

Services reserved on the Tenure are not certain, but may complain to their Ordinary or Visitor. That the Bylander should have read, and not understood Litt. would not have been surprising; but, that he should Insist upon his Reference to prove the Assertion in his first Letter, shews an invincible Power of Face. Even in the Case of this superstitious Tenure, if the Services reserved, were certain, the Lord might disclaim. Whether certain or uncertain, the Power of Correction might be in the King, or in a Layman, if the Visitor. That an Incumbent is removable by the Temporal Laws, in various Instances, it would be unnecessary to prove.

The Churches of Maryland, says he, tho' they exactly correspond with Lord Coke's Description of Donatives, are yet in the Act of Assembly, mentioned as presentative. It is not a very pleasant Task to have to do with a Man, who pretends to argue, and yet will not, or cannot advance his Principles, and draw his Conclusions. A mere Dealer in Squibs and Scraps, who hopes to escape, like the Ink-Fish, in the Obscurity he contrives. In what do our Churches correspond with the Idea of Donatives? Not, I suppose, on Account of the Patron's Foundation or Endowment, but because an Appointment has all the Effects of Presentation, Institution and Induction, in the Case of a Benefice Presentative. The Act of Assembly, says he, speaks of them as presentative. How so? Not surely in the Sense of Presentation, in order for Institution. Our Churches are donative, having regard to the Ceremony, sufficient to constitute an Incumbency or Pledgery. They are made so by the Act of Assembly, by which they were founded, established and endowed. Suppose the Act to be repealed, and we shall have no Church. Had the Bylander kept up the Idea of the Church of England, and not talked about the Church of Maryland, he would have avoided the strange Absurdities he has fallen into. The Bishop of London once claimed the Jurisdiction of Ordinary, upon the Bylander's Principle of Law, under which Pluralities are tenable. Upon the same Principle, a Vestry, it seems, claims the Right of Patronage, and this Principle being admitted, it might be contended, that there is not a Church or Incumbent in Maryland. When old Foundations are weaken'd, and Land-Marks remov'd, the Inconvenience of discrepant Opinions is to be expected.

"Present to a Vestry!" What does the Insinuation mean? Do any Vestries claim the Power of Institution? The Word present, is used in the Act in a very proper Signification, tho' differently from the Import of it, when applied to Benefices Presentative. Here the Bylander may exercise his critical Acumen with as much Self-complacency, and as much Absurdity, as he did on the Word Admission. He may tell us, that Lord Coke defines Presentation to be the Act of the Patron, offering a Clerk to the Bishop for Institution, and that the Word present, must have only one Meaning annexed to it, tho' capable of more, and that Meaning too which will make it Non-sense, when there is another that will make it Sense.

The Words "present, induct, or appoint," in the Act, are synonymous, a very common Thing in framing of Laws. Lord Maclesfield observes, that the best Rule, in the Construction of a Statute, is to observe the Will of the Legislature. In the case of a Donative, if the Patron be disturbed, the Writ runs, that he may be permitted to present, and the peculiar Nature of the Case is afterwards set out. Sir H. Spelman observes, that "this Form shews the ancient Method of Investiture before the Decretals, and increasing Authority of the Canons gained upon the Laity—that the Word present denoted no more than the Patron's sending to, or placing an Incumbent in the Church. To present, imports the same as to give, so that to present a Person to the Church, was all one with giving the Church, or constituting or appointing in the Church, a fit Person. So, in the case of a Bishop, the Words of the Writ are—that he be permitted to present." Presentation therefore, (Selden says) when Institution was not practised, meant the same with "Donation and Investiture." Here then can be no Difficulty in fixing the Meaning of the Word present, in our Act. The Will of the Legislature is plain, that the Minister presented, without other Ceremony, shall be entitled to the Benefice. The Donation and Investiture are thereby completed. Institution is not, nor can be practised. It may not be amiss, however, as a Caution, to take Notice, how this Practice of Institution sprang up, and expanded itself. When a Benefice was to be conferr'd upon a mere Layman, who, as such, was incapable of it, he was, as Blackstone observes, presented to the Bishop to receive Ordination, who was at Liberty to admit or refuse him; but, when a Clerk is Orders, was to have the Benefice, he was invested by the sole Donation of the Patron, "till about the Middle of the 12th Century, when the Pope and the Bishops endeavour'd to introduce a kind of Feodal Dominion over ecclesiastical Benefices, and, in consequence thereof, began to claim and exercise the Right of Institution universally, as a spiritual Investiture." This Instance may serve to shew how necessary it is for the Laity to be vigilant, and to resist with Firmness, the first Advances to ecclesiastical Incroachments. At first the Canons were, insidiously, said to be—Neque Leges humane, ne divine, sed Documenta quedam (neither human nor divine Laws, but Precepts only. After the Canons had been received, the Tone was changed. They became Leges Legum, Leges facti (the most sacred Laws to be observed before all other.) To them the Authority of Princes, and the Rights of Nature, were to crouch. Gregory advised Austin to move cautiously. "Let them not, said he, see all we aim at, lest we gain nothing—let the Fountain be open'd, and the Stream will not fail us."

The Word induct, in the Act, tho' it implies a precedent Institution, in the case of a Presentative Living, is also proper in that of a Donative, in which there is no Institution. What has been already observed, proves it; and moreover, the Form in an Appointment to a Donative, when conferr'd by the Patron, without having any Concern with the Ordinary, runs properly in this Manner: "I A. B. have given and granted, and by the Tenor of these Presents do induct B. A. into the corporal Possession of such a Church. Burns 531."

He repeats his Definition from Lord Coke—"Admission is, when a Bishop upon Examination admits

a Clerk as able," and then with great Acuteness asks, "if this be an intentional or an actual Admission?" If this be not impertinent, the Bylander is a decent Man. The Admission, of which Lord Coke speaks, is only of the Bishop's Allowance of the Clerk's Fitness to serve, but does not confer the Cure, Institution being necessary for that Purpose, Admission being only an intermediate Step, or, as the Phrase is, in Ordine ad, is surely intentional in respect of the Clerk's Title to the Cure or Benefice: But, what Fritolism is it, when a Word is capable of various Significations, to show one Signification, and that too an impossible one here, because relative to a Bishop's Act, and then contend, that however the Word be introduced, whether alone, or in Company, whatever the Subject, wherever the Place, the Propriety of it must be tried by an Explanation in a particular Instance only?

He has given us too, a most ridiculous and nonsensical Definition of an Advowson, and had the Assurance to palm it upon Lord Coke, in high Derogation from the Respect and Veneration, which have been always paid to that great Oracle of the Law.—I thought the Office of a Definition was to explain a Subject by its Kind and Difference; but it is plain, as I observed in my former Letter, this would take in his Horse, as well as an Advowson. Should a Man define a Square to be a Figure, contained within Lines, it would be a gentle Correction of his absurd Forwardness, to tell him, that his Square might be a Triangle.

How miserably has he marr'd Mr. Pope, by his Parody.—Pope's Serjants complimented each other with the Talents of those Two great Lawyers, Lords Cooper and Talbot, in their Profession, in whose Place the Bylander has as properly put Lords Chatham and Campbell, the former of whom is no Lawyer, and possesses a Species of Eloquence, very unsuitable to the Bar, as he modestly has put himself in the Place of Mr. Murray, the present Lord Mansfield! Whether he felt, at the Time, any Compunction for former Scurrilities, or meant only to tickle his Vanity, by arrogating to himself the Wit and Elegance of Lord Mansfield, is very problematical. The Bylander's Wit! No such Matter. Pettulance and Obscenity pass for Wit with fewer People than his Vanity allows him to perceive. But he is not only a Wit, and a Poet that revels with the Muses, a Sage of the Law, a Man of sacred Virtue, &c. &c. but also an inquisitive Naturalist; tho' having, perhaps, just been reading Dr. King's historical and chronological account of the consecrated Clouts, his Researches in this Way, have been very singular, and the extreme Eagerness of his Curiosity, at the same Time that it could not but raise the Admiration of others, was enough to bring the Blush into the Cheeks of even newly imported Africans.

The Word give, be used in the Sense of send—communicate—in the Bible, by what Logic will the Parson prove me to be a "narrow minded Wretch," for applying it in the same Manner, that will not prove him to be a wretched Divine. "But is there no other Idea of "giving?" Yes, but not applicable to that Passage. Why then the Question?—Why, that he might vent a little impotent Malice, and flourish with *Tavo stelen Verbis*. Surely, when the Wretch wrote this Passage, he must have been something more than tipsy; he must have been strongly under the Influence of his Impiety—ALE, for such an Instance of gross Blundering, can hardly be ascrib'd to the mere Force of his Natural Stupidity.

He speaks of Parsons, who can't read in any other Book than their own; but it seems, I have a Parson to deal with, who can't read *him* in his own. In return for his Prayer, I must give him my Advice—that he may strive to be more honest, decent and sober—cease his impudent Boasts of his Merit, and of the public Voice in his Favour, when he knows himself to be infamous, and the Object of universal Detestation—to such a Degree detested, that he can scarce enter the Doors of six Families in the Province, without Intrusion, and dares not even shew his Face in his own Parish—employ a few Hours now and then in reading his own Bible, tho' he should neglect his favourite *Distionnaire*, that he may avoid the Shame of not knowing when the Bible is quoted, whether the Reference be just or not, and of shuffling and cutting, lest he should acknowledge what is not there, or deny what is—shew some Respect to modest Women, and cease to insult them with obscene Ribaldry; and because they discountenance it in public, insinuate that they are wanton in private.

The Sight of an "Elephant, dancing a Jig, would, doubtless, be very droll; but don't you think it would be greatly heighten'd, if the Tune were played by a Monkey on his Bass Viol?"

How satisfactorily does he get over the Charge of misquoting the Act of Assembly? Not by denying it, nor by attempting to justify his pretty Argument about Right and Remedy; but by breaking out into this impotent Exclamation, which proves just as much as one of his Ballads.—"What a Distinction between the "Words, Petition and Dissire!" It was your Business, Mr. Bylander, when you were quoting the Act, to give the very Terms of it, and not to substitute a Word of your own, of a Signification substantially different, and then make it the Foundation of an Argument, which totally perverts the Sense of the Act.—But let us pursue him for a Moment, whilst he trips it along with his Exclamations, in the pretty mincing Style of a Chambermaid.—"What Strefs upon the Term "adjacent!" Which he enforces with this irrefragable Argument—"One of the most contemptible Ideas, as Lord Chatham said, of *Virtual Representation*, that "ever enter'd the Head of Man!" How unbounded is this Man's Assurance! He knows the general Opinion of the Lawyers, as well as of other judicious and discerning Men, to be against his pretended Construction of the Act, and yet has the Insolence to contradict them all, with the utmost Contempt, without being able, or even attempting to produce the least Shadow of an Argument, in Support of his Pretension.—"What a Fuss to find a Bishop when the Incumbent will do as well!"—Softly—Do what?—Certify?—He can no more certify than John Nokes. If he applies, he will have just the same Credit given to him, as another would have, and no more. Well, but as to the Chancellor's Power of *knave and imprisoning*—not even a Squib for it!—Where are the Vestries, that would be Ord-

naires, Patrons and Incumbents? It is an old Saying, that Wits have shallow Memories, but there is another, that certain very inventive Folks ought to have good ones. How has he supported his Representation of the Cafe between the Dissenters and the City of London? How justified his Conduct, as Principal of the Vestry, in attempting to dispossess a Member of his Seat against Law, and to fill up the Vacancy by Surprise upon the Parish? How has he explain'd his tacking an &c. to a Passage from Gibson? *Ne verbum quidem*, not one Word. Perhaps, in the last Instance, he had heard of Littleton's great Knack at an &c. and so had a Mind to try his Hand, and it must be allow'd his &c. was a very pregnant one.

In a former Letter, he asserts, that "Side-men, otherwise Questmen, otherwise Vestrymen, are certain Persons chosen in each Parish, as Assistants (expressly so called in all the Law Books) to the Churchwardens."—In my Remarks, I gave a succinct Account of the different Offices; and now for his Proof of what ALL the Law Books say—"Go—*dolphin* speaks of them as synonymous."—How?—Why, in abridging a Law Cafe, he says, that "the Churchwarden's Gift of Goods without the Consent of the Side-men or Vestry is void." There must be something very much amiss in a Man's Brain, who can argue, that because Side-men and Vestrymen have a concurrent Power on one Subject, therefore they are the same in all Respects!—Because an Acknowledgement before a Counsellor or a Provincial Magistrate is good, therefore a Provincial Magistrate is a Counsellor.

Side-men were originally appointed by the Bishops to give Information of the Disorders of the Clergy and the People.—By Can. 90, they were afterwards elected by the Minister and Parishioners, or, on their Disagreement, appointed by the Ordinary.—They were attendant on the Spiritual Court—they took an Oath directed by the Canons.—The Office of Vestrymen is merely temporal. It is a temporal Right, incident to Property, or chargeable Residence, if general; if select, it is temporal also, arising from Prescription, which is of temporal Cognizance only. They are not by their Office to attend the Spiritual Court.—They are bound to no Canonical Qualification.—Whether a Person be, or not, a Vestryman, is a legal Question, determinable only by the temporal Laws, and he has a legal Remedy in the temporal Courts, should he be obstructed, whether by the Principal, or any other in the Exercise of his Right. I have dwelt the longer upon this Circumstance in my former Letter, not only in Consequence of my general View of shewing what Kind of Man this adventurous Bylander is, but to obviate what seems to be his Drift—to bring Vestries into the Predicament of Officers, subordinate to Ecclesiastical Jurisdiction.

His Quotation from *Godolphin*, which I present once more to the Public, in a Note below "outdoes his usual Outdoings."—Such an impudent Attempt to impose upon the Public, raised my Indignation, and I spoke what that dictated. How would the Bylander palliate the Forgery?—A Vestry, says he, had set "up a most absurd Claim to a Right of Presentation, by Lapse of Time."—What Vestry?—Is he to be allow'd to advance a new Falschood, to justify an old one?—*Godolphin* says, the King can't be bound "by Lapse of Time, and the Lord Proprietary's Name was added upon the Credit of this Syllogism, Lord B. stands loco Regis, in Respect of this Government, therefore Lord B. cannot be bound by Lapse of Time."—Is there the least Intimation given of a Syllogism in his former Paper? By what Mark is the Reader led to distinguish between the genuine Words of *Godolphin* and the Bylander's Intermixtures? Tell us, Mr. Bylander, if you had intended a Forgery, in what other Dress you could possibly have palm'd it upon the Public?—But if you had intended honestly, you would have quoted the Passage from *Godolphin* just as it stands in his Book, and then applied your Syllogism. "The Proprietor's Name, says he, was added." Was nothing more added but the Proprietor's Name? If he had confined himself to the Subject of Lapse, it would have been sufficient to have mention'd a common Patron of a Donative who is not bound by Lapse of Time. This would not have serv'd the Purpose. The Churches in Maryland were to be ROYAL Donatives; the Supremacy was the Point to be insisted upon—why? Because to be attended with the Power of Dispensation. On this Ground, the Assertion that "Pluralities are tenable by Laws, the Effect of which no Act of Assembly can ever invalidate," was to be supported, and not a Non-Entity to be impugned. Supremacy in the Church of England (which he contends the Church of Maryland to be) vested in any other Person than the King!—Has he not taken the Oaths? Has he forgot the 39 Articles?—I gave a Hint on this Suggestion, which seems to have been taken, and the Evasion only shews what extreme Folly and Impudence will attempt. But, says he, "strictly speaking, a Reference unless marked "above, relates only to the nearest Sentence."—Let any Man but dip into any Book whatever, nay, even into this very *Bylander*, wherein a Quotation is made from BURN'S Preface, and he will at once see the Falschood and Absurdity of this Assertion.—But let his Rule be taken for granted, pray what is the nearest Sentence to his Reference mark'd below? Why it is this—"The King, or Lord Proprietary, cannot be bound by Lapse of Time, because of their Supremacy"—But tho' this Remark does not serve one Purpose, he seems to hope, that with a little Misrepresentation, it may serve another—if it should not whiten, it may blacken.—

The Treatise on Peccage, says he, is referred to, in the Middle of the 8th Page of a certain Composition; "who would think, it was meant to extend two full Pages verbatim, without any further Acknowledgement?—I understand nothing of such a Finesse to catch the Admiration of the *Judgar*. When Men of no Invention and great Reading sit down to write, we must pardon long Quotations, tho' they may not always chufe to acknowledge the Obligation."

The Churches in Maryland are Royal Donatives. No Donation incurs a Lapse, a Lapse must be ab inferiori ad superiorem. The King, or Lord Proprietary, cannot be bound by Lapse of Time, because of their Supremacy. God-

When it was imputed to Terence, that his Plays had been written by Lilius and Scipio, he was so agreeably flatter'd by the Supposition, implied by the Reproach, that what he had composed was not beneath their Pens; that he suffer'd it to prevail without Contradiction; and if no one was concern'd in the Parson's Assertion, but the Person levelled at, I should not animadvert upon the Falschood and the Folly of the Imputation. But it may be of Use, and falls in with my Design, of exhibiting to the Public View this busy Incendiary in his just Lineaments and Complexion, and therefore I shall remark, that his Assertion is, in the first Place, false, and his Surmise that the Author, by a Finesse to catch vulgar Admiration, meant to pass, for his own Invention, what was transcribed from another's Composition, is an Absurdity too gross for Folly, not infuriate by the utmost Malignity, to have fallen into. The Reference, in Respect of a Quotation, is in fact mark'd above, tho' with Respect to the Page, in the Middle of it. What precedes the Mark is the Author's, and not taken from the *Treatise on Peccage*. How then does the Original extend thro' Two full Pages? Yet this has been asserted by the Parson! It is impossible for any one to look into the Original, without observing the Use that had been made of it; how far the Sentiments and Language of it, how far the former were endeavour'd to be inforc'd or applied more closely to the Subject, and the latter was varied.

The Reference was made, not only for the Sake of Acknowledgement, but also (what was of more Consequence) of Authority. As the Transcript begins at the Place marked, and not before, so it stops in the Middle of the 14th Line from the Mark in that Page, and the Language is varied, whether for the better or the worse, is not the Question, before the Middle of the 14th Line. What follows in this Page is the Author's own, as is also what occurs in the next Page, 'til the Precedents are quoted, when the Original is resumed 'til the Precedents, contracted within a smaller Compass than in the Original, are set out, and then the Author proceeds, "A Reflection naturally arises from the Instances cited, &c."

It is strange that a Man should lay down a Rule, that a Reference, unless marked above, strictly speaking, relates only to the nearest Sentence, and yet found a Charge upon the Observance of that very Rule.—To guard, however, against this Absurdity, he speaks of the Middle of the Page; and, by the Manner of his Charge, being compar'd with his Rule, would have an Inference drawn, that is directly false, (that what is above the Mark of Reference, was transcrib'd from the *Treatise on Peccage*) for where the Mark is, there the Original is introduc'd, and not before.

To suppose, that the Author (had he not expressly declar'd what in Fact he did, that the Instances were cited) intended they should pass for the Product of his own Invention, when their whole Force and Weight depended upon their not having been invented by him, justifies what I observ'd in my former Letter, that when the Parson is tipsy, he attempts to pass the Excretions of his disturbed Brain, under false Quotations of Law, and under the Character of a Poet, the Compositions of others, not distinguishing what is the Subject for Invention, and what not. Every one would suppose, that Transactions about the Years 1284—1295—or 1361, were not in the Time of an Author, who wrote in 1765, and, if not Forgeries, that they were extracted from some Memorial, and therefore that they could not be intended to pass for his own Invention. The Bylander has shewn, that a Man may invent what he has cited for Precedents; but that any one, when he cites Precedents, which are only of Weight as such, should design to pass them as the Creatures of his Imagination, no sober Person could suggest.

Had the Materials, moreover, not been of such a peculiar Nature, as to preclude all Idea that they were meant to pass as invented, the Concealment was extremely ill contriv'd. To intend Deceit, and yet point out the Means of Detection, by a Reference that no one could turn to, without perceiving it at first Blush, would have betray'd the Folly (not to be imputed to the Parson) of an unpra'dis'd Sinner.

How just is the Observation, that good-natur'd Men often forgive those, who injure them; but the malicious, never those, whom they have injur'd—that Civilities conferr'd upon the worthless, are ever productive of their most malignant Enmity—too sordid not to solicit and receive Favours, too impotent to return them, too profligate to be grateful for them.

"The Querist's Question was silly."—Why? Because as I told him in my former Letter, it was too powerful for his Skill in Reasoning. But, however it might appear to a *Witling*, some very great Men seem to have held different Opinions upon it.—According to Sir John Davis, "An Appointment to a Donative cannot be for Years, or at Will."—Lords Hobart and Vaughan held, "that when a Benefice is conferr'd, whether by Presentation, &c. or by Grant, the presenting or granting for a limited Time, shall not hinder the Minister's holding for Life, as in the Cases of Atornment, &c."—Lord Holt gave a different Rule—"that an Act done, under a Power with an Intention to effect what would not correspond with it, would be totally void."—But why not a Vacancy? You have indeed said, that "Pluralities are tenable, notwithstanding our Act of Assembly." But what have you proved?—Declare yourself explicitly.—Lay down your Principles, draw your Conclusions. I wish to bring you to the Point.—You shall be fully answered, and shewn to be what you are, as ignorant as vain and insolent.

"Damn'd Canon Law!"—Indeed! and in the Public Street too! Oh horrid! Enough to make the Parson swear even in Print, "damn'd crabbed perhaps" says he.—I presume the Impiety was not yent in the Day-time, or the aggravating Circumstance would have been added.—"From the Judge of an Ecclesiastical Court" too!—Well, there is some Comfort in that, because we may be sure the naughty Word was not utter'd in Maryland, where, thank God, we have no such Person.—What a Pity that the Writ for Heretic-burning is abolished!—But how will the Bylander's Indignation be inflam'd, when he is inform-