invade it," declared Justice Sutherland for the Court in 1936.[282] The Senate must, moreover, content itself with such information as the President chooses to furnish it.[283] In performing the function that remains to it, however, it has several options. It may consent unconditionally to a proposed treaty, it may refuse its consent, or it may stipulate conditions in the form of amendments to the treaty, of reservations to the act of ratification, or of statements of understanding or other declarations, the formal difference between the first two and the third being that amendments and reservations, if accepted by the President must be communicated to the other parties to the treaty, and, at least with respect to amendments and often reservations as well, require reopening negotiations and changes, whereas the other actions may have more problematic results.[284] The act of ratification for the United States is the President's act, but it may not be forthcoming unless the Senate has consented to it by the required two-thirds of the Senators present, which signifies two-thirds of a quorum, otherwise the consent rendered would not be that of the Senate as organized under the Constitution to do business.[285] Conversely, the President may, if dissatisfied with amendments which have been affixed by the Senate to a proposed treaty or with the conditions stipulated by it to ratification, decide to abandon the negotiation, which he is entirely free to do.[286]

Treaties as Law of the Land

Treaty commitments of the United States are of two kinds. As Chief Justice Marshall wrote in 1829: "A treaty is, in its nature, a contract between two nations, not a legislative act. It does not generally effect, of itself, the object to be accomplished; especially, so far as its operation is infra-territorial; but is carried into execution by the sovereign power of the respective parties to the instrument. In the United States, a different principle is established. Our constitution declares a treaty to be the law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an act of the legislature, whenever it operates of itself, without the aid of

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[282] United States v. Curtiss-Wright Corp., 299 U.S. 304, 319 (1936).

[283] E. Corwin, supra, at 428–429.

[284] Treaties and Other International Agreements: The Role of the United States Senate, A Study Prepared for the Senate Committee on Foreign Relations by the Congressional Research Service, 103d Cong., 1st Sess. (Comm. Print) (1993), 96–98 (hereinafter CRS Study); *see also* American Law Institute, Restatement (Third) of the Law, The Foreign Relations Law of the United States § 314 (hereinafter Restatement, Foreign Relations) (1987). *See* Fourteen Diamond Rings v. United States, 183 U.S. 176, 183 (1901).

[285] *Cf.* Art. I, § 5, cl. 1; *see also* Missouri Pacific Ry. v. Kansas, 248 U.S. 276, 283–84 (1919).

[286] For instance, *see* S. Crandall, Treaties, Their Making and Enforcement 53 (2d ed. 1916); CRS Study, supra, 109–120.