he prays Judgment if the said George Lindenberger execution against him of the debt, damages, costs and charges aforesaid to have ought and so forth.

And the said George Lindenberger saith that he by any thing by the said Francis Burtis above in pleading alledged from having his execution aforesaid thereof against the said Francis Burtis to be precluded ought not, because he saith, that the said Francis Burtis did not pay unto him the sum of Money and Tobacco mentioned in the writ of scire facias aforesaid or either of them in manner and form as the said Francis Burtis above in pleading hath alledged, and this he prays may be enquired of by the Country and the said Francis Burtis in like manner and so forth.

Therefore let a Jury thereon appear before the Judges of our General Court here on the second tuesday of May next, by whom &c and who neither &c to recognize &c because as well &c the same day is given to the said parties then and there &c.

And now here at this day court, the said second tuesday of May being the twelfth day of the same month Anno Domini seventeen hundred and eighty nine, comes again here into our General Court as well the said George Lindenberger by his Attorney aforesaid as the said Francis Burtis by his Attorney aforesaid. And the said Francis Burtis by his Attorney aforesaid offers himself ready for trial against the said George Lindenberger in the plea aforesaid, But the said George Lindenberger altho solemnly called comes not but makes default, nor does he further prosecute his writ aforesaid against the said Francis Burtis in the plea aforesaid.

Therefore it is considered by the Judges here that the said George Lindenberger take nothing by his writ aforesaid against the said Francis Burtis, but that he and his pledges of prosecution to wit John Doe and Richard Roe be in mercy and so forth.

And it is also considered that the said Francis Burtis go thence of without day &c. and that the said Francis Burtis recover against the said George Lindenberger the quantity of eight hundred and eighty six pounds and four fifths of a pound of Tobacco by the court here unto him on his agreement adjudged for his costs and charges by him about his defence in this behalf laid out and expended, and that he have thereof his Execution and so forth.

Test John Gwinn Clerk.

Exd.

Judgments, May Term 1789.

Continued

To the next Liber.

No 4

John Brice
against
John Wilmott

Habeas Corpus Debt

Mutatis Mutandis as against Richard Chinworth folio 895.

Test John Gwinn Clk.