

gistrate in the first instance, except that imprisonment proportioned to the amount of the judgment, instead of other limit, should not exceed ONE YEAR of twelve calendar months. The reason for the proviso as to Penitentiary men is, to keep them as much as possible apart from the other prisoners. Penal trespass would not necessarily include a criminal offence. Depriving another of things not in law property, but which he innocently enjoyed, depriving a person of an article for "fun" as it is called, all these sort of acts would be penal trespasses, so that *no stain would follow* the conviction, and the party be *truly free to amend*. In this way the contempt of the people for theft would not be destroyed, yet the severity of the law, so different from that of the Athenians and of the Hebrews, and others, would be greatly diminished.

I have used the word "detention" in reference to the Penitentiary, for if the "utilization of convict labor" be fully recognized, it might be advisable to employ the convicts in rivers, quarries, or other works far enough from a regular prison; and I think I have shewn the objections to such treatment of them to belong rather to antiquity than to modern times. It is to be observed that burglary would require this definition, "entering with intent to commit a felony" or "heinous" misdemeanor. The first word ought not to be omitted, as it would exclude an intent to murder—a great mistake; and to avoid the error of the Americans for compounding felony, I would substitute compounding "a heinous misdemeanor in the nature of a predatory crime," as the "compounding felony" seems always to refer to a crime of that character. And all compromises in criminal prosecutions without the knowledge and, when needed, the leave of the Courts, should be contempt. Because the American system of allowing these things has worked badly.

29th.—That where any person has been condemned in a Court of criminal jurisdiction to a fine or penalty and been imprisoned for non-payment and then discharged without payment, he shall be put on a list to be called "the list of destitute penal debtors," to which the public shall not be allowed access, lest the debtors be kept out of work by it.

The object of the next proposal is to meet the case of persons constantly getting imprisoned for small fines. Of