

Living of St. Ann of which I am possess'd. This is a good Presentation, and upon this I found a Title. It exactly Corresponds with a writ of Beneficio Primo Ecclesiastico habendo, directed by the King to the Lord Chancellor to bestow the Benefice that shall first fall in the Kings Gift on a particular Person. The Chancellor's Refusal would be a Contempt

The Issuing Letters of Induction is but a formal & official Part which are to confirm and establish a Legal Title.*

In a former Part of this Letter I have made a Distinction between The Powers of the Lord Proprietary as Supreme Ordinary and of the Governor or Commander in Chief as Acting by delegated Authority; and I have Clearly demonstrated that a Presentation, of two Livings flowing Immediately from the King or Lord Proprietary is good in as much as it contains in itself a Dispensation and Implies the granting of it, which Power is confirmed expressly by Stat. H. 8. C. 29 But I have before expressed my opinion that a Presentation of the Governor or Commander in Chief to two Livings is not good Without a formal Dispensation from the Supreme Ordinary. This Appears from the Law that regulates Dispensations with Regard to the Kings Chaplains. If the King presents one of his own Chaplains the Presentation itself renders the Plurality Tenable; but if the King presents him to one Living, and a Subject Presents him to another the two Livings are not tenable without a formal Dispensation from the Archbishop. But the Governor as Ordinary with Episcopal Jurisdiction has a Power of Inducting his Clerk into one Parish and appointing him to another without a Dispensation by the Act of Assembly. If he has a Power of Appointing in any one Case under such Circumstances, that power must be inherent in him in Virtue of his office, nor can it be Separated from it. If the Governor has power of Appointing a Clerk to a second Living with Consent of Vestries, he has the same Power without, otherwise they must have a Concurrent Jurisdiction with him, and even a Controlling Power. But where a Body Shifting every Three years Could derive such a Power I own I am quite at a Loss to divine. What is directed to be asked as a Matter of Grace cannot be demanded as a Matter of Right. A Petition supposes a power in the Hands of the Person to whom it is Addressed, but a Petitioner cannot confer a power or derogate from it. If the Governor has not the Power of Appointing, Vestries Cannot give it. *Nemo dat quod non habet.* If he has the

* And in a Letter from his Lordship dated May 14th 1767 are these words I shall be glad to be inform'd from you of your having been Inducted in another living as I directed the governor to hold jointly with that of Annapolis where I would have you reside