while extensive draining in the swamps about the city has surprisingly reduced the *anophele* or swamp mosquito. Just what the scientists predicted has followed: yellow fever has not reappeared, while malaria has been reduced in a really extraordinary degree, and most of the cases come from the outlying country rather than from the city. It is gratifying to record the vigorous steps taken by a city once peculiarly infested by disease of mosquito origin to cleanse itself from the evil, and thus furnish an example to places where stagnant pools, ill-drained spots, and blocked-up gutters are still allowed to threaten health.

THE GENERAL ARBITRATION TREATY

HOW WILL IT WORK?

The Outlook has advised the peace societies, or some one of them, to issue a pamphlet containing the majority and minority reports of the United States Senate on the General Arbitration Treaty, with the ablest arguments they can obtain in support of that treaty. In this spirit we present to our readers the arguments for and against the treaty. Mr. Roosevelt, who disapproves this treaty, in an editorial on another page states the grounds of his disapproval. The Outlook, which approves the treaty, will, in three editorials, of which this is the first, state the grounds of its approval. We shall thus do what we can to promote that general discussion which we believe to be desirable. For if this treaty is adopted by the Senate without public discussion and popular understanding of its provisions, it will be wholly ineffectual. But if the American people understand its provisions, if they consider carefully the objections to it, if, after such consideration, they deliberately adopt it and make it their own, it will stand the test if an hour of trial should come. The way to secure the observance of this treaty in the future is by a full, free, and thorough discussion of its provisions now.

In our discussion we shall confine ourselves mainly to the general principles involved in this treaty. It is only upon such general principles that masses of men can pronounce a wise decision. Details of method in carrying out the principles decided must, of necessity, be left to a small body of experts. President Taft, Senator Root, and Secretary Knox are experts on questions of international law. If the country approves the principles involved in the General Arbitration Treaty, it may safely leave to these experts the formulation of those principles in an international instrument.

In June, 1908, during the administration of President Roosevelt, a General Arbitration Treaty was negotiated between the United States and Great Britain which is now binding upon both nations. This treaty provides (1) for a general arbitration of differences of a legal nature; (2) it excepts such as affect the vital interest, the independence, or the honor of the two contracting states or the interests of third parties; and (3) it leaves it to special agreement, to be made on the part of the United States by the President, with the advice of the Senate, to define clearly the matter in dispute, and so to determine whether it comes within the excepted cases not to be arbitrated.

The treaty just now negotiated by President Taft also provides for (1) arbitration of all differences between the two contracting parties; (2) it excepts such as are not susceptible of decision by the application of the principles of law or equity; and (3) in cases in which the parties disagree as to whether or not the difference is subject to arbitration under the treaty, it provides for the submission of that question to a Joint High Commission for determination. This Joint High Commission is to consist of three "nationals" from each nation, and at least two of the three Commissioners from each nation must assent to the reference, or the case is not referred.[1]

Thus it will be seen that each of these treaties recognizes three fundamental principles: first, that, in the present stage of civilization, most questions arising between civilized nations can be settled by reference to a third disinterested party; second, that questions may arise which cannot be so referred; third, that each

[1] It is possible for the United States to consent to the appointment of foreigners on the Joint High Commission, but it is not conceivable that America would consent that foreigners should constitute America's representatives on a Joint High Commission to determine whether America would refer an American question to the Hague Tribunal.

nation reserves the right to decide, respecting any particular controversy, whether it is thus referable to a court. The difference between the two treaties is twofold. First, the treaty of 1908 defines the exceptions as consisting in differences which affect the vital interest, the independence, or the honor of the two contracting parties, or the interests of third parties; while the proposed treaty of 1911 defines the exceptions as those which are not susceptible of decision by the application of the principles of law or equity. Second, the treaty of 1908 leaves the President of the United States, with the advice of the Senate, to determine concerning any particular controversy whether it comes within the exceptions noted; the proposed treaty of 1911 leaves that to be determined by a commission, three members of which are appointed by the President, with the advice of the Senate, two of whom must agree to refer the controversy in question or it is not to be referred.[1]

It does not appear to The Outlook that the treaty of 1911 marks any great advance over the treaty of 1908. The differences between the two do not seem to us of any vital importance. All the exceptions covered in the treaty of 1908 are covered by the general exception in the treaty of 1911. The power reserved to the United States to pass directly on the question whether any controversy shall be referred or not is reserved indirectly to the United States by the provision in the treaty of 1911. The main value of the treaty of 1911 is that it reaffirms and re-emphasizes the desire of the United States, and of any nations which shall enter into such a treaty with the United States, to settle by judicial proceedings before an international court all questions which can be consistently and honorably so settled. To reaffirm and re-emphasize this position seems to The Outlook a real advantage. It marks one further step toward the substitution of the appeal to reason for the appeal to force.

[1] There may be some question whether the Joint High Commission, provided for in the treaty of 1911, requires for its appointment the approval of the Senate. It seems to us that such approval is clearly required. But if there is any real doubt upon that subject, it should be dissipated by a few words of amendment, which could be easily made, and to which, it may be assumed, Great Britain would interpose no objection.

There are three questions respecting this treaty for the American people to consider, and we take these questions up in three successive articles:

1. How will the treaty work?
2. Has the Senate power, under the Constitution, to make such a treaty?
3. Is it desirable?

The report of the majority of the Senate Committee on Foreign Relations, presented by Mr. Lodge, declares not only that the Senate has no power to make such a treaty, but also that the treaty would work badly; that it would provoke war rather than promote peace. The report says:

> If our right to exclude certain classes of immigrants were challenged, the question could be forced before a joint commission; and if that commission decided that the question was arbitrable the Senate would have no power to reject the special agreement for the arbitration of that subject on the ground that it was not a question for arbitration within the contemplation of Article I. In the same way our territorial integrity, the rights of each State, and of the United States to their territory might be forced before a joint commission. . . . Today no nation on earth would think of raising these questions with the United States, and the same is true of other questions which would readily occur to everybody. But if we accept this treaty with the third clause of Article III included, we invite other nations to raise these very questions and to endeavor to force them before an arbitral tribunal. Such an invitation would be a breeder of war and not of peace, and would rouse a series of disputes, now happily and entirely at rest, into malign and dangerous activity.

The Outlook does not share these apprehensions of the majority of the Senate Committee on Foreign Relations. We agree with the implied position of that Committee that any general arbitration treaty which America makes with Great Britain should be so framed that a similar treaty could be proffered to other civilized powers. We are also inclined to agree with the Senate Committee that in such a treaty there may in some future crisis be possible peril to American interests—a similar peril, as President Taft has well pointed out, to that to which the interests of any individual are subjected when they are submitted to the incertitude of a lawsuit. But we see small reason to think that this treaty would be a breeder

of war, or would rouse a series of disputes into malign and dangerous activity.

Let us take a case of the kind which the Committee suggests by way of illustration, a case involving territorial integrity, and see how such a claim would be handled under this treaty.

Let us suppose—and we use this imaginary case just because it is quite impossible to believe it would ever occur—that this General Arbitration Treaty should be made with Spain, and that Spain should then lay claim to the Philippine Islands. Our financial interest in the Philippines is not very great. Many Americans think they are costing us very much more than they are worth. But our duty toward the Philippines is very great. We have emancipated them from foreign oppression; we have rescued them from domestic anarchy; and it would be dishonorable for us to return them either to despotism or to anarchy.

Under such circumstances it is not conceivable that the American people would be willing to submit to a European tribunal the question whether we should restore the Philippines to their former condition of dependency upon Spain. The question, What is our duty as a nation toward a people who have become dependent on us for the protection of their rights and the safeguarding of their interests, is not one which we should be willing to submit for final determination to the representatives of imperial powers who do not share our conceptions of the rights of the people and the obligations of a democratic government towards the people. America would object that this was not a question to be settled by the application of principles of law or equity. A Joint High Commission would then be constituted. On this Joint High Commission would be three Spaniards and three Americans. It is hardly conceivable that two Americans out of three, appointed to any such body, would consent to refer this question of our National honor to The Hague. Unless two Americans out of three did so consent, the question would not be referred to The Hague. Unless Spain thought there was a good chance that two Americans out of three would consent, Spain would not even raise the question. It is conceivable that a weak or corrupt President might appoint unworthy members of such a Commission. There is reason, therefore, why the members of that Commission should be appointed by and with the advice and consent of the Senate. If the National sentiment in favor of returning the Philippines to Spain was so strong that two-thirds of the Senate and the President agreed in appointing a Commission so constituted that it would refer the question to The Hague, the referring to The Hague of the question could hardly add to the National dishonor.

Let us turn this illustration about. Let us imagine for a moment that the Joint High Commission did agree to refer this question to The Hague, and The Hague did decide that the Philippines should be restored to Spain. Would America submit to this decision, or would it, in a passion of rage, repudiate the treaty and prepare for war? We agree heartily with those who contend that America should make no pledge which she will not fulfill, that she should enter upon no treaty which she would be liable, in a gust of passion or of pseudo-patriotism, to repudiate. Nor is this danger imaginary. There is peril in the idealism of democracy, perhaps quite as great peril as in its passion or its sordidness. It is for this reason that The Outlook is glad that the arbitration treaty is not to be suddenly adopted, that it is to be carefully and calmly discussed throughout the country.

If the American people do discuss this treaty and make it their own, and if the opponents of this treaty compel the American people to understand its significance and to what it commits them in the future, The Outlook has very little fear that the American people will, under any circumstances likely to arise, ever repudiate their agreement. The power of restraint in American democracy has been more than once strikingly demonstrated. A heated Presidential election left the country in doubt whether Mr. Tilden or Mr. Hayes was elected President. There was abundant evidence of frauds, and great frauds, on both sides in that election. The American people referred the question to the arbitrament of a tribunal constituted for the purpose, and accepted the decision of that tribunal, though the court was so evenly divided

that the final decision depended on the judgment of a single man. An income tax law was passed. This income tax was declared unconstitutional on the judgment of one man, and that a man who changed his mind in so declaring it; and the American people, still apparently bent on securing such a tax, have patiently and persistently pursued the necessary measures for a change in the Constitution such as will enable them to impose upon themselves the desired tax. The Outlook thinks an income tax, imposed by the Federal Government, a mistaken policy, but this does not prevent it from admiring the self-restraint and the persistence with which the American people, checked by the decision of a single man, pursues its way to the accomplishment of its design. The country was very nearly evenly divided on the question whether territory captured in war was a part of the Union or a possession of the Union, whether it was under the provisions of the Constitution, or under Congressional control irrespective of those provisions. The questions in the minds of both parties concerned the National honor. Yet when the Supreme Court decided, after great argument and with weighty authorities upon both sides, that the insular dependencies were possessions but not parts of the Union, and were not under the provisions of the Constitution, the decision was accepted by the American people almost without protest, certainly without bitterness.

These three episodes in our National history are illustrative of the spirit and temper of the American people; they confirm the judgment of The Outlook that, whatever treaty is made, not *for* the American people, but *by* the American people, after a public discussion of its provisions and a thorough consideration of all that it involves, it will not be repudiated in the hour of trial.

We do not think the pathway to National righteousness through peace, which this treaty invites us to enter upon, is without peril. No new experiment in National life is ever without peril. But we believe the perils, whether to National interests or National honor, involved in this pathway are far less than the perils both to National interests and National honor involved in the old method of arbitrament of National difficulties through war.

WHY THE KING BECAME A RADICAL

A correspondent, commenting upon the article by Mr. Sydney Brooks on "The Peers and the People," and on The Outlook's editorial on "The English Revolution of 1911," propounds the question, "Has anybody yet explained why the King consented to become a radical and create five hundred peers in support of democracy?"

The King of England is a constitutional monarch. He is as much bound by the Constitution as is the Prime Minister or the House of Lords or the House of Commons itself. *What* he shall do in given circumstances, such, for instance, as those which have just confronted George the Fifth, is determined, not by his inclinations or even by his own judgment, but by the history of centuries as it has been crystallized into what have been happily called the conventions of the Constitution. *How* he shall do it depends upon his wisdom and statesmanship. Walter Bagehot, in his inspired and fascinating work, "The English Constitution," has said, "The sovereign has, under a constitutional monarchy such as ours, three rights—the right to be consulted, the right to encourage, the right to warn. And a king of great sense and sagacity would want no others." In the crisis just passed King George was consulted, he may have encouraged, he may have warned—the privacy which surrounds the intercourse of the sovereign with his Prime Minister and with the leader of his Majesty's opposition hides the exact fact—he then showed himself a king of sense and sagacity in realizing that he had and needed no other powers.

The King became a radical, and gave to Mr. Asquith the guarantees which he asked for that five hundred peers would be created, if necessary, to bring the House of Lords to terms with the House of Commons, because he could not do anything else. The King acts on the advice of his Ministers, and he must accept that advice up to the point where he is