ligan, Chief Justice Chase described the power to declare war as "necessarily" extending "to all legislation essential to the prosecution of war with vigor and success, except such as interferes with the command of the forces and conduct of campaigns." [1485] In another case, adopting the terminology used by Lincoln in his Message to Congress on July 4, 1861,[1486] the Court referred to "the war power" as a single unified power.[1487]

An Inherent Power.—Thereafter, we find the phrase, "the war power," being used by both Chief Justice White [1488] and Chief Justice Hughes,[1489] the former declaring the power to be "complete and undivided." [1490] Not until 1936, however, did the Court explain the logical basis for imputing such an inherent power to the Federal Government. In *United States v. Curtiss-Wright Corp.*,[1491] the reasons for this conclusion were stated by Justice Sutherland as follows: "As a result of the separation from Great Britain by the colonies acting as a unit, the powers of external sovereignty passed from the Crown not to the colonies severally, but to the colonies in their collective and corporate capacity as the United States of America. Even before the Declaration, the colonies were a unit in foreign affairs, acting through a common agency—namely, the Continental Congress, composed of delegates from the thirteen colonies. That agency exercised the powers of war and peace, raised an army, created a navy, and finally adopted the Declaration of Independence. . . . It results that the investment of the Federal Government with the powers of external sovereignty did not depend upon the affirmative grants of the Constitution. The powers to declare and wage war, to conclude peace, to make treaties, to maintain diplomatic relations with other sovereignties, if they had never been mentioned in the Constitution, would have vested in the Federal Government as necessary concomitants of nationality." [1492]

A Complexus of Granted Powers.—In *Lichter v. United States*,[1493] on the other hand, the Court speaks of the "war powers" of Congress. Upholding the Renegotiation Act, it declared that: "In view of this power 'To raise and support Armies, . . . and the power

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[1485] *Ex parte* Milligan, 71 U.S. (4 Wall.) 2, 139 (1866) (dissenting opinion); *see also* Miller v. United States, 78 U.S. (11 Wall.) 268, 305 (1871); and United States v. MacIntosh, 283 U.S. 605, 622 (1931).

[1486] CONG. GLOBE, 37th Congress, 1st Sess., App. 1 (1861).

[1487] Hamilton v. Dillin, 88 U.S. (21 Wall.) 73, 86 (1875).

[1488] Northern Pac. Ry. v. North Dakota ex rel. Langer, 250 U.S. 135, 149 (1919).

[1489] Home Bldg. & Loan Ass'n v. Blaisdell, 290 U.S. 398 (1934).

[1490] Northern Pac. Ry. v. North Dakota ex rel. Langer, 250 U.S. 135, 149 (1919).

[1491] 299 U.S. 304 (1936).

[1492] 299 U.S. at 316, 318. On the controversy respecting *Curtiss-Wright*, *see* The Curtiss-Wright Case, *infra*.

[1493] 334 U.S. 742 (1948).