ject it to the sovereignty and authority of the United States. But his conquests do not enlarge the boundaries of this Union, nor extend the operation of our institutions and laws beyond the limits before assigned to them by the legislative power. . . ."

"But in the distribution of political power between the great departments of government, there is such a wide difference between the power conferred on the President of the United States, and the authority and sovereignty which belong to the English crown, that it would be altogether unsafe to reason from any supposed resemblance between them, either as regards conquest in war, or any other subject where the rights and powers of the executive arm of the government are brought into question." [114] Even after the Civil War, a powerful minority of the Court described the role of President as Commander-in-Chief simply as "the command of the forces and the conduct of campaigns." [115]

The Prize Cases.—The basis for a broader conception was laid in certain early acts of Congress authorizing the President to employ military force in the execution of the laws.[116] In his famous message to Congress of July 4, 1861,[117] Lincoln advanced the claim that the "war power" was his for the purpose of suppressing rebellion, and in the *Prize Cases* [118] of 1863 a divided Court sustained this theory. The immediate issue was the validity of the blockade that the President, following the attack on Fort Sumter, had proclaimed of the Southern ports.[119] The argument was advanced that a blockade to be valid must be an incident of a "public war" validly declared, and that only Congress could, by virtue of its power "to declare war," constitutionally impart to a military situation this character and scope. Speaking for the majority of the Court, Justice Grier answered: "If a war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority. And whether the hostile party be a foreign invader, or States organized in rebellion, it is none the less a war, although the declaration of it be '*unilateral*.' Lord Stowell (1 Dodson, 247) observes, 'It is not the less a war on *that account*, for war may exist without a declaration on

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[114] Fleming v. Page, 50 U.S. (9 How.) 603, 615, 618 (1850).

[115] *Ex parte* Milligan, 71 U.S. (4 Wall.) 2, 139 (1866).

[116] 1 Stat. 424 (1795): 2 Stat. 443 (1807), now 10 U.S.C. §§ 331–334. *See also* Martin v. Mott, 25 U.S. (12 Wheat.) 19, 32–33 (1827), asserting the finality of the President's judgment of the existence of a state of facts requiring his exercise of the powers conferred by the act of 1795.

[117] 7 J. Richardson, *supra*, at 3221, 3232.

[118] 67 U.S. (2 Bl.) 635 (1863).

[119] 7 J. Richardson, *supra*, at 3215, 3216, 3481.