

der that opinions differ on the subject of prosperity.

There is increasing evidence from many quarters of the growing strength of the fiscal movement which has been officially inaugurated in Colorado by the "Bucklin bill," and which is known there as the Australasian system of taxation. One of the latest of these movements is reported from New Jersey. A meeting called by well-known residents of the eastern and northern part of the state is announced to be held at Belleville on the 15th. The call is addressed to all citizens of the state who believe in home rule in taxation, regardless of what form or method of taxation they prefer. Lawson Purdy, of the New York Tax Reform association, is to address the meeting, and its specific object is to form a New Jersey Tax Reform association. That this meeting is no tentative affair is indicated by the fact that only a few weeks ago the citizens of Franklin township, in Essex county (the Newark county), at their annual town meeting, unanimously adopted a report of the township committee which urges upon the legislature the establishment of local option in taxation, supporting the recommendation with the argument that it—

would permit the tax payers of each taxing district to decide for themselves which class or classes of property should be taxed and would make it possible to grant any desired exemption for the purpose of attracting capital and business enterprises. The advantages of this proposed method of securing tax reform are becoming universally recognized, the same having recently received the endorsement of the New York chamber of commerce, the League of American Municipalities (at its convention in Charleston, December, 1900), the New York state commerce convention (Syracuse, June 6, 1900) and the governor of Colorado in his message to the legislature.

The same report recommended the Purdy plan of equalizing state taxes by mathematical calculation as a substitute for the present unsatisfactory method of investing boards of equalization with discretionary authority.

Moses Hallett, dean of the law fac-

ulty of the University of Colorado, and federal judge for that state, faithfully described the kind of "progress" this nation is making under the spur of world-power enthusiasts and money-power devotees, when, in his address to the graduating class of the law school he said:

The spectacle presented is that of a nation in rebellion against absolute power; afterward a government established in protest against absolute power and professing to rule only by the consent of the people and disclaiming authority in other lands and over other people. Such were the United States of America at the end of the eighteenth century. One hundred years later the same nation and government, in total disregard of the principle on which it was established, repudiating every declaration of authority upon which it came into power, with shameless perfidy takes into its possession other lands and peoples with intent to rule them absolutely and with the power of the sword.

"Famous western novelists write the news for the Chicago American." This is a quotation from an advertisement. Novelists write the news! That explains the peculiar quality of the American's news department.

#### AN ANALYSIS OF THE SUPREME COURT DECISIONS IN THE PUERTO RICO CASES.

The text of the opinions of the judges in the Puerto Rico cases having now been published in some detail, an estimate is possible, not only of the scope of the decisions as precedents, but also of the leanings of the judges with reference to the McKinley colonial policy, and the probabilities, consequently, as to the action of the court in future cases involving that policy.

#### I

In determining the scope of a court decision as a precedent, the opinions of the judges, that is, the reasons which they present in support of their conclusions, are not essential. Though they throw light upon the question, they may be no more valuable for that purpose than the opinion of a text writer. They are not themselves authoritative. The decision (including, of course, the reasons upon which it rests necessarily), and not the partic-

ular line of reasoning which the judges advance, is what constitutes the precedent. A decision reaches no farther, therefore, as a precedent, than to cases the facts of which necessarily come within the same principle. It is not to be extended to other sets of facts merely because the opinions of the judges might warrant the extension. In other words, the opinions by which judges undertake to explain or justify their votes upon deciding a case, are something entirely different from the decision. The opinions are only the explanations of individual judges. They are nothing more even when all the judges of the court concur. But the decision is the official act of the court itself, applying to a given set of facts principles of law which are presumed always to have existed, and which, for the sake of uniformity if for nothing else, ought to be similarly applied to similar cases in the future.

With reference to the Puerto Rico cases, then, the first thing to consider is not what the judges said, but what the court officially and authoritatively decided. It was that determination that disposed of the particular cases, and which, as a precedent, should dispose of future cases that turn upon the same general facts or facts substantially analogous.

To ascertain what these decisions were, we must do two things. In the first place we must marshal the material facts of the cases; in the second, we must note the nature of the judgment with reference to those facts.

#### II.

There were two cases. One was decided against the government; the other was decided in its favor. The case in which the court decided against the government is known as the De Lima case. That in which it decided in the government's favor is known as the Downes case.

The De Lima case was a law suit brought by an importer against a custom house collector to recover tariff duties exacted of and paid by him upon an importation of goods from Puerto Rico into a state of the American union.

The duties had been collected under the Dingley tariff act, upon the theory that, with reference to tariff