the case of the 3½ per cent. war loan of last November, and it did not of course apply to the British Government bonds outstanding before the war. But the Government, in announcing the present loan, offered to holders of those earlier issues the privilege of converting their holdings, on a basis regulated by existing market prices, into the new 4½ per cents—on this condition, however, that they subscribe in cash for a further equivalent amount of the new loan.

Here was a very powerful inducement for cash subscriptions, even by investors who may not previously have intended to participate. To what extent the $3,000,000,000 applications were called forth by it, the cabled summaries of the subscription have not yet pointed out. If every holder of the old consols or the first war loan had responded, the total cash subscription for that purpose would itself have exceeded $4,000,000,000. But it is probable that by far the greater part of them could not spare the money for the requisite cash subscription.

Until the returns are classified, however, it will be impossible to say how great a part this special inducement played. Nor has it yet been announced how much has been raised through the recourse, novel to British Government finance, of subscriptions to bonds in very small denominations. That the expedient was productive is plain enough, however, from the Exchequer's announcement that, up to the present date, 547,000 separate subscriptions, made through the post offices for such small allotments, have footed up $75,000,000—an average application of $137. This part of the subscription list is still left open.

The larger question, as to the influence upon the general market of this enormous borrowing at so considerable an advance in the rate of interest, remains exceedingly obscure. In its immediate consequences, the subscription to the loan has caused a fall of 2 to 5 per cent. in nearly all other high-grade investment bonds dealt in on London's Stock Exchange. This was clearly due to realizing on these holdings, to raise the funds for subscribing to the 4½ per cents. The operation has also dislodged substantial amounts of English holdings of American stocks and bonds, of which $75,000,000 to $100,000,000 are believed to have been sold on the New York market since the new British loan was announced. It is not clear to what extent this movement will be continuous. Subscriptions made with a view to converting consols and the older war loan must be paid in full in cash, and these payments may have been largely made at the earliest date assigned—July 20—because a discount of 4½ per cent. per annum on the price is allowed for payment in full. But the regular payments of instalments occur at fortnightly intervals until near the end of October.

Each of these huge European war loans raises again the question how long and under what conditions this unprecedented absorption of capital in war can be continued. Since the process is not drawing on an inexhaustible stock of available capital, the difficulties in the way of future loans, and the necessity for fresh inducements of some special sort, are likely to be persistent. Yet the problem, though differing in degree from all previous experience in the finance of war, does not differ in kind.

In 1797 Great Britain's public credit and financial resources seemed to be at the lowest ebb; yet in the seventeen subsequent years of the Napoleonic wars, the Government raised not far from $2,000,000,000. Our own Government's experience in the Civil War is a case very much in point. Last week one speaker in the House of Lords warned England that, even if peace were to be restored by the end of March, 1916, the national debt would have reached such a total that taxation on the present basis would fail by $70,000,000 to meet the annual interest on it. In our own Civil War, however, the Government's total ordinary revenue, in 1862, was $52,000,000, and the charge for interest on the public debt in 1866 was $133,000,000. But between 1862 and 1866 additional taxation had increased the annual revenue to no less than $520,000,000. This is what England also will undoubtedly have to do.

WARFARE VERSUS TERRORISM.

It would hardly be possible for an international issue to be more sharply defined than that between the American and the German Governments. Two recent developments tended in some degree to soften the character of the immediate situation—the statement concerning the attempted minimizing of destruction of life in recent submarine attacks on merchant ships, and the apology for the torpedoing of the Nebraskan. But the issue of principle remained precisely what it was. And that issue has now been brought home to us once more, as acutely as ever, through the attack on the Orduna. It seems plain that, but for good navigation and good fortune, the slaughter of American citizens on the Lusitania would here have been repeated, on a smaller scale, but without even the possibility of the pretexts resorted to in the Lusitania case, since the Orduna was westward bound, and had no war supplies on board.

Our Government stands for rights of neutrals in time of war which, till now, no nation and no writer upon the law of nations so much as thought of questioning. And these rights are not a matter of degree, a question of more or less, an affair connected with complexities of geographical situation or of the relative position of the combatants in the course of a war's progress. The right of neutrals to travel upon the high seas in merchant ships, whether of neutral or of belligerent nationality, without having their lives put in danger by any wilful act of war, is but part of the immunity attaching to all non-combatants on board such ships. The officers and crew, though of enemy nationality, are held safe from attack so far as their lives are concerned; the risk involved in their enterprise is a risk of property only. When Americans speak of the killing of a hundred of their fellow-citizens on the Lusitania as murder they do so because it was not an incident of legitimate war, but an act from beginning to end in clear violation of one of the fundamental rules of warfare.

The position taken by President Wilson rests squarely on this foundation. Consider what would be the logical and inevitable effect of abandoning this principle of international law. That effect can be put almost in a word. The difference between the accepted rules and those which the German Government asks us to agree to is the difference between warfare and terrorism. Commerce is lawfully subjected in war to such hindrances and losses as it may be within the power of the naval forces of the enemy to inflict; the purpose of the new plan proposed by Germany, and actually put into practice by von Tirpitz, is to paralyze all commerce with the enemy nation through the operation of terror.

It happens that during the past week or two an interesting sidelight has been thrown upon this matter. A considerable number of cases have been discovered of the placing of bombs upon merchant ships sailing from New York. The bombs did not work the mischief intended. But, as has been pointed out by one of the shipping men, "the failure of the bombs to explode cannot be considered complete failure for the bomb-planter, for, in our opinion, their scheme is de-

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.