

treaties ever since. Now, if it be true that to arbitrate is to submit something that may control Congress and therefore take away from its power to act, then we would have no right to arbitrate anything. And so to make war; so to guarantee independence.

We have now a treaty made with Panama by which we guarantee her independence and the integrity of her territory. That is nothing but the same obligation entered into in Article X. Nobody has ever said that that treaty was wrong. We had got something for it. We got our treaty with Panama, which enabled us to build the Panama Canal. And can we back out of that on the ground that it ousted the power of Congress with reference to the making of war?

When you come to resort to precedent you find not only that, but the Bryan treaties, of which there were some twenty. I think, or twenty-three—I don't know how many—which provide that no nation under those treaties shall go to war until a year after the event leading to the war and until after investigation and report shall be made. Now that limits the power of Congress to declare war, for a year; and if it does, it ousts its power to declare war—if that be true—if that is the theory. So that precedent is entirely at variance with any such proposition.

See the *reductio ad absurdum* that you have. Congress is the only power under the constitution that can pay money out of the Treasury of the United States. If that be true, if this view be true that we cannot agree to do anything that Congress is the constitutional agency in doing, then we of the United States cannot agree to pay another nation any money in the future. We can back out of every contract. We did agree to pay twenty millions for the Phillippines and we paid it. We agreed to pay such an award as might be made in the Fisheries Arbitration; and you found that we had taken fish—or the arbitration found that we had taken fish to the extent of five millions. We did not like it, we made grimaces, just as you did over the Geneva arbitration, but we paid the money, and we did not attempt to get out of it on the theory that it took away the power of Congress to use its independent discretion in paying money. It did not do any such thing. It only left to Congress the power to decide whether we ought to pay our debts, or ought not to—that is all.

In this way it seems to me I have covered the chief objections on any constitutional ground to the entry of the United States into such a treaty as that proposed. The constitutional decisions as to the character of our government written by Chief Justice Marshall are illuminating and convincing as to the character of the nation which was created by the constitu-