

24 Oct 1667 Exchequer Court

[Note: This summary of the orders and decrees in Basire and Blckett's case against Wharton and others over the Stanhope parish tithe orders provides a useful summary of the original pleas and answers as well as the decrees made in both the Exchequer and the Durham Assizes in Basire and Blckett's favour. Paragraph breaks have been added to this transcript for ease of reading.]

Orders and Decrees of Mich[ael]mas Terme in the Nyneteenth yeare of the raigne of Kinge Charles the Second and in the yeare of our Lord God MDCLXXVII

Jovis xxiiiith Die Octobris [Thursday 24th October]

Dunelm

Whereas Isaac Basire Doctor of Divinity Rector of the Parish Church of Stanhope in Weardale in the County Palatine of Durham and Wm Blckett his Lessee of the Tithe Oare in question did heretofore (that is to say) in the Tearme of St Michael in the 19th yeare of his now Ma[jestie]s raigne exhibite his English Bill into this Court ag[ainst] Humfrey Wharton Esq Tho: Alsopp Wm Deacon Wm Fetherston John Rutter John Pilkington John Fetherston John Horton John Boulton Cuthbert Emerson George Watson Cuthbert Watson George Whitefield Henry Ragg Arthur Myres George Myres Godfrey Disbury John Evans Thomas Ritson John Harrison John Nattris Edward Stoute & Thomas Burgis Thereby setting forth that within the said Rectory & parish of Stanhope in Weardale in the said County of Durham & precincts & titheable places thereof there was & for & dureing all the tyme whereof the memory of man was not to the contrary, had beene sev[er]all Lead=mines or Lead Groves opened & wrought wherein & out of w[hi]ch diverse great Quantities of Leade Oare had beene from tyme to tyme digged wrought & gotten

And that by & according to ancient Custome for all the tyme before menc[i]oned used & approved of w[i]thin & throughout the said Rectory & precincts & Titheable places of the same there had beene paid, & had beene all the tyme whereof the memory of man was not to the contrary used & by the said Custome ought to bee paid unto the Rector or Parson of the said Rectory, Church or Parsonage of Stanhop in Weardall aforesaid for the tyme being or his Farmers or Tenn[an]ts thereof by the Owners Farmers or Occupiers of any Lead mines, the Tenth part of all the Lead Oare by them respectively from tyme to tyme digged wrought & gotten within the said Rectory or Parsonage or any the precincts or titheable places thereof in cleane well washed & dressed Oare without any deducc[i]on substracc[i]on or abatem[en]t thereof or therefrom or of or from any part thereof in or about the digging getting or working of the same or otherwise for & in Lieu & in the name of the Tithes of the said Lead Oare,

or els that there was some other Custome for paying of tithe Oare, to the Pl[ain]t[iff]s unknowne but well knowne to the def[enden]ts or some of them that the Compl[ainan]t Dr Basire was & for the space of two yeares then last past & long before had beene lawfull Rector & Parson of the said Rectory Church & Parsonage of Stanhop in Weardale aforesaid & lawfully seized of the said Parsonage or Rectory to him & his Successors to whome dureing all ye said tyme last menc[i]oned it did of right belong & apptaine by himselfe & his Farmers & Tennants thereof from tyme to tyme to have & receive all the said tithe or Tenth part of the said Lead Oare w[hi]ch had beene digged wrought or gotten w[i]thin the said Rectory or Parish or any the precincts or titheable places thereof according to the aforesaid Custome

And that accordingly the said Compl[ainan]t Doctor Basire did for some part of the said tyme by himselfe or his Farmers receive the same And that on or about the first day of August in the yeare of our Lord God 1666 the said Compl[ainan]t Dr Basire in & by his deed indented did demise graunt & to Farme lett unto the other Compl[ainan]t Wm Blackett his Executors Adm[inistrator]s & Assignes All his said Tithe or Tenth part of Lead Oare digged wrought wone & gotten, & to bee digged wrought wonne, & gotten upon or within all & every or any of the Moores Commons wasts, Coppyhold, Leasehold & Customary Lands & tenem[en]ts w[i]thin the said Parish or Rectory of Stanhop in Weardale or any, or precincts or titheable places thereof (except as therein was excepted) To have & to hold from the day of the date of the said Indenture of Lease for the terme of three yeares then next following if the said Compl[ainan]t Isaac Basire should so long live & continue Rector of the said Parish of Stanhop at for & under a certaine yearely rent reserved & payable for the same as by the said Indenture then ready to bee produced unto this Co[u]rt more at large might appeare By force & vertue of w[hi]ch said Indenture of Lease the Compl[ainan]t Wm Blackett ought to have had & received duringe the said terme of three yeares all & singuler the said tithes or tenth part of the said Lead Oare demised to him as aforesaid

That the def[endan]t Humfrey Wharton & the rest of the said def[endan]ts ever since the comencem[en]t of the said Lease & terme graunted to the said Compl[ainan]t Wm Blackett as aforesaid had beene & were respectively Owners, Farmers, & Occupiers of diverse & sev[er]all Lead Mines w[i]thin the said Rectory or Parish or the precincts or titheable places thereof And that during the tyme last before menc[i]oned & since the first day of August in the said yeare of our Lord 1666 had respectively digged, wrought & gotten & caused to bee digged wrought & gotten w[i]thin the said Rectory or Parish or the precincts or titheable places thereof diverse great quantityes of Lead Oare of great value, the tithe or tenth part thereof as aforesaid in cleane well washed & dressed Oare ought according to the Custome there used to have beene paid & delivered in specie or in kind unto the Compl[ainan]t Wm Blackett & was of good & very considerable value respectively or otherwise the Compl[ainan]t Wm Blackett ought to have had Satisfacc[i]on & recompence for the same

And that the paym[en]t of the tithe or tenth part as afores[ai]d of all the Lead Oare thence after or from the comencem[en]t of the said Lease digged wrought or gotten or to bee digged wrought or gotten w[i]thin the said Rectory or Parish of Stanhop in Weardale or any the precincts or titheable places thereof ought during the said terme of three yeares to bee paid unto the said Compl[ainan]t William Blackett & after the expirac[i]on thereof unto the other Compl[ainan]t Isaac Basire & his successors Rectors or Parsons of the said Rectory or Parsonage But that the said def[endan]ts to defeate & defraud the Compl[ainan]ts & to disinherite the said Church of Stanhop had by combinac[i]on withheld & deteyned the said tithe or tenth part of Lead Oare as aforesaid during all the said tyme due unto the Compl[ainan]t Wm Blackett & converted the same to their owne use & had denied & refused to pay the said tithe or Tenth part of the said Lead Oare unto the said Compl[ainan]t Wm Blackett or to give him any recompence or satisfacc[i]on for the same

And did some tymes deny that there was any such Custome for paym[en]t of the tenth part of the Lead=Oare to the Rector or the Parson of the said Rectory or Parsonage for the tyme being, either when the same is cleane washed or otherwise. And at other tmies the said Humfrey Wharton did p[re]tend title to the said Tithe or Tenth part of the said Lead Oare by force or colour of some grant conveyance or Lease or otherwise, & under that p[re]tence & in reliance of some Covenant, agreem[en]t or other security given or made or p[re]tended to bee given or made by the said Humfrey Wharton to the said other confederates or some Tacks or Leases for their security or saveing them or some of them harmles touching their detayner thereof of paym[en]t of the same to him the said confederates did w[i]thhold & subtract the Compl[ainan]ts said Lead=Oare for their or some of their p[ar]ticuler Lucre whereas they were all apprised & well knowne of the said Custome & of the Compl[ainan]ts said respective titles and interest

And that in trueth the said Humfrey Wharton did lately (vizt) yearely for five yeares together or more Farme the said Tithe or Tenth part of the said Lead Oare of & from the Compl[ainan]t Isaac Basire for w[hi]ch hee agreed to pay & did pay a considerable rent or ann[u]all sum[m]e of money to him & received the said Tithe or Tenth part of the Lead Oare during all the said Terme w[i]thout deducting or allowinge any charges for digging, working, winning or cleansing of the same:

And that for as much as the Compl[ainan]ts right & title to the said Lead=Oare was not of Com[m]on right, but that the same was due by Custome, & for that the said def[endan]ts working the said Lead=Mines was in private, & their secrett doeings, & concealing the quantity of Lead Oare so by them gott or the value thereof by their keeping private to themselves their Bookes & notes of Accompt & denying the Compl[ainan]ts accesse or recourse thereunto wholly disables the Compl[ainan]ts from making any prooffe of the particulers of the same whereby to charge them legally therewith so that the Compl[ainan]ts had noe meanes to discover save by the oathes of

the said Confederates by their answeares upon oath in this hono[ura]ble Court to the said Compl[ainan]ts Bill

Therefore to the end that the said def[endan]ts might sett forth & discover whether there was not such Custome as aforesaid w[i]thin & throughout the said Rectory Parish & the precincts & titheable places thereof, or what Custome there was for paying tithe of Lead=Oare And when payable And what quantities of Lead=Oare they the said Confederates respectively & every or any of them dureing the tyme before menc[i]oned had digged wrought or gotten or caused to bee digged wrought or gotten within the said Rectory or Parish or any the precincts or titheable places thereof & of what true value the same was & how much the tenth=part thereof in cleane & well washed & dressed Oare w[i]thout any deducc[i]on or charges was worth or what according to any other Custome & what such Custome was And what estate right title or interest in or to the said Lead Oare or any part thereof the said def[endan]ts or any of them had, or did p[re]tend to have, And whether the said def[endan]t Humfrey Wharton had made of given any Covenant or agreem[en]t in any Tack or Tack Lease or Leases unto the said other def[endan]ts or any and w[hi]ch of them for their or any of their security or saving harmles touching their deteynor of the said Lead=Oare for paym[en]t of the same unto him And whether hee the said Humfrey Wharton did not Farme the said Tithe or Tenth part of the said Lead=Oare of and from the Compl[ainan]t Isaac Basire & what yearly or ann[u]all rent or som[m]e of money hee the said Humfrey Wharton agreed to pay or did pay for the same, & whether during his said Tack hee allowed any charges for the digging working & winning of the said Tithe or Tenth part of Lead=Oare so demised to him as afores[ai]d And what bookes or notes of Accompt of or touching the said Lead Oare or any part thereof the said def[endan]ts or any of them did keepe And that all the s[ai]d Confederates might true answeare make to every other the p[re]mises

And that the Compl[ainan]ts might have a Comission to examine their aged witnesses to the end their testimonies might bee p[re]served & remayne upon Record in this hono[ura]ble Court to p[er]petuall memory to bee hence=after made use of as occasion should require And that the Compl[ainan]t Wm Blackett might receive satisfacc[i]on for the said Lead=Oare detayned from him And that the paym[en]t of the said tenth part of the Lead=Oare digged, gotten or wrought or hereafter to be digged, gotten or wrought within the said Rectory or the p[re]cincts or titheable places thereof according to the said Custome might bee Decreed to bee paid unto the Compl[ainan]ts respectively & to the successors of the Compl[ainan]t Isaac Basire Rectors or Parsons of the said Rectory or Parsonage according to the respective interest therein And that the said Custome might bee Strengthned confirmed & established by the Decree of this hono[ura]ble Court And the rights of the Church bee vindicated & settled thereby And that the Compl[ainan]ts might bee releived in all & singuler the p[re]misses as to Justice & equity should appertaine they prayed the proces of this Court wherewith the

said def[endan]ts being served appeared & in Easter Terme last put in their ioint & sev[er]all answeares to the said Bill

And the said Humfrey Wharton by his answeare said That by ancient Moore=Master bookes & otherwise it appeared there now was, (& did believe that time whereof the memory of man was not to the) had beene within the said Rectory sev[er]all Lead=Mines or Groves of Lead opened and wrought out of w[hi]ch Lead=Mines great quantities of Lead=Oare had been digged & gotten & in p[ar]ticuler did verely beleive Their sev[er]all Lead=Mines w[i]thin the Parish aforesaid hereafter menc[i]oned & p[ar]ticulerly named had heretofore beene digged & wrought (That is to say) within the Fell or Moore called Ireshopp, the sev[er]all Lead=Mines of Hoesike, Fawgrove, Clagrove, Greene Welheads, Greene Welfoote, Barber=grove, Gravel=lodge, Earne=Welhead, Windesike, Waggon=grove, Deepe=Clough=Foote, Westgraine, Fawheads, Bradesike, Arne=grove=west of Earnwell, Ireshopp Burnefoote, & Grove=heads w[i]thin the Fell or Moore called Middle=Black=Deane the sev[er]all Lead=Mines of Elmeforde, Allerclough Stoupe=heads, the Rakes & Clough=head w[i]thin the Fell called Burnhopp the sev[er]all Lead=Mines of Langtey=head, Berrywell, Greene=grove, Stony=sike, Scrach=head, Stony=sike=foote Springwells, Cocklake, East & West of Langtay=Flaske, Casten=holes, Hesleygill Salley==grane, east & west of Black=lawes, w[i]thin the Fell or Moore called Middle=hopp, the sev[er]all Lead=Mines of Bradma=sike, Earne=clough, Black=axeltree, Bullion=grove, Bond=grove, Seine=sike, Dowkes, New meadow head & the mines of Postwell & Grove=rake within the pasture called West=gate=hyght w[i]thin the Fell or Moore called Weston=hopp the sev[er]all Lead=mines of pauperhills, Esh=clough, Blaberry=Clough, West=graine, Nicolson's grove, Wolfe=Clough east & west of Black=Stands, West of Blaberry=Clough within the Moore or Fell called Swine=hopp the sev[er]all Lead=mines of Berry=Clough, Bradmay=Foote, Ramshaw=well west of Berry=Clough, Spargrove Broad=may=grove, within the Moore or Fell called Sedlinghopp the sev[er]all Lead=mines of Greene=Feild, Toad==stone, Burne=grove, Slack=grove Bayle=hills, Greenehills, LodgeFeild=Nooke Braken=sike, White=Rake, Midge=Pitts, Sedgling=grove, Red=grove, west=rake of Greene=Feild, Adder=clough both sides, w[i]thin the Moore or Fell called Rooke=hopp the sev[er]all Lead=mines of Wolfe=clough==head, High=grove or Gorbutt=may Greenes=clough, Dixons=Grove, Lowsleape, Fowlewood, Barke=shaw=meadow, Wolfe=Clough=Foote Longwell, Arnehill=grove=Rakes, Risby=Mires, Thorne=groves, Picklaw=Carr, South=graine Booteswell, w[i]thin the Moore, or Fell called the Bollihopp, the sev[er]all Lead=mines of Bollihopp=Grove, Mirke=gill west of Harnishawe of Shaftwell, Cragg=grove, Blackburne, East=graine under Cragg, Bollihopp, Shelnooke w[i]thin the Moore or Fell called Welhopp the sev[er]all Lead=mines of Well=heads, Bogg=grove, Hesley==hill east & west of Puddingthorne Heddry=Clough both sides, Hill=grove, Snodbury=Clough w[i]thin the Moore or Fell called Kill=hopp the sev[er]all Lead=mines of Reed=hills, Cowford, Mosse=grove, Birks, Burne=sike w[i]thin the Fell called Harthopp



the sev[er]all Lead=mines of Allersike & Hart==henns, w[i]thin the pasture called Billing the sev[er]all Lead=mines of Dry=gill & Birke=hill.

And the said Humfrey Wharton further by his said answer said That the Lead=mines above menc[i]oned were distinct & sev[er]all Lead=mines, & veins of Lead Oare as well as sev[er]all Pitts & Groves & that some of them did lye distant in place from others of them above twelve miles And further said that hee was informed & beleived it to bee true that the Owners & Occupiers of the Said Lead=Mines of Faw=grove, Greenewell head, Clay=Grove, Greenewell=Foote Barber=grove, Gravel=lodge Earne=welhead, Winde=sike, Deepe=Clough=head, Waggan=Grove West=graine, Faw=heads, Brad=sike, Arne=grove west of Arnewell, Ireshopp, Burne=Foote & Grove=heads w[i]thin Ireshopp Fell And the Groves called Elmeford, Stoup=heads, the Rakes & Clough=head w[i]thin Middle=blacke=deane=Fell And the said Groves called Berrywell, Greene=grove, Stony=sike, Scratch=head, Stony=Sikes=Foote, Spring=wells, Cock=lake, East & west Langtay=Flaske, Black=lawes Casten=holes, Hesley=gill, Salley=graine, East & west of Black=lawes, w[i]thin Burn=hopp=Fell And the said Groves of Broad=may=sike Earne=clough, Black=axletree Bullion=Grove, Bond=Grove Seine=sike, Dowks, w[i]thin Middle=hopp=Fell And the mines of Grove=rake, & Post=well, w[i]thin West=gate=hight & the Groves of Pawper=hill, Esh=Clough, Blaberry=Clough, West=graine, Nicholsons=Grove, Wolfe=Clough East & west of Black=stands west of Blaberry=Clough w[i]thin Westen=hopp=Fell, And the said Groves of Broad=may=Foote, Berry=Clough, Ramshawell west of Berry=Clough, Spar=grove, Broad=may=grove within Swin=hopp=Fell, And the said Groves of Burne=grove, Slake=grove Bailehill, Greenehills, Lodgfeild=nooke, Braken=sike, Sedling=grove Redd=grove, Westrake of Greenefeild, Adder=Clough both sides within Sedling=hopp=Fell, & the Groves of Wolfe=Clough=head, Greene=Clough, Dixons=grove, Lowsleape, Fowlewood, Barkeshaw==meadow, Longwell, Arne=hill, Groverake, Risby mires, Thorne=grove Picklaw=Carr, South=graine, Thorney Bray, Booteswell within Rooke=hopp=Fell. And the Groves of Allersikes w[i]thin Hart=hopp=Fell & the Groves of Mirke=gill, Belly=hopp=grove west of Harnishawe, Shaftwell Cropgrove, Blackburne, Eastgraine under Cragg, Bollihoop Shell=nooke w[i]thin Bollihopp=Fell & the Groves of Drigill & Birkhill, w[i]thin Billing, And the Groves of Welhead, Bogg=groves, Hesley=hill, Clay=grove East & west of Pudding=thorne, Heddry=Clough both sides Hillgrove, Snodburie=Clough w[i]thin the Fell called Welhopp, & the Groves of Reed=hills, Cowford Mosse=grove, Birks, Burnegroves w[i]thin the Fell called Hill=hopp, & sev[er]all other Lead=mines w[i]thin the said Parish neither doe nor did at any tyme heretofore pay any Tithe=Oare to the Parson or Parsons of the said parish or unto his or their Farmers or Tennants thereof under the title of the Parson of Stanhopp parish aforesaid,

And the said Humfrey Wharton by the said answeare further said That hee beleived it might bee true that tyme out of minde of man the Owners or Occupiers of the Lead=mines called by the sev[er]all names of Hoe=sike, Aller=clough, Toadstone,

Barker=burne, White Rake, Midgpitts, Greenefeild, New=meadow=heads  
Langtay=head, High=Grove or Gorbutt=may Wolfe=Clough=foote, had paid  
Tithe=Oare out of the last menc[i]oned Lead=mines unto the respective Parsons of  
Stanhopp aforesaid, their Farmers or Tennants in manner & forme following & not  
otherwise (That is to say) the said Parsons their Farmers or Agents did meete quarterly  
upon every Candlemas day St Markes day Lammas day & all Saints day w[i]th the  
respective Owners of the said Lead=mines at the Chappell in Weardale w[hi]ch is  
within the said parish of Stanhopp or at some convenient howse neere the said  
Chappell And then & there the respective Owners or Occupiers of the Said last  
menc[i]oned Leadmines did accompt w[i]th the said Parson his Farmers & Agents what  
quantities of Lead=Oare were digged & gotten out of the respective Lead=mines last  
menc[i]oned as alsoe the charges for the said tyme in Ropes, Rolles, Tubbs, Corfes  
Candles buying & Loading of Wood for timbering the Shafts, Smiths worke for driving  
of Levells sinking of pitts, workemens wages & all other charges whatsoever w[hi]ch  
being deducted & abated out of theare proffitts that did proceed from the last  
menc[i]oned Lead=mines after the reprisalls afores[ai]d, The said Parson his Farmers &  
Agents had paid unto him or them by the said Owners or Occupiers of the last  
menc[i]oned Lead=mines his said Tithe of Lead Oare quarterly upon the dayes above  
menc[i]oned & not otherwise as hee the s[ai]d def[endan]t was informed & verely  
beleived & hoped to prove unto this hono[ur]able Court

And the said def[endan]t Humfrey Wharton by his said Answere further said That  
hee did not know of any demise made by the Compl[ainan]t Isaac Basire unto the other  
Compl[ainan]ts And that hee the said def[endan]t by Wm Deacon & John Westgarth  
his servants or Agents upon all Saints day last past at the Chappell in Weardale did  
tender & offer unto the said Compl[ainan]t Isaac Basire for & on behalf of the other  
Compl[ainan]t William Blackett for Hoesike grove foure Bingloades & one horse=Load  
of Oare w[hi]ch was the full Tithe w[i]th abatement of charges that was due unto the  
said Compl[ainan]ts Isaac Basire & William Blackett for the Lead Oare or Ore gotten &  
digged out of the said Grove at Hoesike for a Quarter of a yeare then ended And that  
all and singular other the said Groves that were liable to pay Tithe digged & wrought  
the said Quarter of a yeare then ended (the charges being first deducted as abovesaid)  
no Tithe was due for them or any of them as the said William Deacon informed the  
def[endan]t & hoped to prove to this hono[ur]able Court That if any Lead=mine within  
the said p[ar]ish that formerly paid tithe with deduction as abovesaid bee left  
afterwards unwrought by reason that the Veine of Oare would not then beare charges  
to bee appended upon the said Mine if the same Lead=mine should bee afterwards  
wrought noe tithe was to bee paid out of such Lead=Mines in the broken ground that  
was formerly wrought until the Owners Occupiers or Myners came to the forefeild in  
whole ground

And said that hee was informed that at the tymes & place afores[ai]d the said  
def[endan]t by his said servants was ready to accompt with the Compl[ainan]t as well

of the disbursem[en]ts as of the Proceed that came from the respective Lead=Mines subject to pay tithes w[hi]ch the said Compl[ainant] Dr Basire refused unles the said Owners or Occuppies would pay the said tithe without any deduction or abatem[en]t And the said def[endan]t further said that hee was likewise informed That his said Servant John Westgarth was ready upon Candlemas day last past at the place aforesaid to have accompted w[i]th the Compl[ainan]ts as well of the disbursem[en]ts as of the proceed ariseing from the respective Lead=Mines Subject to pay tithe from the quarter day then ended but neither the said Compl[ainan]ts or any other p[er]son or p[er]sons whatsoever on their or either of their behalf came to take or receive the same

And further said That hee was seized of all the above mentioned Lead=Mines P[ar]ticularly named, by grant or Letters Patents from the right reverend Father in God John Lord Bishopp of Durham bearing date the twelfth day of March in the 13th yeare of the raigne of King Charles the Second of the Office of Moreman or More=Master To have & to hold the same w[i]th all Fees, proffitts & Comodities there=Unto belonging for & during the terme of his naturall life, Rendring the Lott Oare unto the Bishop & his Successors as in & by the Said Grant or Letters patents ready to bee p[ro]duced unto this hono[ur]able Court might more fully & at large appeare And that all the other def[endan]ts are Servants Tennants or Farmo[wners] of the Lead=Mines hereafter p[ar]ticularly mentioned & hold & enjoy the Same by Tack or grant from him the said def[endan]t Humphrey Wharton

And that the Compl[ainan]t Isaac Basire indeavering to get a Tenth part of all Lead=Ore as well of the Lead=Mines that pay not tithe as others that pay tithe with deduction as aforesaid from the respective Myners or Grovers that hold sev[er]all Lead=Mines by Tacks from the def[endan]ts to prevent the same, the said def[endan]t Humfrey Wharton did on or about the 13th day of October in the 17th yeare of the King that now is, by deed Lett & Sett unto the other def[endan]ts William Deacon John Rutter George Harrison & Christopher Wharton to search for Lead Oare in the abovesaid Lead=Mines called Lodgfeild Slitt from the Foote of the Slitt Southwest to the head of the Slitt North=East & 100 yards upon the new unwrought ground, by w[hi]ch said grant the said Tackers were to pay unto the said def[endan]t Mr Wharton & his Successors Moore Masters in cleane well washed & dressed Oare by them there Gotten, & also the other eight parts at the price of twenty shillings a Bing=loade when Lead Sells at New=castle at tenne pounds the Fother & so to increase or decrease Two shillings in every Bing=load as the price of Lead by the Fother did rise or fall Every twenty Shillings at Newcastle by w[hi]ch Said Tack the Said defend[an]t did Covenant with the said Tackers, that in case any suite was commenced ag[ains]t them for the Lott or tithe by any or other then him the said def[endan]t or his Successors Moremasters hee would pay the costs of suite & alsoe the debt obteyned ag[ains]t them

And that the said def[endan]t did likewise the said 13th day of October in the yeare aforesaid by deed Lett & sett unto the other def[endan]ts Thomas Burgis Edward Stout



& to John Stout Christopher Wharton William Bell & John Haughton 300 yards of ground to search in the said Lead=mine called South-graine from the Low Levell westward until the same were wrought out, upon and under the Covenants & paym[en]t to bee made unto the said def[endan]t Humfrey Wharton & his Successors Moore=masters as the same were sett out in the last recited Tack or Grant

And that hee did likewise the said thirteenth day of October in the yeare aboves[ai]d under the Covenants & payments aboves[ai]d by deed Lett & sett unto the def[endan]ts Cuthbert Watson George Watson Cuthbert Emerson & Rowland Nattresse 300 yards of grounds in Length Eastward to search for Lead=Oare in the said Lead=Mine called Toadstone

And did likewise the said 13th day of October in the yeare aboves[ai]d by deed lett & sett unto the def[endan]ts William Deacon John Bolton Arther Myres George Myres John Evans & Henry Ragg & Mathew Smales to search for Lead=Oare in the said Lead=mine called South graine to take measure from the Lowe Levell Eastward to the old worke in Gorbutt-May upon & under the Covenants & paym[en]ts to bee made to him the said Mr Wharton & his Successors Moore=Masters as in the above recited Tack was sett forth

And did also the 18th day of September in the the 17th yeare of the King that now is upon & under Covenants & paym[en]ts aboves[ai]d by deed Lett & Sett unto the def[endan]ts Thomas Alsopp John Horton John Boulton & William Deacon to search for Lead=Oare in the said Lead=Mine called Elmeford to take measure from the Burnefoote forwards 100 yards above the Slitt=head Eastwards

And that hee did likewise the said 18th day of September in the yeare aboves[ai]d upon & under the Covenants & paym[en]ts aboves[ai]d by deed Lett & Sett unto the def[endan]ts Godfrey Disbury Arthur Myres George Myres Henry Ragg & John Evans to search for Lead=Oare in the said Lead=Mines called Resby=Myres to take measure from Rookehopp=burne Eastwards 400 yards

And did likewise the 22nd day of September in the said 17th yeare of the King that now is upon & under the Covenants & payn[en]ts aboves[ai]d by deed Lett & Sett unto the def[endan]ts John Horton John Boulton William Deacon Arthur Myres George Myres & Henry Ragg to search for Lead=Oare in the said Lead=Mines called Greene=cleugh to take measure from the left Shafte 300 yards westward

And that hee did likewise the first day of June in the 18th yeare of the King that now is upon & under the aboves[ai]d Covenants & paym[en]ts by deed Lett & Sett unto the def[endan]ts John Pilkington & John Fetherston George Fetherston & Toby Trotter to search for Lead=Oare in the said Lead=Mine called Allerclough to take measure from the Pyfeild Dyke up the Slitt & eight yards on the whole ground

And that upon the Sixth day of the Said moneth of June hee did by deed Lett & Sett unto the def[endan]ts Thomas Alsopp & Christopher Wharton to search for Lead=Oare in the said Lead=Mine called Gravell=Lodge to take measure from Ireshopp= burne= foote to the great Slitt west of the Hoesike to Walter Bramwell's Shafte upon & under the Coven[an]ts & paym[en]ts as in the above recited Tack is Sett forth

And that upon the 17th day of July in the 18th yeare of the King hee did likewise under the aboves[ai]d Covenants & paym[en]ts by deed Lett & Sett unto the def[endan]ts Thomas Alsopp James Vickers John Sheild Ralph Emerson George Whitfeild & Thomas Vickers to search for Lead Oare in the aboves[ai]d Mine called Stoupheads to conteyne in Lenght 300 yards

And did also grant unto the said George Whitfeild one Mine called the Rookes upon the termes afores[ai]d to bee afterwards putt in writeinge as in & by the said sev[e]rall Tacks or grants might more fully & at large appeare

And the said def[endan]t denied That from & after the last of July hee did at any tyme p[re]tend title to the Tithes of Lead=Oare due unto the Parson of Stanhopp but had since that tyme Ordered Sevrall tymes the said William Deacon & John Westgarth to accompt quarterly upon the days & at the places above menc[i]oned w[i]th the said Parson his Farm[er]s or Agents for the same & after the defalcac[i]ons and abatem[en]ts afores[ai]d first taken out to render & pay the tithes in Specie, & still was ready to doe the same for all & singuler the above menc[i]oned Lead=Mines that formerly paid tithes

And that the said def[endan]t did not receive the said tenth part of all Lead=Oare cleane & well washed from the other defend[an]ts in right of the Tithe as Lessee of the said Compl[ainan]t Isaac Basire for one yeare ending the 31th day of July 1666 but by vertue of the sev[e]rall Tacks above menc[i]oned made unto the said other def[endan]ts as Owners of the respective Lead=Mines whereby hee the said def[endan]t did not onely reserve unto himselfe & his Successors Moore=Masters the tenth part in cleane & well washed Oare but also the other nyne parts in the same manner as is above expressed

And that hee the said def[endan]t was informed & believed it to bee true That from the first day of August [1666] unto the seaventh of March 1666 [1667] there had beene gotten out of the forefeild of Hoe=Sike Lead=Mine 183 Bing=Load every Bing=Load worth one pound sixe shillings or thereabouts, & in the broken grounds that were left unwrought by reason it did not beare charges at Hoesike Lead=Mines, 172 Bing=Loades & three horse Loads, And that the charges & expences in getting the same in the forefeild for the said tyme amounted unto 115 pounds-13shillings, & in the broken ground unto 98 pounds – 8 shillings

And that hee did believe That from the said tyme unto the said seaventh day of March there had beene digged & gotten in the said Mine called Elmeford 355 Bing=Loades & one horse Load every Bing=Load worth one pound sixe shillings or thereabouts And that the charges in winning, & getting & same amounted unto 162pounds – 15 shillings

And that hee was informed & belived it to bee true That from the said first of August unto the said seaventh of March there had beene digged & gotten in the Said Mine called Allerclough 79 Bing=Loades & three horse loads every Bing=load worth about one pound sixe shillings And that the charges & expences in winning & getting the same amounted unto 114 pounds -5 shillings

And that hee believed & was informed That there had beene digged & gotten from the said first of August to the seaventh of March out of the aboves[ai]d mine called Resby Myres 219 Bing=Loades & two horse Loades every Bing=Load worth about the Summe of twenty shillings And that the charges and expences in winning & getting the same amounted unto sixty five pounds nineteene shillings

And that from the said tyme to the said seaventh of March there had beene digged & gotten out of the aboves[ai]d Lead=Mine called Lodgfeild Slitt 164 Bing=load & three horse=Loades every Bing=Load worth about twenty sixe shillings And that the charges & expences in winning the same amounted unto 92 pounds 10 shillings

And that hee believed there had beene digged & gotten from the aboves[ai]d tyme out of the said Mine called Toadstone thirty two Bing=Loades & two horse Loades every Bing=load worth about Twenty sixe shillings And that charges & expences in winning & getting the same amoun==ted unto 47 pounds 16 shillings

And that hee believed & was informed That from the afores[ai]d tyme there had beene digged & gotten out of the said Mine called Greene=clough 148 Bing=Loades & one horse Load every Bing=Load worth about twenty six shillings & that the charges & expences in winning & getting the same amounted unto 97 pounds - 3 shillings

And that hee believed from the same tyme there had beene digged & gotten from the west side of the said Mine called South=graine two Bing=loades & two horse Loades every Bing=Load worth about twenty six shillings And that the charge & expences in winning & working the same amounted unto 48 pounds – 7 shillings

And that from the said tyme hee beleived there had beene digged & gotten from the East side of the said Mine of South=graine sixe Bing=Loades & one horse Load every Bing=Load worth about twenty sixe shillings And beleived that the charges in getting in the same amounted unto 30 pounds one shilling And that hee beleived & was informed there had beene digged & gotten in the said Mine called Stoupeheads from the said tyme unto the said seaventh of March no Oare at all

And that from the said tyme there had beene digged & gotten out of the said Mines called the Rakes forty foure Bing=Loades & three horse Loades every Bing=load worth about twenty sixe shillings And that the charges in getting the same amounted unto 53 pounds – 8 shillings And beleived that from the said tyme there had beene digged & gotten in the said Mine called Gravell Lodge neither bing=Loades nor horse=Loades the charges & expences in driveing the Levell amounted unto 47 pounds – 13 shillings

And the said def[endan]t Humfrey Wharton further said That on or about the Moneth of August in the 13th yeare of the King's raigne that now is The said Compl[ainan]t Isaac Basire did demise unto him the said def[endan]t all his Tithes of Lead=Oare within the Moores, Commons, Wasts, Coppiehold, Leasehold & Customary Lands w[i]thin the said Parish of Stanhopp from the twelfth day of July then last past for one yeare rendring for every Bing=Load of the said Tithe Oare unto the said Isaac thirty foure shillings w[hi]ch hee verily beleived was well paid unto him, alsoe by one other Lease from the said Isaac unto the said def[endan]t bearing date the first day of August in the fowerteenth yeare of the King did demise his Tithe of Lead=Oare of all those Mines of Lead Oare w[i]thin the said Moores, Wasts & Wastgrounds w[i]thin the Parish aforesaid that were then in the possession of the def[endan]t To hold from the first day of August for one yeare under the rent of 200 pounds That alsoe the said Isaac did on the first of August in the fifteenth yeare of the King demise all his Tithe Oare in the said parish except the Tithes of his gleab Lands unto the other def[endan]t William Deacon Trustee of him the said def[endan]t Mr Wharton for one yeare the rent of 200 pounds & 10 shillings And did demise the said Tithes for one yeare more unto the said William Deacon from the first day of August in the sixteenth yeare of the King under the rent of 210 pounds Alsoe did demise unto the said def[endan]t Mr Wharton the afores[ai]d Tithes of Lead=Oare for one yeare from the first of August in the seaventeenth yeare of the King under the rent of 260 pounds All w[hi]ch said sev[er]all rents the said defend[an]t did beleive had beene well & truely paid unto the said Isaac Basire

And that the greatest part of the said rents were raised out of the cleare proffitts of the above said Mine called Hoesike w[hi]ch since was failed & the p[ro]fitts arising in the forefeild of the said Mine would scarce beare the charges of workemens wages & other necessary disbursements incident thereunto as hee was credibly informed

And the def[enda]nt William Fetherston said that hee had noe tithe nor interest in the said Mine called Hoesike & was only a workeman upon dayes wages under the other def[endan]t Humfrey Wharton & beleived the quantity of Lead=Oare & charges sett forth in his the s[ai]d Mr Whartons Answere was true

And the said other def[endan]ts William Deacon Thomas Alsopp John Rutter John Pilkington John Fetherstone Cuthbert Emerson George Watson Cuthbert Watson George Whitfeild Henry Ragg Arther Myres George Myres Godfrey Disbury John Evans Thomas Ritson Edward Stoute Thomas Burges John Horton John Boulton & John Nattresse jointly & sev[er]ally said That they had p[er]used the answeare of the said other def[endan]t Humfrey Wharton & said that they held and enjoyed the abovesaid Lead=Mines granted to them as aboves[ai]d And that they did believe the aboves[ai]d quantities of Lead=Oare gotten & digged out of the aboves[ai]d Lead=Mines & the charges for winning & getting the same were true as in the said answeare was Sett forth, And the def[endan]t John Harrison said hee was meere Strainger to all & every the matters & things in the Compl[ainan]ts bill conteyned And that hee had noe title or interest nor knew anything of the quantities of Lead=Oare gotten in any of the said Mines And all the said def[endan]ts denied all matter of Combination and concluded with the gen[er]all Traverse,

unto w[hi]ch answeares the said Compl[ainan]ts replied & the def[endant]s rejoined & joyned in Comission and witnesses being examined on both sides & duely published the said cause came to an hearing in the Exchequer Chamber on Monday the seaventeenth day of June in Trinity Terme last where upon opening of the said Pl[ain]t[iff]s Bill & of the def[endan]ts answeares & long debate had by Councell Learned on both sides

Forasmuch as the said def[endan]t Mr Humfrey Wharton & the rest of the def[endant]s had (as is aforesaid) denied the Custome Laid downe in the Pl[ain]t[iff]s bill but the said Mr Wharton haveing acknowledged both in his answeare & then in Court upon the said hearing That sixe of the said Lead=Mines (that is to say Grove Rakes, Thorne=grove Peakeside Ewtree Nicholsons Grove & Harnishawe did pay tithes to the Rector of Stanhopp in Weardale afores[ai]d for the tyme being or to his Farmers thereof without deduct[i]on of all manner of charges for digging winning & getting in the same when the same was ready for the Mill or at the said quarterly meetings It was thereupon ordered adjudged & Decreed by thie Court That the def[endan]t Humfrey Wharton & the other def[endan]ts & other persons who held the said respective sixe Groves under him should forthwith pay unto the Pl[aintif]f according to there respective interests the tithe of the Lead=Oare digged & gotten in the same.

As to all the rest of the said Mynes named in the said def[endan]ts answeares or w[hi]ch were in the said Rectory of Stanhopp or the p[re]cincts or titheable places thereof It was then ordered by the Court that it should bee referred to a tryall at Lawe to bee tryed in the County Palatine of Durham upon a feigned action to bee brought by the Pl[ain]t[iff] Dr Basire ag[ains]t the def[endan]ts in the Office of Pleas of this Court upon theis issues following (that is to say)



whether there bee a Custome w[i]thin the parish of Stanhopp in Weardale in the said County to pay to the Parson or Rector there for the tyme being Tithes in kind of Lead=Oare gotten w[i]thin or out of the Lead=Mines (other then the sixe Mynes abovesaid ) w[i]thin the said Rectory or any of them, & w[hi]ch of them, & w[hi]ch not

And that if there was such a Custome there, then whether the said Custome was to pay the said Tithes of Lead=Oare cleane & washed w[i]th deduct[i]on of all manner of charges (except their owne labour who were Owners of any Lead=Myne or Mynes) for digging winning & getting the said Oare, Or w[i]thout deduct[i]on of all manner of charges for digging winning & getting the said Oare (the Owners labour of any Lead=Myne or Mynes excepted)

And to that purpose the said Pl[ain]t[iff] Doctor Basire was forthwith to declare in the office of pleas of this Court & the def[endan]ts were to appeare gratis & plead to issues so as the same might bee tryed at the Last Assizes to bee held for the said County Palatine of Durham by a Substantiall Jury of the said County And to that end the Sheriffe was to attend the Clerke of the pleas with the Freeholders booke & no challenge for want of Hundredors & the deposit[i]ons of such witnesses as at the tyme of the said tryall should either bee dead or not able to travell should bee used at the said tryall And the equity to bee reserved

According to w[hi]ch Order the said Pl[aintiff] Dr Basire did declare in the office of pleas, to w[hi]ch the def[endan]t Mr Humfrey Wharton (all the other def[endan]ts haveing by their answeares sett forth that they were workemen for day wages & servants to him the said Mr Wharton) appeared & pleaded to issue, upon w[hi]ch a tryall was had at the s[ai]d last Assizes held for the County Palatine of Durham & upon full evidence a verdict passed for the pl[aintiff] upon both the said issues & the said cause being continued in the paper of causes the same came to bee re-heard this day before the right hono[ur]able Sir Mathew Hale Knight Lord Cheife Baron & Sir Christopher Turner & Sir Richard Rainsford Kn[igh]ts two other of the Barons of this Court, Now upon reading of the the said recited order, & of the Postea returned upon the said verdict The Councill for the pl[aintiff] prayed the decree of this Court ag[ains]t the said def[endan]ts Forasmuch as the said defend[an]t Mr Wharton (being present in Court) & his Councill being satisfied with the pl[aintiff]s right to the tithes in question

It is this day Ordered adjudged & Decreed by this Court that the severall & respective Owners & Occupiers of the Severall Lead=Mynes menc[i]oned in the def[endan]ts answeares (except of the Mynes called Grove=rake, Thorne==grove, Peakside, Ewtree, Nicholsons Grove & Harnashawe alias Harnishawe formerly decreed to the pl[aintiff]s) shall pay unto the said Compl[ain]ants according to their respective interests, The arrears of the Tithe of Lead=Oare digged, wonne, & gotten in the said Lead=Mynes or any of them for the first of the three yeares menc[i]oned in the

Pl[ain]t[iff]s bill cleane & washed w[i]thout deduct[i]on of all manner of charges for digging winning & getting the said Oare And the pl[ain]t[iff]s are at liberty to take forth a Comission to bee directed to such Comissioners as shall bee agreed on by both partyes, to sett out the quantytyes & values of the said Tithes in question And the pl[ain]t[iff]s are to have their costs both at Lawe & in equity.