

Whitaker, a Man not only unfit for the Station in which he was placed, but so infamously profligate that it would have been a discredit to any Person of Character to admit him to the Regard and notice of a common acquaintance, and it is no uncommon thing for Resentment to exceed the proper Bounds, for the Remembrance of a former Evil to raise a dread of its happening again, and for such Dread to beget excessive Jealousies and Suspicions, In this Case particularly therefore, I cou'd wish that the Heats the Vestry have fallen into, may rather be allayed by Lenity, than that their Irregularity may be severely censured. It must be in the Memory of some of the Parishioners that great Pains were taken to deprive Whitaker of his Parish. I was of Counsel against Whitaker when his case was agitated in the Provincial Court, where he was called upon to answer for a supposed Breach of the Peace, and an Information on this Account was moved for against him, he having broke and entered into the Church. His defence was that He was Incumbent in virtue of the Governor's appointment, without any Ceremony of admission, and that what he had done was to remove an Obstruction to the performance of his Duty. He founded his plea on the words of the Act of Assembly, and they being clear, and the Court having no doubt that the Appointment proprio Vigore conferred the Benefice, the Case was taken up against Whitaker upon another point more material, viz. that the Governor's Appointment could not operate when the Appointee was not in Priest's Orders, as it was urged that Whitaker had, at most, obtained only Deacon's Orders. The objection proceeding upon a Negative, it was alledged, that Whitaker ought to prove the Affirmative, which could only be done by producing the Letters of Orders, on the other side it was Answered, that the Governor having the Right of Appointment implied all preceding requisites, that however there was sufficient Proof in Whitaker's case of his Qualification, he having before been in another Benefice, and no Surmise of his not being in Priest's Orders, that it would be hard and inconvenient to call upon him to produce his Letters of Orders, which he might have left, and which he might well think it was unnecessary for him to be very careful of, after he had obtained his first Benefice and held it without objection for many years; The Justices were divided, but finally Whitaker was discharged by having the Voice of the Chief Justice on his side, which gave him the Majority. Every One, I believe, was at the time satisfied, I am sure the Counsel against Whitaker were satisfied, that the Determination of the Court was right in every other respect except on the last Point, in order to bring which to another Discussion the 30 per Poll was withheld from Whitaker

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