

8 Oct 1686 Nathaniel Crewe

[Note: These papers are the record of evidence, depositions, collected at Barnard Castle in October 1686 by commissioners appointed by the Exchequer Court in London. They form part of a case brought by the Bishop of Durham, Lord Nathaniel Crewe (whose charity still owns most of Blanchland village in the Derwent Valley) and Humphrey Wharton, of Gilling West in Swaledale.

Wharton (1626-94) was the 'Moormaster' of Weardale, which gave him the right to issue lead mining 'tacks' (exploratory ventures by small partnerships of miners) and leases (which usually followed tacks) within the extensive unenclosed lands in the large parishes of Wolsingham and Stanhope, which encompassed the lead mining district of Upper Weardale. At the risk of some simplification, the office of moormaster was in the gift of the Bishop, and had been in the hands of the Wharton family before and after the Civil War. From 1667 it was held under a lease for three lives at an annual rent to the Bishop of around £150 and, importantly, a tenth of the lead ore mined: the Bishop's 'lott' ore. Strictly speaking, the lott ore was defined as 'the bishop hath the ninth part, the whole being divided into ten equal parts', and usually shortened to 'the Bishops ninth part', or 'the Bishops ninth'. Because the correct definition was lost for many years, and this set of Exchequer papers is one of the few places that contain a full description, this shortened 'ninth part' has often been interpreted as the modern fraction of one ninth rather than a tenth. The Rector of Stanhope had 'the tenth part', ie. also a tenth, as his tithe.

The lott ore was typically sold back by the Bishop to Wharton at a variable rate based on the price of smelted lead in Newcastle. Wharton ran three smelting mills in which the lead ore was processed, whether sold to him directly by the miners up and down Weardale or bought back from the Bishop. His mills were at Scotch Isle, just outside Wolsingham, Stanhopehope, about a mile north of Stanhope, and on the River Derwent, deep in the sinuous wooded gorge of that river west of Castleside on the present-day A68. The variable lott ore payment was wide-open to abuse of course. Wharton had every incentive to minimise the amount of ore he said was being mined, and great opportunity to do so, for the small Weardale lead mines were spread over a huge area of difficult moorland country. The ore was taken from the mines to the smelting mills in trains of carriers' ponies. The Bishop's best hope of monitoring production levels was to pay watchers to count the traffic approaching the three mills rather than leaving the far flung dozens of mines. Thus, several of the witnesses called in the case were lead ore carriers, and other ordinary Weardale people.

As in all such cases the depositions take the form of a series of questions put by both sides in the dispute – interrogatories and counter-interrogatories – to witnesses, or deponents, called to give statements to the commissioners. The interrogatories, counter-interrogatories and depositions are given here in the order in which they are

presented amongst the Exchequer Court papers. There are some missing and obscured sections which are indicated in the transcript, but enough has survived to provide a general sense of the nature of questions asked and evidence given.

A guide to Exchequer Court procedure can be found at:

<http://www.nationalarchives.gov.uk/records/research-guides/equity-court-of-exchequer.htm>. A detailed example with a clear, full and useful explanation and commentary is the subject of Tim Gates' 'The Great Trial': A Swaledale Lead Mining Dispute in the Court of Exchequer, 1705-1708, (2012).

The final outcome of the Crewe/Wharton case, agreed in a 1688 settlement, went in the Bishop's favour.]

Interrogatories Exhibited to be administered to such witnesses as will be [missing] sworne and examined on the part and charge of the Right Reverend Father in God [missing] Lord Bpp [Bishop] of Durham Comp[lainan]t ag[ains]t Humphrey Wharton Esqr Defend[an]t

Imp[rimi]s Doe you know the Comp[lainan]t the now Lord Bpp [Bishop] of Durham and the Defend[an]t in this suite. Did you know the Right Reverend Father in God John late Lord Bpp [Bishop] of Durham or any, and which of them declare your knowledge

2 Doe you know the Lead Mynes and Groves of and belonging to the Defend[an]t within the Parishes of Stanhopp and Wolsingham or any and which of them? Were the same granted to the Defend[an]t by the said John late Lord Bpp [Bishop] for yeares or lives or for what terme, is the said terme in being; Did the said John late Lord Bpp [Bishop] reserve to himselfe and his successors the Lott or Nyneth part of all Lead Oar to be Dugg or gotten in the said Mynes within the said Parishes, clean and well washed, without any deducc[i]ons of or for any manner of charges for the winning, getting, or workeing of the same or any other charges whatsoever? How many Mynes or Groves are in Partnershiipp lett out by the Defend[an]t and how many in the Defend[an]ts owne hands. Did you att any time; and when? make a demand of the Lott or Nyneth part and Arrears thereof for the Comp[lainan]t , at his Mynes or any of them, and where? what Answere had you to such Demand, and what was the occation of such Answere? as you know, have heard, or believe?

3 What quantities of Lead Oare have been yearly dugg or gotten in the said Mynes ? and what was the price or value of the same before any deducc[i]on of charges for winning, getting and washing the same by the said Defend[an]t, or any persons by them employed? and what sum[m]es of money hath the said Humphrey Wharton, or his Agents expended or laid out in workemens wages for the carrying on of the said Mynes? and were they not paid according to the quantity of the Oare wrought and was

not the sum[m]e of forty shillings [3 words deleted] paid per Bing [2 -3 words deleted] of Lead Oare wrought and noe more? or after what rate were the said workemen paid Declare your Knowledge herein.

4 Doe you know, verily beleive, or have credibly heard what quantities of Lead Oare have been wrought by the Defend[an]ts partners, and agents any or which of them out of the said Mynes, and Groves and brought to the severall Smelting Mills of the Defend[an]t and which of them? between the twelfth day of February in the year of oure Lord 1676 till February in the year of our Lord 1684? Were you employed by the Comp[lainan]t or whom? to take an Account of the same? What quantitys of Oare came to any or which of the said Smelting Mills dureing the time of your employment? how long did you soe take an account what quantity or quantities came to each or any of the said Mills dureing the time of your being soe employed? Did any attend the bringing in of Oare to the Mill where you were employed in your absence and who did it did you take an exact account of him at your returne doe you beleive that <some Oare> was brought to the Mills in the night <time when> you did not set downe in writeinge nor charge the Defend[an]t with it?

5 Have you been agent, parte[ner], or Servant to the Defend[an]t and partners from the twelfth day of February 1676 till February 1684 for the receiveing, selling, disposeing, or Shipping of Lead or Lead Oare for any and which of them? and for what time? How much have you shipped away, sold, or disposed for the Defend[an]t and partners or by his or their orders? What is the value of the said Lead or Lead Oare soe shipped or disposed of Doe you keep books of accounte of your receiveing and shipping the same? what doth the quantity <aney value> appear to be dureing the time of your employment. Did the Lead or Leade Oare come from the Defend[an]t partners or Agents of <Weardale> or from what place? as you know have heard, or believe?

6 Doe you know that any Articles of Agreement were made and when Between the Right noble Lord Marquesse of Winchester and the Def[endan]t touching any his Mynes in question and what Mynes? Are they pertinent to any and what Mynes within the Parishes of Stanhopp and Wolsingham. therein or what doe think contained in these Articles menconing which part the said Lord Marquesse did he pay for the Nyneth Lott or Nyneth part of the Mynes in partnershipp? whether a third part of the Nyneth Lott of all the Lead Oare got out of the Mynes within the Parishes aforesaid or what part? Is there not a Covenant in the said Articles that the Defend[an]t shall keep records of Accompt [accounts] relateing to the whole Mynes in question and will produce <....> the same to the said Lord Marquesse or his Agents upon any or what occations [word deleted] Doe you know of any and which Accompts and when pay'd between the said Lord Marquesse and the Def[endan]t or their Agents in pursuance of the said Articles and How many Accompts have you known or heard were Soe payd about when and for what yeares. To what quantity of Lead and value and for what time did any and which Accompts amount unto? Hath the defend[an]t or his Agents or

any and which of them denied at any time and when to produce the booke of Accompts to any and which of the Agents or servants of the said Lord Marquesse? why did the Defend[an]t or his Agents not produce the same declare as you have heard or doe believe?

7 What doe you know of your own Knowledge, verily believe or have credibly heard concerning the said Defend[an]t Humphrey Wharton? gaineing or procureing a certain Lease or Grant of the said Lott or Ninth part of the Lead Mynes and Groves from the said John late Lord Bpp [Bishop] of Durham for and under the yearly rent of threescore Pounds and when and in what names was the said Lease obtained? Was it not obtained from the said late Lord Bpp [Bishop] of Durham by supprise and at his first entry into the sea of Durham before they <enquired>of the true value of his p[re]misses? And have you not often and when heard the said Lord Bpp declare as much and complaine of the same, declare your knowledge herein?

8 What doe you know, verily believe, or have credibly heard concerning the yearly value of the said Customary parts of the said p[re]misses and Lead Mynes in question called the Ninth Lott and tenth are the same equall of the value or which of them doth exceed in value? And doe you know, verily believe or have credibly heard that at the very same time the said Defend[an]t Humphrey Wharton did onely pay for the said <illegible> part called the Nyneth Lott the said summe of threescore pounds unto the said late Lord Bpp he the said Defend[an]t Humphrey Wharton did pay unto the said Doctor Basier for the tenth part of the said P[re]misses the yearly rent or sume of two hundred and fifty pounds, or some other great yearly sume of moneys [deleted] <particte>. Declare your knowledge herein.

9 What doe you know of your own knowledge, verily beleive, or have credibly heard concerning the working and getting of Lead Oare out of the Groves of the same P[re]misses and the Mixing the said new wrought oare with the <illegible word> lying formerly wrought without? Doe you conceive or have been credibly informed that the said new wrought Lead Oare <illegible word> not be laid dystinct and separate from the said Old heapes of the said Defend[an]t Humphrey Wharton or his servants <1-2 illegible words> other Agents, or that the said new wrought Lead Oare was wilfully and on purpose thrown into, and intermixed or <... to suggeste> acts <.....> the true quantity of Leade Oare as there wrogget [wrought] that the said Comp[lainant] should not dysclose the <true value of the> Same. Declare your knowledge herein.

10 Doe you know verily beleive, or have credibly heard that the said Defend[ant] Humphrey Wharton or some of his Agents and who by name, did threaten to beat and assalt and bring Acc[i]lions of trespass against such persons as were appointed to take an account of the quantities of Lead Oare wrought from time to time on the behalfe of the Comp[lainant]. and did hinder them from comeing upon the grounds where the said Lead Mynes stand being the onely place where such Accounts could be taken

alleging the said premises belong to him the said Humphrey Wharton and not to the said Lord Bpp [Bishop] the said Comp[lainan]t Or what threatening words were used?

11 What other matter or thing doe you know or can materially depose touching the matters and things in difference between the Comp[lainan]t and defend[an]t on the part and behalfe of the Comp[lainan]t declare your knowledge thereof and how you know soe to depose.

[signed] Ja: [James] <Mackerton>

Deposic[i]ons of witnesses Produced Sworne & Examined on the part & behalfe of the Right Reverend Father in God Nathaniel Lord Bpp [Bishop] of Durham Compl[ainan]t ag[ains]t Humphrey Wharton Esqr Def[en]d[an]t taken at the home of Hugh Jackson situate in Barnardcastle in the County of Durham the Eight day of October in the yeare of our Lord 1686 Annoq[ue] RR [Regni Regis] Dm [Domini] n[ost]ri Jacobi scdi [secundi] nunc Angliae &c Scotiae by John Crosby Richard Hilton & Ralph Gowland Gents by vertue of his Ma[jes]ties Comission issued out of the Court of Excheq[ue]r at Westm[inster] to them & Ralph Tunstall Gents or any three or two of them on that behalfe directed.

8 Oct 1686 John Westgarth

John Westgarth of Westgate in the County of Durham gent aged sixty one yeaeres or thereabouts sworne & Examined saith as followeth

To the first Interrogatory this depon[en]t saith that he knows the Compl[ainan]t & Def[endan]te in this suite & knew John late Lord Bpp [Bishop] of Durham in this Interrogatory menc[i]oned

2 To the second Interrogatory this depon[en]t saith that he knows sev[er]all of the Lead Mines & Groves belonging to the Def[endan]te within the p[ar]ishes of Stanhopp and Wolsingham (to witt) Greencleugh, Longwell, Groverake, Scarrsike, Wellophead, in sev[er]all places, South Mossegrove, Middlegrove, <Carcleugh>, Scrafhead, <Longthude> [possibly meant to be Langtyhead, with the variation explained by the clerk's rendering of the deponent's accent], Lodgeslitt, wrought at sev[er]all Groves <Rikt .enwell [Greenhill?]>, Elmsford, Allerscleugh, Sedlingrove, <The Todd stane, Houlsike>, Barbura Grove & most of the other Groves belonging to the said def[endan]te within the parishes afores[ai]d. And saith that the same (as this depon[en]t verily beleives was granted by John late Lord Bpp [Bishop] of Durham to the said Def[endan]te by Lease for Lives (to witt) for the lives of the Def[endan]t Humphrey Wharton Esqr & two of his Sons, And saith that as he this Depon[en]t now

remembers (he haveing seen the said lease) that the said John late Lord Bpp [Bishop] of Durham reserved to himselfe the Lott or Ninth part of All Lead Oar to be dugge or gotten in the said Mynes in the p[ar]ishes afores[ai]d and w[ith] such reservac[i]ons as in this Interrogatory is menc[i]oned (as this Depon[en]t verily beleives) but for his more Certainty referrs himselfe to the Lease. But how many are in the Def[endan]tes owne hands or how much in p[art]nership this Depon[en]t knows not but saith that he this Depon[en]t the sixth or seventh days of October which was in the yeare of our Lord One Thousand Six Hundred and seventy & nine he this Depon[en]t was P[re]sent with Thomas Rookby Esqr when he did demand for & on behalfe of the said Compl[ainan]t at the Groves hereafter menc[i]oned (<vizt>) Grencleugh, Groverake, Longwells, Scarrsikes, Wellophead, at two places there, South Mosse Grove, Middle grove, <Carcleugh>, & at Eight Nine or ten sev[er]all places at Lodgefield Slitt, Elmsford at three or four places , The Rakes at two places, the Ninth part or Lott of oare then arreare and due reserved payable by vertue of the s[ai]d Def[endan]tes Lease of the sev[er]all takes, Groves & mines of the s[ai]d Lead Oares. And saith that George Whitfeild, John Whitfeild and Ralph Whitfeild, Cuthbert Watson and Thomas Watson then takers farmers and workmen of the s[ai]d Groves sev[er]ally denied to pay any alleadging they had a take from the s[ai]d Def[endan]te & were bound to him to pay for all the Lead Oare to him the s[ai]d Def[endan]te & to noe other. And other of the farmers takers and workmen of the said Lead Oar or mines answered and said they neither would nor Could pay any of the Ninth Lott or part to any save to the Def[endan]te himselfe & to noe other they being Ord[ere]d by the s[ai]d Def[endan]te to the Contrary, And others answered & said they wrought <onely> at a day take worke for theire dayes wages & had not Ord[er]s or direcc[i]ons from the Def[endan]te to pay any; And this Depon[en]t further saith that he this Depon[en]t on the fifteenth day of the s[ai]d month of October went with his man to the s[ai]d Groves, & there Demanded againe of se[ver]all p[er]sons on the behalfe of the said Compl[ainan]t the s[ai]d Ninth part or Lott of the s[ai]d Lead Oare & had there sev[er]all Answers to the intent & purpose afores[ai]d. And this Depon[en]t made in the yeares of our Lord 1680 & 1681 Sev[er]all other Demands of the s[ai]d Ninth Lott at Sev[er]all of the s[ai]d Groves & <since those> yeares of the sev[er]all takers or miners & had the like Answ[er]s.

9 To the Ninth Interrogatory this Depon[en]t saith that he this Depon[en]t hath heard & been credibly informed that the Def[endan]te or his Agents or Servants used to mix the new wrought oare got within the p[ar]ishes afores[ai]d with old heaps of Oare lying there formerly wrought though there were roome Enough to have laid the Same lead Oare Sep[ar]ate if the Def[endan]te or his Agents pleased And saith that he this Depon[en]t verily beleived the reason why the said Def[endan]te his Agents & Servants mixt the said New lead Oare with the Old was because that the true quantity of the New lead Oare wrought or gott within the s[ai]d Mines might not be knowne or distinguished from the old Lead Oare

John Westgarth

8 Oct 1686 William Ewbank

William Ewbank of Greetabridge in the County of Yorke Innkeep[er] aged thirty five yeares sworne & Exam[in]ed saith as followeth

To the first Interrogatory this Depon[en]t saith that he knows the Compl[ainan]t & Def[endant]te in this suite & hath soe knowne them for sev[er]all yeaeres last past

To the second Interrogatory this depon[en]t saith that he knows most of the Def[endant]tes Groves in the p[ar]ish of Stanhop but not by there p[ar]ticuler names which are held by the s[ai]d Def[endant]te by Lease from the Compl[ainan]t as this Dep[onen]t hath heard & been credibly informed for lives and saith he hath alsoe heard and been credibly informed that the s[ai]d Compl[ainan]t by his grant to the s[ai]d Def[endant]te of the s[ai]d groves reserved to himselfe the Ninth part or Lott of all the Lead Oare to be dugg won or gott forth or out of any of the s[ai]d groves without any deducc[i]on whoer [whatsoever] for the Charge of Dressing or washing of the same, And this Depon[en]t further saith that in the begining of the month of October which was in the yeare of our Lorde One Thousand Six Hundred Seventy and Nine he this depon[en]t was p[re]sent with Thomas Rookby Esqr and s[ai]d John Westgarth when he the said Thomas Rookby demanded for and on the behalfe of the Compl[ainan]t of sev[er]all of the farmers miners and workmen <?of the Defen[dent]s> afores[ai]d the Ninth part or Lott due to the s[ai]d [some words obscured by creases, possibly including 'Compl[ainan]t'] or each of the s[ai]d groves the s[ai]d farmers miners and workmen there denyed & refused to pay any or to make any satisfacc[i]on for the same some of them declaring they were obliged to the Def[endant]te to <?get up> what was to be paid to him for the same & would not pay or Accompt for any of the s[ai]d Ninth part or Lott to any other p[er]son save to the Def[endant]te or to <...> or the like Effect

9 To the ninth Interrogatory this Depon[en]t saith that he hath heard sev[er]all Lead Oare Carryers say and declare that the New lead oare gott and wrought forth of the s[ai]d Groves were mixt with old heapes of Lead Oare lyeing there And saith that he this depon[en]t knowes that there was roome Enough for the Def[endant]te his takers [tackers] and Miners there to have laid all the s[ai]d New lead oare separate & distinct <.... ...> other but the certaine reason of mixing of the said New lead Oare with the said Old heapes of Lead Oare this deponent knowes not nor can give any certaine Accompt

William Ewbank

8 Oct 1686 Thomas Mowbray

Thomas Mowbray of Wolsingham in the County of Durham yeom[an] aged Forty yeares or thereabouts Sworne & Examined saith as followeth

4 To the Fourth Interrogatory this Depon[en]t saith that there has been wrought out of the Def[endan]tes Mines at the p[ar]ish of Stanhop from the moneth of February In the yeare of our Lord God One Thousand Six Hundred Seventy Six and the last of January in the yeare of our Lord One Thousand Six Hundred Eighty & Four dureing all which time this Depon[en]t was Employed by the s[ai]d Compl[ainan]t to take and Accompt the number or Quantity of forty nine Thousand two Hundred & twenty horse loads of Lead Oare & Sixty Seven Waine Loads which makes up in all Twelve Thousand Four Hundred Thirty Seven bing loades two horses & Eighty pokes of Oar that was soe wrought in the mines afores[ai]d as this Depon[en]t was informed by sev[er]all of the Def[endan]tes Lead Oare Carryers And Saith that he this Depon[en]t was Employed by the Compl[ainan]t to take an Accompt of what Quantities of Oar came from the Def[endan]tes Mines to his Smelting Mills at Scotch Eale Mill & Stanhop hope Mill dureing all the time afores[ai]d w[hi]ch this Depon[en]t was as Exacting as he could And this Depon[en]t saith that one Ralph <Dawkin> was himselfe Employed by the s[ai]d Compl[ainan]t to take an Accompt of Oar Carried from the s[ai]d Mines to the s[ai]d Smelting Mills w[hi]ch said <Dawkin> gave an Accompt to this Depon[en]t that there was from the Nineteenth of September One Thousand Six Hundred Seventy & Seven till the Tenth of October One Thousand Six Hundred Seventy & Seven Three Hundred Sixty Five horse loades of Oar carryed from the s[ai]d Mines to the s[ai]d Scotch Eal Mill which makes Ninety One Bings & One horse load of Oar And this Depon[en]t further saith that he had an Accompt from one John Sand[er]s who was Employed by the Compl[ainan]t w[hi]ch said John Sanders gave this Depon[en]t an Accompt that from the Eleventh of September Anno Dm [Domini] 1677: till the one & thirtieth of January :1684: Carryed of Oar from the s[ai]d Def[endan]tes Mines to the s[ai]d Smelting Mills the further number or quantity of Nineteen Thousand Nine Hundred & Forty Five horse loads of Oar which makes out in number Four Thousand Nine Hundred Eighty & Six Bings & One horse load of Oar w[hi]ch were taken by Talleyes by the said John Saunders And this Depon[en]t further saith that on the Eighteenth & Nineteenth dayes of October Anno Dm [Domini] 1676 there was Carryed from the s[ai]d Mines to the s[ai]d Mills in this Depon[en]ts absence which John Mowbray the Compl[ainan]ts Agent gave an Accompt on to this Depon[en]t by Talley Eighty seven horse load of Oar which makes out in number Twenty One Bing loades & Three horse load of Oar And further saith that <one> John Sidgewick before this Depon[en]t began to take an Accompt of the said Oar gave an Accompt to this Depon[en]t that there was brought from the s[ai]d Def[endan]tes Mines to Stanhop hope Mill Fourteen horse loads which makes out Three Bings & Two horse load of Oar And this Depon[en]t further saith that the said John Mowbray servant to the s[ai]d Compl[ainan]t gave this Depon[en]t an accompt that there was Carryed from the Def[endan]tes Mines to Stanhop hope Mill in this Depon[en]ts absence from his s[ai]d

Employm[en]t w[hi]ch was Carryed Six dayes in Aprill in the yeare of our Lord 1678: the further number or quantity of Two & thirty horse loads of Oar which makes out Eight Bing loads of Oar that was taken by Talley And further saith that the s[ai]d John Mowbray gave this Depon[en]t a further Accompt that there was Carryed from the s[ai]d Def[endan]tes Mines to Stanhop hope Mill in this Depon[en]ts absence taken in Talley the further number of Forty One horse load of Oar which makes out Ten Bings & one horse load which was carried upon the Fifth Sixth Seventh Eighth Ninth & Tenth of August in the yeare 1678 : as the s[ai]d John Mowbray gave this Depon[en]t an Accompt of And this Depon[en]t further saith that one Thomas Dixon who was Employed by the Compl[ainan]t or Some by his ord[e]r to take an Accompt of Oar gave to this Depon[en]t an Accompt that there was carried from the s[ai]d Def[endan]tes Mines to Scotch Eale Mill by Talleyes in this Depon[en]ts absence the further quantityes or number of Eighty Seven horse load of Oar w[hi]ch makes One & twenty bing loades & one horse load which was soe carryed the 21: 22: & 23 of June 1679: as the said Thomas Dixon gave an Accompt to this Depon[en]t And this Depon[en]t further saith that one George Garthorne Another Employed by the s[ai]d Compl[ainan]t gave this Deponent an Accompt that from the Four & twentieth day of June 1679: till the Seventeenth of July 1679: there was carryed from the said Def[endan]tes Mines to Scotch Eale Mill the further number or Quantity of Four Hundred Fifty & five horse load of Oar which is in Number One Hundred & Thirteen Bing loades & Three horse loades of Oar taken by Talley as the s[ai]d George Garthorne gave this Depon[en]t an Accompt And this Depon[en]t further saith that one Michael Byers gave this Depon[en]t an Accompt by writeing that there was carryed from the s[ai]d Mines to Scotch Eale Mill afores[ai]d the Twenty Eighth Twenty Ninth Thirtieth & One & Thirtieth of July 1679: as alsoe upon the First & Second of August 1679: the further number or quantity of One Hundred & Twelve horse load of Oar which makes up in number Eight & Twenty Bing loads of Oar And further saith that <Joshua> Wilson likewise gave this Depon[en]t an Accompt in writeing that there was carryed from the s[ai]d Mines to Scotch Eale Mill upon the Second Third Fourth Fifth Sixth Seventh, Eighth, Ninth & Tenth of June 1682 the number or quantity of Two Hundred Eighty & Six horse loades of Oar which makes up in number Seventy One Bing loades of Oar & two horse loades And saith that John <Toward> likewise gave to this Depon[en]t an Accompt of in writeing that there was Carryed from the s[ai]d Def[endan]tes Mines to Scotch Eale Mill afores[ai]d the Sixteenth Seventeenth Eighteenth Nineteenth, Twentieth, One & twentieth, Two & twentieth, Three & twentieth, Four & twentieth, & Five & twentieth dayes of August 1680: the further number or Quantity of Two Hundred Thirty & Four horse loades of Oar w[hi]ch makes out in number Fifty Eight bing loades of Oar & two horse loades And this Depon[en]t further saith that on the First Second & [about ten words missing] one Albany Forster now dec[ease]d then a Carryer of Lead Oar for the s[ai]d Def[endan]te & another p[er]son whose name this Depon[en]t knows not Carry Forty <seven> horse load of Oare w[hi]ch they told this Depon[en]t they brought from <redd> grove to Scotch Eale Mill which s[ai]d Oare they carryed to the s[ai]d mill by <Weers> loaneing being a private way & where use

Carryage of Lead Oar has been carryed that way before that Ever this Depon[en]t heard or see which sev[er]all Accompts this Depon[en]t took as afores[ai]d as Agent for the s[ai]d Compl[ainan]t And this Depon[en]t further saith that dureing the time of this Depon[en]ts being Employed as afores[ai]d that he this Depon[en]t has knowne & seene at sev[er]all times & at sev[er]all houres in the night time that the Def[endant]tes Carryers of Lead Oar have Carryed the s[ai]d Lead Oar sometimes an hour or two or <.....> of every day & sometimes sooner in the night time And saith that he this Depon[en]t has <heard> of the s[ai]d Def[endant]tes Carryers of Lead Oar say & declare that they sometimes Carryed lead Oar from the s[ai]d Lead Mines of the Def[endant]tes to the s[ai]d Def[endant]tes Mill in the night time And in p[ar]ticular this Depon[en]t has heard one John <F.d...> & Cuthbert Phillipson Carryers for the s[ai]d Def[endant]tes say & declare as much

10 To the Tenth Interrogatory this Depon[en]t saith that he being at Stanhopp hope Mill afores[ai]d on or about the yeare 1678: to take an accompt of Lead Oare for the s[ai]d Compl[ainan]t w[hi]ch was brought from the s[ai]d Def[endant]tes Mines to that Mill he this Depon[en]t was discharged by One John Philipson then Steward to the said Def[endant]te & told this Depon[en]t he might not come near the said Mill And if he this Depon[en]t did at his p[er]ill or to that Effect

Thomas Mowbray

8 Oct 1686 George Fetherston

George Fetherston of Rookhop in the County of Durham Schoolmaster aged Thirty Three years or hereunto Sworne & Examined Saith

To the second Interrogatory this Depon[en]t saith that he knows of sev[e]ral Mynes & Groves belonging to the Def[endant]te att Stanhopp & Wolsingham in this Interrogatory menconed but not by theire p[ar]ticuler names & saith he hath heard the same were granted by the Bpp[Bishop] of Durham to the Def[endant]te by Lease for lives And hath <likewise> heard that the Sd Lord Bpp reserved A ninth p[ar]t or Lott of all the Lead Oare that should be got or wrought forth of the said mines theare to himselfe without deducton of any charges w[ha]tsoever for working the same And this deponent saith that he this depon[en]t the Fourteenth of May 1680: for and on the behalfe of the Compl[ainan]t made a Demand of the ninth part or Lott of Lead Oar that was due & <overdue> to the Compl[ainan]t or payable from the Fourteenth afores[ai]d at the of May 1680 till the Eight & twentieth of November 1681: And saith that he demanded the same as afores[ai]d at the Def[en]d[an]ts said all Groves called, Lodgefeild grove the Rakes & the Cleugh head, of the ta[c]kers Miners farmers or Workingmen of the s[ai]d groves And the said Miners or Workmen refused to pay the s[ai]d ninth part or Lott And said they had not <orders> for payment of any save to the Def[endant]te And that they would pay none to any saveing to him the Said Def[endant]te or to that Effect.

Geo: Fetherston

8 Oct 1686 John Hudston

John Hudston of Allercleugh in the County of Durham yeom[an] aged Sixty years or thereabouts sworne & Examined saith as followeth

To the second Interrogatory the Depon[en]t saith that he said Depon[en]t together with s[ai]d George Fetherston about Mayday 1680 demanded for and on the behalf of the said Compl[ainan]t of the Miners ta[c]kers Farm[er]s or workmen of the Def[endant]tes & at the Def[endant]tes Groves called the Lodgefeild grove the Rakes & the Cleugh head the ninth p[ar]t or Lott of the tyth Oar due & overdue to the Compl[ainan]tt from that time for A yeare & a halfe And the s[ai]d farm[er]s ta[c]kers or Workmen wholly & absolutely refused to pay or Accompt for any of the Ninth part or Lott of Oar to this Depon[en]t or the sd George Fetherston but answered what was to be paid or accompted for upon not to any other Accompt they were obliged to Answer the Same to the Def[endant]te & was charged by him to pay none to any other whomsoever or to yt[that] Effect

John Hus<...>

8 Oct 1686 John Bainbridge

John Bainbridge neare Westgate in the County of Durham yeom[an] aged seventy three years or there abouts sworne & Examined saith as followeth

2 To the Second Interrogatory this depon[en]t saith [interlined above at this point: '<that f... that see..l>'] New years day < dee...> now concerning the years repaired to the Def[endant]tes Groves at the edge of Stanhopp called the Lodgefeild grove The Rakes & The Cleugh head groves and their said these demanded of the Def[endant]tes Farmers takers min[er]s or workmen thereof for and on the behalf of the s[ai]d Comp[lainan]t the ninth p[ar]t or Lott of Oare payde <in> arrears to the Compl[ainan]t for Foure & Forty weeks And the S[ai]d Farmers takers min[er]s & workmen of the s[ai]d groves [illegible 1-2 words] for any p[ar]t of the ninth part or Lott of the S[ai]d Oare to the Depon[en]t for the s[ai]d Compl[ainan]ts use But [illegible 3-4 words] of none that was due to the Compl[ainan]t or to any other save to the Def[endant]es who they were to pay & Accompt for all Lead Oare or to that Effect.

John Bainbridge

8 Oct 1686 William Watson

William Watson of Brotherley in the County of Durham yeo[man] aged Fifty Seven years or thereabouts Sworne & Examined saith as followeth

3 To the Second Interrogatory this Depon[en]t saith that he knows most of the Def[enden]tes Groves in this Interrogatory Menconed and saith that he this Depon[en]t in the moneth of September 1680: repaired to the Def[enden]tes Groves in the p[ar]jishe of Stanhop called Lodge feild grove Whitwell Ralph Grove, the Cleugh head grove and then & there Demanded for & on the Behalf of the now Compl[ainan]t of the farme[rs] ta[c]kers min[ers] or workmen of the s[ai]d Def[enden]tes at the s[ai]d groves the Ninth part or Lott of all the Lead Oar due to the s[ai]d Compl[ainan]t for Sixty days. And saith that the s[ai]d takers fam[er]s mine[rs] or workmen refused to pay the s[ai]d Ninth part or Lott of Oar to the s[ai]d Compl[ainan]t or to this Depon[en]t for his use saying they had not orders for payment thereof from the s[ai]d Def[enden]te or words to that Effect.

William Watson.

8 Oct 1686 Joshua Wilson

Josiah Wilson of Wolsingham in the County of Durham yeom[an] aged Forty Four years or Thereabouts Sworne & Examined saith as followeth

4 To the Fourth Interrogatory this Depon[en]t saith that Thomas Mowbray who was Employed by the Compl[ainan]t to take an Accompt of what Lead Oar was brought from the Def[enden]tes Mynes to his Smelting Mills being in Westm[or]land Employed this Depon[en]t in his absence in or about the yeare of our Lord 1682: to Stand at Wolsingham in the way to Scotch Eale Mill being one of the s[ai]d Def[enden]ts smelting Mills And saith that he this Depon[en]t the same June tooke an Accompt in writeing And saith that there was the time this Depon[en]t staid to take such Accompt being about nine or tenn days as he now rememb{er}s the numb[er]of Two Hundred Eighty & Six loaden horses with leade Oar pokes And as this Depon[en]t verily beleives were all loaden with Lead Oar w[hi]ch number this Depon[en]t gave an Accompt of to the S[ai]d Thomas Mowbray in writeing on his returne from Westm[or]land.

Joshua Wilson

8 Oct 1686 John Seward

John Seward of Wolsingham in the County of Durham Tanner aged Forty Eight years or Thereabouts Sworne & Examined saith as followeth

4 To the Fourth Interrogatory this Depon[en]t saith that he this Depon[en]t was in the yeare of our Lord 1680 Employed by Thomas Mowbray then an Agent for the Compl[ainant] to take an Accompt of what loaden horses came with Lead Oar to the Def[endant]es Smelting Mill And the s[ai]d Thomas <Mowbray> being absent then & in Westm[or]land for about tenn dayes together he this Depon[en]t dureing that time took an Accompt in writeing in the towne of Wolsingham afores[ai]d of what horses past that way towards Scotch Eale Mill And saith that these were Two Hundred Eighty & four laden horses with Lead Oare Pokes on theire Backs w[hi]ch this Depon[en]t verily believed were all loading with Lead Oare that went towardes Scotch Eale Mill afores[ai]d But from what Mines they came S[ai]d <...> groves not questioning where they came from knew not but saith he gave the Accompt in writeing to the S[ai]d Thomas Mowbray

John Seward

8 Oct 1686 John Mowbray

John Mowbrey of Wolsingham In the County of Durham Cordwayner aged Forty Seven years or thereabouts Sworne & Examined saith, as followeth

4 To the Fourth Interrogatory this Depon[en]t saith that he this Depon[en]t was desired by his brother John[possibly a mistake when brother Thomas was meant given use of Thomas's name later on?] Mowbrey to take in his absence an Accompt of what Oar taken from the Def[endant]es Lead mines & Groves to the Def[endant]es mills but at what time it was this Deponent doth not now Remember but saith that he this Depon[en]t took such Accompt for and on the behalf of the Compl[ainant] at the Def[endant]es Mill called Stanhope hope Mill for Six days together & saith that during such time this Depon[en]t knows there came sev[e]rall great numbers of horses loaden with lead Oare But this depon[en]t being an unlearned man that can neither write nor read cannot give an Exact accompt of the certain quantity thereof But gave an Accompt when the same was in this Depon[en]ts memory to the s[ai]d Thomas Mowbrey

John Mowbrey

8 Oct 1686 Anthony Garthorne

[Note: Waine spurns seems to mean the imprint of wagon wheels – spurn being to trample heavily.]

Anthony Garthorne of Darwen In the County of Durham yeom[an] aged Thirty years or Thereabouts Sworne & Examined saith as followeth

4 To the Fourth Interrogatory this Depon[en]t saith that he this Depon[en]t was Employed by Thomas Rookly Esquire to take an Accompt for and on the behalfe of the

Compl[ainant]t of all the Lead Oar brought from the Def[endant]tes Mines to his Mill called Darwin Smelting Mill This And saith that he this Depon[en]t or some by his appointment & direccones took an Accompt of loaden horses & waines w[hi]ch came with Oare to the S[ai]d Mill from the Thirteenth of February 1676: till the Ninth Day of May 1683 And saith that he this Deponent Staid neare unto the Darwin Mill And saith that dureing the time afores[ai]d there was brought To the s[ai]d Mill fiftee Thousand Three Hundred and Twenty Nine horse load of Oar computing two Pokes to be a horse load w[hi]ch this Depon[en]t believed was all lead Oar for that he this Deponent hath seen A great part thereof and that it was lead Oar amounting to the Quantities afores[ai]d according to this Depon[en]ts Computacon & his servants that he Employed to take such Accompts In this Depon[en]ts absence But from what mines in p[ar]ticula[r] the s[ai]d Oar came from this Depon[en]t knows not And this Depon[en]t further saith that he verily beleived that there might be sev[e]rall Quantities of Lead Oare carryed to the s[ai]d mill privately & in the night time for that this Depon[en]t hath observed waine Spurns & horse footings in the morning times that was not in the Evenings soe long as day lasted.

Anthony Garthorne

8 Oct 1686 Thomas Cornforth

Thomas Cornforth of Frosterly in the County of Durham yeom[an] aged Six & fifty yeares or thereabouts Sworne & Examined saith as followeth

4 To the Fourth Interrogatory this Depon[en]t saith that he this Depon[en]t was Employed by Thomas Rooksby Esquire from the tenth of May 1682 till January after to take an Accompt of what Lead Oare was carryed from the Def[endant]tes mines to the Def[endant]tes Smelting Mill at Darwin and Saith from the said tenth of May till the [Twenty] Ninth of September after he this Depon[en]t tooke an Accompt himself thereof which came to Three Hundred ninety Foure Binges & <Three> horse loads of Oare but whether the same loads of Oar came from the s[ai]d Def[endant]tes mine or not he this Depon[en]t knowes not But Saith he see a greate p[ar]t thereof unloaded <at> The S[ai]d Darwin Mill & was in the [Said] Common Rode from the Def[endant]tes mines out in Wardell And saith that all this Depon[en]t see unloaded at the s[ai]d mill was Lead Oar And from the said Twenty ninth of September till the seventh of January after he this Depon[en]t tooke An Accompt from his servant which came to Two Hundred & Twenty Bing loades Of Lead Oar & two horse loades or [interlined: 'neare'] thereabouts

Thomas Cornforth

8 Oct 1686 Michael March

Michael Marsh of Butchfeild in the County of Durham yeom[an] Aged Thirty Eight years or thereabouts Sworne & Examined saith as followeth

4 To the Fourth Interrogatory he this Deponent saith that he this Depon[en]t was employed under Mr Thomas Cornforth an Agent for the Complainant to take an Accompt of what Oare was brought from the said Def[enden]tes mines to the Def[enden]tes Smelting Mill at Darwin from the Twenty ninth of September One Thousand Six Hundred Seventy & Two until January after & in that time by this Depon[ent]s Computacon Two Hundred & Twenty Bings & two horse loade of Oare were brought to the s[ai]d Mill but whether they were brought from the Def[enden]tes Groves or not he this Depo[nen]t knows not but they were in the direct way & Road from the Def[enden]tes said Groves to the S[ai]d Mill And Saith that he this Depon[en]t did see p[ar]t of the S[ai]d Oare at sevrall times Emptied & unloaden at the S[ai]d Mill.

Michael Marsh

8 Oct 1686 John Saunders

John Saunders of Dryburnside in the County of Durham yeom[an] aged Sixty yeares or thereabouts Sworne & Examined saith as followeth

4 To the Fourth Interrogatory he this Depon[en]t saith that he was Employed by Thomas Rookby Esqr for and on The Compl[ainan]ts behalf to take an Accompt of Lead Oare brought & carried from the Def[enden]tes mines or Groves in Weadall to the S[ai]d Def[enden]tes Smelting Mill called Stanhop hope Mill & Scotch Eale Mill And saith that he this Depon[en]t took an Accompt of what was carried to the said Smelting Mill for about Six years agoe Ending about three yeares Since And in that Time there was brought to the s[ai]d Mills by this depon[en]ts computacon of Tallyes the Quantitys of Four Thousand Nine Hundred Eighty & Six Bings And one horse load but whether the same came from the Def[endan]tes said mines this Depon[en]t knows not Otherwise then that they came the direct & Com[m]on Rode way from the S[ai]d Def[endan]tes Mines but this Depon[en]t saith that he see the most part of the S[ai]d Oar deliv[er]ed & Emptied at Stanhop hope Mill & see other p[ar]t thereof <delivered> to Scotch Eale Mill But See noe p[ar]t thereof Employed at the S[ai]d Scotch Eale Mill Butt see the horses goe loaden to the s[ai]d Scotch Eale Mill & come back againe Empty

John Saunders

8 Oct 1686 John Hopper

John Hopper of Muggleswick In the County of Durham yeom[an] aged Five & twenty y[eare]s or thereabouts Sworne & Examined saith as followeth

4 To the Fourth Interrogatory this Depon[en]t saith that he was Employed by Thomas Rookby Esq[uire] in the yeare of our Lord 1682: to take an Accompt of what Oar was carried from the Def[enden]tes Groves to the Def[enden]tes Darwen Mill And saith that from the Eight day of January in the said yeare 1682 till the One and thirtieth day of January which was in the yeare of our Lord 1684 this Depon[en]t takeing the same in writeing computed the same to be Six Hundred Eighty & two Bings of Oar & two horse loads which was soe brought as this Depon[en]t at sev[e]rall times hath heard the S[ai]d Def[enden]tes servants say & acknowledge from the S[ai]d Def[enden]tes Groves or mines in Weardell to Darwen Mill afores[ai]d

John Hopper

8 Oct 1686 William Atkinson

William Atkinson of Stockton in the County of Durham Marchant aged Thirty Six Yeares or thereabouts Sworne & Examined saith as followeth

1 To the First Interrogatory this Depon[en]t saith that he knoweth the Compl[ainan]t & Def[enden]te in this suite

5 To the Fifth Interrogatory this Depon[en]t saith that he this Deponent hath been factor or Agent for the Def[enden]te Humphrey Wharton Esq[uire] onely dureing all the time in this Interrogatory menconed [for] the receiving shipping & selling of Lead of the S[ai]d Def[enden]tes And saith that he this Depon[en]t dureing the said time hath shipt & sold sev[e]rall small Quantities of Lead for the S[ai]d Def[enden]te But what Quantityes in p[ar]ticuler he this Deponent haveing not his books of Accompts by him cannot give any p[ar]ticuler Accompt thereof nor of the certain value thereof But doth not know that any part of the said Lead for ship[men]t or sale by this Deponent as aforesaid came from Weardall or did belong to the S[ai]d Def[enden]t or his p[ar]tner there or from what other place the Same came But believes Such Lead was Smelted at Gilling Mill in Yorkshire & the Oar thereof was got in Yorkshire

[missing] Will Atkinson

8 Oct 1686 Humphrey Wharton

[Note: Cross interrogatories drawn up on behalf of Wharton, the defendant, to be used in questioning Crewe's witnesses.]

Humphrey Wharton Esqr Dft att the suit of [obscured, presumably some variant of Lord Bishop of Durham] Compl[ainant]. Counter Interrogatories to be administered to Such Witnesses as Shall be produced sworn and Examined on the part and behalf of the Compl[ainant]

In primis What quantity or Quantys of Lead Oare have you knowne digged and gotten out of any and which of the Def[endant]ts Lead Mynes in the Two p[ar]ishes of Stanhopp and Wolsingham from the Twelfth of February One Thousand Six hundred seventy Six to the Twentyth of Jannury one thousand six hundred eighty four- or any other time did you see the sd Oare at the Sd Mynes and wch Myne or Mynes by name before the Same was removed and carried away from the said Mynes? Did you take any and what accompt att the time of removeing and carrying away the sd Oare from the said Mynes or any and wch of them? What p[ar]ticular number of horse loades or bing loades and what time or times and from what Myne or Mynes did you soe take Accompt of, And att what distance are the Def[endant]ts Mynes from the Def[endant]ts Leade Mylle of Scotch Ele Stanhop hope and Darwin Is itt possible for any p[er]son att or neare or within some Myles of the Sd Mylle to see any of the Def[endant]ts Myns and to know what is done there

2d Were you A Myner workeman or [partner] att any and so wch of the Def[endant]ts Mynes by name What Quantity Of Oare did you get and weigh and send to any and wch Def[endant]ts Mylls and by what p[er]son by name from the sd Twelfth of February one Thousand Six hundred Seventy six to twentyth of January one Thousand six hundred Eighty Four Did you pay or Accompt with Deft or any other pson for Lott and Tyth for the Same and when was Such Rekoninge and Accompte made.

3d Did you take Accompt & where of all the loaden horses that came to any and wch of the Def[endant]ts Lead Mylls by name from the Twelfth of February one thousand six hundred seventy six to the Twentyth of January one Thousand Six hundred Eighty Foure or att any other time Were the said horses or carriage you [soe tooke] Accompt of loaden with Lead Oare onely and did you < ... the> same [loaden] att the sd Myll and which by name And out of what Myne or Mynes were the Same digged and gotten were you att the said Mylle att the time when the Same was unloaden or how neare the Sd Mylls and which by name when you tooke Accompt of any and what Quantity of oare to be soe delivered Was Such Oare as you soe s[ai]d delivered digged and gotten out of the Mynes in the sd two parishes Granted by the Late Lord Bishopp to the Deft Did you yr selfe take such Accompt or imploye any othere and who by name and for what time to take Accompt of the Oare or Loaden horses that came to any and wch of

the Def[endant]ts sd Lead Mylls? Are sev[er]al quantities of Lead oar from other Mines than those in question brought to & smelte at ye Def[endant]ts Smelt Mills?

4: Were you concerned att any time and when and for what time from the Twelfth of February one thousand six hundred seventy six to the Twentyth of January one Thousand Six hundred Eighty Foure in carrying of Lead Oare from any and wch by name of the Def[endant]ts sd mines in Stanhopp p[ar]ish What Quantity or Quantys of Oare or Number of horse loades or bing loades have You soe carried and from wch. Of the Def[endant]ts Mynes by name and delivered att the Defte Mylls And wch. by name in the sd time Was the oare and mettle you soe carryed from the Def[endant]ts Mynes & Mills and well washed and nothing but oare or was the Same generally and frequently mixed with Sparr Stone and other mettalls besides oare? Was the horse loades you soe carried always good weight or what weight was everye horse loade you soe carried (the Sparr Stone and othere Mettalls taken away) as you verily believe & have not you beene complained of <and had> abatements made for you carrying & of ill dressed ore & short weight

5th What other mattere or things doe you know wch <youde> of way carrier or maybe advantagious to the Deft declare yor knowledge

Depositions of witnesses sworn & examined upon Counter interrogatories to them exhibited & administered on the part & behalfe of Humphrey Wharton Esq Defte at the suit of the Rt Reverend father in God Nathaniel Lord Bpp[Bishop] of Durham Compl[ainant]t taken at the house of Christopher Jackson situate In Barnard castle in the County of Durham the Eighth day of October in the yeare of our Lord one thousand six hundred & eighty & six <.o. .> dui un Jacobi S[e]c[un]di nunc Angs &c by John Crosby Richard Hilton & Ralph Gowland gentlemen by vertue of a Com[issio]n issued out of his his ma[jes]ties Court of Exchequer At Westminster to <them> and Ralph Tunstall Gentleman or any three or two of them on their behalfe directed

8 Oct 1686 Thomas Mowbray

Thomas Mowbray of Wolsingham in the county of Durham yeoman aged forty [gap left] years or thereabouts sworn and examined saith as followeth

To the first Interrogatorie this deponent saith That he doth not know the defendts Leadmines in the parishes of Stanhope & Wolsingham nor knows what quantities of lead oar were digged and gotten out of any of the said defents said mines in the time in this Interrogatorie mentioned otherwise than he hath predeposited on the said complain[an]ts part in this cause; And this deponent saith that he never see any Oar at

the same Mines or any of them nor took any account of the said Mines of what Oar was carried from the said Mines or any of them otherwise than he hath predeposed nor doth he know what distance there is betwixt the defend[an]ts Lead mines & his Lead Mills. And this deponent saith that he thines it impossible to see from any of the said Mines to any of the said groves or to know what is done there at that distance

To the third Interrogatorie this deponent saith that he took an account of what Leadoar came on horse back & wains to Scotcheal mill sometimes in Wolsingham about a mile distant therefrom & sometimes nearer hand & for Stanhope hope mill within view of the said mill and sometimes out of view of the mill within the time in this Interrogatorie mentioned. And this deponent see some of the same horses sometimes unloaden at Stanhopehope Mill & Scotcheal Mill but generally observed them to return back there within an hour or two except they went from Scotcheal Mill to the colepitts but this deponent knows not otherwise than by Information as he hath predeposed from what Mines the said oar was digged. And this deponent saith as to what account he took or other persons for him of what Lead oar were rbought to the said defend[an]ts said mills he refers to his deposition on the Compl[ainan]ts part.

Tho Mowbray

8 Oct 1686 Joshua Wilson

Josuah Wilson of Wolsingham in the County of durham yeoman aged four four years or thereabouts sworn & examined saith as followeth

To the first Interrogatorie this deponent saith That he was employed by Thomas Mowbray to take an account of what loaden horses past through Wolsingham and this deponent took such account as he hath predeposed on the pl[ain]tiff's part in this Cause to which this deponent refers but whether the loaden horses that he took such account of were loaden with oar that they brought form the defend[an]ts mines or whether the same horses soe loaden went to Scotcheal mill or what other place this deponent knows not but saith they might goe that same way to Newcastle & other places but it is far about for this deponent neither questioned them where they came or whether [sic] they went

Josia Wilson

<Jo Crosby esq
Ra Gowland>

8 Oct 1686 Humphrey Wharton

[Note: Interrogatories drawn up on behalf of Wharton, the defendant, to be used in questioning his witnesses.]

Interrogatories Exhibits to be Admin[istered] witnesses as will be [missing] sworne and examined on behalf of Humphrey Wharton Esq and Anthony Wharton Gent[leman] def[endant]ts att the suite of the Right Reverend Father in God Bishop of Durham Comp[lainant]

Im[primi]s Do you know the partys Compl[ainant]t and Def[endant]t and the two parishes of Stanhopp and Wolsingham in the County of Durham and how long have you knowne the said partyess and parrishes

2. Do you know believe or have credibly heard that the Def[endant]t Humphrey Wharton by Grant from John late Lord Bishopp of Durham is seized of the office of Mooremaster and of all the Lead Mynes belonging to the Bishopp of Durham in the said two parishes of Stanhopp and Wolsingham for the Term of three lives <&c:> the Rent of the Lott Oare or Ninth parte payable att Foure Quarterly paym[en]ts Were you present and subscribed your name as Witness to the deed or deeds & the Endorsement of Livery and Seisin upon the deed or deeds now shown unto you?

3. Do you know believe or have credibly heard that the Def[endant]t Humphrey Wharton hath beene kept out of possession of severall Lead Mynes in the said parish of Stanhopp Granted by the said John Lord Bishopp to the def[endant]t by colour or p[re]text of some Lease or Leases Granted by the Comp[lainant]t unto Barbara Sanderson dated in the month of Septemb[e]r One Thousand Six Hundred and Seventy Eight by Some former Lorde. What Mynes by name were soe wrought and by whome, what Quantity of Lead oare <doe> you know <were> digged and gotten in the said Mynes or in any and Which of them. And what Damage doe you know or believe the Def[endant]t hath sustained by reason of the Compl[ainant]ts Grant of such lease or <Release &c>. Do you know or verily believe that the said Mynes soe wrought under the Colour of the sd Barbara Sandersons Tytle were Antiently wrought and <.....ed> by former Moormasters & under the def[endant]t his Tytle. Declare y[ou]r Knowledge hereto.

4. Do you know believe or have credibly heard that the Def[endant]t Humphrey Wharton was Farmer of the Lott Oare under John late Ld Bishopp of Durham att the Rent of Sixty pounds per ann and likewise farmed the same <.....lote.. ..> dureing the time of the vacancy of the See of Durham att the sd Rent of Sixty pounds pr anno. Have you <heard> sd Def[endant]t say himselfe or others on his behalf offer the said rent for the sd Lott Oare to the Compl[ainant]t at any time & when

5. Do you know believe or have credibly heard that the Right Honob.le Lord Marquess of Winchester on the def[endant]ts behalf in the Month of August One Thousand Six Hundred and Seventy Six did make an agreement with the Compl[ainant]t for the said Lott Oare And what was the payment of such Agreement did the said Def[endant]t in the said month of August One Thousand Six Hundred and Seventy Six for preventing of Suites and Troubles reprise to the said Compl[ainant]t and confirmed the sd Lord Marquiss Agreement with the said Compl[ainant]t And then promised the sd Compl[ainant]t to pay the <....> vitz <Four hundred pounds for Arrears> of the said Lott and the Rent of Sixty pounds p Anno for the sd Lott Oare dureing the sd Compl'ts Incumbency <and did the sd> Lord Bishopp now Compl[ainant]t <...> declare that he would pay Two hundred pounds of the said foure hunderd pounds to John Wycliffe and John Parkhurst Esqs for their Interest in the Lott Oare. <Did> the Def[endant]t in performance of the said Agreement tender the said Foure hundred pounds <...> Rentt at the Bpps Excheq att Durham and was ready to accept of A lease according to the said Agreement. What have you heard the said Lord Bpp or any other say or declare concerning the said agreement set forth your knowledge herein

6. Do you know believe or have heard that the now Compl[ainant]t did by deed in writeing Give and Grant the sd Lott Oare unto John Wycliffe and John Parkhurst& have you seene the sd deed or heard the same said. And When and in whose custody was the same when you heard or see the same. Have or had you a copy delivered of the deed and from whome had you such copy. Have you knowne the Def[endant]t at any time and when interrupted in working the Ds lead mynes by colour of such Grant or Grants and by whome. Who hath the Right and Tyle to the D's Lott Oare as you have heard & verily belives?

7. Do you know believe or have heard that the now Compl[ainant]t in the name of Robert Dormer Esq his Attorney Generall did Fyle an Information in the Compl'ts Court of Chancery att Durham ag[ains]t the sd Def[endant]t for the Lott Oare from the Twentyth of Novembr One Thousand Six Hundred Seventy Foure to the Twelfth of February One Thousand Six Hundred Seveanty Six what proceedings was had or Decree or Decrees made there upon in the sd Chancey att Durham as you know or believe or have <heard>

8. Do you know that the Def[endant]ts lead Mynes or the greatest pt of them Ly att A greate distance and what distances from the smelt Mylls & hath the Def[endant]t <for him>selfe or Agents <yearly> since the Twelfth of February One Thousand Six Hundred Seveanty Six bought greate quantitys of Lead Oare out of severall County Lordships and Libertys (wch the Bishopp of Durham hath not Tyle unto) And was such bought and brought to smelt at the Def[endant]ts smelt mills of Scotch Ile Stanhophope and Darwinn and there smelted with the Def[endant]ts owne Oare got in Stanhopp P[ar]ish to make his owne Oare runn & smelt the better & keepe his mills att worke. Is not the buying of <mannie> sorts of oare & mixing the same together often

used by Owners of Lead Mynes and Mills and thought very necessary <and advantagious> to market the same produce better quantitys of Lead

9. Do you know what was the <tyne> price of the Def[endant]ts Oare now got in the sd p[ar]ish of Stanhope since the Twelfth of February One Thousand Six Hundred Seveanty Six by Bing Loade or Horse Loade was much of the Def[endant]ts Oare got in the sd <... A..ad sort or> Oare and <promised> small quantitys of lead sett what price or prices have you knowne the Def[endant]t buy oare of several person in the sd time <..> Bought of such bought Oare hath the Def[endant]t by himselfe or Agents often offered & indeavoured to sell severall quantitys of his owne oare <wtt instances>

10. Do you know or believe that greate quantityes of Old heapes of oare mixed with sparr stone & Rubbish are lying and have beene <.....> severall of the Def[endant]ts Mynes got in the late Bishopps time & in time of the Vacancy. Are considerable Quantityes of Oare or what Quantitys <ly washed> out of the same and sent to the Def[endant]ts smelt mylles what quantity or Quantitys of Oare was lying washed and unwashed att the Def[endant]ts Mynes <..> Oare in the old heapes from the Twelfth of February One Thousand Six Hundred Seveanty Six. Was all the Oared digged and gotten out of the Def[endant]ts Mynes since the Twelfth of February 1676 <...gd Sep.ate> and a part from the Oare formerly digged & gotten and washed and easy to be distinguished from <....> Did the Compl[ainan]ts officers use any measnes or Indeavoures to take account att the Mynes of the Quantity digged and gotten since the Twelfth of February One Thousand Six Hundred Seveanty Six

11. Doe you know believe or have heard that the Def[endant]t for these Twenty yeares last past and upwards have reckoned and paid his Myne<rs & Oare Carryers &c> his owne Oare as alsoe forraigne bought oare by Tallye <from> the Mynrs and Oare Carryers <Quart[er]ly> att the dayes and times of Reckoning <..... th. in B.... such w.. a...> by the Myners until the <.ater k...ing> with the Swatch kept by the ore carryers has the Stock and Swatch usually broken after the <..... soe comp[ar]ed.> And for what <.....> is the <Br...e soe> broaken as you believe hath beene the Anntient way of Reckoning with the Myners & lead and Ore carriers the <...igton> way or method of Reckoning has <very .. convenient to the sd Myners & Ore carryers most of them being illiterate men Declare your knowledge herein

12. Doe you know believe or have heard that the Def[endant]t att several times aswell before or since the Twelfth February One Thousand Six Hundred and <Seventy six> earnestly desired the Compl[ainan]t and Mr. John Parkhurst who pretended an Interest in one Moyety of the Lott Oare to <the some of the... Offi... take Pt .. his Lead> Mynes Demised to the Def[endant]t of all Oare there digged gotten and washed that the Lott Oare or ninth pt might be certainly knowne. Did the Def[endant]t by himselfe <or Agents> acquaint the sd Lord <Bpp now present> and his Officers that there <was noe won> to <.wenl> double the urgeing the Def[endant]t for the Lott Oare but by takeing

<Ac[ti]on about> wch the Def[endant]t would give his Assistance to the Compl[ainant]ts officers in takeing accompt of and that the same was according to the Def[endant]ts grant. And the Decree obtained <for the Def[endant]t> in the sd Compl[ainant]ts Chancery att Durham in the month of August One Thousand Six Hundred and Seventy Nine? Declare your <knowledge herein>

13. Did the Compl[ainant]t or his Agents take account att the Mynes or what other Method did he or his Agents take to charge the Def[endant]t with paymt of Lott Oare. Did the Compl[ainant]ts officers or Agents take accompt in the Common greate Roades and Highways where severall mens Oare were carried got in other Countyes and Liberties. In <... the ...> Oare what distance from the Def[endant]ts mynes were such Accompts taken? Were you employed and by whome to take such Accompt in the high ways <and and> from whome to take wuch accompt of the number <...> all horses that passed on the sd Roade and not to Inquire whether the same was oare or from whence it <so came How you> know Thomas Mowbray an officer to <take Acct> employed severall p[er]sons to <.... ...> horses that went through Wolsingham in the time of his absence & time of <his drunkenness. State your knowledge>

14. Doe you know believe or have heard that the Def[endant]t did let out or give order to his Agents to sett out quarterly or within forty dayes after every Quarter day the Lott Oare. Did you by the Def[endant]ts order sett out the same or see the same sett out. Did you acquaint the Compl[ainant]t or his Agents that the sd Lott Oare was soe <...tes> that they might take the same away to <p[re]vent> weighing the same by the <heading of full & after> was soe sett out. How long time was the Lott Ore soe sett out <.... ...> what reason did the Def[endant]t give over setting out the same as you have heard believe your knowledge.

15. Doe you know or have heard of any and what sum or sums of money paid by the Def[endant]t or his Order to the Compl[ainant]t or his Off[ice]rs aswell before <as ...> the Twelfth of February One Thousand Six Hundred Seveanty Six upon accompt of the Rents reserved one & payable upon the Def[endant]ts sd Grant for Three lives <Acconte... retyd> and to which officer or Officers by name of the Compl[ainant]t and such Sume or Sums paid or what other REckoning Agreement or Accompt How you know believe the <L.... and Def[endant]t>

16. Do you know or were you privy to or in anyway concerned in the managing of <all or any> the Def[endant]ts Lead Mynes in the said Two P[ar]ishes. Have you <bargained Compl[ainant]tsons> Mynes, Ore Carriage & Myners & Lead Carridge for the Carriage men <saith & of G..... What have you imploy> what doe you thinke is the best way to p[re]sent and quiet such complaints

17. Doe you know believe or have credibly heard that the Def[endant]t and his <p[re]decessor> Mooremasters have time out of mynd of man paid the Tenth part of all

Lead Oare gotten to the parson of Stanhopp for the time being theire lessee or Ten[an]t had the Bishop any Tythe or Interest to the Same or any other interest thereunto nine or to the whole being divided into Ten <equal parts> lead Oare gotten in the sd p[ar]ish. <And was sd> Lott Oare paid out of the Nineth solely and the Tenth pt always paid or <treated> for with the parson

18. <What> sum or sums of money doe you know <p[ai]d for the Tyth Oare and the Lott Oare yearly to the p[re]sent Bishopp or unto the p[ar]son of Stanhopp or to their <.....be by what> was the reason of such <Variations> and differences of the yearly Value of the said Tyth Oare as you believe or have credibly heard

19. Do you know or have heard what Tytle or <Right> John Parkhurst Esq & John Wycliffe Esq had or claime to have with <dues> Lott Oare from the Compl[ainant] by virtue of any deed in writing <in what date ... whereupon> the Sume about what time doth itt <beare> date & for what terme of years is itt made <after the ... d.> of the sd John Wycliffe <were Interd the Lese or .. ity> Do you or any other p[er]son or p[er]sons claime the said Lott OOare from the said John Wycliffe or John Parkhouse <....> And have you and <..> or any p[er]sons and who by name assigned and sett over or contracted to <Assigne) & sett over theire Tytle and Right in the <Lease to Mynes ofiter> or to some other p[er]son or p[er]sons and is not the same in Trust for him. In whome was the <Lease> of their Lott Oare att the time of <fyling> the Compl'ts Bill ag[ains]t th Def[endant]

20. Are you now or have you beene Employed by the Def't since the Twelfth of February One Thousand Six Hundred Seveanty Six in Carrying of Lead Oare aswell from the Def[endant]ts owne Mynes as alsoe his bought Oare in other Liberties (not belonging to the Compl[ainant]) to the said Smelt Mylls? Have you likewise in the said time beene employed <.....> other p[er]sons in carriage of their Oare on the same Roads or highway that the Def[endant]ts Oare was carried. Was it possible for the p[er]sons employed by the Compl[ainant] take Accompt of <....> the Oare of the <....> Carryers <to toward wch The Def[endant]t owne or the Def[endant]t ...ght Oare .. thed Oare wch the Def[endant]t was ... im..... of p[er]sons soe Imployd by the Compl[ainant] Agent Got the Oare have you carried the Same or recd itt p[.]s.....> for such p[er]sons <..... unpe..ned to number the horses full >

21. Do you know that the Def[endant]t for these Tenn yrs last past hath yearly smelte att some of his owne smelt mylls great quantity of lead oare wch belonged unto several owners of Lead Mynes at about Thirty shillings p Fother for smelting thereof into lead. And what Quantitys have you knowne yearly soe smelte of such oare wch did not att all belong to the Def[endant]t nor had noe interest in the lead when smelte

22. <..... .lls or thing> doe you know wch may <any manner of way be> Advantagious to the Def[endant]t. Declare your whole knowledge therein & what <ind..eth you see> to depose

Deposicons of Witnesses produced, Sworne & examined on the part of & behalf of Humphrey Wharton Esquire Defend[en]t to the Bill of Complaint of the right Reverend Father in God Nathanaell Lord Bpp[Bishop] of Durham Compl[ainan]t taken at the house of Hugh Jackson situate in Barnardcastle in the County of Durham the Eighth day of October in the year of our Lord One thousand Six hundred Eighty & Six A[nn]o que regni Regis Dui int Jacobi S[e]c[un]di nunc Angl[ii] & Sco[ttii] by John Crosby Richard Hilton and Ralph Gowland Gentlemen by virtue of his Maj[es]ties Commission issued out of the Court of Exchequer at Westminster to them & to Ralph Tonstall Gentleman or any three or two of them on that behalf directed.

8 Oct 1686 Thomas Richardson

Thomas Richardson of Crooked Oak in the County of Northumberland Yeoman aged fifty three years or thereabouts Sworne & examined Saith as followeth.

1: To the first Interrogatory the Depon[en]t Saith That he knows the parties Compl[ainan]t & Defend[en]t in this suit & the parishes of Stanhope & Wolsingham in this Interrogatory menconed & hath known them for Several years last past.

2: To the Second Interrogatory this Depon[en]t Saith That Several of the Defend[en]t's Groves & Lead Mines Viz. Kilhope head & others Lye distant from Darwin & Scotcheale Mills which are the Defend[en]ts Smelting Mills of their Leade Oar about fifteen or Sixteen Miles. & Some of the same Mines are Eight or Nine Miles distant from the nearest of the Defend[en]ts Smelting Mills And this Depon[en]t Saith That the Said Defend[en]t Mr Wharton by his Agents betwixt February in the year of our Lord One thousand Six hundred Seventy & Six until within the two years last past, bought Several quantities of Lead=Oar in Northumberland Cumberland & Yorkshire at Several Leadmines in the Said Several Counties none of which Lead-Mines are holden of the Said Compl[ainan]t; And this Depon[en]t Saith ~//~// that in that time he this Depon[en]t was imployed p[ar]ticularly to buy several quantities of Lead Oar in Northumberland by & for the Said Defend[en]t within the time aforesaid and this Depon[en]t hath paid One hundred pounds at a time for Lead Oar which in that time he bought in Northumberland & at Several times Several other Summes All which great quantities of Oar was mixt with Lead Oar which was wrought & gotten in the Defend[en]ts Mines in the p[ar]ish of Stanhope, And this Depon[en]t alsoe bought several great quantities of Cuttings or Sparr of Lead Oar which alsoe was mixt amongst the Said Defend[en]ts Lead Oar which was brought from Stanhope parish and

were Smelted at the Defend[en]ts Mill called Darwin Mill to make the Defend[en]ts own Oar run the better & without which the Defend[en]ts own Lead Oar gotten in Stanhope parish would not have smelted & run to that advantage: And this Depon[en]t Saith that for about fourteen years last past this Depon[en]t hath been employed as Agent & Servant for the Said Defend[an]t Humphrey Wharton at the Said Darwin Mill to & where this Depon[en]t did take an Account of all Oar that was brought to the Same Mill to Smelt, as well what quantities were brought from the Defend[en]ts Mines & Groves in Stanhope parish as the quantities bought att & brought in that time from Cumberland Yorkshire and Northumberland to mix with the Said Defend[en]ts Stanhope parish Lead Oar And this Depon[en]t Saith that it is very usuall & customary with Owners of Lead Mines to buy Several great quantities of Lead Oar at other Mines to mix with their own to make their own Smelt & run the better which hath been by experience found to be a very profitable & advantageous course.

9: To the Nineth Interrogatory this Depon[en]t Saith That the Defend[an]ts Oar in the parish of Stanhope Since the month of February In the Said year One thousand Six hundred Seventy & Six hath been usually worth betwixt Seventeen Shillings & Eighteen Shillings a Bing and each bing contains four horse Loads and the usuall weight is fourteen stone to each horse Load & oftentimes less weight & often times soe ill washed that the Agents of the Said Defend[en]t at his Mills are forced to wash the same over again; And the Defend[en]ts Oar brought to the Said Darwen Mill from the Said Stanhope parish betwixt the Said month of February of the year One thousand Six hundred Eighty & four was a very bad sort of Oar & p[ro]duced small quantities of Lead insomuch that the workmen or Miners that wrought & digged the Same at Soe much a Bing were forced to abate of their wages for bad washed Oar, And this Depon[en]t Saith that in that time he paid for Oar bought for the Defend[an]ts use at other Mines twenty four Shillings a Bing & two Shillings a Bing loading to the Said Darwen Mill which is three Shillings fourpence per Bing cheaper in carrying to the Said Darwen Mill, then some part of the Defend[an]ts own Stanhope parish Oar, & Sixteen pence less p[er] bing then the other got of the Same Stanhope parish Oar cost bringing to the Said Darwen Mill, And the said bought Oar was sixteen <Stone> & betwixt seven & ten pounds there to each horse Load.

11: To the Eleventh Interrogatory this Depon[en]t Saith That it is & hath been for fourteen or fifteen years last past to this Depon[en]ts knowledge the common practice & usage in Accounts stating & reckoning & marking betwixt the Defend[en]t or his Agents & the Miners & Oar Carriers as well for the bought Oar as for his own Oar on Tallies, And the Miners always keep the Stock or great part of the Tally and the Oar Carryers the other part; And the usuall way is upon Accounts Stating to have a day appointed betwixt them to that purpose & then they compare the Stock & Swatch of the the Tally together to See if they agree which if they doe then the Tally is broke after the Same was fitted & compared And the reason why the Same was broken was because both the Miners & Oare Carryers were paid upon Such Account the wages that were to

them severally due from the Said Defend[en]t, Which hath been the constant practice in that case since this Defend[en]t was concerned and he hath heard & been credibly informed that was always the common practice betwixt the said Miners & Oar Carriers Without which way or method of Tally keeping betwixt the Said Miners & Oar Carriers, this Depon[en]t believes many mistakes errors & differences & misreckonings would arise betwixt them they being most of them unlearned either to write or read.

13: To the thirteenth Interrogatory this Depon[en]t Saith That the usuall place where the Compl[ainan]ts Agents stood to take an account of what Oar came from the Defend[ent]s Stanhope parish Mines to the Said Darwen Mills was about a Mile off the Same Mill & distant from Some of the Same Mines about fourteen or fifteen miles, And this Depon[en]t hath seen Garthorne, John Hopper & others of the Said C[omplainan]ts Agents Standing at the place aforesaid, who informed this Depon[en]t that they stood there to take Such accompt of aforesaid; And this Depon[en]t saith That Several great quantities of bought Oar as well as the Defend[en]ts own Oar came by the same place where the Said Agents stood to the Said Darwen Mill And this Depon[en]t believes the Said C[omplainan]ts Said Agents took an Account of the Said bought Oar as the Defend[en]ts own Oar & not as bought Oar soe that by that Method noe Certain accounts could be given of what was due to the C[omplainan]t for his Said Lott Oar as this Depon[en]t conceived.

Thomas Richardson.

8 Oct 1686 John Grenesword

John Grenesword of Stanhope in the County of Durham Yeoman aged thirty seven years or thereabouts Sworne & examined Saith as followeth

8: To the eighth Interrogatory this Depon[en]t Saith That the Defend[an]ts Lead=Mines in the parish of Stanhope Some of them are distant from Some of his Smelt Mills fourteen Miles & Some More & Some lesse distant, And this Depon[en]t Saith that he very well knows that the Said Defend[an]t by severall of his Agents or Servants by him imployed to that purpose since February in the year One thousand Six [interlined above at this point: hundred], Seventy & Six Several times in Several years bought great quantities of Lead Oar In Westmorland Cumberland Yorkshire, the Countys of Durham & Northumberland which were carried to the Defend[an]ts Smelting Mills & there mixt with the Defend[an]ts own Lead:Oar gotten in the Said parish of Stanhope to make his own Oar run & smelt the better: And this Depon[en]t hath both carryd Such bought Lead=Oar to the Defend[an]ts Smelting Mills at Stanhope hope Mill & Darwen Mill & at the Said Severall Mills hath seen the Said bought Lead=Oar mixt & Smeled with the Said Defend[an]ts Lead Oar gott at his Mines in the Said parish of Stanhope, Which said Oar Soe bought by the Said Defend[an]t to mix with his own Lead=Oar as aforesaid and was soe bought at Several Mines in the Counties aforesaid where the

Said Comp[ainan]t was interested in or entitled unto [interlined above at this point : 'that this Depon[en]t' knows of hath heard or believes, And this Depon[en]t Saith That for above twenty years last past this Depon[en]t hath been concerned as a Lead=Oar Carryer both for the Defend[en]t & Severall other owners of Lead Mines And he knows that during all his time of Such imploym[en]t it hath been used & accustomed by Owners of Lead Mines to buy Severall great quantities of Lead Oar at other Mines to mix with the Lead Oar gott att their own Lead Mines the same was look[e]d upon to be an advantageous & p[ro]fitable course to make their own Lead=Oar Smelt to better & greater advantage & p[ro]duce greater quantities of Lead; And this Depon[en]t hath Severall times been employed to carry Such bought Lead Oar by Severall p[er]sons as well as the Defend[an]t to mix with their own Lead =Oar for the purposes & use aforesaid

11: To the Eleventh Interrogatory this Depon[en]t Saith That he hath known it the practice & Custome for twenty years last past & upwards both by the Defend[an]t & severall other Lead Mine Owners That they have reckoned & accounted with the Miners and Oar Carryers by Tally: And a day hath been always appointed for Stateing Accounts & reckoning betwixt the Said Lead Mine Owners & their Miners & Oar=Carriers & upon Such meeting & stating their Accounts for their Severall wages, the Miners P[ro]duced their Severall Stocks of what quantities of Lead Oar were wrought & sent from each Lead Mine to the Smelting Mill & the Oar:Carryrs kept the Swatch of Such quantities & upon Such Accounts Stateing they fitted and compared the Stock & Swatch of the Tally together & if they agreed then both Stock & Swatch were broken, And this Defend[an]t hath heard his father who was an ancient Oar Carryer Say that that was the ancient Custome betwixt the Miners & Oar Carriers And the reason why Such Tallies upon Such reckonings were broke was because the p[ar]ties were thereupon paid of what wages were to them respectively due from the Owners; And that being their ancient & onely Method of keeping their reckonings & accounts if the Same Should be altered & changed the Same in this Depon[en]ts Judgem[en]t would be very wrongful & mischievous & occasion many differences betwixt the Said Owners Miners & Oar:Carriers, the Miners & Oar=Carriers being usually unlearned & can neither write nor read.

13:20: To the thirteenth & twentieth Interrogatories this Depon[en]t Saith That he this Depon[en]t hath carried to all the Said three Smelting Mills belonging to the Said Defend[an]t twice or thrice each week to Some of the Same Mills or to Newcastle Severall quantities of Lead=Oar And this Depon[en]t hath observed in his carrying of Lead=Oar to the Said Scotcheal Mill that the Compl[ainan]ts Agents were sett & placed at Wolsingham & Frosterley the one place three Miles & the other one Mile distant from the same Mill to take an account of what Lead Oar the Defend[an]ts Carriers carried to the Same Mill, And this Defend[an]t Saith That Frosterley is two miles distant from the nearest of the Said Defend[an]ts Said Mines & ten Miles off the furthest Mines; And the usuall place for his Agents to take an account of what lead=Oar

was brought from the Said Mines to the Said Stanhope hope Mills was about a Mile or half a Mile Sometimes from the Same Mill & distant from the nearest of the Said Lead=Mines about four Miles & from the other Mines about eight Miles, And the usuall place for taking such accounts of the Oar that was carried to Darwen Mill was Sometimes a Mile other times halfe a Mile sometimes lesse from the Same Mill, & from the nearest of the Defend[an]ts Said Mines about five or Six Miles & from the furthest fourteen Miles or thereabouts. And this Depon[en]t saith That the Said Agents very rarely asked this Depon[en]t or the Oar-Carriers with him, What they were carrying Lead Oar or Chop wood? Nor to what place they were going, Nor from what place they came: And this Depon[en]t Saith That he & Severall others, about forty or fifty horses at a time Severall times went to Newcastle with Lead=Oar from Severall Mines not belonging to the Defend[an]t And in their returnes usually went by that place where the Pl[ain]t[iff]s Agent Stood to take an account of what Lead=Oar went to Darwen=Mill & Such Agent asked this Depon[en]t & his Company if they had been at Darwen Mill & went in the night, but they returned noe answer And Such Agent usually had penn Ink & paper, & this Depon[en]t verily believes Sett down Such Carriages as if they had gone from the Defend[an]ts Said Mines to the Said Mill; And this Depon[en]t saith that he hath heard that Thomas Mowbray one of the Pl[ain]t[iff]s Agents Severall times employed Severall p[er]sons to take an account of what number of Lead=Oar Horses went through Wolsingham And this Depon[en]t Saith That he this Depon[en]t & severall others often went through Wolsingham with their Lead=Oar to Newcastle when they carried from Mines belonging to other persons & not to the Defend[an]t And this Depon[en]t saith that the places where Such of the Pl[ain]t[iff]s Agents stood as aforesaid were Common & publick ways by which Lead=Oar was carried from other Mines besides the Defend[an]ts. And this Depon[en]t further Saith That he hath been employed as an Oar Carrier by the Defend[en]t both of his own Oar & of Such Oar as he bought as aforesaid & p[ar]ticularly within ten years last past & in that time hath been severall times employed to carry Lead=Oar for Severall other p[er]sons from their severall Mines on the same road or highway that the Defend[an]ts Lead=Oar was carried in to his Severall Smelt Mills And this Depon[en]t Saith in his Judgem[en]t it was not possible that the Said Compl[ainan]ts Said Agents could know which was the Defend[an]ts own Oar, which his bought Oar & which other men's Oar which did not belong to the Said Defend[an]t, And Such Agents very seldom ask't this Depon[en]t or his Company what they carried or from whence they brought or whither they carried their Load, Whether it was Lead Oar or not, And this Depon[en]t doth not know what other account Such Agents took of Such Carriages than by numbering Such Carriage horses

Signed John J Grenesword [possibly made mark with the 'J']

8 Oct 1686 Ralph Dakin

Ralph Dakin of Frosterley In the County of Durham BlackSmith aged forty years and upwards Sworne & examined saith as followeth

13: To the thirteenth Interrogatory this Depon[en]t saith That John Mowbray the younger of Low Bishopley employed this Depon[en]t to take an Account on the said Compl[ainan]ts behalfe & Mr Rookby's what horses came by this Depon[en]ts Shop in Frosterley, but this Depon[en]t had not direccons to enquire what such horses carried, whether Oar or other matters nor whence they came, or whither they went, And this Depon[en]t saith That many Lead Carriages came through Frosterley which this Depon[en]t took an account of Which for anything he knows went to Newcastle Lambton, Durham & severall other places being the high road from severall Lead Mines & Groves as well as from s[ai]d Defend[an]ts Mines in the parish of Stanhope

Ralph Dakin

8 Oct 1686 William Steward

William Steward of Stanhope in the County of Durham Oar Carrier aged fifty & eight years or thereabouts Sworne & examined saith as followeth

8: To the eighth Interrogatory this Depon[en]t saith that some of the Defend[an]ts Lead Mines doe lye distant from the said Defend[an]ts Smelt Mills fourteen or fifteen Miles & some of them are nearer hand, & the nearest Lead Mine is two miles & an halfe off the nearest mill, And this Depon[en]t saith That within these nine years last past the Defend[an]t did by his Agents buy severall quantities of Lead Oar in Cumberland, Westmorland, the County of Durham & Northumberland at such Lead Mines as did not belong to the said Compl[ainan]t, And this Depon[en]t & severall other p[er]sons were employed to carry the same Oar soe bought as aforesaid from the Mines where the same was bought to all the three Mills of Scotcheal, Stanhope hope & Darwen & there the same Oar was mixt at the said several Mills with the Oar of the Defend[an]t gotten in Stanhope Parish And this Depon[en]t and the severall Oare Carriers used to mix the same at the said Mills as they brought the same which made the Defend[an]ts own oar run and smelt the better & to greater advantage, Without which the Defend[an]ts own Oar being bad and his Groves poor which yielded little Oar would not run to any advantage without such mixture; And this Depon[en]t saith That he hath carried severall quantities of Lead Oar for Messrs Gray, Mr Errington & severall other p[er]sons as well as for the Defend[an]t & this Depon[en]t hath used that Imploym[en]t of an Oar Carrier for forty years or thereabouts & well knows that it is the constant use & practice amongst Owners of Lead Mines to buy Lead Oar at other mines & mix with their own Oar which hath been looked upon by such Owners & their

Agents about their Lead Works as a p[ro]fitable & advantageous way to make their own Lead Oar cast & p[ro]duce more Lead & work to greater advantage.

9: To the Ninth Interrogatory this Depon[en]t saith That the Lead Oar gott att the said Defend[an]ts Mines within these ten years last past hath been usually of the rate or price of Sixteen Shillings every Bing & each Bing contains four horse Loads & each horse Load of the same Lead Oar contains fourteen Stone; And this Depon[en]t saith that the Lead Oar gott in the Said Defend[an]ts mines since February in the year of our Lord One thousand Six hundred Seventy & Six was a very badd oar & p[ro]duced of it selfe without mixture as aforesaid very small quantity of Lead, And this Depon[en]t saith that he knows that the said Defend[an]t in that time bought severall quantities of Lead Oar at the places predeposed for twenty three shillings each bing & the Carriage thereof to the Defend[an]ts Smelting Mills cost four pence each horse Load & other quantities he bought at twenty four shillings per Bing which cost Eighteen pence or twenty pence the carriage unto the Said Mills. And each horse Load of such bought Oar weigh'd Sixteen stone; And the said Defend[an]t did offer & would have sold his own Oar when he had laid itt at his Mills at Eighteen Shillings & Twenty Shillings per Bing he being at the charges of the Carriage thereof to the said Mills And this Depon[en]t Saith That Mr Thoroughgood did buy some quantity of the Defend[an]ts own Oar but finding it very bad would not buy any more thereof altho' it was offered him by the Defend[an]ts Agents at Eighteen Shillings & twenty Shillings per Bing as aforesaid; And the Said Defend[an]t hath great quantities thereof lying at Scotcheal Mills which by reason of the badness thereof he cannot sell nor use. And this Depon[en]t Saith That some of it was soe bad it was laid by it selfe without mixing or smelting thereof; And this Depon[en]t hath heard that this Defend[an]t sent over the sea severall quantities of his own Lead Oar which was not good & vendible & for the the Defend[an]t lost by itt & sent noe more.

11: To the Eleventh Interrogatory this Depon[en]t Saith That it's the com[m]on practice & usage betwixt the Defend[an]t & his Miners & Oar Carriers as alsoe with other Owners of Lead mines to reckon & account with their Miners & Owners by Tally at a day usually Sett & agreed on for that purpose; And the Miners keep the Stock & the Oar Carriers the Swatch of the Same Tally & every Oar carriers name is Sett upon his Stock. And upon such reckonings they doe compare the Stock & Swatch together & if they doe agree then both Stock & Swatch are broken. The Miners & Oar Carriers being then paid off. And this Depon[en]t Saith that he knows of his own knowledge that that hath been the com[m]on practice for forty years or thereabouts betwixt several other Owners of Lead Mines & their Miners & Oar Carriers as well as by the Defend[an]t & his Miners & Oar Carriers. And this Depon[en]t hath been informed by old Oar carriery that that was the ancient practice in and about Lead Mines. And this Depon[en]t Saith That generally the Miners & Oar Carriers can neither write nor read & they have noe other way of keeping their Accounts & if this Method & course of

accounting should be altered it would occasion much differences betwixt the Owners Miners & Oar Carriers.

13:20 To the thirteenth & twentieth Interrogatories this Depon[en]t Saith That he hath within ten years last past been employed as an Oar Carrier to Newcastle & Lambton for other p[er]sons then the Defend[an]t out of Cumberland & other places where the said Compl[ainant] was not interested & their usuall ways to Newcastle was within half a mile of the Stanhope hope Mill & a mile & an half off Darwen Mill & through Frosterley & Wolsingham; And this Depon[en]t hath oftentimes observed when he & his Company were carrying in Such Lead Oar to Newcastle or Lambton with Sometimes twenty, other times thirty horses loaden with Oar, that Anthony Garthorne John Ward & Thomas Cornforth were at severall times imployed as Keakers or Agents under the Pl[ain]tiff or Mr Rookby to stand in the said road near Darwen Mill to take an Account of what horse Loads of Oar were carried on there by the Defend[an]t & they would have askt this Depon[en]t & his Company if they had been with Oar at Darwen Mill when they had been returning from Newcastle; And this Depon[en]t & his Company would return them noe Answer. Yet this Depon[en]t hath seen Garthorne take out his book & he believes sett down their number of horses as if they had carried the Defend[an]ts Lead Oar to the Said Darwen Mill: And when this Depon[en]t and his Company used to drive by Frosterley Margaret Sanders was imployed there to take an Account for the said Compl[ainant] who never questioned what the Depon[en]t & his Company carried nor from where they came or whither they went. And Sometimes a boy was placed there & this Depon[en]t believes it was their com[m]on method to number all Such horses as came that way loaden for the Defend[an]ts Oar Carriers to his said Mills altho' they both carried these ways for severall p[er]sons to severall other places than the Defend[an]ts Mills as alsoe Oar bought by the Defend[an]t at other Mines as aforesaid And in this Depon[en]ts Judgem[en]t it was impossible for the Plts [PLaintiffs] Keakers or Agents in the Said Com[m]on Roads to take an Account which was the Defend[an]ts own oar, which his bought oar & which was the oar of other p[er]sons which the Defend[an]t was not concerned in. And their usual Method was only to number the horses that passed on these roade without asking what they carried whence they came or whither they went with their Loads

17: To the Seventeenth Interrogatory this Depon[en]t saith That he knows of his own knowledge that for about forty years last past the Defend[an]t & his predecessors Moor Masters have during that time paid the tenth part of all Lead Oar gotten in the Defend[an]ts Said Lead Mines unto the Parson of Stanhope for the time being or their Farmers or Tenants in which the Bpp [Bishop] of Durham for the time being had noe interest, he being only entituled to the Ninth part in ten p[art]ts to be divided and the Lott Oar always during that time was paid out of the Nine parts only And the tenth part due to the said Parson was by him to the said Moormaster for the time being usually lett to farm, And this Depon[en]t has heard that that was the custom & practice beyond memory

signed

Willi Steward [his mark:] +

8 Oct 1686 Godfrey Miers

Godfrey Miers of Rookhope in the County of Durham Yeoman aged twenty five years or thereabouts Sworne & examined saith as followeth.

8: To the eighth Interrogatory this Depon[en]t Saith That he knows that Some of the Defend[an]ts Lead Mines are distant from the nearest of his Smelting Mills about Sixteen Miles & other nigher; And this Depon[en]t and his Father before & Since February in the year of our Lord One thousand Six hundred Seventy & Six have been imployed as Agents under the Defend[an]t about his Lead Mines in the parish of Stanhope: And from that time hitherto yearly the Defend[an]t by his Agents & Servants bought Several great quantities of Lead Oar in Westmorland Cumberland Yorkshire, the County of Durham and Northumberland at Several Mines & of Several Owners thereof or their Agents, which Mines the Said Compl[ainant] was noe way interested in. And this Depon[en]t took in from the Miners of the Mines where Such Oar was brought & from the Carriers thereof the Tallies of what quantities of Lead Oar was Soe bought [interlined above at this point : by the Said Def[endant]ts Serv[an]ts or Agents And this Depon[en]t Saith that the Said Lead Oare Soe bought] & brought from the places aforesaid were carried to the Def[endant]ts Smelting Mills at Darwen Stanhope hope & Scotcheale & there this Depon[en]t hath seen the Same mix'd with the said Defend[an]ts own Oar & Smelted therewith to make the Same run better & p[ro]duce & afford more Lead. And this Depon[en]t Saith That for about fourteen years last past this Depon[en]t knows that that hath Been the Com[m]on practice & usage in that time by the Said Defend[an]t & his Servants. And he hath heard that that is the com[m]on practice & use by other Owners of Lead Mines which is looked upon as an advantageous & profitable way to make their own Lead Oar yield & produce the more & greater quantity of Lead.

9: To the Ninth Interrogatory this Depon[en]t Saith That the usuall price of the Defend[an]ts Oar gott in his Said Mines Since February in the Said year One thousand Six hundred Seventy & Six hath been twenty shillings a Bing or thereabouts and each Bing contained four horse Loads & each horse Load fourteen Stone. And this Depon[en]t Saith That much of the Defend[an]ts Oar gott in his Said Mines since that time hitherto hath been bad Oar & afforded but Small & inconsiderable quantities of Lead. And this Depon[en]t hath in that time known the Defend[an]ts Agents buy yearly Several quantities of good Oar at the places aforesaid for two & twenty or three & twenty shillings a Bing Load & the weight thereof Some of it above Sixteen Stone to each horse Load & the Carriage of what they bought in the County of Durham cost only four pence an horse Load to the Said Mills.

10. To the tenth Interrogatory this Depon[en]t Saith That there hath been during all his remembrance severall heapes of old wrought Oar at the Defend[an]ts Mine & Groves & severall heapes of Oar are now lying there that were old wrought & as he believes in John late Lord Bpp [Bishop] of Durham's time & the Vacancy of the See of Durham after his death. And this Depon[en]t very well knows that Severall great quantities of Oar have been yearly gotten out of the Said Old heapes wrought in the Said late Bpp's [Bishop's] time & in the Said Vacancy & the Same yearly Sent to the Defend[an]ts Smelting Mills within these ten years last past. And this Depon[en]t Saith that about the month of February in the year of our Lord One thousand Six hundred Seventy & Six there were Severall great quantities of Oar Some p[ar]t thereof washed & other p[ar]t thereof unwashed lying at the said defend[an]ts Mines (over & besides the oar in the Said old heapes) And this Depon[en]t saith that he hath been employed for about fourteen years last past by his father (who was servant to the Defend[an]t) to goe to & amongst the Defend[an]ts Groves & Mines weekly Sometimes monthly to take an Account of what quantities of Oar were digged & gotten there. And this Depon[en]t in all that time neither See nor heard that any Agent was employed by the Plt [Plaintiff] to take any Account of what quantities of Oar were cast & wrought at any of the Said Mines and Groves.

11. To the Eleventh Interrogatory this Depon[en]t Saith That he hath known it to be the com[m]on practice about the Defend[an]ts Mines & work That the Miners & Oarcarryers keep an Account by Tally of what quantities of Oar are wrought at the Defend[an]ts Mines & what are bought by him at the places aforesaid. And When they are to reckon & State their Accounts thereabout the Miners bring the Stock & the Oarcarryers the Swatch of the Tally & compare them together & if they agree then both Stock & Swatch are broken, the Miners and Oarcarryers being thereupon paid off what wages are due to them respectively, Which this Depon[en]t hath heard by ancient men to have been the Custome of accounting betwixt Miners & Oarcarryers ever Since there were Mines wrought in Weardale in the Said parish of Stanhope, which is their only method, they being generally unlearned & can not write nor read, the alteration whereof in this Depon[en]ts Judgem[en]t would occasion many differences amongst them and misreckonings.

13: To the thirteenth Interrogatory this Depon[en]t Saith That he hath Severall times Seen Mowbray & John Sanders the Plts [Plaintiffs] Agents Stand in the High road where Severall Mens Oars (& other Carriages) gott in other Mines where the Plt [Plaintiff] is not concerned as well as Such as were gott in the Defend[an]ts Mines, & there Sett down Such horses as past that way as the Oarcarriers for the Defend[an]t as this Depon[en]t believes, whereas many times such p[er]sons carried Oar that way for other p[er]sons then the Defend[an]t to Newcastle about Hexham & other places without the Said Agents asking What they carried, Whence they came or where they went as this Depon[en]t believes.

Godfrey Myres

8 Oct 1686 George Wren

George Wren of Wolsingham in the County of Durham Cordwainer aged thirty & five years or thereabouts Sworne & examined Saith as followeth.

13: To the thirteenth Interrogatory this Depon[en]t Saith That since May day gone a twelve month Thomas Mowbray one of the Plts [Plaintiffs] Agents employed to take an account for the compl[ainan]t of Such Oar belonging to the Defend[an]t as is brought that way to Scotcheale Mill hath lived in the back part of the house wherein this Depon[en]t lives. And this Depon[en]t Saith That he knows & hath observed during that time the method of Mowbray's taking Such account to be Sometimes but very rarely by him selfe he being employed about other business in working & helping the Smith of Wolsingham to make horse Shoes & other Smiths work there most p[ar]t of the day, & alsoe employed in harvest time in harvest work & sometimes goeth abroad to draw bills bonds & other things & is a man very much given to drink & very often at the Alehouse drinking And in the Said Mowbray's absence Sometimes his wife & Sometimes his Son about Seven years of age stand at the fore door near this Depon[en]t's Shop to take Such account as aforesaid And many times this Depon[en]t hath observed Coal-horses come by that way in a Drove amongst Oar Carryers horses and if his wife were absent then the Son called to his mother that Soe many horses were gone by with Oar when usually the most of them were Coal-horses. And often times the horses were gone beyond her fifty or sixty yards before she came to take any account thereof. And at night when Mowbray himselfe came home his Son or wife used to give him an account of what horses passed by the door loaden and he Sett them all down as the Defend[an]ts Oar=horses, altho' they were very often most of them Cole horses, And this Depon[en]t Saith that after such loaden horses passed by this Depon[en]ts door as aforesaid the Same horses might goe to other places & not to the Defend[an]ts Smelt Mills , it being the Com[m]on road for Oar-Carryers for Several p[er]sons owners of Lead Mines for to carry their Oar that way to Newcastle & other places

Signed George Wren

8 Oct 1686 Ralph Dixon

Ralph Dixon of Wolsingham in the County of Durham Blacksmith aged forty & Six or thereabouts Sworne & examined Saith as followeth.

8: To the Eighth Interrogatory this Depon[en]t Saith That he doth know that the Said Defend[an]t bought Several quantities of Lead Oar at Lunehead in Yorkshire & in Austinmoor in Cumberland where the Plt [Plaintiff] was noe way interested since

February in the year One thousand Six hundred Seventy & Six which were brought to the Said Defend[an]ts Mills & the same bought Oar this Depon[en]t hath seen mixed with the Defend[an]ts own Oar, And this Depon[en]t was employed as a Smelter & Smith about all the said Mills for about fourteen years last past & in that time hath helped to mix the Said bought Oar at the Said Mills with the Defend[an]ts own Oar & there helped & see them Smelte together which made the Defend[an]ts Oar Smelt & run to a great advantage. And this Depon[en]t Saith That it is the usuall method & course amongst Owners of Lead Mines to buy Oar at other Mines & mix the Same with the Oar of their own Mines which by com[m]on experience is & hath been found to be very advantageous & to p[ro]duce more Lead than their Own Oar would doe without such mixture.

11: To the Eleventh Interrogatory this Depon[en]t Saith That for above twenty years since he knows it to have been the constant & usuall practice of the Defend[an]t & other Owners of Lead Mines to account with their Miners & Oar-Carryers by Tally; And they appoint always a day of reckoning when the Owners or their Servants & the Miners & Oar-Carryers are all present & the Miners p[ro]duce the Stock & the Oar Carriers the Swatch of the Tallies & the name of the Grove & Oar-Carryers is sett upon the Stocks. And then they compare the Same together & if they agree the Tally is broken because the Miners and Oar-Carryers are thereupon paid off their wages. And this Depon[en]t hath been often present at Such reckonings & Seen Tallies broken upon the account aforesaid. And this Depon[en]t hath been credibly informed that that was the ancient practice amongst them beyond all memory. And this Depon[en]t Saith That if if that Method or reckoning Should be altered, it would occasion many Errors mistakes & Differences amongst the Miners & Oar Carriers they being for the most part illiterate in this Depon[en]ts Judgm[en]t.

13. To the thirteenth Interrogatory this Depon[en]t Saith That Thomas Mowbray (the Plts [Plaintiffs] Agent employed to take an account of what Lead Oar went to Scotcheale Mill from the Defend[an]ts Mines) is a man very much given to drink & often in the Alehouse drinking & often absent drawing Bills bonds & other writings, & sometimes working at the Smith's Shopp, & at other times at other places, & cannot possibly (as this Depon[en]t conceives) take at Wolsingham (the place appointed him for the purpose aforesaid) an exact account of what Oar-horses goe through Wolsingham belonging to the Defend[an]t or are brought from his Mines the Same being a com[m]on road for Coal-horses, & for Oar-Carriers for Severall other p[er]sons to Newcastle & other places, And this Depon[en]t Saith That the Said Mowbray Severall times hath come to this Depon[en]ts shopp & asked him & his Servants what Oar-horses had passed by this & that time; and this Depon[en]t & his Serv[an]ts would often have told the Said Mowbray twenty or thirty or such number of Oar horses had lately passed by when not one Oar-horse went by; And this Depon[en]t verily believes that the Said Mowbray upon such Informac[i]on Sett down Such number of Oar-horses to the Defend[an]ts account & as his Oar-horses that came from his Mines & were

carried to his Mills; And this Depon[en]t Saith That he hath Seen the Said Mowbray Sett down Sixteen Oar-horses as the Defend[an]ts when there was but twelve horses, & this Depon[en]t reproved him for doing that wrong, & he answered this Depon[en]t that it was nothing to him or to that effect. And in his absence he employs his wife & Children, And this Depon[en]t Saith he knows that That Several great quantities of Oar are carried through Wolsingham to the Said Scotcheal-Mill which doe not come from the Mines farmed by the Said Defend[an]t as p[ar]ticularly from Lunehead, Dufton, Austenmore, & other places.

Ralph Dixon

8 Oct 1686 William Emerson

William Emerson of Wolsingham in the County of Durham Oar=Carryer aged thirty five years or thereabouts Sworne & examined Saith as followeth

8: To the eighth Interrogatory this Depon[en]t Saith That he hath been an Oar=Carryer for about twelve years, and a Smelter att Scotcheal Mill for four years for the Defend[an]t ending in February last And about four years Since this Depon[en]t brought as an Oarcarryer for the Said Defend[an]t Several quantities of Lead Oar to the Same Mill Which Oar the Defend[an]t bought in Cumberland out of the Plts [Plaintiffs] liberties, & at the Same Mill, the Same was mixt wrought & Smelted by this Depon[en]t & others to make the Defend[an]ts own Oar runn the better. And this Depon[en]t Saith it is usuall with Owners of Lead Mines to buy Oar at forreign Mines & mix & Smelt the Same with their own Oar, which is found advantageous & makes their own Oar produce more lead, And this Depon[en]t Saith whilst he was a Smelter they found by experience When a quantity of their Lead Oar was mixt it produced five Piggs Whereas the Same quantity unmixt would not produce above two Piggs of Lead.

13:20 To the thirteenth & twentieth Interrogatories this Depon[en]t Saith That he was employed as an Oar Carryer for Sir William Blackett for the Sum[m]er gone six years, & in that time oftentimes Sir William's & the Defend[an]t's Oar=Carriers mett & drove their horses together , and the Agent that Stood to take an Account for the Plt [Plaintiff] of what Oar the Defend[an]t carryed to Darwen Mill this Depon[en]t believes did number Sir William's horses for the Defend[an]ts for that Such Agent Stood on a hill a litle distant from the com[m]on road & could not distinguish which was which, & oftentimes there were above a hundred horses in one of these Drifts, And this Depon[en]t Saith that he hath lived at Wolsingham for three years last past & now doth in the Same house with Thomas Mowbray (the Plts [Plaintiffs] Agent to take an account of what Lead Oar of the Defend[an]ts went that way to Scotcheal Mill and he knows that in Mowbray's absence which was very often his son about four years of age Stood at the door & when horses came by called to his mother that the Oar=horses were gone by & this Depon[en]t hath often been present at Such times & lookt after the Said

horses & Saith there were many times more Coal=horses than Oar=horses in Such Drifts Which this Depon[en]t believes were all sett down as the Defend[an]ts Oar horses from his Mines And he Saith that since February in the year One thousand Six hundred Seventy & Six this Depon[en]t hath been employed at Severall times in Severall years in that time as an Oar=Carrier under Sir William Blackett & at other times for the Defend[an]t, and Severall times carried bought Oar for the Defend[an]t to his Mills & Severall times his own Oar. And the Plts [Plaintiffs] Agents aforesaid did not enquire of this Depon[en]t or his company who they belonged to whence they came or where they went nor took any other Account as this Depon[en]t believes Save the numbering of the Said Drifts of horses

William Emerson

8 Oct 1686 Matthew Armstrong

Mathew Armstrong of Wolsingham in the county of Durham Oar carrier aged one and forty years or thereabouts Sworne and examined Saith as followeth

13.20 To the thirteenth & twentieth Interrogatories this Depont. Saith that he hath been several times drinking with Thomas Mowbray the Pl[ain]tiff's Agent to take an Account of what Oar was carried through Wolsingham from the the Pl[ain]tiff's Mines to his mills And many times whilst they have been drinking together loaden horses have passed by, and this Depont. did at Such times bid him look out and take an Account of what Oar horses passed by, he said what need him for he could count them as they came back; And this Depont. Saith that oftentimes the Oar:carriers will carry through Wolsingham towards Scotsheal Mills empty horses & then bring all their horses loaden back with coales; And this Depont. Saith that he this Depont. hath driven that way & through Wolsingham towards the Said Mill seven & twenty horses when only fourteen or thereabouts were loaden with Oar & then loaded most of them back with coales Soe that by that Method the Said Mowbray would take noe exact Account in this Depont.s Judgem't of what number of Oar horses came from the Defend[an]t's Mines to his Mills for the reason aforesaid for that the Said Mowbray did not question When[ce?] Such horses came. Whither they went. Nor what they carried. And this Depont. Hath carried Lead Oar from Alston Moor through Wolsingham to Newcastle for other persons that the Def[endant]t. And the said Mowbray informed this Depont. that in his absence his wife Supplied his place in taking Such Account as aforesaid. And this Depont. Saith that the Said Mowbray did enquire of this Depont when he was loading his horses in Wolsingham if he was going to the Def[endant]t's mines and this Depont. informed him noe, thereupon he swore, this Depont. was going to the Def[endant]t's Mills And this Depont. believes he sett These number of horses to the Def[endant]t's Account when in truth they did belong to merchants in Newcastle to whom this Same was Carried by this Depont. at that time.

Mathew Armstrong

8 Oct 1686 Christopher Lunn

Christopher Lun of Allisheehouse in the county of Durham Oar carrier aged sixty years or thereabouts Sworne & examined Saith as followeth

8: To the eighth Interrogatory this Depont. Saith that he knows the Pl[ain]t[iff']s Mines & that some of them are distant from his Mills fourteen Miles & above, And this Depont. Saith that several years Since the twelfth day of February in the yr One thousand Six hundred seventy & Six the Def[endant]t hath bought several quantities of Lead=Oar in Westmorland, Cumberland & several other places & carried the Same to his Lead Mills at Darwen, Scotsheale & Stanhope hope, & there mixed & smelte the Same with his own Oar at his Said Mills, and this Depont. help'd to carry & mix the Same. And this Depont. Saith that without Such mixture the Def[endant]t's Oar would not have p[ro]duced & afforded Such great quantities of Lead, And this Depont. Saith that he hath been an Oar carrier for thirty years. past & upwards. & he well knows it is the common system for Owners of Lead Mines to buy Oar at other Mines & mix with their own Lead=Oar. Which they always find to be very advantageous in making their own more fruitfull & p[ro]ductive.

11: To the eleventh Interrogatory this Depont. Saith that he hath been employed for about thirty years last past generally in the Said Def[endant]t's work & at other mines for other persons & the usuall method of working betwixt the Def[endant]t & other Owners of Lead Mines & their Miner & Oar=carryers hath been by Tally; And the Miners keep the Stock & the Oar=Carryrs the Swatch. Upon their reckoning days they compare these, & if they agree then they break them, the Owners paying them of their wages thereupon, And this hath been always the method during this Depont.s remembrance & without Such method in his Judgem't great differences & mistakes would arise betwixt the Miners & Oar=Carriers, they generally Neither being learned to write nor read.

13:20 To the thirteenth & twentieth Interrogatories this Depont. Saith that the Def[endant]t Keakers [sic] usually stood two Miles or one Mile, or at Such distance from the Def[endant]t's Mills to take an account of what Oar was carried to the Same Mills in the public road where other Oar=horses as well as the Def[endant]t's were driven & in which roads the Def[endant]ts Oar=horses with bought Oar as well as the Oar that was wrought at his own Mines & Oar of Several other [persons?] are driven & Such Keakers [sic] or Agents did not ask this Depont. or his company, what they carried, where they came, nor whither they went and their onely method of taking account this Depont. believes was onely by remembering the horses where they came by them

Chr: Lunn.

8 Oct 1686 Robert Wharton

[Note: Robert Wharton was Humphrey's son.]

Robert Wharton of Gilling in the County of York Esq[uire] aged thirty Eight years or thereabouts sworne and examined Saith as followeth

1: To the first Interrogatory this Depon[en]t Saith That he knows the Compl[ainant]t and hath known him these twenty years & by p[ar]ticular acquaintance about twelve years, & the Defend[an]t Humphrey [inserted above this point: 'Wharton'], & hath known the [inserted above this point: 'said'] two parishes in this Interrogatory menc[ti]oned ever Since April in the year One thousand Six hundred Sixty & Nine.

2: To the Second Interrogatory this Depon[en]t Saith That he was present at the Sealing of the Grant for three Lives dated in April One thousand Six hundred & Seventy granted by the late Bpp[Bishop] of Durham D[o]c[t]or John Cosyns unto the Defend[an]t Humphrey Wharton esq[uire] the office of Moor=Master & other matters thereby granted. But as to the matters & things the D[ocu]m[en]t therein contained this Depon[en]t for his greater certainty refers himself thereto.

3: To the third Interrogatory this Depon[en]t Saith That about the month of September in the One thousand Six hundred seventy & five Captain Fetherston Under colour of some Grant from Barbara Sanderson or William Hall did enter by himself & workmen on severall places in a great Inclosure called the Billing near Stanhope & did there gain & winn Several quantities of Lead=Oar & Sold the same or a great part thereof as the Said Mr Fetherston told this Depon[en]t unto one Mr Smith a merchant of Newcastle at two & twenty shillings per Bing for Potters=Oar in the year One thousand Six hundred Seventy & Six, that he continued working them till about the year One thousand Six hundred Seventy & Eight when the Mines in the Billing grew poor. In the months of April or May in the year One thousand Six hundred Seventy & Nine or thereabouts Sir William Blackett the Elder did enter on the Said Mines in the Billing by colour of a new Grant from the p[re]sent B[isho]pp of Durham now Compl[ainant]t made unto Barbara Sanderson in September in the year One thousand Six hundred Seventy & Eight on the Surrender of William Hall's old Grant And the Said Sir William Blackett did enter by his workmen in the beginning of the year One thousand Six hundred Seventy & Nine on Several other Lead Mines in Stanhope parish p[ar]ticularly on Newlandsie this Depon[en]t going thither about April or May in the Year One thousand Six hundred Seventy & Nine & gave a discharge on the Defend[an]t Wharton's behalf & by his order or directions to the workmen from working there, & he saw there considerable quantities of Lead Oar lying there both washt & unwasht, which were carryed afterwards away for the use & benefit of the Said Sir William Blackett, And this

Depon[en]t Saith That he verily believes that the Compl[ainant]s making that Lease to Barbara Sanderson about September, One thousand Six hundred Seventy & eight hath been above two hundred pounds per Annum losse to the Defend[an]t Since that time, it hindering the Defend[an]t & workmen from adventuring to work in many Mines in Stanhope parish.

4. To the fourth Interrogatory this Depon[en]t Saith That the Defend[an]t Humphrey Wharton was farmer to the last Bpp[Bishop] of Durham of the Lott Oar in question at Sixty pounds p[er] Annum, and the Defend[an]t & Mr John Howe were farmers of the Lott Oar in the vacancy of the Said B[isho]pprick unto his late Maj[es]ty at Sixty pounds p[er] Annum, And further this Depon[en]t Saith that the Defend[an]t Humphrey by his presence did offer unto the present B[isho]pp of Durham the Compl[ainant] Sixty pounds p[er] Annum in the month of October or November in the year One thousand and Six hundred Seventy & four for the Said Lott=Oar.

5. To the Fifth Interrogatory this Depon[en]t Saith That he hath been frequently told by the Lord Marquess of Winchester That he did in the month of August in the year One thousand Six hundred Seventy & Six make an Agreem[en]t (on the behalf of the Said Humphrey Wharton Esq[uire]) with the now Compl[ainant] for the Lott=Oar of Stanhope & Wolsingham parishes during his being B[isho]pp of Durham, viz four hundred pounds for the arrears & Fine for the Lott <vizt> Sixty pounds [deleted or obscured] for the time to come , and that his Lord[shi]pp the B[isho]pp of Durham was to pay One hundred pounds to Mr Parkhurst & one hundred pounds to Mr Wycliffe for their interest he had made them therein, And this Depon[en]t doth verily believe that the Defend[an]t Humphrey Wharton's Agents did tender the four hundred pounds & interest in four months or thereabouts at the B[isho]pp of Durhams Exchequer in Durham & gave his Auditor & other officers concerned for him in receipt of his money notice of the money being there ready to be received by them if they pleased.

6. To the Sixth Interrogatory this Depon[en]t Saith That he hath heard Mr John Wycliffe dec[ease]d & Mr John Parkhurst declare this right of the Lott=Oar of Stanhope & Wolsingham Parishes was invested in them from the now Compl[ainant], And this Depon[en]t hath been present at some meetings with them for the accommodating the matter of the Lott=Oar payable from the Defend[an]t Humphrey Wharton And this Depon[en]t further saith he hath seen the Counterpart of the Grant Signed by the Said Wycliffe & Parkhurst in the hands of Mr Arden the now Compl[ainant]s Steward about the month of June in the year One thousand Six hundred & Eighty one & Since in the hands of the now Compl[ainant] and by the order & appointment of the now Compl[ainant] a Copy of the Said Grant was given to this Depon[en]t by Robert Dormer Esq[uire] the now Compl[ainant]s Attorney Generall at his Chamber in Lincoln's Inn about the month of June in the year One thousand Six hundred Eighty & one which is also [inserted above at this point: 'now'] p[ro]duced to this Depon[en]t at

his Examination & as to the matters therein contained he referrs himself Whereby as this Depon[en]t conceives & understands the interest of the Lott=Oar was invested in Wycliffe & Parkhurst & Since that time viz. Three or four years agoe he hath heard the now Compl[ainan]t affirm that he bought Parkhursts Interest out and that Mr John Wycliffe Son of the late John Wycliffe stands seised of the other halfe.

7: To the Seventh Interrogatory this Depon[en]t Saith That about nine years agoe the Compl[ainan]t in the name of Robert Dorner Esq[uire] his Attorney Generall did file an Information in his Chancery Court at Durham against the Defend[an]t for the Said Lott=Oar And thereupon in or about August or September in the year of our Lord One thousand and Six hundred Seventy & Nine a Decree was for an Account to be Stated by the Register of the Same Court, and that the Compl[ainan]t might have liberty to have an officer attend at the Mines Soe that Such Officer did not disturb the working of the Mines & for more certainty this Depon[en]t refers himselfe to the Said Decree, and this Depon[en]t Saith That Since that time on Several examinations of many Witnesses there was a Speciall Report made by the Said Register unto the Chancellor Sir John Otway unto Which Exceptions being taken by the then & now Defend[an]t it was argued by December in the year One thousand and Six hundred & Eighty & four before the Said Chancellor at Grays Inn where the process being read & [2-4 words illegible] both sides it was referred unto a Tryall at Common Law & the issue was to try The quantity & value of the Lead Oar gotten in Stanhope & Wolsingham parishes in that time which was accordingly had about the month of March following at Durham where the Depon[en]t was present and examined on oath, after a long examination of Witnesses on both Sides the verdict was for the then & now Compl[ainan]t for two hundred & ten pounds for the Lott=Oar from the twentieth of November in the year One thousand and Six hundred Seventy & four till February the twelfth in the year One thousand Six hundred Seventy & Six, and accordingly Sir John Otway the Chancellor made a Decree or Generall order & gave the Defend[an]t Seven months to pay that Summe unto the Compl[ainan]t which was accordingly paid unto the Said Compl[ainan]ts Order Unto which Several proceedings in the Same Courts this Depon[en]t referrs himself to the Record Entries thereof.

8.9.10 To the Eighth Nineth & tenth Interrogatories this Depon[en]t Saith That the Defend[an]ts Lead=Mines in Stanhope & Wolsingham p[ar]ishes lye at a great distance from his Smelting Mills Vizt. Some of them fifteen, Sixteen, twelve, Eight & Six, and four miles is the nearest to the best of this Depon[en]ts knowledge, And this Depon[en]t Saith That the weight of the Defend[an]ts own oar in Stanhope parish is but fourteen Stone to the horse Load & and fifty Six Stone to the Bing, Whereas all the Oar in adjacent Lord[shi]pps & counties is Sixteen Stone to the horse Load, & and Some of them Sixteen Stones & ten pounds weight, & to the Bing Load Sixty Stone & Some Sixty two Stone, Soe that the Defend[an]ts own oar being Weardale weight is but worth twenty Shillings generally at most as this Depon[en]t believes, and is inclined the rather to believe Soe for that the now Compl[ainan]t in his Grant to Barbara Sanderson

in September in the year One thousand Six hundred Seventy & Eight doth reserve to himself for the Lott=Oar or twenty Shillings per Bing for every Bing that falls due to his Lord[shi]pp for that reservation, and the Defend[an]t by his Agents hath bought Severall quantities at twenty four Shillings the Bing Load at Sixteen Stone & ten pounds to the horse Load betwixt that time & the exhibiting of the Now Compl[ainan]ts Bill & had it carried to his Lead=Mill for Sixpence the horse Load, whereas most of his own oar of Stanhope parish costs thirteen pence & fourteen, fifteen & Sixteen pence the horse Load for Carriage, And this Defend[an]t further Saith the time in these Interrogatories mentioned this Depon[en]t bought Severall quantities of Lead=Oar in Yorkshire Westmorland & Cumberland, at one time three or four hundred Bings, and it was & is usuall for the Defend[an]t & most of the owners of Lead=Mills to buy great quantities of Lead Oar out of different Lord[shi]pps & Counties for that it's found by common experience that the mixing of different Sorts of Oare in the fire makes a greater p[ro]duct of Lead in the Same time & of the Same weight of Oare, Sometimes it p[ro]duces a third part more, Sometimes double as this Depon[en]t knows by his experience ; And this Depon[en]t Saith that Since the twelfth of February in the year One thousand Six hundred Seventy & Six, he this Depon[en]t hath Severall times offered to sell the Lead Oar gott out of the Mines in question at Sixteen, Seventeen or Eighteen Shillings the Bing, but none would give these rates, it being not Such good Oar as other Oar; it being an hard Oar & costs more money in Smelting itt, then the value of the Lead yielded by that Oar And this Depon[en]t Saith that at most of the Defend[an]ts Mines in Stanhope & Wolsingham parishes there were & are great quantities of Old= heapes of Sparr Stone & rubbish & Some Oar in them which was got before February in the year One thousand Six hundred Seventy & Six out of which great quantities may be washed for ten years to come, and believes near two hundred Bings a year hath been washed Since February in the year One thousand Six hundred Seventy & Six out of those old heapes, for which the Lott was before paid And this Depon[en]t Saith That he well remembers That in the middle of February in the year One thousand Six hundred Seventy & Six great quantities of Lead=Oar was lying both wash'd & unwasht at the Defend[an]ts Mines, and the better remembers being it was the first whole Winter that this Depon[en]t made his aboad in the Country Since he came to man's Estate, & by estimation he believes there was lying at that time washt & unwasht beside the old heapes about Six hundred Bings at the Defend[an]ts Mines in Stanhope parish, and this Depon[en]t had p[ar]ticular orders from the Defend[an]t that all means should be used to prevent mixing the Oares & mettall that was got Since the twelfth of February One thousand Six hundred Seventy & Six with the Oare & mettall gotten & drawn to the Surface of the earth before although it cost the more money to have itt laid at a distance to carry itt to the water to wash itt, & accordingly this Depon[en]t did then being about the twelfth of February One thousand Six hundred Seventy & Six give order to the Stewards & Overmen at Pitts & the chief workmen that took care of Such matters & believe there was noe mixture of the mettalls gott before the twelfth of February One thousand Six hundred Seventy & Six with what was gotten afterwards.

11. To the Eleventh Interrogatory this Depon[en]t Saith That Since & in the year One thousand Six hundred Sixty & Nine he Well remembers & hath heard from Several workmen it was Soe before used in his Grandfathers & Great Grandfather's Time that their Agents as well as the Defend[an]t & his Agents did reckon & pay (off his miners & Oar=Carryers as well for all his own oar digged & gotten as alsoe for all foreigne Oare & bought Oar out of other Counties & Lord[shi]pps by Tallies, When the Miners & Oar=Carryers at appointed times did meet & compare the Stocks with the Swatches of the Tallies which were on comparing & found thereby to agree broken & thrown away to prevent double charging or wronging each party, and it was & is thought the best & onely way to deale with Such p[er]sons that cannot read as few of them can being illiterate & labouring men.

12 13 To the twelfth & thirteenth Interrogatories this Depon[en]t Saith That he hath by the Defend[an]ts Order & desire requested the Compl[ainant] & Mister John Parkhurst (who did pretend an interest to a moiety of the Lott & Oare & managed a Chancery Suit at Durham against this Defend[an]t for the Said Lott Oar) both before & Since the twelfth of February in the year One thousand Six hundred Seventy & Six and p[ar]ticularly in Easter Term in the year One thousand Six hundred Seventy & Seven this Depon[en]t acquainted Mr Parkhurst to place an Officer at every Mine that yielded any lead-Oar to take an account at the Mines demised to the Defend[an]t of all the Oar dug, gotten washed up out of them that the Lott Oare might be certainly known and that under that pretence of a Nineth part they might not take away & demand an halfe or a fourth part of the whole Lead Oare, but their Answer was they would Sett men on the highways towards the Defend[an]ts Lead Mills And this Depon[en]t did at severall times acquaint them that an Officer at the Mine was the most proper way to prevent any fraud to either Pl[ain]tiff or Defend[an]t. Yet the Compl[ainant] or Mr Wycliffe or Mr Parkhurst or some one for them as this Depon[en]t believes for that he hath heard the Same from those who were employed by them did Sett Some Officers (men of little credit & esteem) and they were to take an account of all Loaden horses of Oare or Poakes like Oar that came on the road although all those roades to the Defend[en]ts Mills are common high roads leading to many other places where great quantities of Oar going to Newcastle to be Shipp'd beyond Seas as alsoe to Several other mens Lead=Mills where great quantities of Oar gotten out of Yorkshire Cumberland Westmorland & Northumberland were carried & much thereof by the those very men and horses that carried the Defend[an]ts own Oar to his Lead= Mills and besides this Depon[en]ts experience & knowledge of these matters from the Defend[an]ts Oar Carriers he hath heard from Some of those men that were employed to take account for the Compl[ainant] or those who claim under him of the Loaden horses, that they tooke account of all horses that Seemed Loaden on the high way to the Mills altho' it were two or three miles distant from them, and twelve, ten & eight, Six & four Miles from the Defend[an]ts Lead Mines Soe that this Depon[en]t told the now Compl[ainant] & William Rooksby (who alsoe pretends to be concerned with Wycliffe for an halfe that it

was impossible to reduce the Lott to any certainty by Such ordinary mens attending in the highways. Whereupon the now Compl[ainan]t answered he would not willingly doe the Defend[an]t wrong & thereupon advise against those ways of taking account of the horses on the roads (and he said he would not be at any charge to keep Such Officers, Whereupon this Depon[en]t p[re]ferred by the Defend[an]ts consent that if they would place Officers at the Mines to take account of the oar that Should be gotten he would give them his assistance to doe right to both parties how[ev]er they have not soe done as yet as this Depon[en]t believes he having seen one Thomas Mowbray number Oar horses on the roades within these ten days.

14: To the fourteenth Interrogatory this Depon[en]t Saith That on the fortieth day after Candlemas day in the year One thousand Six hundred Eighty & four according to the reservation of the Said Grant for three Lives to the Said Defend[an]t he this Depon[en]t did Lett out about twelve horse Loades of Oar for the Lott=Oar due that Quarter, which he was informed was as near the quantity due as could be guessed Seeing there was Soe little a quantity unwash't up at the Mines that Quarter, by reason of the excessive Storme (And this Depon[en]t gave orders then by the Defend[an]ts appointment for that quarterly Setting it out & doth believe it was accordingly quarterly set out at the due times Untill the Said Agream[en]t made by the Said Marquesse of Winchester about August in the year One thousand Six hundred & Seventy Six as is predeposed.

15: To the fifteenth Interrogatory this Depon[en]t Saith That he hath been privy unto the Defend[an]ts paym[en]t of Eighteen hundred and Sixty pounds unt[o] the now Compl[ainan]t & his Order, and that all that Summe was paid unto the Said Compl[ainan]ts Order Since the twelfth of February in the year One thousand and Six hundred Seventy & Six Saveing about two hundred pounds which was paid between the twentieth of November in the year One thousand Six hundred Seventy & four & February One thousand Six hundred Seventy & Six, and that the whole was paid on the account of the reservation on the Said Lease for three Lives of the Moor Master's Grant to the Said Defend[an]t. And this Depon[en]t further Saith that on Stateing Accounts with the Said Compl[ainan]t about the twentieth of July last at B[isho]pp Aukland=Castle there remained due to the Said Compl[ainan]t from the Defend[an]t for the Compl[ainan]ts halfe part of the Said Lott Oar till February last (he pretending to noe more & saying he would not concern himself to agree for the other halfe thereof belonging to Wycliffe and for arrears of money Lent as he claimed due at Whitsuntide last. The totall due & agreed unto being Seven hundred fifty five pounds Whereof paid Since to his Lord[shi]pp's Order about the tenth of August last One hundred & Sixty pounds, & about the two & twentieth of September last One hundred & fifty pounds , the totall three hundred & ten pounds, Soe that there remains due four hundred forty & five pounds as above, which his Lord[shi]pp agreed unto & the time to pay untill Christmas next at Durham and that his Lord[shi]pp was willing to take for his <share> of the Lott fifty pounds p ann for the future as he did agree for the time bypast in the account above stated.

18. To the eighteenth interrogatory this deponent saith that the Reverend William Turner Doctor of Divinity & Rector <...> p month of May in the year one thousand six hundred seventy & seven agreed to take for all his Tith Oare a <fi..... Pa...> One hundred and twenty pounds per ann for seven years which hath expired about August gone two years And that a new lease thereof to the Defendant for the same value of one hundred and twenty pounds p Ann. That since that time Mr William Hartwell the present Rector did agree with this Depon[en]t on the behalf of the Defend[an]t for one hundred & tenn pounds p Ann for All the said Tithes the Lead Mines in that parrish being much poorer and Lead of a lower value than formerly.

19. To the nineteenth interrogatory this Depon[en]t saith that the now Compl[ainan]t told this Depon[en]t in or about the month of May in the yr One thousand six hundred Eighty & one that at the Parliam[en]t held at Oxford about two months before <he had Da....th Mr Parkhurst for an assignment of his half of the Lott Oar and that he paid the said Mr Parkhurst one hundred & <fifty> Pounds for it. And this Depon[en]t verily believes that Mr Wycliffe hath the other moiety of the Lott Oar at this <.... But more> others claiming under him.

21. To the one & twentieth interrogatory this Depon[en]t saith that for these ten years last past the Defend[an]t <himself> at some of his Lead Mills smelte yearly great [obscured: quantities?] of Lead Oar for other p[er]sons which Oar ws wrought & gotten outside the <Compl[ainan]t's parishes the [about 2-3 words obscured] parishes and that he has sometimes thirty shillings sometimes forty shillings the Fother for the [about 2-3 words obscured] lead and that when the Oar was Lead did anyway <b... &> returned <D.... Wharton> [about 3-4 words obscured] the account <....> Oar or Lead <& it as usual ... Owners ...> [about 3-4 words obscured] Lead at thirty & forty shillings the Fother was its usuall price of corne mill to grind corne at different parishes or the <Moniter> thereof And this Depon[en]t saith that halfe <of this Lead.. shor.es> that <...es or de.....> in each year to the Defend[an]ts Lead Mills <are not leaden with Lead Oare> as this Depon[en]t believes.

R. Wharton

8 Oct 1686 Matheus Smales

[Note: The first few answers suffer from difficulty in reading the original document but are given anyway for the phrases which can be transcribed.]

Mathew Smales of Gilling in the county of Yorks Gentleman aged forty four years or thereabouts the <?> sworne & examined Saith as followeth

1.To the first Interrogatory Said Depont. saith That he knows all the parties in this Interrogatory in this case & the two Parishes of Stanhope & Wolsingham & have soe known them for several years last past

2.To the second Interrogatory this Depont. saith That the afo[re]m[entioned] Mr Humphrey Wharton by Grant from John late Lord B[isho]pp of Durham is seized of the office of Moor Maisters & Lead Mines in the two p[ar]ishes of Stanhope & Wolsingham <.. in ... for> the terme of three lives under the Rent of one hundred & fifty pounds p[er] Anno <&> Lott oar or Ninth part payable at four quarterly paym[en]ts. This Depont. saith that he hath often times seen the Said <deed or Grant under> the Episcopall <Seal> of Durham <& hath tendered and take Lord B[isho]pps <Attorney> that <..ti. ...> possession & of the Said Mynes <to the his Attorney sayeth> upon <hisen> or <for Consideration> that he <ei.de. ..> possession according to the Undermentioned <tyth of>

3.To the third Interrogatory this Depont. saith he hath heard and beleives that the now Compl[ainant]t <..... did> Demise & grant unto Barbara Sanderson severall Mynes lying within the p[ar]ish of Stanhope by <..... Sudrie en. Sanderson some un.. p.son or persons claiming under the Title sev[er]all> Mynes <entirely to> William Blackett Barronet <or ..> Sr William Blackett sonn of the said Sr William to be within the said <....last pu.. enjoy the said> Mynes <.. sevall> great quantities of <Lead were wrought ... Mynes in the the Mynes ... & & Groverake side> [whole line obscured or possibly struck through] believe that the said Mynes soe wrought were antiently wrought by former Moor Maisters under the Defend[an]ts <..... &> believe the sume for that he this deponent above twenty years since had in his custody for severall years an antient Moormaisters booke or Register of the Mynes wrought under the moormaister his Title in the reign of Queen Elizabeth <..... . il [2?] yeares Y.... M.> in the <Billing Grove rake> other mines wrought under the said Barbara Sanderson's <Title the said> Title. And this depon[en]t doth believe that the said <..... the said lease .. yearly The granting soe rent E..... Defend[an]t to wo..... Lead Mines the said Mines & re..... Any Mines wrought or pretended to it the. the said> Barbara Sanderson or her Assigns

4. To the fourth Interrogatory this Dep[on]ent hath heard <.....> aswell under ye Said John late Lord <B[isho]>pp of Durham was <.....> Majestie in the time of the vacancy was <...> was Lott oar as sixty <.....> Several persons <.....ted the said fr. pp as The> Defendt. <.....> obtained the <S.....der for the Rent of Sixty pounds <Any And this deponent hath heard tyme payment of> Of ye Said Rents aswell in the <Said Bishopps as in the time of thevacancy.>

5. To the fifth Interrogatory this Depont. Saith that he he hath heard and been credibly informed that the said <....> Lord Marquesse of Winchester on his behalf did make an Agreement with the Compl[ainant]t <.....> time & for the sume in this Interrogatory mentioned <particularsis the n.. exem..ind .. beleive the Said <.....> Said Defendt. (within one dayes time after the <said> agreement was made acquainted this depon[en]t Agreement and ...d.f.d that this depon[en]t ..ing this that did abouting the His & that Purfact.> of the Said Agreement And this Depont. further Saith that Mr <A..... as yet> of Stanhope and <O.....> to the Compl[ainant]t at the <time of the Said Agreement of in the hearing of this Depont.say> that the Said Lord Bpp now Compl[ainant]t <..d..ra.ly against the said Agreement> told the Said Mr Turner that he made a bargaine with the Defendt. for the Lott oar and that he was well pleased with the Said bargaine and should be at friendship with the Said Defendt. for he did not love trouble and Suits

7 To the seaventh Interrogatory this Depont. Saith That Robert Dormer Esqr. Attorney General in the Compl[ainant]t <did> fyle an Information against the Defendt. in the Chancery of Durham for the Lott oar for the time in this Interrogatory mentioned And Saith that in the Month of September one thousand Six hundred Seaventy & Nine it was amongst other things that the Compl[ainant]t's Offficers Should have liberty to take Account at the Mines of the quantity of oar gott soe that Such Officers hindered not the working the Said Mines And it was likewise <Decreed> that the <oar> should go to account with the Compl[ainant]t before the Deputy Regester for the Ninth Lott for the time in this Interrogatory mentioned And Saith the Said Deputy Regester made his Report to which the Defendt. filed <.. reprimus> which was heard and argued before the Compl[ainant]t's Chancellor in Grays Inn London in the Month of December one thousand Six hundred eighty & four and great uncertainty appearing touching the granting and value of the Leases and Ninth Lott It was thereupon referred to a Tryall at law upon a feigned issue to try the Quantities and Value of the Lead oar gott in the Defendt.s Mines in the Said time which Tryall being had in the court of <...ad> at Durham the Said Compl[ainant]t obtained a verdict for two hundred and ten pounds being the full value of the Ninth Lott digged and gotten out of the Defendt.s Mines in question from the twentieth of November one thousand six hundred Seaventy and four to the twelfth of February one thousand Six hundred Seaventy & six which verdict was <affirmed> and confirmed by the Said Lordshipps Chancellors And this Depont. Saith that in pursuance thereof this <....> [about four words lost in document fold] of the Defendt. did on or about the third day of February last past <.....> Delavale Esqr., the said Sume of Two hundred and ten pounds Decreed as aforesaid for the use and by the <ord.r> Of the Said Compl[ainant]t for which said Sume the Said <Mr> Delavale gave this Depont. an Acquittante now produced to this Depont. at the time of his Examination

8. To the eighth Interrogatory this Depont. Saith that the Defendt.s Lead Mines or the greatest part of them ly att <.....> twelve and ten miles of his Smelt Mills And Saith that the Defendt. or his Agents by his order have Since this Said twelfth of February one thousand Six hundred Seaventy and Six, brought great quantities of Lead oar out of the Lead Mines lying in severall Counties Lordshipps and liberties not belonging to the B[isho]pp of Durham all which Said bought oar was brought to some of the Defendt.s Smelt Mills as this Depont. beleives and there smeltes with his owne oar And saith that buying of oars in several Liberties to smelt with this Defendt.s owne ore is a meanes to make the Defendt.s owne ore run and Smelt the better & produce greater quantities of Lead and Saith that is usuall for the owners of Lead Mines and Mills to buy oar from severall places and Smelt the Same with their owne ore for the reasons aforesaid And this Depont. is the better induced soe to depose for that he hath been present att severall reckonings and seen the <tallies for> Such bought ore upon Such reckonings <stock> & broken

9. To the Nineth Interrogatory this Depont. saith That he hath very often <since> the said twelfth of February Six hundred Seaventy & six been at the Defendt.s Mines in the p<ari>sh of Stanhope (there having been noe <Lead> Gott in the parish of Wolsingham since the said twelfth of February one thousand six hundred Seaventy six asThis Deponant beleives) And saith the value or price of the said ore there gott is <according to the produce> brought to the Defendt.'s Mills gott in his Said Mines worth Sixteen Shillings p[er] bing the usuall weight of the Defendt.s owne ore being fourteen stone to a horse and four horse to a bing Load due Saith that the Defendt. hath bought oar at severall Mines in the said parish of Stanhope and elsewhere which did not belong to the B[isho]pp of Durham att about twenty three Shillings p[er] bing which lys soe neer some of the said Smelt Mills that the same may be carried att four pence or five pence p[er] horse when much of his owne oare cost <twelve> pence and fourteen pence p[er] horse for carriage soe that the Defendt.s oar to the best of this Depont.s Judgement considering the greater charge in carriage and badnesse of much of his said oar was not of <sufficient [scratched out, with indecipherable superscript]> value of the said Mines then twenty Shillings p[er] bing And saith that in the year one thousand seaventy eight the Compl[ainant] by his lease to Barbara Sanderson did reserve the Nineth Lott for the ore gotten in theMines granted within the said parish of Stanhope or twenty Shillings p[er] bing in lew thereof which this Depont. believes then was and hath since been the value of the Defendt.s ore p[er] bing gott in the said parish of Stanhope which said Lease menc.ons [ie. mentions] the said twenty Shillings p[er] bing to be the then price & rate of Lead ore And saith That a copy of the said Lease now produced to this Depont.is a true Copyy thereof Examined in the B[isho]pp of Durham his Auditors Office there

10 To the tenth Interrogatory this Depont. saith That great quantities of old heapes of old waist mixed with Oar Sparr Rubbish and Vaine Soyle were lying and Still are at or neer several of the Defendt.s Mines in Stanhope parish gott and digged before the Said

twelfth of February one thousand six hundred seaventy and six out of which this Depont. believes there yearly is and for several years yet to come there may bee great quantities washed and sent to the Defendt.s Smelt Mills And Saith that upon the said twelfth of February one thousand Six hundred Seaventy & six there was likewise considerable quantities of oare lying washed and unwashed att several of the Defendt.s Mines which were afterwards brought to some of the Defendt.s Smelt Mills but what was the certaine quantities thereof this Depont. cannot depose. And this Depont. believes there was mixing of the oar digged and gotten since the twelfth of February one thousand Six hundred seaventy and six with what was gott before soe that the Compl[ainan]ts Officers might have easily distinguished the oar gott from the said twelfth of February one thousand Six hundred seaventy and six from what was gott before the said twelfth of February one thousand six hundred seaventy and six

11. To the eleventh Interrogatory this Deponant Saith That for twenty years last past & upwards the Defendt. hath reckoned with the Myners and Oar carryers by Tallys and paid according to the Agreem[en]t of the Swatch and Tallys att such time of reckoning after compairing of which the said Stocks and Swatches were broken And this Depont. believes the said way of reckoning by Tallys the best way to keep Account between the said Myners and oar carryers the said persons being generally illiterate. And Saith that it is usuall in other Lord[shil]pps and liberties to keep and take account by Tallys as aforesaid And this Depont. hath been informed by Antient Workeman that by of Tallys they used to account as aforesaid

13 To the thirteenth Interrogatory this Depont. saith that the Compl[ainan]t's Agents hath not to this Depont.s knowledge taken any Account att the Mines but kept Officers to take Account of the horses that went on the roades or high wayes where severall mens oare were carried which were digged and gotten out of Mines lying in severall counties Lord[shil]pps and Liberties And the said Officers as this Depont was informed by one Ralph Dawkin who was imployed to take such account that he had directions to take Account of all horses that went on the said roades or highway without enquiring from where the said oar came or to what Mills the Same was carried and that he tooke such Account inn the towne of Frosterly beung aboute three Miles distance from any of the Said Defendt.s Smelt Mills

14. To the fourteenth Interrogatory this Depont. saith that the Defendt. Did order his Agent or Overseer Of his Mines to set out the Lott oar Quarterly or within forty days after And this Deponant hath been present when the Same was sett out at Some of the Quarter dayes or within forty dayes after and hath seen a considerable quantity of oar lying in Westenhope near some of the Defendt.s Mines within the Said parish of Stanhope sett out as aforesaid but the certaine quantity he soe see sett out or for what perticuler quarter days the Same was Soe sett out this Depont. doth not remember

15 To the fifteenth Interrogatory this Deponent saith That he this Depont. by the Defendt.s order hath paid Several considerable sumes of money for the use of the Compl[ainant]t to Mr Kirkby the Compl[ainant]t's Receivor and to other of the Compl[ainant]t's Officers and by the Compl[ainant]t's order as well for the said rent of one hundred and fifty pounds - - - as alsoe upon account of the Lott oar but the certaine sumes soe paid this Depont. doth not remember but saith that the two hundred and ten pounds paid to Mr Delavale in the month of February last was the last sume he this Depont. paid though he verily believes the Defendt. Hath paid Above three hundred pounds more to the said Compl[ainant]t upon the Accounts aforesaid since the Said month Of February last

17 To the Seaventeenth Interrogoatory this Depont. saith that he hath heard and verily believes that the Defendt.s predecessors Moormaisters have time out of minde paid the tenth part of all Lead oar gotten to the parson of Stanhope And that the said Lord B[ish]opp or his Farmers had not interest in the Said Tenth part but onely to a Nineth part the whole being divided into Tenn parts and that the Lott oar was due out of the nine parts solely Vizt a full Nineth part soe that the Lott & Tith are of equall quantity and value

18 To the eighteenth Interrogatory this Deponant Saith That the value of the Lott and Tyth is according to the price and value of Lead and quantity of oar digged and gotten and riseth and falleth accordingly for he hath known the Defendt. pay one hundred and twenty pounds p[er] Annum to Doctor Turnerr for the Said Tyth oar for all the time he continued as Rector of Stanhope for severall years and saith that he dyed about the Month of Aprill one thousand Six hundred eighty and four and hath heard that the said Defendt. hath since taken the said Tyth oar of Mr Hartwell who succeeded the said Doctor Turner in the Said Rectory of Stanhope aforesaid of one hundred and Ten pounds p[er] Annum And the Defendt. hath a Lease of the said Lott oar from the Said Mr Hartwell for several years at one hundred and ten pounds p[er] Annum this Depont. being better able soe to depose for that he see the Defendt Lease a Counter part of the said Lease to Mr Thomas Westgarth for the use of the said Mr Hartwell

21 To the one and twentieth Interrogatory this Depont saith That the Defendt. for these Tenn years last past hath smelte att some of his Smelt Mills great quantities of Leadoar which belonged unto Owners of several Lead Mines who paid the said Defend. twenty Nine Shillings thirty Shillings and sometimes more for Smelting there said Lead p[er] fother which said oar soe brought to his said Smelt Mill did not at all belong The Defendt. nor was gott out of any of his Lead Mines neither had the Defendt. any interest in the Lead soe Smelte onely payment for Smelting as aforesaid And saith itt is usuall for owners of Lead Mills to Smelt oar for any person that brings the same to their said Mills to smelt att thirty thirty five or forty shillings Per Fother

Matt Smales

8 Oct 1686 Nathaniel Crewe

[Note: Cross interrogatories drawn up on behalf of Bishop Crewe used in questioning Wharton's witnesses.]

[Missing but inferred as standard phrasing: 'Counter Interrogatories to be administered to Such Witnesses as Shall be produced'] Sworne and examined on the pte [and behalf of the plaintiff in] the Bill of Complaint of the Right Revd father in God Bishop of Durham complainant

1 What Quantities of Forreigne Binnnggs or horse Loades of Oare were bought & brought [obscured words] defendants Agents at any time and when from any p'ticular p'son and who by name to what of the Smelting mills or other places belonging the Said Defendt, were such Binggs or horse loads of Oare [obscured words]

2 Did you give bond or made any <promise> or Anie Ingagement to the Deft or his Agents or any & <which of> them at any time and when not to Discover or make knowne the true Quantities of Lead as [obscured words] from the Defendts Groves to any of his Smelting Mills. Or what promise or Ingagement [obscured words] <must> not to discover the Same

Ja Mack<lerton>

Depositions of witnesses p'duced present & examined upon Counter interrogatories to them administered on the part & behalfe of the Rt Reverend father in God <Halli....> Bpp[Bishop] of Durham Compl[ainan]t ag[ains]t Humphrey Wharton Esq Defte taken at his house of Hugh <Jackson> situate In Barnard castle in the County of Durham the Eighth day of October in the yeare of our Lord 1686: Anno q <RRt Dui un Jacobi S[e]c[un]di nunc Angs &c <lrdo> by John Crosby Richard Hutton & Ralph Gowland d[e]put[e]d by vertue of his ma[jes]ties Comission issued out of his Court of Exchequer At Westminster to <them> and Ralph Tunstall Gentleman or any three or two of them on their behalfe directed

8 Oct 1686 William Emmerson

William Emmerson Of Wolsingham in the County of Durham Oar carryer aged sixty five years of thereabouts sworne & examined saith as followes

1. To the first Interrogatory this Depon[en]t saithe that he was employed to bring sevrall horse loads & quantities of oar wch this Depon[en]t brought from sevrall

foeringe mines or grounds to the Deftes Smelting Mills but the certaine quantity thereof this Depon[en]t doth not remember

2. To the second interrogatory this Deponent saithe that he neither by <bond p[ro]mise> or other Engagement was at any time bound to this Defte or his Agents not to discover or make knowne the true quantityes of Said Oar carryed from the Deftes Grounds to any of his Smelting mills

William Emmerson

8 Oct 1686 Christopher Lunn

Christopher Lunn of Alley Sheehouse in his County of Durham Oar carrier aged sixty Years or thereabouts sworne & examined saith as followeth

1. To the first interrogatory this Depon[en]t saith that he has brought at sevral times sevral quantities Of Oar from forreine Ground but the certaine pticulers thereof this Depon[en]t knowth not

2. To the second Interrogatory this Depon[en]t saith that he never gave Bond made any <p[ro]mise> Or gave any Engagement whatsoever to the Deft or any to his use that he this Depon[en]t Should not make knowne the sevral quantityes of Lead Oar carried from any of the Deftes Grounds to any of his Smelting Mills or ever was desired soe to doe by the S[ai]d Defte

Chr: Lunn

<Props> & <Juyst> die Anno of <os loco primo>