

Lib. No. 86 spect to the other Commissions, as M^r Meriwether inform'd me saying, that you deferred giving him possession of his 'til the arrival of the new Governor) to receive an Order to deliver up the Papers to Major Jenifer, as Agent appointed by your Excellency.

I explained to you my Sentiments in general upon the Subject of the Agency founded upon the best opinions I could obtain and maturely digested by myself. If that Paper should
p. 38 be thought worthy a second perusal as you only skimmed lightly over it on Thursday night, I would remit it.

Far be it from me to endeavour to invalidate your Excellency's powers, but I may with great deference observe, that there is an absolute distinction made in the Act of Assembly of 1704, between a delegated Commission and a Commission flowing from her Majesty her Heirs and Successors, and M^r Hamersley takes up the distinction in his Instructions of the 10th November 1767, and says, that the Lord Proprietary is to be considered loco Regis in this respect. It is evident that the same Power that gives can alone take away, and that therefore a Person holding under an immediate Commission cannot be removed by another holding under the self same Powers. It has been urged to me, that I do not hold under the immediate Commission, but under one derived from your own Authority.

This Argument is at best evasive and too unworthy of your Excellency ever to be urged by you, because the Commission might have been made use of, and it would be highly ungenerous to make me a sufferer by such omission, and therefore I do consider myself as holding under the Powers of the immediate Commission as much as if it had been filled up, and my Lord himself is of the same opinion, otherwise he would not have thought it necessary to supersede mine by another immediate Commission, but would have acted as usual by Instructions to your Excellency.

Your Excellency informs me that you have nominated Major Jenifer to be Agent and Receiver General in my Room. Yet, in whatever light I may now stand in His Lordship's opinion, I cannot think my Lord thinks Major Jenifer more worthy of the office of Agent than myself, otherwise His Lordship would not have turn'd him out of the Office of Keeper of the Rental. It is evident by this action that he did not intend him for Agent, otherwise he would have mentioned him in the Commission or Instructions, but His Lordship mentioned none
p. 39 other but M^r Tilghman and therefore none other can Act but He or I. He, if he had accepted and I upon his declining the Acceptance. My Lord orders me to resign to M^r Tilghman whom he has appointed: His Lordship has not ordered me to