

of North-Lith and Willamson contra Stone and Brown. Nor can any Tithe be required of after-Maths of Meadows, or Baulks in Corn-Fields, or the Stable of Corn. Degge Dofson's Counsellor Part 2. ch. 3. Hughes Jhd. Shepherd's Parsons Guide chap. 5. Sect. 4. where they pay Tithe of Eggs, there is no Tithe of the Young; nor e contra Tithe-Eggs paid, where the Young is tithed. Where Tithe of Milk is paid, there's nothing due for Cheese made of the other parts of it; and where the Cheese hath been tithed, no Tithe is to be paid for the Milk. Degge Jhd. chap. 6. Because *idem non debet bis decimari*. But if there be two crops in the Year, as Strat (Lib. 15.) says there is in India, a Tithe will be due of each of them. c. ex parte 21 X. de decimis Rebuff de decimis 2. 10. n. 7. Corpro. Jhd. Def. 131. n. 7. Degge Jhd. Esposises de benef. cades. Tit. 10. Sect. 1. n. 9.

Personal Tithes according to the Canonists should be paid at the Year's End, Expenses being first deducted. Loes in decretal. Lib. 3. Tit. 30. cap. 1. n. 12. cap. 3. n. 63. Canis. de decim. c. 2. n. 2. And prebial Tithes collectis statim fructibus, of the whole Head, without any Consideration of the Expenses of Reaping or Cultivating. c. cum homines 7. X. de decim. Canis. Jhd. & cap. 7. n. 1. Rebuff 2. ii. n. 3. Loes d. cap. 1. n. 12. The Reason pretended by them, why, as to the Deduction of Expenses, it is otherwise in personal than in prebial Tithes, is because God Almighty in the old Testament reserved to himself the one, and not the other. Tithes of Calves and Lambs, should be paid after they are weaned from Suckling, Rebuff 2. 6. n. 3. 30. 31. Barbas. Collect. doctor. in Lib. 3. decretal. Tit. 30. c. cum homines 7. n. 5. Shepherd Jhd. chap. 6. Sect. 2.

It would infer a Spuilzie in our Law, should an Rector at his own Hand separate the Parsonage Tithe from the Stock without previously requiring the Titular or Tacksman to do it. But that those who have Right to Parsonage Tithes, may not thro' delaying to draw it in due Time, reduce Land-Labourers to the grievous alternative Strait, of either suffering their Corns to rot upon the ground, or to run the Hazard of a Spuilzie; Law hath prescribed the following Rule, to prevent such Hardship or Inconveniency. The Owner of the Tithes if he dwell out of the Parish, is ordained to appoint a Factor within the same, or some adjacent Clackans, and to intimate publicly his Name and particular Place of Residence the last Sunday of July or first Sunday of August. Tithing, if the Oupbor of the Corns pleases, may be at three Times, once for the Croft or in-field Corn, another Time for the outfield, and a third Time for the Beat. The Oupbor of the Corns may 8 Days after complete Shearing of each Sort, or at least about 9 Parts thereof require the Tithe-Master at his dwelling Place, if it be within the Parish, and if not his Factor, either personally, or by Intimation to the Minister, or at the Factor's Place of Residence, to come and draw the

Tithe

Tithe within four Days. Wherem if he fail, or if the Owner of the Tithe, being an Outdweller, hath not settled a Factor for him in the Terms above mentioned, the Oupbor may safely in either Case take his Corn, and carry away the Stock leaving the separate Tithe upon the Ground, which he is obliged to preserve and keep skintle-less, for the Space of 8 Days after expiring of the Term of Requisition and no longer. If Tithing proceed while about a tenth Part of the Corns is standing uncut down, the like Order of Requisition is to be used as if that were storn. But to legitimize this Manner of Tithing by the Oupbor, it must be done before Witnesses. Id. 9. Part. 22. 9. 6.

Payment of valued Tithe Bolls should be made betwixt Yule and Candlemas, Act of Commission 23. March 1631.

A Titular or Tacksman of other Men's Tithes, should come to the Lands, and receive of their Tithes, after they are raised; and come to the Rector's Barn to receive valued Bolls; as a Pensioner of Coals must come to the Coal-Mill and receive them, and a Pensioner of Victual to the Barn-Door; from whence they must transport their Corns or Corn to their appointed place, upon their own Charges, perull Feb. 1623. Daip contra L. Wolmet. Tithe of Fish should be paid at the Water Side. But the cauting thirre every tenth Fish into the Sea to put the Tithe-Masters to seek their Due where the Stock was taken, as David Stratton is said to have done (Spotswood Hist. of the Church of Scotland Pag. 66) was an Action savouring more of Valice than Justice.

3.

The Parsons to whom Tithes are payable.

According to the Canon-Law personal Tithes are to be paid to the Minister of the Parish where the Parson lives and partakes of the divine Ordinances. Loes in decretal. Lib. 3. Tit. 30. cap. 1. n. 12. cap. 3. n. 63. Canis. de decim. cap. 2. n. 2. And prebial Tithes belonged to the Incumbent where the Fruits are reaped. Cum homines 7. X. de decim. Canis. Jhd. cap. 7. n. 1. Rebuff 2. ii. n. 3. Loes de cap. 1. n. 12. In a Competition betwixt Ministers having Right to Vicarage Tithes, Fish is not due to the Minister of the Parish where the Owners and Fishers dwell, but to him in whose Bounds the Fishes are taken; that is, where the Boats lie, or from whence they go for Tackling, and whither they return for unloading the Fish; Stewarts Answers to Dorelet. Doubts Tit. Fourth Fish. Tithe of Milk is paid to that Parish where it is milked, and of Cheese where it is made, and of the Brood where they are brought forth, Rebuff 2. 6. Barbas. de offic. & pot. paroch. Cap. 28. 9. 1. n. 12. In Tholes. Syntag. jur. Part. 1. Lib. 2. Cap. 25. n. 2. The Tithe of Animals is due to the Parish-Church where they feed. If they be summer'd in one and winter'd in another Parish; or feed all the Day in one and by Night in another; in either Case, the Ministers of both Parishes may claim an equal Share in the