28th Congress, 1st Session. Rep. No. 426. Ho. of Reps.

SCHOONER AMISTAD.

[To accompany bill H. R. No. 328.]

April 10, 1844.

Mr. C. J. Ingersoll, from the Committee on Foreign Affairs, made the following

REPORT:

The Committee on Foreign Affairs, to whom was referred the President's communication to the House of Representatives, of the demand of the Spanish minister near the United States of indemnity for the Spanish vessel called the Amistad, her cargo and the slaves on board of her, together with damages for the sacrifice of the property, illegal imprisonment, and vexatious detention of her owners, together with the correspondence of the Secretary of State with the Spanish minister on that subject, respectfully report:

That they entirely concur with the President's intimation, that, as a proof of good faith in this Government, and its disposition to fulfil treaty stipulations under a fair and liberal construction, it is right, not in strictness merely, but in conformity with every principle of law and justice, that the salvage decreed against these much-abused foreigners and their property should be repaid to them by the United States, with interest for its detention, besides whatever damages ensued the forcible sale of the vessel and cargo. The committee are likewise of opinion that it comports with analogous doctrine of admiralty and international law, that freight should be allowed beyond the salvage and damages.

It appears that, on the 26th of August, 1840, a public vessel of the United States took possession of this Spanish schooner, on the coast of Connecticut, manned by forty-five piratical negroes, who had murdered the master of the vessel, and the cook; severely wounded Mr. Montez, one of the owners; sent the only two seamen on board of her adrift in the boat; and spared the lives of Ruiz and Montez, the two owners on board, on condition only that they should navigate the vessel—the negroes being altogether ignorant and incapable of doing so. The vessel regularly cleared from Havana, on the 28th of June, for Principe, another port in the island of Cuba. The cargo belonged to the two gentlemen on board, (Ruiz and Montez,) and several other Spanish inhabitants of Cuba. The papers of the vessel and cargo were all perfectly authentic and regular. The fifty-four slaves shipped were particularly described in passports, conformably to law. The vessel, cargo, and slaves, altogether, were worth about seventy thousand dollars.

Blair & Rives, print.

On the 1st of July the negroes revolted; and, by murdering the captain, setting adrift the seamen, and putting the owners in duress on peril of their lives, made themselves absolute masters of the vessel and cargo. Messrs. Ruiz and Montez, by deceiving the negroes as to the course they were steering, contrived to reach the American coast after being two months at sea, and were taken charge of by a public vessel of the United States employed on the coast survey. When boarded, within half a mile of the shore of Connecticut, the owners besought the American officers to rescue and protect them; which they did, so far as to take the vessel into port, and the negroes into custody.

The judge of the United States for the district of Connecticut bound them over for trial as pirates. The Spanish minister in the United States claimed them; and the President was disposed to surrender them, for trial in Cuba, according to the Spanish law, which they had violated; which should have been done, as, by all the principles of maritime jurisprudence, the crimes they committed on board a Spanish vessel were as if committed in the Spanish territory, and they were exclusively amenable to the jurisdiction of that country. When the circuit court of the United States for the Connecticut district held its next session, (preparation having been made by the prosecuting officer, apparently with the sanction of the district judge, to indict the negroes there as pirates,) the presiding judge of the court instructed the grand jury that they had no cognizance of the offences with which they were chargeable; but that, having been perpetrated on board of a Spanish vessel, they could be tried only by Spanish law in a Spanish country.

Since then, the Senate of the United States unanimously adopted resolutions—

That a ship, or vessel, on the high seas, in time of peace, engaged in a lawful voyage, is, according to the laws of nations, under the exclusive jurisdiction of the State to which her flag belongs; as much so as if constituting a part of its own domain.

That if such ship or vessel should be forced by stress of weather, or other unavoidable cause, into the port and under the jurisdiction of a friendly power, she and her cargo, and persons on board, with their property, and all the rights belonging to their personal relations, as established by the laws of the State to which they belong, would be placed under the protection which the laws of nations extend to the unfortunate under such circumstances.

That the brig Enterprise, which was forced unavoidably, by stress of weather, into Port Hamilton, Bermuda island, while on a lawful voyage on the high seas, from one port of the Union to another, comes within the principles embraced in the foregoing resolutions; and that the seizure and detention of the negroes on board, by the local authority of the island, was an act in violation of the laws of nations, and highly unjust to our own citizens to whom they belong.

Thus, wherever the flag goes, the country is. In whatever distant seas or foreign ports, wherever the national flag floats, there is the nation. Spain, therefore, with all her laws, reigned on board the Amistad, as much at sea, and in Connecticut or New York, as at Havana. This fundamental principle of maritime power and peace is always to be kept in mind. In the similar case of the American mutineer slaves on board a vessel called the Creole, the Government of the United States required their surrender from the authorities of a British colony, under circumstances less aggravating than those of the Amistad; properly insisting that vessels are, in con-

templation of law, part of the territory of their country; and that, independent of treaty stipulations, Governments are bound, by the mere comity each owes the other, not to shelter, but to deliver pirates, murderers, robbers, and other criminals, to each other, for trial and punishment.

Meantime, however, according to the published report of this transaction, a lawless combination, insisting that these blacks were guilty of no offence, resisted their being punished or tried in this country, or their extradition for trial and punishment in Cuba. They contended that the revolted negroes had exercised only the natural right of self defence, and were justified by law for the murder, robbery, and piracy they had committed; appointed a committee to take charge of their defence; engaged counsel to effect their release; and made every effort to turn the tide of public opinion, and what they called judicial prejudice—strengthened by a letter published in the newspapers by a distinguished citizen, asserting the right of the negroes to act as they did, and that the vessel and cargo were theirs by the law of nations.

By such perversion of law, zealots, with the help of the press, resisted the course of justice, and resolved to free the negro malefactors at all hazards. Moral force and intimidation (too significant of the physical violence to be the last resort, should justice be done) were put in operation to awe the courts and rescue the slaves from their control. If they had been white, the due course of law would have been undisturbed. But the fanatical denunciation of negro slavery, which latterly has passed over from England to America, created these blacks heroes and martyrs, surrounded them with irresistible succor, and, your committee own with humiliation, set all law and its administration at defiance.

From the origin of these United States, Spain has been one of their constant allies. A series of liberal and highly advantageous treaties, stipulating the most desirable principles of maritime and international law, have signalized their amicable relations. Some of the articles of these treaties impose upon the United States, by the plainest, the highest, and the most solemn obligations, the duty of surrendering these negroes to the Spanish authorities. Three of the articles in the treaty of 1795 are as follows:

"ART. 8. In case the subjects and inhabitants of either party, with their shipping, whether public and of war, or private and of merchants, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity, for seeking of shelter and harbor, 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 subsistence 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.*

"ART. 9. All ships *and merchandise, of what nature soever,* which shall be *rescued out of the hands of any pirates or robbers on the high seas,* shall be brought into some port of either State, *and shall be delivered to the custody of the officers of that 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.

"ART. 10. 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 should require that the whole or any part of the cargo be unladen, they shall pay no duties, charges, or fees, on the part which they shall relade and carry away."

Instead of complying with the injunctions of treaties, the obligations of law, or the comity of nations, the vessel and cargo were libelled and condemned for salvage; and a sum, extravagant in amount, and unjust in principle, decreed to be paid, and extorted by forced sales of the property. The claim of idlers along shore, who picked up some of the straggling negroes there, for salvage upon them, was rejected, though as well founded as that of naval officers of the United States for taking the vessel and cargo with the negroes half a mile into port—an act of common humanity and treaty obligation, which involved neither labor nor risk.

The Spanish gentlemen who owned the vessel and cargo not only met with every obstacle and difficulty which could be thrown in their way, but contumely, obloquy, and persecution. They were cast into prison, sued on frivolous and vexatious pretexts, confined from the pursuit of their rights, and treated with every indignity, while their revolted slaves were encouraged to insist on enlargement.

The district court of Connecticut, rejecting the claims of the Spanish minister, the Spanish consul, the owners of the vessel and cargo, and the President of the United States, by strange misapplication of an act of Congress decreed that the President should convey the negroes to Africa, and there set them at liberty.

To set the slaves free at any rate, cardinal principles were violated, upon which the harmony of States, the security of property, and the peace of mankind depend. The papers of the vessel and cargo were all perfectly regular; the certificates of the purchase of the slaves, and passports for their transportation from one port of Cuba to another, unquestionably authentic and unexceptionable. It is a conservative principle of universal jurisprudence, that official documents, like judicial decrees, are entitled to full faith, and never contradicted but on clear proof of fraud. An English superintendent of emancipated slaves in Cuba (one Madden) supplied this need, by deposing that the papers were false and fraudulent. He knew nothing about them; but his suggestion was accepted, not only that the documents were false, but that the constituted authorities of Cuba dealt always in such fraudulent papers. The doubt he interpolated was, whether the negroes were slaves, domesticated in Cuba, called *ladinos*, as these were certified; or freshly imported Africans, known as *bozales*. Ignorant of the persons, lives, histories, and language of these slaves, Madden boldly fabricated a case of sufficient question to induce further proof. His function in Cuba, of superintendent of liberated slaves, salaried him as a spy on Spanish transactions in slavery. Though he came to this country wholly ignorant of all the particulars of the case, to fabricate abolition for these slaves, yet, with the pragmatic interference of his Government, he succeeded. The English minister at Washington, pursuant to instruction from it, interfered in a note to ours, requiring their liberation; which interposition, superadded to Madden's deposition and extraneous influences, your committee are ashamed to confess, had the desired effect.

In defiance of the law of treaties, of the law of all civilized nations, and of primary principles of universal jurisprudence, were these much-abused foreigners stripped of their property; and the pirates, who, by revolt, murder, and robbery, had deprived them of it, set free. A pervading question in the discussions of the case was, whether slaves can be property, so as to pass under the denomination of merchandise, as designated in the Spanish treaty of 1795. At that time English and American harbors were full of such property. By the slave-trade, extensively prosecuted as lawful commerce, slavery was part of the institutions of every State in this Union, and recognised by the law of England as the law of nations. The seventh article of the definitive treaty of peace between the United States of America and his Britannic Majesty, signed at Paris September 3, A. D. 1783, by David Hartley for England, and John Adams, Benjamin Franklin, and John Jay for the United States, whose independence was first acknowledged by that treaty, providing that all hostilities between them shall thenceforth cease, and his Britannic Majesty withdraw his armies, garrisons, and fleets from the United States, declares that he shall do so without carrying away any *negroes or other property* of the American inhabitants; thus, in the very baptism of this country, acknowledging that negroes are property, not merely by municipal regulation, but by the laws of nations. While idle denial of this unquestionable principle produced and protracted most of the controversy suffered in this case, one of the slaves was decreed to be property by the court, which set all the rest free; but, in keeping with the other proceedings against their Spanish owners, this slave was kidnapped from the very purlieus of the court and actual custody of the marshal, spirited away by stealth, concealed, taken from Connecticut to New York, and, like all the rest of the spoliated property of these unfortunate guests of American political hospitality, fraudulently and forcibly robbed from their possession and ownership. Among the records in the Supreme Court, is the claim of Antonio C. Vega, vice consul of her Catholic Majesty for Connecticut and other States, for Antonio Ferrer, in the custody of the marshal, the lawful property of the legal representatives of Ramon Ferrer, (who was captain of the Amistad, and murdered,) which slave wishes to return to Cuba, to the keeping and possession of the legal representatives of his late master, there to remain; and one of the letters which the President submits to Congress, from the Spanish minister to the Secretary of State, communicates a letter from Mr. Vega, stating that he has "just heard from the marshal that the self-styled friends of the Africans induced Antonio to go away from custody. They placed him on board the steamboat, and he went to New York. I followed him to that city, where Lewis Tappan, the leader of the abolitionists, informed me that Antonio was in town, but that he would not be delivered to me, and that arrangements had been made for sending him elsewhere. I could not meet him myself. I regret this very much, and fear that he is beyond our reach. If, however, I should succeed in finding him anywhere, you shall receive immediate notice."

Thus the only article of Spanish property restored by judgment was a slave, the only one not guilty of piracy; and he was then kidnapped from the court, which held him for his master, while the pirate slaves were all set free by its fiat.

The correspondence of the respectable Spanish minister in the United States, annexed to this report, is marked by strong feelings of the wrongs inflicted on his countrymen; while he vindicates their right to different

treatment, in a strain of argument, supported by references to acts and resolutions of our Government in analogous, if not identical cases, in which we remonstrated against similar misconduct by the authorities of a foreign nation as unjustifiable. To these complaints the Secretary of State makes answer by mere assertion of our right to do what the Spanish minister complains of, almost without argument to sustain it; and a cold intimation to him that our courts of justice were always open to redress the injuries of his countrymen. Your committee are mortified to feel obliged to remark, on this intimation from the representative of the American Government, that it was mere mockery. The courts of justice were not open to the complaints of these foreigners. Neither the Federal nor the State courts would listen to their complaints, or redress their grievances. Messrs. Ruiz and Montez, without reason or cause, were thrown into prison by lawless combination at New York, so as not to be physically able to attend to their suit in Connecticut. Their persons were kept in prison by color of law in one State, while their property was spoliated by color of law in another. We are accustomed to regard the Spanish inquisition as the worst possible dispensation of injustice. But what will be said of American justice when large bodies of men combine, and not only with impunity, but applause and transcendant success, prostrate treaties, annul acts of Congress, intimidate courts of justice, seize and imprison parties litigant before them, steal their adjudged property, and, by fictitious contrivances of proof, overthrow all law to set free murderers, robbers, and pirates? Can American justice, in Spanish opinion, be better than Spanish justice in American? When an individual, as too often happens, takes the law into his own hands, and by violence effects his purpose, right-minded men condemn and deplore the illegality. But if a thousand or a hundred thousand do so, is the illegality less? Your committee are apprehensive that the lawless proceedings in this case must discredit American justice abroad, and enfeeble it at home. Sectional prejudices and disorganizing combinations, overruling law, stimulating a free press, and exercising other influences to operate on the judiciary, are as pernicious and indefensible as insurrection by numbers, or individual assassination. Justice done under duress of the press, and other exterior influences, must be injustice. Injustice by color and with forms of law, is as bad as open violation of law. Officers of justice, excited by out-of-door passions, or misled by panics, are incapable of duty. The revolt at Hartford, like that on board the Amistad, cannot be justified for any ends, by such means. To free slaves at all events, may be as unjust as to enslave them.

Your committee are not vindicating slavery, or the slave-trade; but both are regulated and protected by the constitution and laws of the United States. The Spanish nation has an unquestionable right to its own code of laws, its own rules of ethics, and its own principles of humanity. English or American legislators or communities may govern themselves as they will; but they have no right to violate the laws of other people. On the record of the Supreme Court, in this case, the committee find the letter of the Spanish minister communicating to the Secretary of State of the United States the royal decree of Spain interdicting the slave-trade; but, in that letter, an argument for its existence, and explanation of its interdiction, which it is due to Spain to insert in this report.

Don Luis de Onis to the Secretary of State.

"SIR: The introduction of negro slaves into America was one of the earliest measures adopted by the august ancestors of the King, my master, for the improvement and prosperity of those vast dominions, very shortly after their discovery. The total inaptitude of the Indians to various useful but painful labors, the result of their ignorance of all the conveniences of life, the imperfect progress in civil society, made it necessary to have recourse to strong and active laborers for breaking up and cultivating the earth. With the double view of stimulating them to active exertion, and of promoting the population of those countries, a measure was resorted to by Spain, which, although repugnant to her feelings, is not to be considered as having originated the system of slavery, but as having materially alleviated the evils of that which already existed, in consequence of a barbarous practice of the Africans, upon saving the lives of a considerable portion of the captives in war, whom they formerly put to death.

"By the introduction of this system, the negroes, far from suffering additional evils, or being subjected, while in a state of slavery, to a more painful life than when possessed of freedom in their own country, obtained the inestimable advantage of a knowledge of the true God, and of all the benefits attendant on civilization.

"The benevolent feelings of the sovereigns of Spain did not, however, at any time, permit their subjects to carry on this trade, but by special licenses; and in the years 1789, 1798, and on the 22d of April, 1804, certain limited periods were fixed for the importation of slaves. Although the last term had not expired when his Majesty our lord Don Ferdinand the Seventh was restored to the throne, of which a perfidious usurper had attempted to deprive him, his Majesty, on resuming the reins of government, soon perceived that those remote countries had become a prey to civil feuds; and, in reflecting on the most effectual means of restoring order, and affording them all the encouragement of which they are susceptible, his Majesty discovered that the numbers of the native and free negroes had prodigiously increased under the mild regimen of the government and the humane treatment of the Spanish slave owners; that the white population had also greatly increased; that the climate is not so noxious to them as it was before the lands were cleared; and, finally, that the advantages resulting to the inhabitants of Africa in being transported to cultivated countries, are no longer so decided and exclusive, since England and the United States have engaged in the noble undertaking of civilizing them in their native country.

"All these considerations, combining with the desire entertained by his Majesty of co-operating with the powers of Europe in putting an end to this traffic, which, if indefinitely continued, might involve them all in the most serious evils, have determined his Majesty to conclude a treaty with the King of the United Kingdom of Great Britain and Ireland, by which the abolition of the slave trade is stipulated and agreed on, under certain regulations; and I have received his commands to deliver to the President a copy of the same, his Majesty feeling confident that a measure so completely in harmony with the sentiments of this Government, and of all the inhabitants of this republic, cannot fail to be agreeable to him.

"In the discharge of this satisfactory duty, I now transmit you the aforesaid copy of the treaty, which I request you will be pleased to lay before

the President; and I have the honor to renew the assurances of my distinguished respect.

"God preserve you many years.

"LUIS DE ONIS.

"WASHINGTON, *May* 14, 1818."

Without adopting the Spanish apology for the slave trade, your committee think proper to add, that, since Great Britain put into the treaty of Ghent the tenth article, stipulating that both parties to it shall use their best endeavors to accomplish the entire abolition of the traffic in slaves, the United States have carried that engagement to the uttermost of maritime and international prepotency, by preposterous enactment that slave trade is piracy; for certainly it might as well be denominated arson or rape. Great Britain, with her immense marine, immense expenditures, and immense influence, has agitated all christendom, in every hemisphere, by sea and land, for its extermination. Yet, such is the law of politics, which frustrates excessive, forcible compulsion by inevitable reaction, increasing the evil struck at, that it is confessed by all English investigators of the subject that the slave-trade has nearly doubled since Great Britain undertook to destroy it; and that its wretched victims are doomed to infinite aggravation of their miseries, by clandestine transport across the ocean by keepers exposed to the perils of piracy. By the treaty of Washington, the United States contract to go farther still; and they have now on the African coast, at English instance, a squadron carrying ninety-six cannons, with twelve hundred men, to strive to put a stop to the traffic. Its disadvantage to the slaveholding States of this Union is obvious. It is their interest to suppress it, as it is the obvious requirement of humanity everywhere. In the north an abstraction, it is a reality in the south. But violence by sea to put an end to foreign slave-trade has proved disastrous, like similar violence within the United States to extirpate slavery and domestic slave-trade. Some less revolting and more efficient counteraction of both is indispensable to the diminution or melioration of either.

Your committee have not thought their duty fulfilled by only thorough and careful examination of the correspondence communicated by the President in this case, and of the printed account of its adjudication by the Supreme Court of the United States, in the 15th volume of Mr. Peters's Reports, when they came to consider that final judgment from which our institutions give no further judicial appeal. It is the province and the duty of those who represent the sovereignty of the country in Congress—especially that grand inquest of the nation, the House of Representatives—to look into every abuse, and correct national wrong with fearless independence. When the executive or the judiciary do wrong, it is more incumbent on Congress to expose it, than when done by any less authoritative or influential body. The courts of justice throughout the Union have been mostly free from improper bias, or the suspicion of it; and a judgment of the highest of them all should not be called in question, without reasons of irresistible cogency. Impressed with this respect, your committee have taken care to procure the record of the case of the Amistad from the archives of the Supreme Court, and to weigh the testimony as presented to that tribunal for its affirmance of the judgment of the district court, that the documents, certificates, and other papers of the Amistad are false and fraudulent. They are all on the record, all in perfect order, all certifying

the purchase and slavery of the negroes, all ostensibly unobjectionable. The method of annulling them as false and fraudulent, by accepting the testimony of Madden, appears to this committee to be violative of the great principle, that fraud is never to be believed without indisputable proof—especially when to set aside documentary credentials, and the equally conservative principle that such credentials are to be held sacred, unless thoroughly contaminated by fraud. Madden was a mercenary man, whose salary depended on his abolishing the slavery of Spanish negroes. His testimony, by itself, is wholly incredible. It is hardly testimony at all. It was necessary to confirm his suggestions. For that purpose, this committee, with surprise and regret, perceive the Supreme Court of the United States relying on the oath of a half-civilized, totally ignorant African, found in some English vessel, who could hardly be conscious of the obligation of an oath, and who swears to no knowledge of such circumstances as should decide any question. The testimony of that African is allowed by the court to be seconded by that of another, also picked up from an English vessel, who scarcely pretends to know anything, but is permitted to swear that he believes the other; and this tissue of fabrication is completed by the *opinion* of a professor, deposing that, having in a few weeks learned the African language from one of these Africans, he *thinks* that the negroes of the Amistad are *bozales*, not *ladinos*. The professor's teacher of the African language was one of the African sailors, by whose instruction the professor made a vocabulary of that language, which enabled him, he said, to converse with twenty or thirty of the slaves. This teacher deposes that he was an African, stolen from his country, and brought to this in a British man-of-war; and that, though he knew none of the slaves, he could talk with them, and had no doubt they were Africans. The other African (cook on board a British sloop of-war) deposed that the first-mentioned African's deposition is credible; and moreover that he, being born in Sierra Leone, is sure, from the language, manners, and looks of the Africans, (though there was but one of them whose language he could understand,) that they came recently from Africa.

Finally, two of the slaves—Sinqua and Grubo—appear, by the record, to have *testified*. Whether this lax phrase means that they were sworn to tell the truth, the record does not state. On this proof—that is, Madden's, who knew nothing; Covey's, an extremely ignorant negro; Pratt's, another very ignorant negro, that what Covey deposed is credible; and a professor's opinion, who, from Covey's tuition while these slaves were in litigation, had acquired sufficient knowledge of their language to ascertain their place of nativity, and how long they had left it—the district attorney admitted in open court that the negroes are native Africans, recently imported into the island of Cuba, as alleged in their answers to the libels of the said attorney; and the Supreme Court of the United States adjudged that these negroes were not slaves, but oppressed freemen, justified in revolt, murder, robbery, piratical and other depredations. One of the judges of the Supreme Court died during the discussion of the case. Another dissented from the judgment. Others, the committee have some reason to believe, were not satisfied with it. But it appears by the record of final judgment, that the said negroes are "declared free, dismissed from the custody of the court, discharged from the suit, to go thereof quit without day." Ruiz and Montez (said the judge who delivered the opinion of the court) 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.

Your committee, after repeated consultation of the record of this extraordinary case, can find no evidence of this fact assumed by the court. They do not discover that it was admitted by the district attorney that Ruiz and Montez purchased the negroes with knowledge of their alleged recent arrival from Africa. On the contrary, the proof is, that they were at least fourteen months in Cuba; and, even granting that those Spanish gentlemen knew they were not settled slaves there, there is no proof at all of their knowledge that they were freshly brought from Africa, contrary to law.

The answer of these alleged barbarians, adjudged by the court to be Africans just kidnapped from their savage state, as put on the record for them, states that they were kidnapped from Africa the 15th of April, 1839, and thence transported to Cuba. The district judge dates their arrival in Cuba the 12th of June, 1839. Of course they had been there fourteen months, by this judicial chronology, before they were taken on board the Amistad. Yet the very next sentence of the district judge's decree charges Ruiz and Montez with their purchase only fifteen *days* after their arrival at Havana. Even that decree, however, does not mention either the district attorney's *confession* of their African recency, or make their Spanish masters purchase them *with full knowledge of all the circumstances.* These triumphant arguments of guilt were reserved to be discoveries or inventions and mistaken reliances of the judge delivering the opinion of the Supreme Court. The committee apprehend that a fact, vital to the rectitude of the judgment, is assumed without any proof of it; and that judgment is put on an unauthorized postulate in the attorney's unaccountable confession. The errors, in fact and in law, which mark all the judgments, seem to be ascribable to that enthusiasm for liberating the Africans, which in a good cause would have been more laudable. At Hartford they were decreed free for one cause; at Washington, for another. He must be an enthusiast who believes that these alleged savages could fix the day of their seizure in Africa, near two years after it was said to have occurred—precisely on the fifteenth day of our month of April; or that fifty negroes, speaking almost as many dialects, doubtless from various regions, were all kidnapped together at one time, and on the same spot. Part of Madden's testimony casts their nativity, by guessing the ages of each one, which is put on the record for truth, and certainly is as credible as the rest of it. He fixes their ages as a parent would his children's.

Your committee think that the court should not have determined this case by an admission of the attorney. They apprehend that the excitement, extraneous pressure, and extraordinary circumstances, which interfered with due course of law, and probably extorted from him the unwarrantable admission by which he surrendered his cause, accompanied it from Hartford to Washington, and disturbed the opinion of the Supreme, as they perverted that of the district court. Without that strange admission, there is no proof authorizing the conclusion of either of these courts. In the district court, no use was made of the attorney's confession, and the President was directed to send the negroes free to Africa. In the Supreme Court, that admission was the reliance for what is termed "stripping offi-

cial documents of their disguise of fraud," and annulling them as so stripped, by a license extremely dangerous to American commerce and navigation. If English, Spanish, and all other foreign tribunals, on the admission by their officers of the oaths of Africans who can neither read, write, nor understand an oath, impertinent statements of hired propagandists, or opinions of professors in African languages learned in a few weeks, under the tuition of semi-barbarian instructors, may set at naught the documentary proofs of the three hundred millions of American property afloat, by charging them with fraudulent ownership, all that property is in much greater jeopardy from the law of our own courts adopted abroad, than from any enemy, however formidable, or the most destructive elements.

If the Amistad had been overhauled at sea by the most vigilant British cruiser, on her voyage from Havana to Principe, she must have been permitted to pass without let or hindrance. Her papers were indisputable. Without Madden to cry fraud, one negro vagabond to swear to it, another to swear that he believed the first, and a professor of African dialects to give his opinion that the fifty negroes were not slaves, the whole fabrication of fraud on which American courts, less respectful of authentic documents than the most arbitrary commander of a sloop-of war, was baseless suspicion without proof. If Spanish courts of justice are invited and provoked by such adjudications in ours, to scrutinize, decry, and annul the papers of every American vessel at sea, or in Spanish ports, on harsh and arbitrary dogmas of prize law seldom if ever applied, but in war, to eviscerate fraud and secure booty, there will be no security for American commerce in peace with Cuba or any other part of Spain. Pirates may perhaps be executed without trial; but ship's papers, in this instance, were treated as piratical.

In open day, the Amistad put to sea on a coasting voyage from one port of Cuba to another. Fifty-four negroes were on board. They were not in irons, or under any slavish restraint. There was not the slightest indication of their owner's fear of them. A captain, with but two seamen and the cook, (a slave,) composed the whole force of the vessel. Her owners relied on their papers as all the security required. Their slaves revolted, murdered some, and compelled the two survivors to become their slaves; during the two months of their wandering about the ocean, if any vessel of force of any nation had fallen in with the Amistad, that vessel could not have hesitated to send them back to Havana. It was the hard fate of her owners to find their only shelter in an American port, where their only succor proved to be the treatment of malefactors, while the malefactors they owned were treated with more than the utmost welcome of hospitality.

The law of Cuba sanctioned slave-trade till the treaty of Madrid with Great Britain of the 23d September, 1817, abolishing it throughout the Spanish dominions from and after the 20th May, 1820. The 12th article of that treaty authorizes England to keep a commissioner at Cuba to judge in matters of the slave-trade; which is repeated by another treaty, signed at Madrid, between those powers, the 28th June, 1835. Under these treaties, Madden deposes that he resided in Cuba three years, holding several official situations there under the British Government, which, he says, familiarized him with slavery and the slave trade. He must have known, therefore, that slaves to be taken from Havana to Principe were registered, described, and certificated, as these slaves were; and that it was impossible, without the grossest imposition on the Governor General, and other eminent officers of Government, to procure certificates for *bozal* negroes as *ladinos*. Your

committee, desirous of ascertaining the truth of this perplexed case, have inquired as to the character of the two Spanish gentlemen charged with this egregious imposture, and submit herewith the testimonial of a respectable merchant of New York on the subject:

"I certify that I have been acquainted with Don Joseph Ruiz since 1834; that he always was, and is, a respectable individual of the first standing at Puerto Principe, in the island of Cuba, and is a partner of the very respectable mercantile house there, under the firm of Carrias & Nephews. I moreover certify that I have had mercantile dealings and transactions with them for many years past, and that they are entitled to the first credit as merchants of great reputation and standing. I have resided in said city.

"I likewise certify that I have been acquainted with Don Pedro Montes for the last *thirty* years; that he is a merchant of Puerto Principe, in Cuba, of great integrity, reputation, and moral conduct, and possessing all the qualities that render him one of the most respectable men of said city.

"In testimony whereof, I have given the present, under my hand, at the city of New York, the 30th of March, 1844.

THOMAS OWEN,
"*Merchant*, 209 *Front street*."

It seems, then, extremely improbable that these gentlemen, the Governor General, and other functionaries of Cuba, all conspired in the perilous guilt of certifying fifty newly-arrived negroes to be slaves, and sending them to sea, on their way to the sugar and coffee plantations of their owners, without even adequate force on board the vessel to repress mutiny, but relying entirely on papers that were fraudulent. There ought to be irresistible proof of such absurd and incredible imposture, before it is adopted in the Supreme Court of the United States as sufficient to involve all the constituted authorities of Cuba in gross and scandalous, habitual and systematic knavery. Your committee apprehend, if British agents and the British Government are allowed, on such proof, to undo the force of legal instruments, in order to abolish Spanish slavery in the United States, that slaves will cease to be property here, by a process much swifter and cheaper than that by which that Government emancipated the slaves of their West India islands. Of that inconceivable act of supposed humanity this country has, perhaps, no right to complain. But its Government is bound to prevent British interpolation of irregularities into the administration of American law, fatal to the peace and property of large portions of the United States, and to their treaty obligations with foreign nations. Self-preservation, as well as national faith, requires us to repudiate such interpolations.

As this report is not designed to settle a question of property, but only to develop so much of the proceedings of the court as to show what is deemed their errors, the committee will not further pursue the ungrateful task of their minute exposure. They assume, it is believed, misapprehensions of fact; and violate principles of law, contrary to the obligations of treaties, dangerous to the commerce, and disparaging the national character of the United States. They render necessary, the committee consider, an act of Congress to vindicate the good faith of the country in its foreign relations.

But it is not only on the foreign relations of this Union that the committee apprehend the pernicious effect of such adjudications; they are still more detrimental to its own institutions and harmony. For thirty years after American independence, acknowledged by treaty in 1783, the states

men and philanthropists, both of Great Britain and the United States, harbored no misgiving of the right of property in slaves, or the lawfulness of trade in them. There were slaves in every one of our States, and they were disposed of as articles of trade, both in England and America. Without denying the right of England to come to a different opinion, both concerning slavery and the slave-trade, and meaning no offence in the expression of surprise that the descendants of the Adamses and Jays, who signed the treaty of 1783, should also have proselyted with English converts to the doctrine that both slavery and the slave trade are unlawful, your committee hold it due to the memories of the illustrious founders of this confederacy to deny that either slavery or slave-trade among the States is so wicked or inhuman as to demand violent and instantaneous extermination, much less breach of national faith plighted by treaties. All christendom is in arms against foreign slave-trade. This was the first country to pronounce it piracy; and the committee will not, in the least, question either the wisdom or humanity of its extinction by all legitimate means. That hunting its perpetrators as pirates has not been a successful or humane method, they have said, without any design to palliate the traffic. But the United States, confederated by a constitution and laws which sanction slavery, are bound by good faith, policy, and humanity, to prevent unjust interference abroad or at home, with institutions deeply rooted in our political and social existence. Your committee believe that total misunderstanding and unmerited reproach disfigure this subject both at home and abroad; and that all Americans should vindicate their common country from assaults which of late years have become so continual, systematic, and outrageous, as to be extremely prejudicial to American welfare and character. It is an arrogant assumption, that slaveholding communities are inferior to others in those attributes and enjoyments which Americans most prize. The slaves of the United States are better housed, clothed, fed, and taken care of, than the peasantry and poorer classes of most other countries, whose bondage is much more painful. The moral, social, political, religious, and general condition of Great Britain, is not superior to that of the slaveholding States of this country. Disclaiming invidious comparisons between those States in which slavery exists and those in which it exists no longer, the indications of a prosperous commonwealth are as striking in either of the Carolinas, for instance, as any of the northern States. Crime and litigation, fraud and disorder, are not more prevalent; the tone of morals is as good; religion as much respected; legislation as orderly; judicial power as firm; property as secure; contracts as sacred; debts as punctually paid; due course of law as regularly maintained; domestic and public virtue as much revered. During the convulsions with which the English system of currency, aggravated as it has been in the United States, has agitated them, public ruin and private misdemeanors have been much more disastrous in the States without slaves than in those where they abound; and the love of liberty has been as constantly exemplified in the slaveholding, as in those which are called the free States. In one of the Carolinas, independence is said to have been resolved upon before the great declaration by these United States, which has already freed the New World, and introduced representation among many of the governments of the old. It would be easy, your committee believe, to carry much further the argument that it is altogether a mistake to arrogate superiority for communities without slaves over those who employ them. The wise and virtuous founders of this great republican empire laid its basis on ser-

vile as well as free institutions; and the experience of a long career of progressive prosperity and power admonishes against all rash and violent attacks upon any part of these institutions. Neither the legislative nor the judicial departments of the Federal Government can interfere with them, without detriment to a nation, happy if it does but appreciate its superior happiness. It is the interest of all to maintain, by conciliation and benevolence, the nationality of a republic whose territories are so extensive, and local interests so diversified, that sectional antipathies are easy of growth and difficult of management. One portion of the Union cannot be arrayed against another in angry and contumelious denials of the right of what whole communities deem their property, as the forefathers of all did for many generations, without pernicious conflict and perilous disturbance. Above all, foreigners must not be permitted to kindle sectional prejudices into implacable animosities. For several years past, Congress has been disturbed and dishonored by new and extreme—your committee believe unnecessary, and unwarrantable, and unconstitutional interference with vested rights, inherited by a large portion of the United States, and guarantied by their constitution. Your committee apprehend that this interference is of foreign instigation. They have dwelt on the case of the Amistad with the greater earnestness, because they believe it is the first instance in which the Supreme Court of the United States has been turned aside from the perfect impartiality distinguishing that eminent tribunal, and betrayed into false sympathies with extraneous excitement, which, however it may agitate individuals, or combinations of them, should be unknown in the administration of justice. They cannot help thinking that, if that Spanish vessel had been taken into the Chesapeake or the Delaware, the decision would have been different from what it was. Indeed, they believe that, in that case, the Executive would have been permitted, without hindrance, to restore the Spanish property to its lawful owners. If so, and, as they apprehend, the menacing attitude of part of a community overpowered the law of nations, of treaties, and of the United States, Congress owe to the United States, as much as to the Spanish sufferers, atonement for their wrongs. The law must be supreme, if liberty is to be preserved; and it must be everywhere the same, north and south. When the Federal courts of justice err, Congress alone can rectify it. It is by an act of Congress alone that this debt of national honor to Spain can be paid, as it ought to be, by signal proof to the world that none shall be wronged—not even by judicial authority—without redress, in the United States.