

## Chapter 86 - Southern Fears Mount Further As The Supreme Court Frees Slaves In The *Amistad* Affair

Time: July 1839 to March 9, 1841

### African Slaves Bound For Spanish Cuba End Up In A Connecticut Courtroom

Everywhere Van Buren looks, he is beset by thorny problems, related either to the economic depression or to political turmoil over slavery.

One slavery incident in particular plays out between July of 1839 and the end of his term in office – and it results in a clear judicial victory for the abolitionists.

The case involves some 53 Africans who are snatched from their homeland in Nigeria and shipped to Cuba, in violation of bans on international slave trading passed by many nations, including the U.S. and Spain,

Once in Cuba, the slaves are sold to two buyers, who give them Spanish names so they appear “homegrown” and can be marketed legally to owners of a sugar plantation on the island. When the deal is done, the slaves are loaded on to a Spanish schooner, *La Amistad* (ironically “friendship” in English) for transport to the plantation.

Then things go awry.



Queen Isabella II of Spain (1830-1904)

On July 1, 1839, the slaves, under their leader, known later as Joseph Cinque, break free from their chains, kill the ship’s captain and a cook, and demand that the remaining crew sail them back home to Africa. But their knowledge of basic navigation is flawed, and the crew eventually lands the ship on Long Island, New York -- where they are arrested by U.S. officials on charges of murder and sent to New Haven, Connecticut for trial.

Although the murder charges are eventually dropped, some 36 Africans remain in jail, as both the plantation owners and the government of Spain, which rules Cuba, claim them “as property.”

When the Spanish ambassador gets involved, President Van Buren is ready to simply ship the slaves back to Cuba, to appease the avaricious regents surrounding Queen Isabella II, and tamp down any further debates over slavery in America.

However, by the time he is ready to act, the Abolitionist Lewis Tappan has taken up the case and seen that a court trial is scheduled. After hearing the evidence, the District Court judge Smith Thompson rules that the slaves were indeed Africans, not Cubans, by origin, and, as such, they were entitled to their freedom, and should be sent back to their homeland.

*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.*

This verdict upsets Van Buren and he orders his lawyers to appeal the decision in the Supreme Court.

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Time: February 23 To March 9, 1841

### **A Supreme Court Ruling Frees The Africans And Alarms The South**

Arguments before Chief Justice Taney and the high court begin on February 23, 1841.

Making the case for the Africans is none other than ex-President John Quincy Adams. Among the lawyers representing the Spanish crown is Ralph Ingersoll, ex-US congressman from Connecticut, who had earlier helped the town of New Haven defeat a proposal to open a “Negro College.”

The oral arguments extend from February 23 to March 2.

Adams wraps up in an appeal that extends over seven hours. He says that American laws, not those of any foreign power, must determine the African’s fates – and that our laws have banned international slave trading since 1808. Hence they are free men, who have been kidnapped illegally.

*Now the unfortunate Africans, whose case is the subject of the present representation, have been thrown by accidental circumstances into the hands of the authorities of the United States; and it may probably depend upon the action of the United States Government, whether these persons shall recover the freedom to which they are entitled, or whether they shall be reduced to slavery, in violation of the known laws and contracts publicly passed, prohibiting the continuance of the African slave trade by Spanish subjects.*

Under America's habeas corpus statutes, no President has the right to seize free men and turn them over to a foreign power at his own discretion.

*There had been reports in circulation, which is by no means surprising, that the President intended to remove these people to Cuba, by force, gubernativamente, by virtue of his Executive authority--that inherent power which I suppose has been discovered, by which the President, at his discretion, can seize men, and imprison them, and send them beyond seas for trial or punishment by a foreign power*

*Is there a law of Habeas Corpus in the land? Has the 4<sup>th</sup> of July become a day of ignominy and reproach. Remember the indignation raised against a former President of the United States for causing to be delivered up...a British sailor, for murder on board of a British frigate on the high seas? And is it for this court to sanction such monstrous usurpation and Executive tyranny as this at the demand of a Spanish minister?*

*Had the precedent once been set and submitted to, of a nameless mass of judicial prisoners and witnesses, snatched by Executive grasp from the protective guardianship of the Supreme Judges of the land, at the dictate of a foreign minister, would it not have disabled forever the effective power of the Habeas Corpus?*

As free men, the Africans belong to no one but themselves; they are not property; and they deserve the right to liberty and justice under both our Constitution and our Declaration of Independence.

*The Constitution nowhere recognizes them as property. The words slave and slavery are studiously excluded from the Constitution. Circumlocutions are the fig-leaves under which these parts of the body politic are decently concealed. Slaves, therefore, in the Constitution of the United States are recognized only as persons, enjoying rights and held to the performance of duties.*

*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' arguments prevail and the Court decides by a 7-1 majority to uphold the ruling in Connecticut. In releasing Cinque and the others, Senior Justice Joseph Story's opinion states that

*The Africans on board the Amistad were free individuals. Kidnapped and transported illegally, they had never been slaves.*

After the verdict is in, authorities refuse to authorize a U.S. ship to take Cinque and his remaining band back to their homeland. But once again Lewis Tappan steps in and all 36 survivors of the ordeal arrive in Africa early in 1842.

While the *Amistad* decision has more to do with Admiralty law rather than Constitutional law, the mere fact of the US Supreme Court deciding to free the Africans is troubling to the South.

On hearing the decision, John Calhoun says “this could take us all one step closer to civil war.”

Fortunately for Martin Van Buren, the verdict is not handed down until March 9, 1841, five days after he has left office. It serves as a fitting coda for what has been a painful term for both the President and the nation.