SHOULD THE TREATY POWERS OF THE SENATE BE CHANGED?

In 1824, a treaty was negotiated between the U.S. and Great Britain for the suppression of the slave trade but it was never consummated because the Senate refused to ratify it. In 1844 a treaty with Mexico for the annexation of Texas was submitted but it failed for lack of Senate approval. In 1897 a treaty with Britain for the arbitration of disputes also failed of Senate confirmation and developed considerable ill-feeling. In 1899, President McKinley sought the annexation of Hawaii by treaty but it also failed in the Senate. On March 19, 1920, President Wilson submitted the Versailles treaty and the League of Nations and it too failed to receive Senate concurrence. These and other treaty experiences have given force to a movement to change the Constitution with respect to the Senate's power to ratify treaties.

THE PRESENT PROVISION.

The Constitution gives the President power to make treaties by and with the advice and consent of the Senate "provided two-thirds of the Senators present concur." Suppose a treaty is submitted with all 96 Senators present, it would require a vote of 64. Stated in another way, the opposition of 32 plus 1 or 33 could defeat a treaty. In the case of the celebrated Versailles treaty which sought to conclude negotiations after the first World War, 81 Senators were present so that 28 could have defeated it. In fact, there were 35 votes against it.

THE NEW PROPOSAL

A resolution is now pending in Congress which proposes to amend the Constitution so that treaties can be approved by a simple majority vote of both House and Senate. It is contended that since a simple majority of both Houses can declare war, a simple majority should also have power to declare peace.

THE ARGUMENT

In behalf of the change, it is argued that (1) the conditions which caused the Constitution-makers to provide for a 2/3 vote in the Senate have ceased to exist (2) that it affords a chance for party politics to defeat a treaty (3) that a fractional minority of the states can thwart the will of the majority (4) that our traditional incapacity for making treaties have actually destroyed some of our sovereignty since treaty-making is an essential part of our sovereignty. In opposition to the change it is argued that since the making of treaties is of the highest solemnity and binding upon all the people it can best be done by a smaller wieldy body such as the Senate and that the two-thirds rule is an assurance against hasty action on treaties and therefore a safeguard of our national interests.

WHAT CHANGE

The pending resolution to make this change would have to pass both Houses of Congress and then be submitted to the States for ratification. This means that first of all, the Senate would have to vote away some of it's Constitutional powers. It is highly unlikely that it would do so. It would then require approval by three fourths of the states through their legislatures or special conventions held for that purpose. In war time that would be a considerable undertaking. When the present war is over and a treaty has been concluded, interest in the change would doubtless begin to lapse.