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Monday, January 11, 1999

Dear Dan,

I have yours of October 19th as well as your Christmas letter. I thank you for both and add my best wishes for a healthy and happy 1999 for you and your family and success for your latest novel which I eagerly await reading. Incidentally, you will be amused to hear that I discovered your neologism of "*unforgotten*" being used by another great writer. While rereading Rudyard Kipling's memoir entitled "*Something of Myself*" published in 1937 (a year after his death), he writes in Chapter 1 "*A Very Young Person 1865-78*":

"In the afternoon heats before we took our sleep, she or Meeta would tell us stories and Indian nursery songs all *unforgotten*, and we were sent into the dining-room after we had been dressed, with the caution 'Speak English now to Papa and Mamma.'"

I appreciate your giving my name to Professor Armando del Grecco whom I would have been delighted to meet. I don't know whether he tried to contact me or not, but I was in fact in Washington D.C. at the end of October for an immigration conference. While there I had dinner with my former student assistant, Herb Rosenthal, with whom I have kept in contact. In the course of a conversation he mentioned that one of his classmates, Paul Michel, who had been one of my favorite students, was now on the Federal Court of Appeal. I had last heard from Paul when he wrote me in the mid-sixties while he was in boot camp in Alabama complaining that they were trying to teach him how to kill, but that he was too old to learn. So I phoned Paul at his chambers, and we were able to have a breakfast together and partially catch up on the 30 year lapse in our friendship.

Meador, Daniel J., Washington D.C.

11/01/99

He mentioned you, but I did not realize that you were based in D.C. or I would have tried to reach you.

I have read about a third of the draft report you were kind enough to send and hope to be able to finish it this weekend. It reads well, and the recommendations make sense to me, though I am now pretty far out of touch with its subject matter.

I would be curious to know what, if anything, has happened to the International Human Rights Law Group. Are you still involved with it? Did they ever issue a final report on the Cambodian project? If so, I would very much like to see it. Do they have any other projects for which my peculiar background might be of use?

What has happened to the Golden Mean Project? Is Mary Lee still involved? I think I only heard from her once in 1998 and that was just a message left on my answering machine simply saying she wanted to stay in touch. Did she and Neville produce the video that we all agreed in the Fall of 1997 should be done at once?

My article on freedom of expression in France that deals with the Mitterrand case is due out in the Spring in the Tulane Journal of International & Comparative Law. I shall send you a copy when it appears. Returning from the States in mid-November I wrote a short memo in French on some of the risks involved in U.S. immigration law for a few of my clients. I then decided it might have a wider interest but did not know where to send it. Just to satisfy a sense of duty I sent it off to the *Gazette du Palais* which occupies the role that U.S. Law Week used to occupy in the United States 30 years ago except that the *Gazette* also includes articles of interest to the profession. Much to my astonishment it was immediately accepted. I am thus going to have published my first article written in French.

Our second son Daniel was finally admitted to Oxford (St. Edmund Hall) and finished his first year with distinction. This entitles him to attend dinners wearing a special scholar's gown so as to identify him to the cognoscenti. Our third son George has just been offered a place at Queen's College, Oxford but remains undecided whether to take it. He is anticipating an offer from King's College, University of London which has a highly regarded music program and a joint project with the Royal Academy of Music. As he is a pianist who holds out some hope of having a concert career, he is vacillating, and is going to take another look at both places, but it will not be easy to turn down a place at Oxford.

I am working on changing the mix a little in my practice so as to increase the dosage of U.S. immigration and nationality law and decrease the dosage of French litigation in the hope that this will rekindle some of my enthusiasm which has ebbed and flowed throughout the past two years, although I think was greater in 1998 than it was in 1997. I periodically wonder whether I should end my career by going back into law school teaching. If an interesting dean of a small law school were looking for someone to teach international or comparative law or legal philosophy, he might, if he caught me at just the right moment, be able to tempt me to move from where I am.

I have been reading an interesting book published in the 1950's by a man named Diamond who seems to have been a scholarly barrister. It is entitled "*The Evolution of Law and Order*" and traces the beginnings of law as man moved from stages of hunting and gathering to pastoral to early agricultural societies to more developed agricultural societies, etc. and shows what kinds of laws first developed, how they were implemented, etc. I find the concept an interesting one, and the book is well done. I think I ran across a reference to it in an excellent book I read last year called *The Mirror of Justice* by Theodore Zielkowski (Princeton U. Press, 1997) which I highly recommend. I don't recall whether I thanked you for the reference to the Paul Fussell book. I found it so good that I ordered his much earlier book on *Samuel Johnson and the Life of Writing* which was good but not in the same category as *The Great War in Modern Memory*.

Let me know what your plans are after you complete your current task.

Sincerely yours,



Ronald P. Sokol

THE 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.

The Spanish schooner *Amistad*, on the 27th day of June, 1839, cleared out from Havana, in Cuba, for Puerto Principe, in the same island, having on board, Captain Ferrer, and Ruiz and Montez, Spanish subjects. Captain Ferrer had on board Antonio, a slave; Ruiz had forty-nine negroes; Montez had four negroes, which were claimed by them as slaves, and stated to be their property, in passports or documents, signed by the Governor General of Cuba. In fact, these African negroes had been, a very short time before they were put on board the *Amistad*, brought into Cuba, by Spanish slave traders, in direct contravention of the treaties between Spain and Great Britain, and in violation of the laws of Spain. On the voyage of the *Amistad*, the negroes rose, killed the captain, and took possession of the vessel. They spared the lives of Ruiz and Montez, on condition that they would aid in steering the *Amistad* for the coast of Africa, or to some place where negro slavery was not permitted by the laws of the country. Ruiz and Montez deceived the negroes, who were totally ignorant of navigation, and steered the *Amistad* for the United States; and she arrived off Long Island, in the state of New York, on the 26th of August, and anchored within half a mile of the shore. Some of the negroes went on shore to procure supplies of water and provisions, and the vessel was then discovered by the United States brig *Washington*. Lieutenant Gedney, commanding the *Washington* assisted by his officers and crew, took possession of the *Amistad*, and of the negroes on shore and in the vessel, brought them into the District of Connecticut, and there libelled the vessel, the cargo, and the negroes for salvage. Libels for salvage were also presented in the District Court of the United States, for the District of Connecticut, by persons who had aided, as they alleged, in capturing the negroes on shore on Long Island, and contributed to the vessel, cargo, and negroes being taken into possession by the brig *Washington*. Ruiz and Montez filed claims to the negroes as their slaves, and prayed that they, and parts of the cargo of the *Amistad*, might be delivered to them, or to the representatives of the crown of Spain. The attorney of the District of Connecticut filed an information stating that the Minister of Spain had claimed of the government of the United States that the vessel, cargo, and slaves should be restored, under the provisions of the treaty between the United States and Spain, the same having arrived within the limits and jurisdiction of the United States, and had been taken possession of by a public armed vessel of the United States, under such circumstances as made it the duty of the United States to cause them to be restored to the true owners thereof. The information asked that the Court would make such order as would enable the United States to comply with the treaty; or, if it should appear that the negroes had been

[The United States v. The Amistad.]

brought from Africa, in violation of the laws of the United States, that the Court would make an order for the removal of the negroes to Africa, according to the laws of the United States. A claim for Antonio was filed by the Spanish consul, on behalf of the representatives of Captain Ferrer, and claims are also filed by merchants of Cuba for parts of the cargo of the vessel, denying salvage, and asserting their right to have the same delivered to them under the treaty. The negroes, Antonio excepted, filed an answer denying that they were slaves, or the property of Ruiz, or Montez; and denying the right of the Court under the Constitution and laws of the United States to exercise any jurisdiction over their persons. They asserted that they were native free-born Africans, and ought of right to be free; that they had been, in April 1839, kidnapped in Africa, and had been carried in a vessel engaged in the slave trade from the coast of Africa to Cuba, for the purpose of being sold; and that Ruiz and Montez, knowing these facts, had purchased them, put them on board the Amistad, intending to carry them to be held as slaves for life, to another part of Cuba, and that, on the voyage, they rose on the master, took possession of the vessel, and were intending to proceed to Africa, or to some free state, when they were taken possession of by the United States armed vessel, the Washington. After evidence had been given by the parties, and all the documents of the vessel and cargo, with the alleged passports, and the clearance from Havana had been produced, the District Court made a decree, by which all claims to salvage of the negroes were rejected, and salvage amounting to one-third of the vessel and cargo, was allowed to Lieutenant Gedney, and the officers and crew of the Washington. The claim of the representatives of Captain Ferrer, to Antonio, was allowed: the claims of Ruiz and Montez being included in the claim of the Spanish minister, and of the minister of Spain, to the negroes as slaves, or to have them delivered to the Spanish minister, under the treaty, to be sent to Cuba, were rejected: and the Court decreed that the negroes should be delivered to the President of the United States, to be sent to Africa, pursuant to the act of Congress of 3d March, 1819. From this decree the District Attorney of the United States appealed to the Circuit Court, except so far as the same related to Antonio. The owners of the cargo of the Amistad also appealed from that part of the decree which allowed salvage on their goods. Ruiz or Montez did not appeal, nor did the representatives of the owner of the Amistad. The Circuit Court of Connecticut, by a pro forma decree, affirmed the decree of the District Court, reserving the question of salvage on the merchandise on board the Amistad. The United States appealed from this decree. The decree of the Circuit Court was affirmed; saving that part of the same, which directed the negroes to be delivered to the President of the United States, to be sent to Africa; which was reversed, and the negroes were declared to be free.

The sixth article of the treaty with Spain, of 1795, continued in full force, in this particular, by the treaty ratified in 1821, seems to have had principally in view, cases where the property of the subjects of either state, had been taken possession of within the territorial jurisdiction of the other, during war. The eighth article provides for cases where the shipping of the inhabitants of either state are forced, through stress of weather, pursuit of pirates, or enemies, or any other urgent necessity, to seek shelter in the ports of the other. There may well be some doubts entertained whether the case of the Amistad, in its actual circumstances, falls within the purview of this article.

The ninth article of the treaty provides, that all ships and merchandise, which shall