

The Athenian Mercury:

Tuesday, August 18. 1691.

Quest. 1. **W**Hether after the King and Queen had each of them declared their earnest Desire of a General Reformation of the Manners of the People of this Nation: And the Justices of the Peace for the County of Middlesex, in pursuance of Her Majesties Letter, had caused an Order of Sessions for the Execution of the Laws against divers scandalous Sins, and particularly against unlawful Plays and Sports, to be Printed, Published, and Affixed in proper Publick Places; and the Lord Mayor and Court of Aldermen had likewise set out an Order to like purpose; and had moreover, upon the Petition of several Inhabitants of the adjacent Parishes, setting forth the Lewdness and Debauchery, which hath apparently increased, the Tumults, the Bloodshed and Disorders frequently committed; and the continual Danger of Fire to the Houses and Estates of the said Inhabitants, at the Fair of St. Bartholomew, by reason of Booths of extraordinary largeness for Stage-Plays, Musick and Tipling, contrary to the Law, being so many Receptacles of vicious and disorderly persons, and whereby the Trade of the said Fair hath been very much interrupted; had published and posted another Special Order concerning the said Fair to put a stop to the farther spreading of Wickedness and Vice, to preserve the Peace, to provide for the Safety of the Inhabitants, and to restore to the Traders the full enjoyment of their Trades without annoyance or obstruction; And when a happy beginning of a hopeful Reformation was very vigorously prosecuted; Whether under all these Circumstances to erect Booths of such largeness, and for such purposes as aforesaid, be not an Abominable Wickedness and Impiety against God?

2. Whether it be not an act of great Insolence and Presumption against her Majesty, who hath so happily given Encouragement to this beginning of a Reformation?

3. Whether it be not likewise an act of Insolence and Presumption against the Lord Mayor and Court of Aldermen?

4. Whether it be not such an impudent Opposition to the Reformation lately begun, and now prosecuted, as ought to be reſented by all who wish well thereunto?

5. Whether the permitting of such an Insolence, Presumption, and Abominable Wickedness, under the Circumstances aforesaid, be not like to provoke some special Judgment of God for it?

6. Whether the permitting of so great an Occasion of Disorder and Wickedness, and so plainly contrary to the Laws, be not a great Blemish to, and Diminution of the Honour of the City, so famous for good Government in other respects?

7. Whether the Persons who Let the Ground for such purposes, or to persons notoriously known to use such Employments, be not equally criminal and punishable with those who erect the Booths for that end?

8. Whether those who pretend the Queens Authority for these Booths, ought not to be enquired after, and duly punished if discovered?

9. Whether the Suppression not only of these Stage-Plays, but also of all other the like; and of Lotteries, which are all not only very pernicious, but also contrary to Law, and cannot be authorized either by any Lease of the Lord Mayor, or Court of Aldermen, or by any Charter of the King himself, or any Authority less than Act of Parliament, doth not well deserve the Consideration of all those worthy Persons who are willing to give their Assistance for the Promotion of the present Reformation?

Ans. These are all Questions of very great weight and moment, both with respect to the present Reformation, and the several great Persons therein concern'd; and therefore we shan't presume to give the World our Thoughts upon 'em, without Special Orders for so doing; which if we receive, that Worthy Querist that sent 'em may expect a particular Answer to them all next Saturday.

Quest. 2. Whether the way to make a thorough Reformation ought not to begin at the great Ones in Authority, since they are pleased to begin with the little ones, and whether it would not be effectively exemplary, if a restraint and suppression were put upon some Persons of Quality, who notwithstanding Her Majesties Gracious Letter to the Justices of Middlesex, do yet under the Covert and Vail of power act the most vile and little things. As for Example, A certain Great Person (whose Name we shall

conceal for his Families Reputation,) having decoy'd a Gentlemans Wife away from him, took a Lodging for her and her Maid-Servant. Her Husband finding out where she was, came and demanded his Wife, upon which the great Man orders some persons to carry away the Gentleman by force, and kept him several hours. At last the Affair was so contriv'd, that his Wives Servant swore Treason against him, which 'twas thought would have taken away his Life. In short, he was Imprison'd, and tho' upon his Tryal clear'd, yet his Wife was kept from him by this Great Man, and no Justice done to the injur'd party: But had it been my Case as it was the Gentlemans, it should not have ended here, for wherever I had met the Great Bubble, I should e'n have Esquire Thynn'd his Honour: Your Thoughts on the whole?

Ans. 'Twould have been a better way to have appeal'd to Heaven, and resign'd the Cause to the Righteous Judge, rather than to encroach upon his Prerogative without a Warrant: But since our Thoughts are required, we answer thus, That we freely list our selves amongst that little Party that have begun to stem the great Torrent of Impiety. If the worst of men in an ill Cause can be brave and daring, why should the Profelytes of Vertue be timorous and sneaking. We profess our selves Disciples of that great Man, who being ask'd by Heliogabalus how he durst be so plain, Because (said he) I dare Die. — I can but Die if I speak the Truth, and I must Die if I flatter. We have upon such a supposition taken Advice upon't, and are assur'd, that the Husband may bring his Action, and recover good Damages. And besides, the Crime is punishable by Fine and Imprisonment, and may be prosecuted by Indictment by another Person: And we are also assur'd, that if the Gentleman will appear with his Evidence at the next Sessions, that it may be known he hath sufficient Evidence to make good the Indictment, there will care be taken by as powerful (tho' perhaps unknown) Friends, that the Injur'd shall have the Assistance and Encouragement that the Law affords. 'Tis fallly alledg'd, That the Great ones begin not themselves: Their Majesties and their Officers, with many of the Nobility and Gentry having encourag'd all of us by their Pious Example. And though some few of the Great Ones do Clandestinely act what they are ashamed of, yet there's enough that dare let 'em know they are Subjects to those Laws they would pervert, and such as will endeavour to make 'em sensible that Titles of Honour are lost in little Actions.

Quest. 3. A Woman, who was a Foreigner, having taken a House in a place called Stretten-ground in Westminster, was observed by her Neighbours to keep her doors shut all day, but that toward the Evening there was recourse to her by Persons in Coaches, who seemed to be of no mean Quality, which occasioned some Suspicion that those persons met there upon some secret Business, as plotting Treason against the Government, &c. whereupon Information being given at Court, two Messengers went to search the House at the usual time of the Companys coming thither: and upon search they found only a certain Lord with a Lady of a Noble Family, who was Wife to another Lord.

Q. 1. Whether this wickedness be not greatly aggravated by the Quality of the Persons, who ought to be Examples of Vertue?

2. Whether neglect of due Punishment of such wickedness in such persons, be not a greater Offence and Provocation of the Judgments of God upon the Nation, than a neglect of Punishment of the like wickedness in meaner persons.

3. Whether the fault of such a Neglect would not be greatly aggravated by being committed now in the beginning of so hopeful a Reformation.

4. Whether the due punishment thereof be not like to be well-pleasing to Almighty God, and a great encouragement to the promotion of the Reformation desired.

5. Whether the greater the Persons who should appear to be concern'd for the punishment of it, the greater Benefit might not thereupon be expected to the Nation.

6. How far the Church, and particularly the Bishop of the Diocese is concern'd in it.

7. How far the two Noble Families related to the Lady and her injured Lord are concern'd in it?

Ans. To the first Question the Answer is clear and easie, and must be in the Affirmative. The true end of Nobility, or distinguishing some Persons above others, is rewarding Vertue, that such Persons who have done handsome Actions, being advanc'd to Honour for that Reason, others might by seeing 'em in such high Stations, be perswaded even out of Interest to imitate their Vertues. But if instead of persisting in that Vertue which did or should have rais'd them or their Ancestors, they only make use of their power to be more Vicious than others, and give bad instead of good Examples, they are as much more guilty than others, as they are higher than they. Their Names will be expos'd (for they are known) tho' not in this little Paper, yet in the bolder Chronicles of after Ages, & whilst Offenders of better Quality may scape with the Lash in Bridewell, & their Faults & they be shortly Bury'd together, these greater

Delinquents shall be transmitted down to Posterity in those proper Colours their Crimes deserve,—if indeed they met at the place nam'd on any Criminal Design as the Question suggests.

To the Second, as the Quality of the Persons aggravates the Crime, so shou'd the Crime escape unpunish'd, 'twould certainly be of much worse Consequence, than if those concern'd had been of a meaner Character. Besides, the malicious World will say, and justly too, that Justice is not fairly hoodwink'd, but makes a shift to get a glance of the Parties concern'd, and spares one more than another—that all is but a mock-Reformation, or like those Cobweb-Laws which great Flies break through, and that it's now plain all this noise is only about little Sinners; while the Drunkard, the Swearer, the Whore-master of Quality, may still take what Liberty he himself pleases.

To the Third, we reply in the Affirmative, and can easily guess what the Thoughts of some will be concerning it, namely, that those engag'd therein, tho' they have so great an Example, were hardly in earnest, or at least that they durst not prosecute what they had so happily begun.

To the Fourth, if the Fact be plain, the Resolution is so also. The Crime is foul and horrid, the just punishment thereof must therefore be a brave and noble act, and as acceptable to God as honourable among Men.

We answer the fifth as the former—for this so good an Example in great Persons, wou'd in some measure cure the mischief of one so ill before given by others.

The two last we acknowledge too big for us to Answer, may Religion, Justice and Honour direct those concern'd.

Quest. 4. *Whether an Informer is not as much a Rogue now for informing against those Vices that the Law now takes hold on, as he was for informing against the Dissenters formerly, when they met together contrary to Law?*

Ans. This is a very rude sort of Question, and carries a great deal of Malice and Ignorance in the very face on't; and plainly shows which side the Querrist wou'd take, if he was to be an Informer. But it may be consider'd, that words of a good or indifferent signification have been (afterwards by some abuse or evil appearing in the thing signified) vulgarly used in an evil sense (see Vol. 3. N. 3. Questions about the Calumny of the word Informer) and the like may be observ'd of Professions and Employments good and honourable in themselves, but often abus'd, and this in the Case of Information: What shall we think of a Person who prosecutes another upon a Case of Slander, Murther of a Friend or Parent? Without doubt our Haters of Information wou'd not think it at all scandalous, tho' here's but a particular Member of a Body Politick concern'd; much more is the Case enhanc'd, when the Fundamental Constitution of the whole is endeavour'd to be supplanted; for it alters not the Case as to the Action, whether a Republick falls by Ignorance or Malice, 'tis down when fallen, and the advantages to its Enemies are the same. Hence it is indisputably evident, that 'tis an Indication of Ignorance or Rebellion, or both, to give such Informers as are instrumental to the Happiness of a Body Politick, the Epithets of Base, Little, Scandalous, or such like. A common Informer, in the Eye of the Law, is he who merely for Lucre or Malice doth prosecute vexatious Indictments, Informations and Actions, upon penal Statutes, without regard to the Service of the State and Government, and the Reformation of the Offenders. And of this sort were those who were most active heretofore in Informing against Dissenters, &c. merely for Lucre, Malice and Faction; for the Dissenters Practices were not Offences in their own Nature, but accidentally such, as contradictory to some positive Laws of the Nation. But the Case is now much alter'd, and those who inform for Suppression of such abominable Wickednesses as are such, both in their own Nature, and in their Consequences, do no more than what every Heathen State wou'd warrant for its own Preservation.—But alas! the English Bravery and Virtue are come to a low Ebb, when its Members start such Objections as wou'd have it absolutely drain'd! Some through an ignorant, over-busie Spirit (to give 'em no worse Character) wou'd introduce such Measures as wou'd render 'em and their Posterity miserable, if yet there were not some publick, good, wise Men, that have more pity for 'em, than they have for themselves.

Quest. 4. *A certain Person on Sunday last in the Sermon time was drinking in an Alehouse where he dined, for which he was forc'd to pay 3 s. 6 d. Yet the Justice of Peace, who caused the Man to pay the said money, was the same day Tippling himself in Sermon time. Now I wou'd fain know what treatment this said Justice ought to meet with, and to whom may a man safely go to inform against him; for without doubt no Justice will fine*

or condemn a Justice, but rather send the Informer to Prison, therefore what ought to be done in this case, that the Reformation may take its free Course, for without doubt, if it is a notorious Crime in a mean Man, 'tis so in a Justice of Peace? To which for a parallel we may add another we have receiv'd, to wit, A Justice of Peace his Son was lately taken in a Tippling-house, in the time of Morning-Service, contrary to the Statute in that Case made and provided; whether or no the Constable that search'd the House for Tiplers, and took him, and afterwards let him go agen, because he was a Justice's Son, ought not to be treated in open Court, like that Constable you make mention of in your Mercury, Aug. 4. 1691. who refused to execute a Warrant for the seizing of Fruit publicly exposed to Sale on the Lord-day?

Ans. In Answer to both these Questions, we affirm, 'Tis a Vulgar Error among Justices (and now is the time that it will be made appear so) concerning that Maxim, *Par in parem non habet potestatem*; That an Equal has not Power above his Equal, we grant to be a Truth, speaking strictly, without considering whether Circumstances or Exceptions may alter the Case. But let such as only love a General Construction of Things, consider, that a Criminal is not equal to an Innocent Person, much less with a Magistrate; and that by Breach of the Laws he may (tho' a Justice of Peace, or a Magistrate) become subject not only to a Magistrate of equal degree, but to an Inferior Officer. A Parliament-man, a Judge, nay, a Nobleman, may be subject to Arrest by a petty Constable, in some Cases. If we look into Stow's Annals of Henry IV. we shall find the Lord-Chief-Justice Gascoyne fam'd for executing the Laws against the Prince; and read the Statute, 4 Hen. 7. cap. 12. and you will find how careful that King was to see his Subjects have Right done: And what King left fuller Coffers to a Successor than he did? But to the Instances in the Question: No other Justices can refuse to act upon Information against the first Justice, the other Justice's Son and the Constable, if the Information appears to be truth; which let the Informer be well satisfied of by such sufficient Evidence as the Statutes in those Cases require.

Quest. 5. *Whether the manner of Selling Offices is not obstructive to the Progress of the present Reformation?*

Ans. The Law provides, a That none but Persons worthy and meet shall be advanc'd to Offices, and not any for Money, Favour or Affection: And that great Ministers and Officers selling Offices, shall forfeit their Estate therein; and that Purchasers shall not hold or enjoy the Offices bought. And, b That not any Minister or Officer can be admitted to the execution of any publick Office, without taking an Oath to serve therein faithfully, according to the Laws and Statutes of the Realm, as they tender the Honour, Comfort and Prosperity of the Nation. And, c That all Laws are to be expounded to advance the Remedy, and suppress the Mischief; and that the Statute, 13 Edw. 1. cap. 50. fully impowers Their Majesties to make all Laws answer the true End.—Now according to the aforesaid second Note of Reference, viz. b all Officers or Ministers, taking Oath to serve faithfully according to the Laws and Statutes, and yet at the same time advance unmeet Persons into Offices, for Money, Favour or Affection, do act contrary to the Statutes, and their Oath too; which must certainly be a very great Evil, because by so doing Places of Trust, and the Management of the great Concerns of the Nation are corrupted; and if so, no wonder that the present Reformation may meet with many Obstructions; but we hope none insuperable to the great Care, Piety and Examples of those many worthy Persons who are concern'd in't, and who (we doubt not) have laid down this Maxim, That before a Nation can be happy, all concern'd in the Management of its Happiness must first begin the Regulation of themselves, both as to Ecclesiastick and Civil Government.

Advertisements.

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