

A
R E P L Y
T O
Dr. PRIESTLEY'S
R E M A R K S
O N T H E
F O U R T H V O L U M E
O F T H E
C O M M E N T A R I E S
O N T H E
L A W S O F E N G L A N D.

BY THE
AUTHOR OF THE COMMENTARIES.

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M D C C L X I X .

A
R E P L Y

T O

Dr. *P R I E S T L E Y*'s

R E M A R K S, &c.

DR. *Priestley* having published, in a very angry Pamphlet, his *Remarks on some Paragraphs in the fourth Volume of my Commentaries*, I find myself called upon to take some Notice of a Performance, to which an Author, of Reputation in the literary World, has very fairly subscribed his Name.

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The Method, which I have hitherto observed, with regard to the numerous Strictures which my Commentaries have excited, has been to neglect them intirely, if I thought them mistaken or trifling: But, if founded in Justice, from whatever Quarter they came, I have availed myself of the Truths they imparted, and have endeavoured to correct my own Mistakes in some subsequent Impression of the Book: So true is Dr. *Priestley's* Observation^a, that I have “no Objection to making Alterations in the new Editions of my Works.” For I have always thought it more honourable to retract, than to persevere in an Error; and have neither Leisure, Inclination, nor Ability, to dip myself in Controversy of any Kind, much less Theological Controversy. But I have departed this once from my usual

Rule,

^a Page 11.

Rule, not with an Intention to enter into personal Altercation with Dr. *Priestley*, (in which I am by no means a Match for him) but principally to explain my own Sentiments with respect to *religious Liberty*, which that Gentleman hath taken an Handle very greatly to mis-represent.

Before I descend to Particulars, I must first of all correct a Mistake, which Dr. *Priestley* seems to have fallen into^b, by fancying that the offensive Passages in my Book were *personally* levelled at *Him*. Let me assure him, that they were written above fifteen Years ago, before (I believe) he had ever appeared as an Author: And let me add, that, till his present Remarks, I never read any of his Productions, excepting his History of Electricity; from whence I conceived a very favourable Impression of his Talents,

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^b Page 9, 10, 56, &c.

as a *candid* and *ingenious* Writer. How greatly my Opinion, with respect to the first of those Qualities, has been altered by his late Publication, I leave to himself to imagine.

He supposes me, throughout his Performance, to be a bigotted High-Church-Man, and of a persecuting Spirit in Matters of religious Differences : and, to support the Opinion, which he has thus unaccountably taken up, he observes ^c, that I quote *with Approbation* the Statute of King *William* against *Arians*, and strongly intimates, that I wish for a Revival of the penal Laws against the Dissenters.

To the first Charge I answer, that I have barely recited that Statute, without either approving or disapproving it. To
refute

refute the second, I need only refer to the very Pages ^d from whence this Author has cited the Paragraph, with which he is principally displeas'd. The Reader will there find it laid down, “ that our
 “ Ancestors were certainly mistaken in
 “ their Plans of Compulsion and Into-
 “ lerance :—that the Sin of Schism, as
 “ such, is by no Means the Object of
 “ temporal Coercion and Punishment :
 “ —that if Men quarrel with the ecclesi-
 “ astical Establishment, the civil Ma-
 “ gistrate has nothing to do with it, un-
 “ less their Tenets and Practice are such
 “ as threaten Ruin or Disturbance to the
 “ State :—that all Persecution for Diver-
 “ sity of Opinions is contrary to every
 “ Principle of sound Policy and civil
 “ Freedom ; — that, in particular, the
 “ Laws of Queen Elizabeth and King
 “ Charles II, against the Dissenters, were
 “ such

^d Comm. p. 52, 53.

“ such as I should not undertake to justify :—and that the subsequent Indulgence shewn by the Toleration-act arose from a Spirit of true Magnanimity in the Legislature.”

I have indeed, illustrated this Doctrine with a few historical Remarks, to shew the Motives of originally enacting those penal Laws, which are now suspended by the Toleration-Act, and in which I have declared that our Ancestors were certainly mistaken. I have deduced them from the turbulent Disposition which the Dissenters had shewn *in former Times*; and which I believe no moderate Dissenter will deny to have *formerly* existed among many of the Separation, though perhaps he may think it was excited by the Haughtiness and Rigour of the Churchmen. I have said, that both Papists and Protestant Dissenters *were esteemed* by the Laws enacted since the Reformation (not that *I at present esteem them*)

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intended on the Spirit, the Doctrines, and the Practice of the Body of our *modern* Dissenters. A Reflection which I totally disapprove: being persuaded, that by far the greater Part of those, who have now the Misfortune to differ from us in their Notions of ecclesiastical Government and public Worship, have notwithstanding a proper and decent Respect for the Church established by Law; detest all outrageous Attacks on its Ministers, Liturgy, and Doctrines; and are zealous in supporting those two great Objects of every good Citizen's Care, and which are not so incompatible as some Persons seem to imagine, the *civil Liberties* and the *Peace* of their Country. And so far am I from wishing to perpetuate or widen our unhappy Differences, that I shall make it my Care, in every subsequent Edition of this Volume, so to rectify the Clause in question, as to render it more expressive of that Meaning which I here avow; and which, if read
with

with a due Degree of Candour, might before have been easily discerned.

But, after having made this Sacrifice to the Spirit of Truth and Moderation, I must beg Leave to inform Dr. *Priestley*, since it seems he is yet to learn it^f, that *Nonconformity* is still a Crime by the Laws of *England*, and has heavy Penalties annexed to it, notwithstanding the Act of Toleration, (nay, expressly reserved by that Act^g) in all such as do not comply with the Conditions thereby enjoined. In case the Legislature had intended to abolish both the Crime and the Penalty, it would at once have repealed all the penal Laws enacted against Nonconformists. But it keeps them expressly in Force against all Papists, Oppugners of the Trinity, and Persons of no Religion at all: and only exempts from their Rigour such serious,

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^f Page 49.

^g Sect. 16, 17.

sober-minded Dissenters, as shall have taken the Oaths; and subscribed the Declaration at the Sessions, and shall regularly repair to some licensed Place of religious Worship. But, though these Statutes oblige me to consider Nonconformity as a Breach of the Law, yet (notwithstanding Dr. Priestley's strictures) I shall still continue to think, that *Reviling the Ordinances of the Church* is a Crime of a much grosser Nature than the other of mere *Nonconformity*.

Far be it from me to wish any Restraint to be laid on rational and dispassionate Enquiries into the Rectitude and Propriety of our national Mode of Worship. What I have censured (and indeed not I, but the Law) is not, as Dr. Priestley most unwarrantably supposes^b, the *thinking differently from the Church of England*;—but the

^b Page 54.

the *treating it with Contempt and Rudeness*, the *inveighing with Bitterness against the English Liturgy*, and the *virulent Declamations of peevish or opinionated Men*, in Opposition to the ecclesiastical Establishment. If Dr. *Priestley* is guilty of these Practices (though, whether he is so or not, I profess myself intirely ignorant, unless from his present Publication) he falls within the Danger of the Laws ; if otherwise, he is totally unconcerned in the Censure.

But why, let me ask, does Dr. *Priestley* apply these Characters to the Body of our present Dissenters ? I have not applied them to any, but a few of their Ancestors *in the Infancy of our present Establishment*, and to such modern Writers of all Denominations (not confining them to Protestant Dissenters) as have trodden too closely in their Steps. If I were weak enough to apply them in general to the Dissenters of the present Times, and if he were hardy

dy enough to deny the indecent Behaviour of some antient polemical Puritans, we should both of us offend against the Truth. He will not, I am persuaded, maintain, that all Protestant Dissenters are virulent Declaimers against the Liturgy; or that none will fall under that Description but Protestant Dissenters only. I have mentioned the Papists as guilty of the very same Practice: I may also add the Infidels and Deists. The mentioning these Opposites together, and involving them in one and the same Censure, for one and the same Offence, has greatly offended Dr. *Priestley*¹. But, if Men of better Principles will be found in bad Company upon such an Occasion, the Law makes no Distinction of Persons. It indulges them with full Liberty of Conscience in every other Instance, but that of railing at the national Establishment. And I should think

¹ Page 24.

think the same Practice would be equally unjustifiable, if directed against the Presbyterian Church of *Scotland*, by any Episcopalian there : both Churches, since the Union, deriving from the Law of the Land an equal Claim to Protection and *perpetual Security*.

Dr. *Priestley* seems astonished ^a, that I can possibly consider (as I certainly have done) any Alteration in the Constitution of the Churches of *England* or *Scotland*, or in the Liturgy of the former, as an Infringement of the fundamental and essential Conditions of the *British* Union. If this Doctrine be new to the Reader as well as to Dr. *Priestley*, let me only recommend to his Perusal the Statute 5 *Ann.* c. 5. which, in order “ that the Doctrine, Worship, “ Discipline, and Government of the “ Church of *England* may be effectually
“ and

“ and *unalterably* secured,” confirms and *perpetuates* all Acts then in force for its Establishment; particularly the Acts of Uniformity, of which the Book of Common-prayer is a Part;—enjoins an Oath to be taken by every Sovereign at his Coronation, for preserving *inviolably* the said Doctrine, Worship, Discipline, and Government;—and declares that the said Act shall for ever be holden and adjudged a fundamental and essential Part of any Treaty of Union with *Scotland*, shall be inserted at length in any Act of Parliament, that shall ratify such Treaty of Union, and be therein declared an essential and fundamental Part thereof. Let him consult a similar Act of the *Scotch* Parliament, whereby the like Precautions are taken
 “ for securing the Presbyterian Church-
 “ Government and Discipline in that
 “ Kingdom, with the Form and Purity
 “ of Worship presently in Use within the
 “ same.” Let him then peruse the Statute

5 *Ann.* c. 8. which ratifies the Articles of Union, and declares those two Acts to be *fundamental and essential Conditions* thereof. And, when he has done this, let him judge for himself, whether any Alterations in the Constitution or Liturgy of the Church of *England*, would or would not be Infringements of those fundamental Conditions: or whether, according to Dr. *Priestley*¹, the Articles of Union only “*seem* to confirm “the different Establishments of *England* “and *Scotland* as they then stood, with “Liberty to make any Improvements in “their respective Constitutions, if they “themselves, *separately taken*, should think “proper.” Indeed, without dissolving the Union, I do not see, how the Sense of either Nation could now be *separately taken*; how the *Scots* Peers or Commoners could be prevented from voting either *for* or *against* the Repeal of the Acts of Uniformity,

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¹ Page 16.

mity, in case it were moved in either House; or how, without suspending the Parliament of *Great Britain*, Dr. *Priestley* would now procure “an Act of the *English Parliament*, for reforming the Church of *England*”.

And, however new or surprizing my Construction of this national Treaty may appear to Dr. *Priestley*, it is certainly consonant to the Ideas entertained by both Nations at the Time of the Union; who imagined that they had obtained the most solemn and sacred Security that human Polity could possibly give, that the Government and Mode of Worship of their respective Churches should for ever remain inviolable. For which I may appeal to the Testimony not only of Bishop *Burnet*, the Historian of those Times, and a very active Instrument in promoting the Progress
of

of the Union, but also of the late Duke of *Argyle* and Lord Chancellor *Cowper*, two of the Commissioners who negotiated that important Treaty.

The Bishop gives the following Account of the Opposition that was raised in *Scotland*, by those who wished ill to that Measureⁿ. “ They insisted most vehemently
 “ on the Danger that the Constitution of
 “ the Church would be in, when all should
 “ be under the Power of a *British* Parlia-
 “ ment.—To allay this Heat, an Act was
 “ prepared for securing the Presbyterian
 “ Government; by which it was declared
 “ to be the only Government of that
 “ Church, *unalterable in all succeeding Times*;
 “ and the maintaining of it was declared
 “ to be a fundamental and essential Arti-
 “ cle and Condition of the Union: And
 “ this Act was to be made a Part of the

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“ Act

ⁿ Hist. of his own Times, ii. 461.

“ Act for the Union, &c. — By this
 “ Means the Act was carried as far as any
 “ human Law could go for their Security.
 “ For by this they had not only all the Se-
 “ curity that their own Parliament could
 “ give them, but they were to have the
 “ *Faith* and *Authority* of the Parliament
 “ of *England*; it being, *in the Stipulation*,
 “ made an *essential Condition* of the U-
 “ nion.”

He afterwards gives the History of the
 Rise and Progress of the *English* Act of Par-
 liament; and concludes with exactly the
 same Sentiments (with respect to the *Power*
 of Alteration, which must nevertheless still
 reside in the supreme Legislature of the u-
 nited Kingdoms) as I have borrowed and
 adopted from the Bishop of *Glocester*; and
 for which his Lordship is pronounced by Dr.
Priestley ° to be as *weak a Quibbler* as my-
 self.

self. “ The Archbishop of *Canterbury*” (says Dr. *Burnet* ^p) “ moved that a Bill might
 “ be brought in for securing the Church of
 “ *England*. By it all Acts passed in favour
 “ of our Church were declared to be in
 “ full Force *for ever*: and this was made
 “ a fundamental and essential Part of the
 “ Union. Some Exceptions were taken
 “ to the Words of the Bill, as not so strong
 “ as the Act passed in *Scotland* seemed to
 “ be, since the *Government* of it was not
 “ declared *unalterable*. But they were
 “ judged more proper; since, where a
 “ supreme Legislature is once acknow-
 “ leged, nothing can be *unalterable*.”

The Opinions of the other two noble Lords were publickly declared in the Debates on the Statute 5 *Geo. I. c. 4.* as they may be found in the periodical Pamphlets of the Times, and as they are since collected

^p Burnet, *ibid.* 463.

lected in Volumes ⁹. As that Bill was originally constructed, it contained not only a Repeal of the Acts against *occasional Conformity* and *Schism*, which had been enacted *since* the Union, but also of some Clauses in the *Test* and *Corporation* Acts, which were confirmed and perpetuated by that Treaty. In the Debates during the Progress of that Bill, the late Duke of *Argyle* (at that Time Earl of *Ilay*) said : “ that every Body knew he was educated in a different Way from the Church of *England*: but nevertheless he could not but be against this Bill ; because, in his Opinion, it broke the *Pacta Conventa* of the Treaty of Union, by which the Bounds both of the Church of *England* and of the Church of *Scotland* were fixed and settled : And his Lordship was apprehensive, that if the Articles of the Union were broke with respect to one
 “ Church,

⁹ Historical Register, *A. D.* 1719. pag. 57, 58. Timberland's Debates of the House of Lords, iii. 99. 101. 110.

“ Church, it might afterwards be a Pre-
 “ cedent to break them with respect to
 “ the other.”

Lord *Cowper* had said just before, that
 “ though he had always a tender Regard
 “ for the Dissenters, yet he could not but
 “ oppose that Part of the Bill then before
 “ the House, whereby Part of the *Test* and
 “ *Corporation* Acts were effectually repeal-
 “ ed with relation to Dissenters ; because
 “ he looked upon those Acts as the *main*
 “ *Bulwarks* of our excellent Constitution
 “ in Church and State, and therefore to
 “ be inviolably preserved.” And, upon
 the Reasons thus offered in this Debate, it
 was agreed to leave out all the Clauses that
 affected the Laws ratified by the Union ;
 and to pass the Act as it now stands, con-
 taining merely a Repeal of the two Sta-
 tutes of Queen *Anne* against *Schism* and
occasional Conformity, and a Provision that

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no Magistrate should appear with the Ensigns of his Office at a Meeting-house.

After this historical Deduction, and contemporary Exposition of these Laws, I think it is not altogether certain, that either Nation would fully acquiesce in Dr. *Priestley's* Construction of the Treaty of Union: And, if they should not, the rescinding of any Part of its fundamental and essential Conditions would be very *unadvisable* and *dangerous*. Indeed I have allowed that the *Power* of new-modelling the Churches both of *England* and *Scotland* (however *dangerous* its Exertion might be) still resides in the Parliament of *Great Britain*; and have conceded that, in case the Service of the Church of *England* be *manifestly impious* or *shockingly absurd*, all Dangers should be encountered to reform it. Dr. *Priestley* very roundly asserts^r, that
it

^r Page 7, 26.

it is *manifestly impious*, is *shockingly absurd*, nay, that it is even *idolatrous*. Here then we meet upon fair Ground. Let its *Idolatry*, *Impiety*, or *shocking Absurdity* be proved to the Satisfaction of the Legislature; and my *political* Objections are at an End. But, till that can be done, I shall continue to think it too hazardous, to move so momentous a Question as the Stability of the *British* Union, for the Sake of some fancied Improvements in Matters either trivial or indifferent. And, considering the Subject in this Light, any *bitter Inveective*, or *virulent Declamation* against the Mode of our national Worship, is at least unavailing, and can *answer* no laudable End. Perhaps it was going too far to say it could be *calculated for* none. I am willing to hope, that whenever such Things have appeared, they have arisen from Mistake, or Ignorance, or from the Overflowings of a well-meant Zeal, but not regulated according to Knowledge.

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With Regard to the Want of logical and historical Knowledge which Dr. *Priestley* has discovered in *the Commentaries*; and his personal Reflections on the Author's political Connections*, I shall leave him in full Possession of them: remarking only, that this is not an Age in which a Man who thinks for himself, and who endeavours to think with Moderation, can expect to meet with Quarter from any Side, amid the Rage of contending Parties. If, in a Matter of mere History and Speculation, he condemns the Conduct of the elder *Charles*, but disapproves of the tragical Extremes to which his Opponents proceeded, he is a Friend to Popery and arbitrary Power; whatever Proofs to the contrary may abound in the rest of his Writings. If, after a Concurrence of many Years together in most of their political Measures, he dif-

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fers from his Friends in one great constitutional Point, in consequence of the most diligent Enquiry and mature Reflection, he becomes immediately *connected with*, and *possesses the Confidence* of a Ministry, to which he has scarce the Honour to be known, and from which he holds himself totally detached. If he argues for Toleration and Indulgence to Dissenters of every Denomination, but censures with some Warmth all indecent Attacks upon the Establishment, he commences a Bigot and a Persecutor. In this Temper of the Times, I am sensible that all Apologies are idle, and all Vindications useless. Yet I thought it a Duty to myself thus publickly to declare, that my Notions, in respect to religious Indulgence, are not quite so intolerant as Dr. *Priestley* has endeavoured to represent them; especially as some Expressions of my own (not sufficiently attended to, when the Work was revised for the Press) may have countenanced such an

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Opinion in a superficial or captious Reader? But, when thus set to rights and explained, I trust they will give no Offence to any moderate and conscientious Dissenter; and that Dr. *Priestley* himself, when he comes to re-consider his Remarks, will wish they had been written less hastily, and had of course been more agreeable to Justice as well as to common Civility.

Wallingford, Sept. 2, 1769.

F I N I S.