

and that when a question is settled by the highest tribunal it should remain settled for all time, a desideratum with the realization of which impressive dissenting opinions tend to interfere. To this contention the Albany Law Journal replies that whether a question settled by the highest tribunal should remain settled for all time depends upon whether it is settled right. That is good lay doctrine; and we are glad to find it good law doctrine also.

Appellate courts have two functions. One is to decide each case with the nearest approximation to justice. The other is to discover true principles of law. In the exercise of the first function, the opinion of a minority of a court is of no importance. When the majority have finally decided the particular case their decision must constitute the decision of the court, and the publication of a dissenting opinion can, in connection with that function, have little other use than to satisfy the defeated party that his lawyers were not altogether fools. But in the exercise of the second function of appellate courts, the opinion of the minority of the judges may, in the long run, be more important than that of the majority.

In a search for true principles of law, the judges of appellate courts have peculiar advantages. The facts in the cases they hear are presented calmly. As a rule, the verdict of the jury as to those facts is conclusive, so that for all the purposes of the appellate court the facts are not open to dispute. The question is: What, upon these conceded facts, is the law? There is, therefore, no confusion in formulating the legal proposition. Moreover, appellate judges enjoy the benefit not only of their own education and experience, but also of that of advocates having the strongest motives for presenting the best conceivable arguments for each side. After that an argument must be written by at least one of the judges, giving the reasons for taking one view or another of the case under consideration

—an exercise calculated to test the correctness of his view. This argument—the opinion of the majority of the judges—though of no real importance to the parties to the law suit, is of great importance in assisting lawyers, judges, text book writers and the public in the future to see whether or not an advance has been made by the courts in unfolding true legal principles. And for that purpose a dissenting opinion may be quite as valuable—it may be even more valuable. A dissenting judge has all the opportunities for discovering what is sound that his associates have, and if he gives better reasons for holding that they are wrong than they give for their decision, his opinion will contribute more than theirs to the ultimate discovery of good law. In the interest, therefore, of sound principles of jurisprudence, dissenting opinions should be encouraged. As the Albany Law Journal says, a law question once settled should not remain settled for all time unless it is settled right. But there is a reasonable presumption that no law question is settled right so long as impressive dissenting opinions are possible.

PLUTOCRATIC PATRIOTISM.

Inasmuch as we expected from the first to have more or less to say in The Public about plutocrats and plutocracy, we were at the pains in the first number to explain the meaning of those terms. This seemed to be necessary, because there are people who, imagining that plutocrat means a rich man, resent reflections upon plutocracy as indiscriminate libels upon the rich. In making our explanation we said:

Rich men are not necessarily plutocrats. Very often they are on the contrary genuine democrats. Very often, too, the most pronounced plutocrats are poor. He is a plutocrat who, be he rich or poor, sets up wealth as the test of respectability and the insignia of industrial or political authority—that is to say, who favors government by or for the rich. Goldsmith hit off plutocracy when he wrote:

Laws grind the poor, and rich men rule the law.

What we mean, therefore, by plutocratic influences, is influences which make for the elevation of the rich to industrial or political mastership.

In other words, plutocracy is not a financial condition; it is a mental state. The same idea is expressed by John E. Ellam, an English writer, in these verses:

What is a plutocrat? One who hath sold
His body and soul to the devil for gold;
Who, called by his conscience to choose
in the matter
Of Man or of Mammon, hath chosen the
latter.

With this understanding of what plutocracy means, it is easy to see that not a little of the American patriotism of the time is plutocratic patriotism. Of that order is much of the patriotic talk about America's entering upon a career of expansion, but the phase of plutocratic patriotism to which we wish at this moment especially to draw attention is that which relates to the raising of funds for carrying on the war.

Though there was no necessity for immediate action, the lower house of congress rushed through a war revenue bill which had been prepared in secret by the majority of the committee. No opportunity was given the minority to advise in its preparation, and when the bill came into the house scant time was allowed for debate and every attempt to alter the secret work of the majority of the committee in any important particular was voted down without consideration. The bill was put through its paces under the cry of patriotism. Whoever criticised it was denounced as unpatriotic, and those republicans and populists who with most of the democrats finally voted against it have ever since been held up to public scorn as if they were traitors. The senate has not been so easily influenced as was the house. In that body the bill has been deliberately considered, in spite of the outcry against senators for lack of patriotism; but the outcry of the self-styled "patriots" is so persistent that he must be a man of great courage who can wholly withstand its influence.

Now what kind of patriotism is it that thus intimidates the law-making power of the nation? An examina-

tion of the bill in behalf of which this patriotic outburst is made will answer the question. It is plutocratic patriotism.

The bill has two principal features: the tax feature and the bond feature. It proposes to raise the war fund by taxes which are expected to yield \$100,000,000 a year, and from the sale of interest bearing bonds to the amount of \$600,000,000. In both aspects, the bill is plutocratic. It is a scheme for placing the financial burdens of the war upon the masses of the people. It is drawn according to the ideals of those who favor government by and for the rich.

The taxation features of the bill are contrived upon the principles of indirect taxation, principles which contemplate the taking of money from the masses of the people without letting them know that pay it. When the masses were voiceless and powerless, the aristocracy unblushingly fleeced them by direct taxation. No pains were taken then to make them believe that the rich paid the taxes while they went free. They were bluntly told that it was their duty to pay the taxes while the rich went free. When the people got voice and put an end to this bold plundering, indirect taxation was adopted. By that means the poor were made to pay the taxes much as before, but they were fooled into the belief that they paid no taxes at all. A French statesman highly commended this system as a grand method of picking geese so as to get the most feathers with the least squawking. Could anything be more infamous? Yet it is the system of the war revenue bill, every objection to which is denounced as unpatriotic.

By taxing beer, this bill appears to tax brewers; but the brewers have already raised the price of beer, and the tax will be paid by beer consumers. By taxing cigars, it appears to tax cigar manufacturers, but every sane man who stops to think knows that the tax will be paid by smokers; and as there is but little difference between the tax on cheap cigars and that on expensive cigars, rich smokers will pay the least proportion of the tax. It is precisely so with pretty much all the taxes of this extremely patriotic bill.

That the burdens of war taxation

are thus to be cast chiefly upon the poor is well understood by plutocratic patriots. For example, the Chicago Tribune, a leading light in plutocratic patriotism, was recently discussing the proposed tonnage tax, and by way of defending it said:

But other ship owners are of the more sensible opinion that the extra dues will be added in good part to the freight rates, so that the customers of the carriers and not the carriers themselves will pay the tax ultimately.

Here is a distinct admission that taxes of this class are shifted from the persons who are ostensibly taxed, to the consumers of their goods. Yet the bill under which that is to be done is so sacred that it is treason to oppose it!

The extent to which that extraordinarily patriotic bill would favor the rich is summed up by Thomas G. Shearman in The Outlook for May 7th, on page 19. Mr. Shearman says:

Upon the whole, the burden of the new taxes will probably be divided in the proportion of ten per cent. upon the principal owners of invested wealth, 30 per cent. upon the middle class, who have some wealth but still mainly depend upon their earnings, and 60 per cent. upon those who depend exclusively upon their daily earnings.

Thus 90 per cent. of the war tax is to be put upon the middle and working classes, and only 10 per cent. upon the idle owners of invested wealth; and that by a bill which must not be opposed, under penalty of denunciation for treason. What kind of patriotism is it that defends such a measure, if it be not plutocratic?

But the bill in question does not stop with unjust indirect taxation. Its other feature, that with respect to the proposed bond issue, is even more plutocratic if possible than the tax feature. The interest on the bonds would be paid by means of indirect taxation—that is to say, in greatest proportion by the middle and the working classes, and in least proportion by the rich—and the principal, if paid at all, would be paid in the same way. But it is not intended that the principal shall be paid. What is aimed at is to perpetuate the public debt as a means of investment for the idle or worse than idle rich. The bond feature, then, would not only create a large and perpetual interest

burden to be paid in greatest proportion by the middle and working classes, but would create it for the benefit of the rich. Yet this bill we are told is patriotic! Yet the men who oppose it we are told are unpatriotic! In other words, antagonism to the unjust interests of the rich is treason to the country. What is that but plutocratic patriotism?

Is it said that there is no other way of raising a war fund than by taxing the middle and working classes for 90 per cent. of the amount, and stacking up a public debt as a basis for investment? That there is no other way without burdening unearned wealth, we freely concede. But why should unearned wealth be virtually exempt from war burdens? Why should it not pay them all? If Mammoth does the fighting, surely Mammoth might be made to foot the bill. And it could and would be made to do so if plutocratic patriotism were supplanted by patriotism of the right sort.

SPIRITUAL AND ECONOMIC LAW.

No one patiently disentangles the threads of social problems for long without discovering that the web of which they are a part does not end upon the earth where we find its beginning. Sooner or later the seeker finds that he is led to spiritual relationships and eternal laws. But because so much of our traditional teaching of religious things has been sentimental and pietistic, and because of the inherent difficulty of finding words in our natural language to give adequate impression of spiritual perceptions, he who has found that a new religious world within and back of the economic world has opened to his vision, must nevertheless oftenest content himself with vague perceptions, rather than with manifest reasons, and with visions rather than with the eternal realities.

So far as we know, no one has more perfectly bridged the gulf between economics and spiritual law than James E. Mills, whose paper on "The Two Great Commandments in Economics" has been published as a supplement to that excellent little periodical, The New Earth, and may be had of the editors of The New Earth, 540 Pearl street, New York.