

**THE POWERS OF THE EXECUTIVE
DEPARTMENT OF THE GOVERNMENT OF
THE UNITED STATES, AND THE POLITICAL
INSTITUTIONS AND CONSTITUTIONAL
LAW OF THE UNITED STATES**

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The powers of the executive department of the government of the United States, and the political institutions and constitutional law of the United States by Alfred Conkling

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ALFRED CONKLING

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UNITED STATES.

BY ALFRED CONKLING.

"Better to be awakened by the alarm-bell than to perish in the flames."—SURKE.

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EXECUTIVE POWER.

THE unparalleled struggle, for the maintenance of the Union, from which we have so lately emerged, is rightly regarded as one of those great historic events which shape the destinies of nations. Some of its fruits are already palpable to the grossest sense. It has freed us from the curse and opprobrium of legalized human bondage; it has demonstrated our capacity for successful warfare, upon a grand scale, on land and sea; and in proving to us, as it has incontestably done, that we have nothing to expect from the good-will, little from the honesty, and still less from the magnanimity of two, at least, of the most

powerful nations of the old world ; it has also taught both them and us that, so long as we are true to ourselves, we have little to fear from their enmity. It has aroused into unwonted activity all the intellectual, moral, and impulsive energies of the American mind ; and if it has brought out, in bold and revolting relief, all that is most odious and humiliating in man, it has expanded and invigorated all that inspires him with noble thoughts and high aspirations, and all else that exalts him to a rank in the scale of being, "but a little lower than the angels ;" and whatever else may befall us, we may confidently hope that the grand impulse it has thus imparted to our career of intellectual and moral civilization, is destined to endure. Let this great boon be our consolation for the terrible sacrifices it has cost us. But it is not upon these topics that I design to dwell, and I address

myself at once to the task I have undertaken.

One of the consequences of the Rebellion has been to awaken public attention more strongly than it had yet been, to a great problem of constitutional law; a problem of transcendent importance, and demanding the earnest and dispassionate consideration of the American people. It was discussed in the constitutional convention; by the contemporaneous public press; by the writers of the "Federalist," two of whom were among the most distinguished members of the convention, after it had been submitted to the people for ratification; and in the conventions of the several States; and it has, to a greater or less extent, incidentally provoked discussion under nearly every administration of the national government, from that of Washington inclusive, down to the present day.

It has also been briefly treated by our writers on constitutional jurisprudence; and, with regard to some of its elements, subjected also to judicial scrutiny. And yet, now, under all the lights thus shed upon it, after the lapse of three-quarters of a century, it not only remains practically unsolved, but presents itself under new and alarming phases. I hardly need to say that I refer to the SCOPE OF EXECUTIVE POWER in our national system of government, and, incidentally, to the line which separates it from the legislative power. The subject already occupies no inconsiderable share of the public attention, and has awakened, in no slight degree, the solicitude of thoughtful men. It would have been strange, and, to the enlightened patriot, disheartening, had it been otherwise. Unfortunately, it has now become complicated with party politics, and consequently obscured in the