Doc. 1

In the Exchequer of Pleas

The day of ~~October~~ AD 1843

London to wit Manoel ~~Pinteda~~ Pinto da Fonseca (the Pltff in this suit) by Robt. Edwd. Johnson his attorney complains of John Foote and Henry James Matson the defts in this suit who have been summoned to answer the Pltff in an action of trespass. For that the defts heretofore to wit on the 23rd day of May AD 1842 with force and arms broke and entered a certain factory of the Pltff and divers to wit 12 storehouses ~~of the Pltff~~ belonging thereto situate at a certain place called Cabinda and then made a great noise and disturbance therein and stayed & continued therein making such

I cannot advise that Captain Foote should be omitted until it is ascertained more satisfactorily that he had nothing to do with the transaction, or that he ought = Mats on is certainly liable - If it be certain that he ought Mats on can be proved to have guilty, then I think Captn Foote may as well be omitted, for as the government have taken the up the defendt a verdict against an no doubt will be a sufficient security for the damages.

noise & disturbance for a long time to wit for the space of
~~noise & disturbance for a long time to wit for the~~

2 days then next following
~~2 dy hours~~ and then greatly damaged and broke to pieces
~~space of six hours and then greatly damaged and~~

& storehouses the materials thereof and ~~the sd factory of the Pltff and then~~ ~~broke to pieces~~ the sd factory of the Pltff and then

I presume the factory was old Powder's and that there was no court in Cabinda by ~~before~~ where the injury could be redressed. Have therefore framed a count for its destruction. But I fear that if the Deft plead specially (see Doyes v Newton 2 Bing N.C. 579), the locality of the factory, the Pltff cannot recover for that injury in any court in this county, the action being in its nature local (see Doulson v Matthews 4 T.R. 503)

fire to the same and the ~~the~~ same ~~was~~ then

wholly & entirely consumed by fire and burned to
~~the ground and the Pltff saith that at the sd time when & there were contained~~
~~in the sd factory divers goods & chattels & merchandizes of the Pltff to wit~~
~~being of great value to wit of the value of £ and the same were then entirely burned~~
~~consumed together with the sd factory~~
~~the ground~~ the ground whereby the Pltff has not only ~~been d~~ lost

& been deprived of the use and enjoyment of

and storehouses ~~and~~ the said factory but has been entirely prevented from
carrying on ~~his~~ therein his lawful business & affairs and

has lost divers great gains & profits which wd otherwise

have accrued to him in the way of his trade and

and storehouses ~~said~~
business at the said factory.

and also for that the defts heretofore towit on the 23d day of May AD 1842 with force and arms burned broke to pieces ~~damaged and~~ tore to pieces damaged and destroyed divers goods and chattels of the pltff towit 140 bales of birolas ~~X 4000~~ 200000 other birolas 200000 pieces other of birolas 140 bales of Nanquinas 200000 other Nanquinas 200000 pieces of other Nanquinas 250 Bales of Pellabalas 400000 other Maballas 400000 pieces of other Maballas 290 Bales of Blue Chellas 500000 other blue chellas 500000 pieces other of blue chellas 130 bales of blue Bejutapants 200000 other Bejutapants 200000 pieces other of bejutapants 50000 pieces of linen 500000 pieces of cotton 500000 pieces of silk 500000 pieces of woollen 500000 pieces of velveteen 500000 pieces of velvet 500000 pieces of gingham 500000 pieces of tiglifs 500000 pieces of baize 500000 muslins 500000 pieces of Russia raven duck 500000 pieces of Russia raven duck 500000 pieces of other stuffs 500000 shawls 500000 handkerchiefs 500000 Byrampants 500000 Maddapolams 500000 capes 500000 Manillas 500000 pieces of damask 500000 other pieces of Manillas 500000 other Merinos 500000 pieces of other merinos 5000 pairs of sheets 5000 pairs of counterpanes 500000 pairs of blankets 500000 pairs of stockings 500000 umbrellas 5000 trunks 5000 100000 other beads bones 1000 parcels of beads 10000

Here insert a description of the goods taking care to insert enough amply to cover all that were taken & destroyed.

I do not understand many of the terms used in this invoice and perhaps the counsel may be able to explain them on the ground that they are not English, but if the defts obtain leave to plead in the usual terms they cannot take this objection and I cannot better the decision better without further explanation of the terms - It will be prudent to compare the statement in the count with the invoice so as to be sure that I have not overlooked any class of goods. The object is to insert enough fully to cover all that can be proved

lbs weight of Asmandutha 10000 lbs
weight of coral ~~10000~~ 1000 pairs of fishing hooks
100000 other fishing hooks
10000 fishing lines - 100000 articles ~~pieces~~
cotton articles
of wearing apparel 100000 ~~pieces~~
of other wearing apparel 100000
pieces of cloth 100000 pieces of
5000 swords 5000 bayonets
5000 other arms 100 barrels of gunpowder
plaps 5000 fire arms 5000 pieces
of gold 10000 pieces of silver 100000
5000 brass locks
pieces of iron 100000 other pieces of brass
100000 pieces of copper 100000 pieces of yellow metal
10000 knives 10000 razors
100000 pieces of tin 10000 other pieces
10000 padlocks 10000 stem locks 10000 keys 10000 bags of nails
100000 other nails
of cutlery 10000 other pieces of ironmongery
500 puncheons of vinegar 1000 ~~bbs~~ casks of oil 1000
500 pipes of wine 1000 puncheons of gin 1000 puncheons
of brandy 1000 puncheons of rum 1000
goods 10000 puncheons of other spirituous
liquors 10000 other vessels of
spirituous liquors 100000 other
vessels of other liquors ~~800 tons~~
~~100 tons of provisions 100000 carpenters~~
~~tools 100000 smith's tools 100000~~
~~other tools 10000 culinary utensils~~
5000 pairs of earrings 5000 pieces of other
~~5000 pieces of~~ jewellery ~~10000 pieces~~
~~of household furniture 100~~
~~barrels of powder~~

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100 crates of crockery 100 cases of toys

~~10.000 swords~~ x 100.000 pieces of other crockery x 100.000 other toys

~~10 000 pieces of yellow metal~~ . ~~100 000 yards of baize~~

2000 other pearls

~~10.000 muskets~~ . 100000 strings of pearls . 2000 looking

glasses ~~10.000 padlocks~~ . ~~100 000 other locks~~ . ~~100000 keys~~

~~10.000 sayons~~ . ~~100.000 bags of nails~~ . ~~100000 nails~~ other

5 tons of other pins

100.000 cases of pins . ~~100000000 pins~~ other . ~~100000 knives~~

~~10000 bayonets~~ . ~~5000 casks of brandy~~ . ~~5000 casks~~

~~pipes~~ ~~of wine~~ . ~~1000 casks~~ puncheons of vinegar . ~~1000 barrels of gun~~

~~10000 codfish~~ . ~~1000 casks~~ of oil . 1000 ~~casks~~ barrels of lime

1000 barrels of litharge 2000 books . ~~10000 hams~~

~~200000 pounds~~ 20 tons of sugar 1000 hogsheads of other sugar

1000 bags of rice

1000 barrels of biscuits 100 tons of salted provisions

100 tons of other provisions 10 tons of drugs

10 tons of tobacco

~~+ 50000 barrels of biscuits~~

20 tons of tea

100 tons of arrobes - 100 tons of flax, 100 tons of tow

~~[illegible] yards of Russia duck~~ 50000 yards of

~~Russia Raven ducks~~ - 5000 balls of twine

5000 barrels of pitch 5000 barrels of tar

500 grapnells 500 anchors 5000 ~~yards~~

fathom of rope 5000 rebates - 5000 saws

5000 hammers - 5000 planes 5000 gimblets

5000 adzes - 5000 chisels - 5000 gouges

10000 other carpenters tools 10000 ~~other~~ writers tools

~~10000 other tools~~

~~10000 plates - 20000 tons of rice~~ -

~~10000 sides of bacon - 20000 pieces of beef~~

10000 glass bottles 10000 other pieces of glass 5000 bells

5000 demijohns - 5000 kettles 5000 pots

10000 other pieces of culinary utensils 10000 pieces of furniture

5000 pans ~~+ 5000 bass locks~~ - 15000 brushes

~~5000 pairs of Earrings - 500 tons of drugs - 5000 bells~~

~~5000 barrels of flour - 200 tons of tobacco~~ - 500 boats

5000 oars 5000 tin hand pumps ~~500~~ 5000 telescopes - 5000

other optical instruments & 100000 pieces of wood

of the pltff
being of great value towit of the value
of £ 50000 whereby the same goods and chattels became and
were wholly lost to the pltff and the pltff thereby
lost and was deprived of divers great gains
and profits which he would have obtained
by the barter and ~~exchange~~ sale after same
goods and chattels -

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and ~~thereon~~ also for that the defendants heretofore to wit on ~~Defts also during the time aforesaid to wit on the~~ January AD 1842 & on divers other days and times between that day and the commencement of this suit the ~~said~~ ~~30th~~ 1st day of ~~May AD 1842~~ with force and arms seized & took divers other goods & chattels of the Pltff to wit goods and chattels of the same quantity quality and description as the goods and chattels in the 2d count mentioned and ~~of the Pltff then being found & being in the Ld a certain dwellinghouse a factory of the Plaintiffs factory~~ being of great value to wit of the value of £ 50000 and then carried away the same and converted & disposed thereof to their own use -

Nor must a description of the goods taking care to state enough to cover all that were taken and destroyed -

~~and then greatly damaged & broke to pieces~~

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and ~~whereas~~ for that also the Pltff not being a subject of

~~this realm~~ nor owing any allegiance to ~~the Crown~~ this

but being a ~~certain part of the~~ subject of the Emperor of Brazil by the Law of at the time of the ~~[illegible]~~ mentioned ~~[illegible]~~ it was and still is lawful to possess slaves

I presume this is so.

under ~~[illegible]~~ kingdom heretofore to wit on the 23rd day of May AD 1827

~~Great Britain~~ ~~was possessed of 500 slaves being~~

I have inserted this count on the authority of Madrazo v. Willes, 3 B & A. 353, Le Forbes v. Cochrane 2 B & C. 448, Story's Conflict 2 Edit. S 96 & notes.

in parts beyond the seas ~~to wit~~ out of the dominions of this kingdom to wit at Cabinda in Africa was lawfully possessed of divers to wit 500 slaves of great value to wit of the value of £10000 ~~[illegible]~~

yet

The defts then to wit on the ~~[illegible]~~ day of last aforesaid ~~of May AD 1842~~

whilst the pltff was so lawfully possessed as afd to wit at Cabinda in Africa afd

with force and arms seized took and carried away

~~slaves from and out of the possession of the pltff~~ and then

~~slaves then~~ the said ~~and~~ converted & disposed thereof

and other wrongs the defts to the pltff then did

against the peace of our Lady the Queen and

to their own use to the damage of the

Plaintiff of ~~£~~ £80000 and therefore

he brings suit &c

~~£~~

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No. 26 –

In the Exchequer of Pleas

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See four dec.

Fonseca
v
Foote & anr

draft decln

I have prepared this declaration, but before it is delivered a full description of the quantity and kind of the goods & property moveable taken away or destroyed must be inserted in the 2d count – See the observations in the margin.

Jas. S. Willes
Inner Temple
31 Octr 1843.

I have now finally settled the decln –

Jas. S. Willes
Inner Temple
18 Nov 1843

Baxendale & Co

Lobe engross? on Bondage

1 draft copy with marginal observations & blanks by Mr. 2 Nov. 1843