

Custom as to the Matter and Manner of Payment. The Tithe of Bees is the Tenth of their Honey or Wax. Tithe of **Fowl** is to be paid in their Eggs or Young in their proper kind according to the Custom of the Place. According to the Custom of Places, sometimes a Twentieth Part is the Tithe Duty, witness 11 Feb. 1665 Sect of Thirlstone contra Scot of Broadmeadow. And sometimes a Tenth of the Value is due, as when there is but one Lamb or Calf brought forth January 1601 Sir John Dalrymple contra Tenants of Carlwary observed by Castlehill Tit. Feinds. n. 10. By the Tithe of Quarries and Mines, we do not mean the tenth Stone, but the tenth part of the Profits thereof; and by the Mill-Tithe, a tenth ^{of the} mill-tire, or the tenth toll-dish. Where has Right to draw ipsa corpora of parsonage Tithes, he must have them in p^{re}sentia, q. Thale-Sani. Syntagma. Part. 1. Lib. 2. Cap. 26. n. 2. And unmixed of the same good-ness as they came of the Ground; and cannot be obliged to take Corn of a foreign Growth for his Tithe Carpoz. Jbid. Def. 126. Especies Jbid. Sect. 2. n. 2. No then the Tithe is casual, more or less according to the Plenty or Scarcity of the Crop, and nothing at all, if there be an entire Sterility.

Valued Bolls are paid conform. to Rentals, or Decrets of Valuation. Rental Tithes Bolls are paid, when the Tithe hath been taxed to so many Bolls yearly, either by an express Rental, or tacitly by old Use of Payment. Rental Bolls are due, the exceeding the Tithe of the Crop. 22 March 1626 Lonnox contra Tenants of Balfron. Altho the Dugher of a Spuizrie, would get no more than the proved Quantity of true Tithe. Use of Payment imports a verbal Tack and defends by tacit Relocation, till Interruption by Citation or Inhibition 20. Novemb. 1676 Sheik contra Parishioners of Drestonhaugh. Valued Tithe Bolls may in my Opinion, be satisfied in Corn which grew upon another growing, the determined Quantity and Quality being observed. For as the Tithe cannot compel the Resctor to sow his own Ground, he can as little pretend to have his Valued Duty out of the Product thereof. Valued Bolls should be delivered according to the Measure of Linlithgow (Act of Commission 29 May 1627) and by an Act of the Commission of Parliament (19 Feb. 1618) All Gram was ~~to~~ ^{to be met} by the modius equatus i. e. by Strain. The liquid Price of bygone Tithe Bolls is the, Sheriff-Fians of the respective Shires 14 July 1704 Bothwell of Glencors contra Porterfield and his Tenants. Valued Bolls in a Decret of Valuation are not due, if the Land ly wast, and there be no Crop: for the valued Duty is only debitum fructus, and not debitum fundi 20 Feb. 1662 Calander contra Morro. It is indeed the fixed Standard for Payment communibus annis, and as the Titular gets no more in Name of Tithe, however plentiful the Crop is, he gets no

less be it never so bad: but if there were no Produce, or nothing of a Crop, there would be no Claim for a valued Duty, more than for the drawn Tithe, when there is nothing to draw. Nor can the Valued Duty be exacted from any save, only the Possessors and Intromettors with the Rents for the time; unless it be secured by Infeftment which seldom, if ever is done.

Drawing of Tithe. in ipsis corporibus, may be interrupted by Payment for some years of rental or valued Bolls; and these may be interrupted either expressly by Tacks for a definite Time; or tacitly by contrary Use of Payment. But all these Interruptions have not quite the same Effect. For Use of Payment doth no longer interrupt the drawing of Tithe, or Payment of the Duty contained in Decrets of Valuation, than till the Interruption is taken off either by the Titular's requiring, or the Resctor's offering debito tempore ipsa corpora, or valued Duty in the Decret. A Minister whose Bre-decchor in Office had been assigned by the Bishop to the Parsonage Tithes of his Parish, and in Possession of so many rental Bolls for the same, having thirty Years been in Use, to receive a lesser Number of Tithe-Bolls yearly, which did complete his Stipend modified by Decret of Plantation, was not debarr'd after the said Use of Payment was interrupted, from seeking the foresaid Quantity of rental Bolls, seeing he claimed it not as his modified Stipend, but by Virtue of the Assignment from the Bishop 30 July 1630 Seymour contra L. Balgallow. So a Resctor was allowed to free himself in Time coming of a certain Quantity of Tithe Bolls for which he had been formerly decorned in several Decrets, by making letter of the Tithe in Kind 20 Feb. 1633 College of Glasgow contra Stewart. Rental Bolls were no longer found due than till ipsa corpora were offered, and Intimation made to the Tithe-Master, that Payment of that Quantity should be no longer continued 22 March 1626 Lonnox of Branshogle contra Tenants of Balfron. And voluntary Payment of more Bolls in Name of Tithe for the Space of Seven Years, than was due by a Decret of Valuation, did not oblige in Time coming Feb. 1662 L. Balfandine contra Bells observed by Gilmuir Decis. 36. more than a Vabul who for several Years pays a greater Feud Duty than is contained in his Infeftment, can be forced to pay always that higher Duty. But Rentals being once interrupted by contrary Use of Payment, and that Use of Payment reinterrupted by Citation or Inhibition, the Resctors will find themselves liable hereafter for the full Tithe, and it will not be sufficient to offer the old rental Bolls 12 Decemb. 1679 College of Aberdeen contra the Town.

One Thing ought not to be twice tithed in one Year Hugh's Parson's Law Ch. 25. So ought to a certain Tithe Fish imported to such a Harbour, was not extended to Fish imported in Order to be exported only, whereof the Tithe was drawn in another Place where they were taken 20 January 1704 Kirkfishion