

signed as much to terrify seamen of merchant ships as to destroy cargo. Could they prevent the ships' departure from this country, their success would be as complete as though they destroyed the vessels at sea." In like manner, the actual destruction wrought by the German submarines by no means measures the value placed upon their activities by the heads of the German Government. What they really hope to accomplish—or at least what they did hope when they instituted the policy, and what they designed in such acts as the Lusitania massacre—is to paralyze all commerce with Great Britain by force of sheer terrorism.

What the American Government stands for is nothing less than a refusal to sanction this kind of reign of terror. And at bottom there is even in the German mind only one real reason for asserting the right to make this tremendous innovation in the methods of war. That reason is put forward almost parenthetically in the last German note. "In addition," it says, "it may be pointed out that if the Lusitania had been spared, thousands of cases of munitions would have been sent to Germany's enemies and thereby thousands of German mothers and children robbed of bread-winners." This is the real thing—everything else is mere pretext. The essence of Germany's position, in the case of the Lusitania as in the case of Belgium, is not that what she did was lawful, but that, whether lawful or unlawful, it was justified because to have done otherwise would have been to her own injury. But if we are not to protest at the murder of American citizens, because had they not been murdered the cause of the Allies would have been helped "and thereby thousands of German mothers and children robbed of bread-winners," there is no point at which we can draw the line. If the German Government were deliberately to procure the destruction of every ammunition-factory in the United States, or the assassination of their owners, that would likewise tend to protect thousands of German mothers and children from being robbed of their bread-winners; and American property and American lives could easily escape that fate by acceding to the German desire that their business cease. But we fancy that no American, not even any German-American, would have much difficulty in seeing that the beautiful motive assigned would not exempt the German Government from the consequences of its acts.

The issue between America and Germany is the issue between law and lawlessness. That would be the case even though the law

which we have undertaken to vindicate were simply the established law of nations—simply the embodiment of unchallenged rights of American citizens—even though that law rested on no principle that carried with it far-reaching and profound consequences. To assert the supremacy of law when flagrantly and arrogantly defied would itself be a national duty of the highest order. But when it is realized how vital is the thing actually at stake, and how profound is the issue between the respective nations, the duty is seen to have a character of peculiar solemnity—just that solemnity which marked both of the notes addressed to Germany on the destruction of the Lusitania.

THE LAW AND THE SLEEPING CAR.

When the Supreme Court, a few weeks ago, gave its decision on the Wisconsin statute prohibiting the making up of an upper berth in a sleeping car until the berth is engaged, it seemed that in the majority and minority opinions on the case there was likely to be highly instructive material bearing on legal theory. The standpoint of the majority, which pronounced the statute invalid, it was easy enough to conjecture; but it was not quite so easy to guess just what were the grounds of dissent on the part of Judges Holmes and McKenna. The majority opinion is now before us; but it appears that the minority judges filed no written opinion, so that the chief part of our curiosity has to remain unsatisfied. But for this there is compensation in the interesting nature of the points brought out in the majority opinion, points which relate not only to the law but also to the facts.

Of course, the gist of the whole matter lies in the circumstance that the Wisconsin statute seeks to compel the company to furnish to the man who has paid for a lower berth, unless the upper berth happens also to have been engaged, all that accommodation to which he would have been entitled if he paid for the whole section. This constitutes on its face a taking of private property without compensation; and the burden of proof naturally rests upon the upholders of the statute to overthrow this presumption by showing that the regulation serves a public purpose, coming either within the general police power of the State or within those special powers which it may exercise in the regulation of common carriers. If we may hazard a guess as to the grounds upon which the dissenting judges based their action, we should say that they are

probably to be found in connection rather with the second than with the first of these classes of powers. For, without any sharp difference of theory, it might be perfectly possible to hold divergent views as to the status of a sleeping car in a system of transportation. "A sleeping car," says the majority opinion, "may not be an 'inn on wheels,' but the operating company does engage to furnish its patrons with a place in which they can rest without intrusion upon their privacy. Holding out these inducements and seeking this patronage, the company is entitled to the privilege of managing its own business in its own way, so long as it does not injuriously affect the health, comfort, safety, and convenience of the public." But there is a limit beyond which this kind of consideration can not be carried. If, as a matter of fact, the given regulation were of some slight disadvantage to the company, while it increased very greatly the satisfaction of the travelling public, it might be quite possible for a judge, however scrupulous in protecting property against confiscation, to hold that "the rule of reason" permitted the State to establish such a regulation.

The story of the statute itself, as told in the majority opinion, is decidedly interesting. It appears that an earlier act, passed in 1907, instead of prohibiting the letting down of the upper berth, left the matter to the choice of the occupant of the lower. This was pronounced unconstitutional by the Wisconsin Supreme Court on the ground that it was an obvious attempt "to appropriate the property of one for the benefit of another, in violation of several constitutional safeguards." By making the prohibition general, it was sought to obviate this objection. The lowering of the upper berth, when made mandatory, was commanded in the interest of the public, and not of an individual. "But," says the Supreme Court, "the statute does not purport to be a health measure, and cannot be sustained as such. For if lowering the upper berth injuriously interfered with the ventilation of the car and the health of the passengers, it would follow that upper berths should not be lowered, and if it was harmful to let down the uppers, it would be even more harmful to permit additional passengers to come into the car and occupy them." It seems difficult to escape from this reasoning; and, though it relates to so comparatively trivial a matter as the question of the upper berth, its bearing is extremely wide. There is no telling in what cases of critical public importance it may be appealed to in the future.

The mental satisfaction with which one may follow the reasoning as to principles of law is unalloyed; one can hardly say the same as regards some of the matters of fact referred to in the introductory summary. "There was evidence," we are told; "that an ordinary sleeping car was better ventilated than an ordinary passenger coach, said to be due to the fact that the coach not only carried more passengers, but did not have the ventilating appliances in use on sleeping cars." It is fortunate that the authority of the Supreme Court is in no way involved in the correctness of this assertion. We do not know what scientific experts may have given the evidence in question; and we are prepared to believe that there was nothing wrong about their physics or their mathematics. But if the air in a sleeping car is a specimen of better ventilation, give us worse ventilation every time. Persons addicted to the "exact sciences"—and persons entirely innocent of all science—are prone to look upon the law as an unscientific jumble; but the fact is that, within its more or less inevitable limitations, the law can stand critical examination at least as well as any system of thought that has to do with the ordinary interests of men. This particular decision, for example, while touching on many delicate and difficult matters, squares very well with common-sense at all points having to do with the operation of the law; the only place where we are confronted with something that flies in the face of every man's familiar experience is where the simple subject of the quality, quantity, and circulation of air is dealt with. No amount of expert testimony can induce us to believe that we are in the enjoyment of fine ventilation when every organ of our body cries out that we are on the verge of suffocation or nausea.

THE AMERICAN TRUTH SOCIETY, LIMITED.

Jesting Pilate, who asked, "What is truth?" and then turned away, ought at least to have gone, first, to 1133 Broadway, New York city. For there is domiciled the American Truth Society. The headquarters are not extensive, but if truth can be found at the bottom of a well, why not in a single office? Infinite riches in a little room! The riches, in the case of the Truth Society, consist mainly of a series of flying leaves telling us how to secure fair play for Germany, how to stop the war, and, in the latest pamphlet, how to head off the "Peril

of American Finance," owing to the "British Raid upon Our Resources." In this last publication, particularly, we find not only riches but richness.

For so obviously powerful an organization, the American Truth Society is very much of a sensitive plant in the matter of personal identification. Truth is mighty and will, of course, prevail without any name being attached to it; but the printed appeals of the Truth Society are singularly barren of signs of authorship or responsibility. The Society was organized, so it tells us, at a meeting held in New York, on January 18, but who was there, it forgets to inform the reader. However, its objects are clearly set forth in its charter. Among these is the determined purpose "to propagate the history of the United States amongst the people of the United States, and to oppose all attempts to garble, falsify, misrepresent, or suppress the history of the United States." This naturally provokes the inquiry which Mrs. Gilbert used to put with such delightful inflection in Jerome's play—"Of Irish extraction, I presume?" The suspicion is confirmed by the name to be found on the letterhead of the American Truth Society—the only place where we have been able to discover any names of members of the Society at all—namely, President, Jeremiah A. O'Leary. There is, or was, a German-named Secretary and a German-named Treasurer, but we shall insist upon claiming for the Celtic spirit the logic and the unconscious humor that is contained in "The Gold Protest Against War."

The argument proceeds by first laying a foundation of facts. It is built with such corner-stones as this: "Do you know that Eastern financiers have already loaned to the Allies from their proprietary banks \$200,000,000, and are arranging to borrow \$300,000,000 more of your money solely for Great Britain?" Such words to the wise ought to be sufficient. American banks are being raided by the British, and the only way to prevent a panic is for Americans to join in the raid. At any rate, they are to make sure that all the gold is drawn from the banks, so that they will have no basis for the issue of notes, and therefore will be unable to lend any more to the enemies of Germany. Hence a few simple rules for patriots, delivered with more than Polonius-like gravity:

(1.) Carry a twenty-dollar gold piece in your pocket or at home as a protest against the financing of our arms and our munition exporters.

Form an endless "gold chain" by writing

your friends and interviewing your neighbors, urging these suggestions.

(2.) If an employer, pay your employees in gold coin and thus put gold in circulation.

(3.) In withdrawing your accounts from banks demand gold specie, or gold certificates, Federal Reserve notes, or United States Treasury notes. This money is the legal tender of our country (United States Revised Statutes, Sections 3,584 to 3,590 inclusive).

(4.) Investigate your bank, and if you believe your bank is an unworthy depository of your money, you have the legal right to demand your account in gold specie, gold certificates, Federal Reserve notes, or United States Treasury notes. Your money in a safe deposit vault cannot be diverted to finance the killing of men.

Now, the Germans are capable of many wonderful triumphs, but we don't believe they were equal to this. Such gallant disregard of human nature, such loving application of whim and prejudice to financial transactions, never came, we'll be bound, from a Teutonic mind. They savor too plainly of the characteristics which Irish writers, from Tom Moore down, have shown us in their countrymen, always blarneying or fighting, forever inconsequent in reasoning, but unfailing in picturesqueness. The solemn advice given above, to head off the nefarious schemes of the Saxon, could only have come from one who would burn the notes of a bank in order to be revenged upon it, or would endorse the note of a neighbor, knowing that he would not pay it when due, and chuckling with joy as he thought how that would embarrass its greedy holder. If such a name as O'Leary had not been given as president of the American Truth Society, it really would have had to be invented.

The whole thing is predominantly comic, but it has its serious side. The American Truth Society is but one of many similar organizations. They are run by nobody knows who—and usually nobody knows where. Yet they pose as great organs of public opinion. They appear as promoters of mass-meetings. They issue imposing addresses. Yes, and they spend a good deal of money. Where does it come from? There has never been any concealment of the fact that the Germans have had a considerable fund for their propaganda in this country. That is their right. Much of it they have expended to some advantage. But any amount of it which they may have put into queer organizations, masquerading as spontaneous American societies of protest, is, we beg to assure them, absolutely wasted. Whatever they may decide to do with their twenty-dollar gold pieces, they ought not to put them in the pockets of men in buckram.