

The Amistad Case

In 1997, the movie *Amistad* was released by director Steven Spielberg, covering the historic events surrounding the attempt by Africans who had been kidnapped on the west coast of Africa, to seize control of the slave ship on which they were being transported from one Cuban port to another, and to try to return home. The ship went off course; they were captured, and kept in prison in the United States for two years, while their fate was being decided in the U.S. courts. Spielberg's film depicts the 1839-41 legal fight, all the way up to the Supreme Court, waged by abolitionists to secure their freedom. The Supreme Court appeal was argued by Rep. John Quincy Adams, age 74, in the midst of his Congressional battles over the right to petition.

The case had quickly become a *cause célèbre* among Abolitionists, but Adams raised it to an even higher, more universal principle: the principle of justice for each and every individual, black or white, young or old, male or female, "slave" or "free." For Adams, it was impossible that the Africans aboard the *Amistad* were slaves, according to either international law or U.S. law, but especially universal law. For this great American constitutionalist, there was only one issue: the inalienable rights of man.

Adams, in his argument to the Supreme Court, stressed that the Constitution nowhere recognizes slaves as property, but only as persons—even if three-fifths of a person. "The words slave and slavery are studiously excluded from the Constitution," he said. "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" (emphasis in original).

Adams was trying to re-open the issue publicly, that slavery was supposed to have been extinguished by the United States after 1808, according to the original idea of a majority of the Founding Fathers. But because of the intransigence of the Southern states, the institution had continued, even though importation of slaves was not permitted. Virginia, for example, was breeding slaves to be sold further south, into the inhumane labor conditions which existed in the cotton fields and sugar plantations of Georgia, North and South Carolina, Louisiana, and Mississippi.

Declaration of Independence vs. Hobbes

Adams affirmed that the dispute over slavery had existed as far back as Homer. Said Adams, "In the estimate of that Prince of Grecian Poets,

"'Jove fix'd it certain that whatever day
'Makes man a slave, takes *half* his worth away—'

"and in the political statistics of the author of the Declaration of Independence the degradation of the character of man, by the infliction upon him of slavery, is far greater than is asserted by the blind old rhapsodist of Smyrna [Homer]."

Indeed, it was well known that one crucial provision, denouncing slavery, had been struck from the Declaration of Independence in order to guarantee the support of the South in the American Revolution. That provision read that the King of England "has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of distant peoples who never offended him; captivating and carrying them into slavery in another hemisphere or to incur miserable death in their transportation thither. . . . Determined to keep open a market where *men* should be bought and sold, he has prostituted his negative by suppressing every legislative attempt to prohibit or restrain this execrable commerce . . . he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the people on whom he has obtruded them; thus paying off former crimes committed against the *liberties* of one people with crimes which he urges them to commit against the *lives* of another" (emphasis in original).

But as for the argument that slavery has historically been a privilege of the victor in war, said Adams, all of those notions were swept away by the Declaration of Independence. He pointed out that this was one of Thomas Hobbes' "war of each against all" arguments. Hobbes, he added, had assumed that "government and despotism are synonymous words. I will not here discuss the right or the rights of slavery, but I say that the doctrine of Hobbes, that *War* is the natural state of man, has for ages been exploded, as equally disclaimed and rejected by the philosopher and the Christian. *That it is utterly incompatible with any theory of human rights, and especially with the rights which the Declaration of Independence proclaims as self-evident truth. 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. . . .*" (emphasis added).

In concluding his argument, Adams told the Supreme Court, "I can only ejaculate a fervent petition to Heaven, that every member of [this Honorable Court] may . . . be received at the portals of the next with the approving sentence—'Well done, good and faithful servant; enter thou into the joy of the Lord.'"

Adams' argument won the day, and ultimately, the *Amistad* captives were returned to Africa.

—Denise Henderson