

A

S E C O N D A N S W E R

T O

Mr. J O H N W E S L E Y.

A
E C O N D A N S W E R
T O
Mr. J O H N W E S L E Y.
B E I N G A
S U P P L E M E N T
T O T H E
L E T T E R o f A M E R I C A N U S,

In which the Idea of S U P R E M E P O W E R,
and the Nature of R O Y A L C H A R T E R S,
are briefly considered.

By W. D.

*Iusta piæque sunt arma, quibus necessaria; et necessaria, quibus
NULLA nisi in armis spes est salutis. T. Liv. lib. viii.*

L O N D O N:

Printed for WALLIS and STONEHOUSE, at Yorick's
Head, Ludgate-Street. 1775.

A

SECOND ANSWER

T O

Mr. JOHN WESLEY.

S I R,

YOU have, in most respects, been so completely answered by *Americanus*, that little more need be said to convince any candid enquirer, that you are unacquainted with the subject you have undertaken. Nor can I think a gentleman of your confessed abilities would have betrayed such inconsistent reasoning, had not interest blinded the clearness of your judgment. — Do not be angry, good sir, at this opinion. —

A s

You

You would have the same in such a case of any other, if he was a man that could take an *oath* with *mental reservation*. And you know how often you have done this, when you subscribed articles you totally disbelieved. It is very natural therefore to think you will not be over scrupulous in receiving a handsome reward for your labours; for though you say it is *probable* you may gain nothing from Government; by a *mental reservation* it may easily be allowed that you have *hopes* you shall, and your very expression does not deny but that you have such hopes.

But whatever may have been your motives, you have certainly the merit of conciseness, which you must not expect will be followed by your opponents; for your grand positions are mere assertions.—You have so long been used to govern the consciences of your people, that you think an opinion is enough to silence the complaints of all America. But, Sir, to answer you will require proofs — and had you paid a little attention to this necessary ingredient in argument, your Pamphlet would have been somewhat longer.

The *end* of all your arguments is to *prove* the *unlimited right of Parliament to tax America*, which grand principle your own arguments effectually

tually destroy. You confess, in page 11, “ The Americans have a right to all the privileges granted them by *Royal Charters*; and that if any charter granted by the King should expressly exempt them from taxes *for ever*, then they would have an undoubted right to be *so exempted*.” Now, what does this prove less than a power in the King superior to the whole legislature; for if he can exempt a part of his subjects from their authority, he may exempt the whole, since there is no law of limitation; and thus not only the *unlimited power*, but even the *existence* of Parliament, would become useless and ineffectual.

“ It is true (you say) page 11, “ The first settlers in *Massachusetts Bay* were promised an *exemption from taxes for seven years* ;” — but you omitted to tell us this promise was made *by the King, not the Parliament*. — *Americanus* has supposed that quit-rents were meant by this taxation. However, if we admit it in its most extensive sense, it only proves an * arbitrary exertion of power by the tyrant Charles the First, who not only thus subjected the Americans to the British Parliament, contrary to the rights of English-

men, but he excused them from ALL customs or subsidies IN ENGLAND * on goods exported for their use, thereby *dispensing* with the supreme power of the British legislature. This has been justly alledged by historians against Charles as a proof of his despotic principles; and it was *equally* an infringement on the rights of the English and American powers of legislation.

As to the charter of PENNSYLVANIA, which, page 10, you say expressly allows the right of taxation to the British Parliament, it should be considered it was granted by the Second Charles, no less an † enemy to liberty than his predecessor; and, excepting the dispensing power, was, doubtless, copied from the former: it was the aim of both these Kings to abridge the power of the people as much as possible, for which the first lost his head, and the other will be remembered with honest indignation. But how comes this to be the *last* charter of America, as you call it, page 22, when that of Georgia was granted by George the Second? Liberty was then safe under the protection of the House of Hanover; and this is the true reason why no

* Vid. the charter in Almon's Debates.

† It was Charles the Second that issued a Quo Warranto against all the Provinces of New England, and deprived them of their charters. Vid. Neal's Hist. of New England.

mention was made of subjecting the Colonies to British taxation.

It is plain then no argument can be well founded on the acts of two such Kings, especially as even their charters expressly declare, every condition and circumstance contained in them, shall *always* be construed *in favour* of the Colonies; and no instance can be found in any other charter, acknowledging the right of the British Parliament to tax America.

Let us then proceed to your ideas of *the supreme power*, which are indeed very confused and contradictory, for it is doubtful sometimes whether you ascribe it to the three branches of Legislation, or to the King alone—Thus, page 4, you say, “*A King grants charters to certain persons, permitting them to settle as a corporation in some far country, which being a corporation subjecting by a grant from higher authority, to the control of that authority they still continue subject—Therefore, the supreme power in England has a right to tax them*”—Now the grant is made by the King, not by a commission from the authority of Parliament*, but from the exercise of his undoubted prerogative—If therefore the

* Vid. Black. Com.

power of granting a charter constitutes the *right* of obedience from those to whom the charter is granted, which you affirm it does—The *King* is that supreme power which may tax them—But if you should answer, *you mean* the whole legislature to have that power, there must be some other reason for it, than that you have laid down; because *the whole legislature were not the granters* of the charters to America—Thus, either your conclusion or premises are absolutely false: and yet this clause is said to cut the most respectable figure of any in your performance.

The fact is, charters are not grants or gifts, of the mere will of the King; * but they are properly, and in the most simple sense, written confirmations of the ancient and constitutional rights of the people; such as was *the great charter* granted by King John; and, in a lesser sense, the King may grant them to certain parts of the community, so as not to be inconsistent with the former—Thus, in the first view, a charter may be considered as an *agreement or compact* between the King and his people, to govern them by their own consent; and, in the second, it is a partial agreement with *a part* of his people, which can be no longer binding than it is

* Rapin and Sydney.

for the benefit of the whole—Of this the whole community, of which they are a part, as being represented in the same body of legislation, are the only judges.

A charter then, whatever privileges it may contain, cannot be binding, without it is permitted or consented to by the *supreme power*; which, as it has been confusedly spoken of in your pamphlet, I shall next consider.

In England, that power is lodged in the King, Lords and Commons—and * the King has no right to grant a charter in England, but what is subject to this supreme authority—The reason is, this: because an absolute grant or charter from the King would operate to destroy the connection, between such a part of the people, and their representatives in Parliament; and having destroyed that, it would go so far to destroy the principles of representation, and thus the king, might at length become absolute.

In like manner, the King, Council, and Assembly, are the supreme power *in America*; be-

* Blackst. Com.

cause, when the first settlers departed from this country to form a Colony, they ceased to be represented here; and therefore ought to have a *new* constitution, similar to, and independent of that at home, which I shall prove as follows :

1. If the King had not a power to enter into a *new compact* with the settlers of a *new territory*, there ought to be no power of extending dominion: for if the King might extend his government to remote regions, and yet had no power to extend *the actual* exercise of the liberties and rights, which the condition of civil life does allow, he might by removing the seat of empire soon annihilate the power of the Mother Country, and raise himself into the seat of despotism.

2. As our free government is founded on a *compact* * between the King and people; and as by having this country the Colonists remove from *the possible* enjoyments of their old privileges; therefore the King ought to grant them a new charter, which is the same as renewing the compact that no longer subsisted by their removal.

* Locke, Sydney, Rapin, M.lt. Del. pro pop.

3. The King, and not the whole legislature of Great Britain, ought to have this power of granting a new charter: for as they have no right founded on justice to tax a people, they do not represent either actually or virtually; so they can have no right to *grant* privileges to a people, who *have* as much as themselves, an *inherent inalienable* right to those privileges.

4. Though it might be a matter of dispute between the British Parliament and the King, was he to establish arbitrary power in the Colonies — Whether the Sovereign of a free people ought to favour arbitrary power, even though he had the voluntary consent of those who submitted to it — and though perhaps the Parliament would be justified in exterminating such a King; yet, when he grants charters that *establish liberty*, and *new constitutions* like our own, and united to it by the King, the bond of union between the whole — We as a free people must agree to this prerogative, or else it will follow, that *as the privileges of Englishmen cannot be extended beyond their present limits of local situation*, therefore for the security of those privileges, the *further extent of empire* should be *totally prohibited*.

Nothing, as I conceive, can be a solid objection to this mode of reasoning, but a proof the
supreme

supreme power must of absolute necessity be in one compact and undivided body; and that it cannot possibly be exercised in parts, so as to have one common center of union in the person of the King—and this I am persuaded cannot be proved.—

That it may be exercised in parts, need not be insisted on from the opinion of learned writers, for we may recur to facts in the history of our own country—Thus Scotland had its parliament—Ireland still has a parliament—and till now, for near two centuries, the Americans have had their Assemblies—each of these exercised an independent power of legislation—and as the King is always a third part of the legislative authority, as well as possessor of the executive power; and as these independent branches of government extend their jurisdiction no farther than the country they represent, no detriment can arise from their different views and maxims; because the king has a power which visibly blends the whole into one common interest, and yet each may enjoy similar privileges independent of the other.

Thus the right of the Americans to tax themselves is sufficiently clear; but as it would be dangerous to the community at large, if there was not a kind of perpetuity in the residence
of

of the supreme executive power, by which I mean the King; so the Mother Country ought to be allowed something as a token of superiority, but not an absolute one; and this seems happily effected by the act of navigation, which as it is recognized by the Americans, and has been exercised so much to their satisfaction, and to the amazing advantage of this country, ought to be considered as a sufficient acknowledgment: yet this we should observe *is not a matter of right, but of political necessity.*

Having therefore a competent knowledge of what a charter is, and what is the supreme power, we may readily agree to your first proposition, that the *supreme power* has a right to tax the Americans; because then we should mean the power of the King, Council, and Assembly in the different Colonies; and to speak of it in any other light, is to throw the harmony of a system of government admired and unequalled throughout the globe, into the dreadful confusion which we now experience; nor can it possibly be proved that the supreme power in England, have a just right to tax the Americans, any more than that the supreme power in America may tax Great Britain.

The whole of the dispute resting on the idea of what is the supreme power, it must be exceed-
ing

ing plain, that if these arguments are just, the present proceedings against America are without defence. It is true, there should be a supreme power somewhere; — every friend to the liberties of America, as well as the partizans of administration, allow the position, — but we must not expect in a mixt government, like that of Great Britain, whose territories are so divided, and extensive, — to have the simple idea of Supreme power, which we have when we talk of small republics, or absolute monarchies. And as it is the happiness of this country to have liberty, as the very *end* and *design* of Government, so the supreme power, which could not be exercised in one compact body, without violating the rights of all America, which it did not appear could be represented in the British Parliament, is divided into parts; and under such wise regulations, as no theory, or wisdom of the greatest writers, could ever devise.

In short, the true idea of supreme power * is in the people, in all free governments; — in ours it is manifestly so; — hence the unlimited power of Parliament, which represents the people; but they have no power over those they do not represent. This is expressly mentioned as the reason why we do not tax Ireland. “ For,” says an ancient re-

* Locke, Mil. Sydney.

cord †, “Ireland hath a Parliament of its own, and maketh and altereth laws ; and *our* statutes do not bind *them*, because they do not send Knights to our Parliament. The Irish are, nevertheless, subjects of the same empire, which is bound together by the King, who may be justly called the center of the whole.” And the same authority concludes with words equally applicable to America and Ireland : “ That they are, nevertheless, the King’s subjects, like as the inhabitants of *Calais*, *Gascoigne*, and *Guienne*, while they continued under the King’s subjection.”

Thus, having shewn, that the supreme power may and ought to be divided, according to the old received maxims of the constitution, and according to the principles of natural right ; which, as Judge Blackstone justly says, is the surest foundation of law. It were needless to use further arguments ; for, except where, in contradiction to yourself, you allow the King to be supreme, every thing you have said may be reduced to this single question, Whether the supreme power may not be divided.

If then government is formed better from experience than theory ; if we have found by the

† Year Book, 1 Henry VII. 3. Vide Blackstone.

history of the two centuries past that the plan of government in America was wise and salutary—Why should we wish to shed the blood of our countrymen, whose only fault is a noble, an Englishman-like zeal, for the liberties they were born heirs of?

You tell us, they want to be independent—Do you mean to create a commonwealth of their own, and to acknowledge no connection with this country?—If that is true, let every Englishman spurn at the attempt.—But was ever a charge brought against a people, as a reason for scourging them with the calamities of a civil war, with so little ground—how could they possibly attempt such a revolution—they have no ships—their cities, on the coast—and where would be our fleets?—The success of such an attempt would be impossible, and they are too wise to undertake it—on the contrary, they wish to have a *reciprocal* dependence with the Mother Country, as at once promoting their wealth, and what is still more valuable, their liberty with our own.

I know it has been urged, though not in your book, that it would be difficult for a Minister to ascertain the proportion to be asked for supplies from so many Colonies;—to manage a mixt and extended Government like ours, so as to preserve its liberties, will always be difficult: and those that are alarmed at difficulty, had better
give

give their vote for an absolute monarchy at once—but this should be the criterion of Englishmen; *always to decide* in favour of public liberty—and how easy would it be for a Congress to meet, in which all the Colonies were represented, to settle for the Minister this arduous point. The Minister might make a request of such an aid as he wanted, and the Congress might examine the propriety of the request, and divide the proportion to the Colonies.

But as the investigation of this subject is not immediately in reply to your Letter, it is time I should conclude.—You will please to remember your leading position is destroyed by your own arguments, and your lesser arguments cannot be good, if that is destroyed.—I shall, however, hoping the brevity of this Letter will apologize for any thing not sufficiently explicit, briefly take a survey of your performance, to shew that it is, in general, as inconsistent as it is in the leading grand question, of the right of the parliament of England to tax America, which they do not represent.

You begin by supposing a Colony is a corporation, page 4. which like a corporation, of England, is subject to the *supreme power*.—Most certainly you are right in the application; but there are two supreme powers, or rather the
supreme

supreme power is divided, and each corporation must be subject to that in which they have an interest.—You next endeavour to show, that as we are unequally represented, therefore the Americans should be so too, page 6, by which the fable of the dog in the manger is amply verified; but Americanus has treated this subject more at large, and has utterly refuted your pretensions.—You go on to say, page 7, “If the Americans claim the rights of *natural born subjects*, the boast of *original* right is at an end.” To which I answer, *the rights* of Englishmen are the *original rights* of nature, as far as is consistent with the good of society, which is the true definition of civil liberty.—These therefore are the natural and original rights which the Americans claim and which they have not forfeited.—Again, you say, what they do not forfeit by any judicial sentence, they *may* lose by natural effects.—This is very true, as far as it applies.—For instance, if a man goes to Turkey or France, he can no longer possess the rights he did in England;—but if a man from Yorkshire should come to London; he may, notwithstanding he loses his vote in Yorkshire by local situation, be a voter where he now resides; and so it should be in every part of the same dominions:—it is not enough therefore to say, that the right of being represented *may* be lost, but it should be proved

proved that it *ought* to be lost by removing to America, and that the state cannot possibly exist, if the Americans still retain it.—Next, by a curious piece of sophistry, you seem to consent to their enjoying all the *privileges* of their ancestors, but *no more*, page 8. as if this was granting what they ask; whereas they say they inherit all the **RIGHT** which their forefathers had to *all the privileges* of Englishmen, page 8. so that by substituting the word *privilege* for the word *right*, you lessen the propriety of their claim, that you may the more easily destroy it.

There is another curious argument, page 10. where you compare the Legislature of a Colony to a parish vestry.—So you may, but it will not hold good; for a parish vestry acts under the immediate laws and direction of that supreme power in which it is represented,—but the Colonies are not represented in that supreme power.—As to the power and efficacy of Royal Charters, I hope it is sufficiently exposed in the beginning of this letter, and likewise concerning the Charter of Massachusetts's Bay and Pennsylvania.

You say, page 17. to contend for the right of granting their own money is to acknowledge no Sovereign,—which inference supposes they mean to exclude the King from a third part in their legislative power, an insinuation no less false than

it is cruel.—I shall therefore take my leave of you, Reverend Sir, with a word of application.—Do you not think the Ministers are prone enough to carry the flame of war into America, and to ruin the trade of this country without your assistance or advice?—You had done better to have aimed at making peace.—You should have considered what a heavy offence it is, to charge three millions of people with the crime of rebellion, if it is not true, and of this you ought to have been quite certain, before you took a part; for nothing, surely, is a greater offence both to God and man, than to be a sower of strife—to endeavour at the establishment of tyranny—and to misrepresent the principles of the constitution to deceive the people.—I must add one more remark, that as to submit passively to every oppression, is a mark, not of humility, but cowardice, and a base spirit; so to take up arms when there is no other hope of safety, is not rebellion, but the highest proof of courage and public virtue.

F I N I S.