each and every negro, mulatto, or person of colour, who shall have been, as hereinbefore provided, delivered to the marshal or agent duly appointed to receive them: And the Secretary of the Treasury is hereby authorized and required to pay or cause to be paid, to such officers and crews, or their agent, the aforesaid bounty, for each person delivered as aforesaid.

Sec. 4. *And be it further enacted*, That when any citizen, or other person, shall lodge information, with the attorney for the district of any state or territory, as the case may be, that any negro, mulatto, or person of colour, has been imported therein, contrary

to the provisions of the acts in such case made and provided, it shall be the duty of the said attorney forthwith to commence a prosecution, by information; and process shall issue against the person charged with holding such negro, negroes, mulatto, mulattoes, person or persons of colour, so alleged to be imported contrary to the provisions of the acts aforesaid: And if, upon the return of the process executed, it shall be ascertained, by the verdict of a jury, that such negro, negroes, mulatto, mulattoes, person or persons of colour, have been brought in, contrary to the true intent and meaning of the acts in such cases made and provided, then the court shall direct the marshal of the said district to take the said negroes, mulattoes, or persons of colour, into his custody, for safe keeping, subject to the orders of the President of the United States; and the informer or informers, who shall have lodged the information, shall be entitled to receive, over and above the portion of the penalties accruing to him or them by the provisions of the acts in such case made and provided, a bounty of fifty dollars, for each and every negro, mulatto, or persons of colour, who shall have been delivered into the custody of the marshal; and the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, the aforesaid bounty, upon the certificate of the clerk of the court for the district where the prosecution may have been had, with the seal of office thereto annexed, stating the number of negroes, mulattoes, or persons of colour, so delivered.

Sec. 5. *And be it further enacted,* That it shall be the duty of the commander of any armed vessel of the United States, whenever he shall make any capture under the provisions of this act, to bring the vessel and her cargo, for adjudication, into some of the ports of the state or territory to which such vessel, so captured, shall belong, if he can ascertain the same; if not, then to be sent into any convenient port of the United States.

Sec. 6. *And be it further enacted,* That all such acts, or parts of acts, as may be repugnant to the provisions of this act, shall be, and the same are hereby repealed.

Sec. 7. *And be it further enacted,* That a sum not exceeding one hundred thousand dollars, be, and the same is hereby, appropriated to carry this law into effect.

Approved, March 3, 1819.

“Appeal to the Friends of Liberty.” *New York Commercial Advertiser*, September 5, 1839

Lewis Tappan and other abolitionists organized a committee to support the Mende from the Amistad and to hire lawyers to represent the captives in court. One of the committee’s first efforts was to publish this newspaper appeal that sought to publicize the plight of the Mende as well as raise funds for their protection. Another version of this appeal was circulated on broadsides for the public collection of signatures from those who pledged support for the Mende. Tappan’s committee emphasized both the injustice of the Africans’ detention and the need to care for their material and spiritual welfare.

Appeal to the Friends of Liberty. Thirty-eight fellow-men from Africa, after having been piratically kidnapped from their native land, transported across the seas, and subjected to atrocious cruelties, have been thrown upon our shores, and are now incarcerated in jail to await their trial for crimes alleged by their oppressors to have been committed by them. They are now ignorant of our language, of the usages of civilized society, and the obligations of christianity. Under these circumstances, several friends of human rights have met to consult upon the case of these unfortunate men, and have appointed the undersigned a committee to employ interpreters, able counsel, and take all the necessary means to secure the rights of the accused. It is intended to employ three legal gentlemen of distinguished abilities, and to incur other needful expenses. The poor prisoners being destitute of clothing, and several having scarcely a rag to cover them, immediate steps will be taken to provide what may be necessary. The undersigned, therefore, make this appeal to the friends of humanity to contribute for the above objects. Donations may be sent to either of the committee, who will acknowledge the same, and make a public report of all their disbursements.

Simeon S. Jocelyn, 34 Wall street.
Joshua Leavitt, 143 Nassau street.
Lewis Tappan, 122 Pearl street.
New York, Sept. 4, 1839.

Blank pages inserted to preserve pagination when printing double-sided copies.

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Links Related to the *Amistad* Case

Read the complete text of the Supreme Court decision:

<http://caselaw.lp.findlaw.com/amistad.html>

Amistad America is an educational organization that owns and operates the *Amistad* replica. This reconstructed sailing vessel tours the country and presents programs related to the *Amistad* incident.

<http://www.amistadamerica.org>

“Exploring Amistad at Mystic Seaport” a website presented by Mystic Seaport.

This is the most comprehensive resource available for studying the *Amistad* incident. The site includes an extensive collection of digitized historical documents, including newspaper articles, court records, personal papers, and items from popular media. Analytical essays place the *Amistad* incident in a broad context of politics, culture, and diplomacy.

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