way was impracticable, *e.g.* in the case of Lammas lands or in the case of common lands, power was given to charge a fixed sum or rate per head of the cattle there pasturing, with an exception in the case of Lammas lands which for seven years before Christmas 1835 had paid no tithe; and also to fix a rent charge in respect of tithes of common appurtenant on the allotment made in respect of the lands to which such right of common attached (2 & 3 Vict. c. 62 ; 3 & 4 Vict. c. 15; 9 & 10 Vict. c. 73). By an act of 1860 (23 & 24 Vict. c. 93) a gross rent charge can be substituted for a commutation of tithes on common rights at a fixed sum per head; a gross rent charge made payable in respect of the tithes of a gated or stinted pasture rated to the relief of the poor may be apportioned thereupon and enforced in the method prescribed by the other Tithe Acts; a rent charge on commons may be commuted for part of the land or redeemed, if the landowners and persons liable for tithe so agree; and upon enclosure, a rate per head may be converted into a rent charge on the lands allotted. These rent charges are not subject to the Tithe Act of 1891. This act of 1860 also gave power to convert the corn rents established under local acts into rent charges.

In the case of hop-grounds, orchards, fruit-plantations and gardens power was given to the commissioners to value them separately, according to the average rate of composition for the seven years preceding Christmas 1835, and to fix an ordinary and an extraordinary charge for tithes thereof, the former for such lands going out of cultivation, the latter for such as were there­after newly cultivated: lands subject to the latter were exempted during their first years of cultivation; and such lands were only subject to it if situated in a parish in which an extraordinary charge had been distinguished at the time of commutation (6 & 7 Will. IV. c.71 ; 2 & 3 Vict. c. 62; 3&4 Vict. c. 15; 23 & 24 Vict. c. 93; 36 & 37 Vict. c. 42). In 1886, however, it was enacted that no such extraordinary charge shall be levied on any such grounds so newly cultivated in future; the capital value of the existing charges was assessed, and the payment of interest thereon was made a rent charge on the land payable in priority to all other charges until its redemption, and recoverable in the same way as ordinary rent charge and exempt from ail rates, charges and assessments: the charge was redeemable at the capital value, and, saving existing contracts, it was as between landlord and tenant payable by the landlord, any agreement to the contrary notwithstanding; and it is not subject to the Tithe Act of 1891. Under the act of 1840 (3 & 4 Vict. c. 15) gardens and lawns and the like, of small size, could be exempted from tithes.

Besides the tithes dealt with by local acts as already mentioned, certain other kinds of tithes are outside the scope of the Commuta­tion Acts, namely, tithes of fish and fishing, personal tithes other than tithes of mills, and mineral tithes, unless the landowners and tithe-owners consent to make a parochial agreement for commutation before the confirmation of an apportionment after a compulsory award in such parish. . As already seen, fish being *ferae naturae* are only tithable by custom ; but fish taken in the sea by the custom of the realm are tithable as a personal tithe, *i.e.* in some small sum for the net profits of the fishing, and customs for payment in kind have been upheld by the courts. Personal tithes, if not commuted or otherwise still payable, are regulated by a statute of Edward VI., which (except in the case of fishing and tithes for houses in cities and towns, which may be due by custom) restricted them to such persons exercising merchandises, bargaining and selling clothing, handicraft or other art or faculty in such places as had for forty years previously so used to do. Personal tithes are now rare, except of fish caught at spa, when they are payable to the church where the taker hears divine service and receives the sacraments. Tithes on houses or customary payments in lieu of tithes have, by local acts, in some cases been turned into church rates. Statutory provision is also made for allowing tithes and tithe rent charge to be exchanged for land, and for the redemption of rent charges made under the acts, and also of corn rents under the local acts. Tithe rent charge may also be merged in the land tithable, with the consent of the tithe commissioners and the landowner, by the legal and equitable owners of tithes in fee simple or fee tail, or persons having power to appoint the fee simple in tithes, or owners of glebes, or owners of lands and tithes settled to the same uses.

Tithe rent charge under these acts is subject to the same liabilities and incidents as tithes, such as parliamentary, parochial, county and other rates, especially the poor rate and highway rate; but the owner of tithe rent charge attached to a benefice has been exempted by an act of 1899 from payment of half the amount of any rate which he would be liable to pay under the Agricultural Rates Act 1896, the other half being borne by the Inland Revenue Commissioners. The limitation of time for recovery of tithes or estates in tithes, whether between rival claimants to tithes or tithe-owners or tithe-payers, if belonging to lay individuals or lay or spiritual corporations aggregate, is a period of twelve years, as in the case of other real property (37 & 38 Vict. c. 57) ; and in the case of spiritual corporations sole the period of limitation of actions, if any, is governed by the Limitation Act 1833, s. 29, already quoted, the act 2 & 3 Will. IV. c. 100 being held only to apply to demands of tithe in kind.

The method of recovering rent charge under the Commutation Acts was distraint where the rent charge is in arrear for twenty- one days after the half-yearly days of payment, and entry and possession with power of letting if it is in arrear for forty days, and arrears for two years are so recoverable: this power of distress and entry extends to all lands occupied by the occupier of the land whose tithe is in arrear as owner or under the same landlord; but no action lies against the owner or occupier of the land personally. If a tenant quits leaving tithe unpaid, the landlord may pay it and recover it from him. The tithe-owner cannot recover damages from the tithe-payer for not cultivating the land. Special provision is made for the recovery of the rent charge in railway lands.

The act of 1891, has, however, altered this method of recover­ing tithes, and substituted another intended to shift the burden of responsibility from the occupier to the landowner, by making the latter directly and solely responsible, but giving the remedy against the land. The landowner is made liable to pay the rent charge in spite of any contract to the contrary between him and the occupier; the rent charge if in arrear for three months is recoverable by an order of the county court, whatever its amount may be: if the land is occupied by the owner, the order is executed by the same means as those prescribed in the Tithe Acts; but if it is not, then by a receiver being appointed for the rents and profits of the land: neither landlord nor occupier is personally liable for payment; and appeal lies to the High Court on points of law; and a remission of rent charge may be claimed when its amount exceeds two-thirds of the annual value of the land. The act does not apply to the particular kinds of rent charges mentioned above.

The Tithe Acts do not apply to the city of London, which has always had its own peculiar customary payment regulated by episcopal constitutions of 13 Hen. III. and 13 Ric. II. and statutes of Henry VIII., confirming a decree of the privy council, under which the rate of tithes was fixed at 16½d. for every 10s. rent, and at 2s. 9d. for every 20s. rent of houses, shops and the like by the year. Provision was made by statute after the fire of London for certain annual tithes to be paid in parishes whose churches had been destroyed, and there have been local acts from time to time with regard to particular parishes therein.

Authorities.—Phillimore, *Ecclesiastical Law* (2nd ed., London, 1895); Cripps, *Law of Church and Clergy* (6th ed., London, 1886); Eagle, *Tithes* (London, 1836); Leach, *Tithe Acts* (6th ed.,1896).

(G. G. P.\*)

**TITHING.** (for tithe, tenth; Lat. *decuma),* formerly a unit of local administration in England. In some districts the men who were bound to be in frankpledge *(q.v.)* were grouped in associa­tions of ten, twelve or more individuals called tithings. When a person who was accused of any crime was not forthcoming, inquiry was made whether he was in frankpledge; if he were not, and had no right of exemption, the township was amerced, but if he were in a tithing, then it was upon the tithing that the amercement fell. South of the Thames the tithings were districts normally identical with the township which discharged the duties of the frankpledge. Some townships, however, contained more than one tithing. There are also indications that in the ancient kingdom of Mercia the tithing was originally a district and not a mere association of persons; but in Northumbria it is doubtful whether the system of frankpledge and tithing, either personal or territorial, was ever established. If, as seems likely, the territorial tithing is older than the personal, each territorial hundred *(q.v.)* was probably divided into ten tithings.

**TITHONUS,** in Greek legend, according to Homer son of Laomedon, king of Troy and husband of Eos (the morning). In the Homeric *Hymn to Aphrodite,* Eos is said to have carried him off because of his great beauty. She entreated Zeus that he might live for ever; this was granted, but she forgot to ask