

Fines and forfeitures being a large part of the king's revenue, and the judges holding "at his pleasure," the people once grown accustomed to seeing men impoverished by "*mulcts*," (Coke's favorite and comprehensive term for all manner of *fining*), it was not difficult to gradually dispense with the old inquiry by jury as to the "countenance." In the latter days of the Tudors and the reigns of the Stuarts, complaints of "*excessive fines*" and departures from the old principle and procedure already described were grievous, and after the Revolution "*excessive fines*" were forbidden in general terms. It is worthy of notice that in this and the matter of "corporal pain," treated of above, *general maxims* were announced, but no adequate and exact provisions made for their enforcement. Complaint, it is to be assumed, was thus to be satisfied by the shadow of reform, while the State preserved the *substance* of oppression. It might be well, however, to adopt a rule as to fines. Therefore, I propose—

17th.—That the fine shall not exceed one year of the defendant's income, when not of an amount fixed by Statute.

18th.—That no distress shall issue against anyone who is poor and needy, or a non-resident; and that, if either has been proved to the satisfaction of the Court, instead of distress the Court shall award imprisonment, not to exceed one year, if no other time has been stated in a Statute.

19th.—That no "distress" shall issue till defendant has been called on to "shew cause" why "distress" should not issue. And if, in answer, he shows that distress would ruin him, or otherwise amount to an excessive punishment, then he shall be "put to his election" to pay or be imprisoned for not more than one year, unless in cases in which a Statute has provided a different period.

20th.—That all imprisonments for unsatisfied judgments awarding FINES, shall *proportion the duration of the imprisonment to the amount of the judgment*, as thus—one dollar or three days, ten dollars or thirty days, and so forth; but not in any case to exceed one year.

21st.—That all judgments awarding FINES not exceeding ONE HUNDRED AND TWENTY DOLLARS shall be collected by IMPRISONMENT ONLY.

22nd.—That no man without property, either fixed or moveable, independent income, or means of subsistence