



Havana 11<sup>th</sup> October 1839.

Gentlemen

Your letter of the 13<sup>th</sup> Sept: last respecting the negroes taken into New London in the Spanish Schooner "Amistad" by the U.S. Surveying Vessel "Washington" we received only this day and we hasten to afford you whatever assistance may be in our power in accordance with your request.

The circumstances of the case had been made known in this City almost immediately after they occurred by the two sailors who escaped, and there was a report shortly after prevalent that the "Amistad" had got to the Bahamas. When it proved that she was taken into a Port of the United States our first impression of duty was that we should write to the British minister at Washington stating the fact of the negroes having been newly and illegally brought into this Island from Africa and therefore as being entitled to be considered free persons acting under illegal restraint. Almost simultaneously however with the first account came the reports of the depositions made by Messrs Ruiz & Monterey from which it appeared they themselves acknowledged the negroes had been recently imported into this Island and as we could have stated no more and that only upon uncertain authority we preferred leaving it to the American government, and the American people's own sense of justice to decide what should be done with these unhappy victims to a murderous traffic and a flagrant breach of the laws of Spain. We thought we could rely on your sense of right and if your Government or Courts of Law had any bias to the contrary, we thought that bias would not be shaken by what might be considered an improper interference on our part. This opinion we still continue to hold but with less regret now relying on your particular zeal and ability to ensure success.

The further reports of the case and of your very able

arguments in particular we have read with much interest and also the decision of Mr Judge Thompson (which however we had anticipated from the first. viz. that your Courts of law had no jurisdiction. The result of the application for the Habeas Corpus. we have not yet learned, but agreeing with you that it must be governed by Spanish law hope that our representations of it now may not reach you too late

In answer to your first enquiry, We are not aware of any law which in specific terms declares that negroes illegally imported into this Island become ipso facto free, but we consider this to follow as a necessary consequence from the law which prohibits slaves being imported.

The first article of the Treaty signed at Madrid 23<sup>rd</sup> Sept 1817 is as follows. "His Catholic Majesty engages that the Slave Trade shall be abolished throughout the entire dominions of Spain on the 30<sup>th</sup> May 1820. and that from and after that period it shall not be lawful for any of the subjects of the Crown of Spain to purchase Slaves or to carry on the slave trade in any part of the Coast of Africa upon any pretext or in any manner whatever."

The Criminal Code of Spain signed by the King on the 29<sup>th</sup> June 1822 after having been agreed to by the Cortes enacts Art 276 "All Captains, Masters & Pilots of Spanish vessels who purchase negroes. on the Coast of Africa or introduce them into any port. of the Spains or are found with Slaves on board their vessels shall lose their vessels. the produce of which when sold is to be considered as a fine, besides which they shall be sentenced to ten years hard labour on the public works.

The Captains, Masters & Pilots of Foreign vessels. which may in like manner introduce slaves into any of the ports of the Monarchy are liable to the same penalty.

In both the cases specified in this article the negroes found on board shall be declared free"

By the Treaty. of the 28 June 1835. art 1. "The Slave

trade is hereby again declared on the part of Spain. to be henceforward totally and finally abolished in all parts of the world."

From these several enactments we think the conclusion is inevitable that the negroes of the "Amistad" are entitled to be considered as free men having been unlawfully brought into captivity and therefore that the persons claiming them as slaves or merchandize claim them so wrongfully.

With regard to your second request to be furnished with the names of some two or three persons learned in the Spanish law by whom to prove the Spanish law in case it becomes necessary to send a Commission to Cuba for this purpose we propose the following "Abogados."

- 1 Don Francisco de Paula Vilehas. Director de la real academia de Jurisprudencia calle de Aguacate
2. Ldo Don Jose Agustin Gorantos. Presidente de <sup>(No 116)</sup> misma academia calle de Compostela. No 53.
3. Ldo Don Antonio Lambrana - Vice Presidente de la misma academia calle del sol No 26.
4. Dr Don Jose Antonio Valdes. Secretario del Tribunal Niisto. de Justicia calle de Aguacate No 58.
- 5 Ldo Don Andres Cascales y Ariza - Oficial de la Secretaria del mismo tribunal calle de San Ignacio, No

We have the honor to be, Gentlemen your most obedient <sup>(113)</sup> humble servants.

(signed) J Kennedy.

Campbell & Dalrymple

Messrs Staples &  
Sedgwick & Co.

Copy.  
Letter from the British Com-  
missioners to Mrs. Stephens and  
Seelywick.

Havana, Oct. 11/39  
As to Amstercam Meyers