Tappan, Henry Philip
Message to the law
Congress of the University
of Michigan, Jan. 18, 1862.
PRESIDENT TAPPAN'S

MESSAGE TO THE LAW CONGRESS OF THE

University of Michigan.

Delivered January 18th, 1862.

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MESSAGE.

[Chancellor Tappan, D. D., L. L. D., acting as President of the United States of the Moot Congress of the University of Michigan, delivered his Annual message on Saturday, January 18th, 1862, the two Houses convening in joint session to receive it.]

Gentlemen of the Senate and House of Representatives:

I revive to-day the custom of the early Presidents by delivering my message in person. For information respecting the condition of the country, I refer you to the reports of the Secretaries of the various departments. The difficulty with England, growing out of the Trent affair, has been happily adjusted. The expenses of the Government, as will be seen by reference to the report of the Secretary of War, are very great; the report of the Secretary of the Interior, however, shows a very high state of prosperity. But we are not to forget that we are at war, fighting for the supremacy of the Constitution and the Laws, and for the re-establishment of the Union; great sacrifices are therefore unavoidable.

Since the commencement of the present war there has been much irrelevant discussion—much irrelevant talk, in which has appeared abundance of irrelevant words and phrases. If innocent, or, at least, of little account, at other times, and forming only the subject of playful satire, it cannot be regarded in that light now, when this irrelevancy serves to distract attention from the main issue, to divide the people by political animosities, and to paralyze effort by indecision.
This irrelevant discussion—these irrelevant words and phrases appear mainly on two subjects, namely—The principles on which the war is to be carried on, and the disposition that is to be made of the negroes, or the slave population.

First, The principles on which the war is to be carried on.

One party is very anxious to make it appear that this is not a war of subjugation, nor a war of emancipation, but a war for the Constitution and the Union. The language used by this party is very apologetic in its tone, and goes to convey the idea that this war was a matter of deliberate choice on the side of the Government and the North; and that the choice to have war is justified by the fact that we are not conducting it for the purpose of subjugating the South, nor for the purpose of emancipating the slaves, but only for upholding the Constitution and the Union. Now, if the war was a matter of choice on our side and needs an apology, this certainly is a very good apology.

Another party is very fearful that we will make it a war of emancipation, and thus alienate all the Union men, both in the loyal border States and in the rebel States, besides destroying the Constitution, which guarantees the right of holding slaves to certain States. Nay, it is even affirmed that to make this the principle or end of the war would have the effect of dissolving our army, and, of course, yielding the field to the rebels at once.

A third party contends that the only true principle or end of this war is emancipation, and that victory is hopeless unless we proclaim liberty to the slaves universally, either by act of Congress or by military proclamation.

We may add to these still another party—the party of the rebels themselves, who call us "Lincolnites," "Abolitionists," one and all, "Vandal hordes," "Mercenaries," and so on, and declare our principle and end to be all that any of us dread, or try to excuse ourselves from.

Now we think that our own discussions, our own storm of words about our principles and aims are just as irrelevant to the work we have in hand as the abuse of our enemies.

The war has not been nor can be a matter of choice with us, and therefore needs no apology or defense. The conspirators
first secretly robbed the treasury, robbed the arsenals, and dispersed and corrupted the army and navy as far as possible. Then they seized the forts, and took officers and privates who would not act with them, prisoners of war. Next they abolished the Constitution and established a new government. Then a solitary fort which held out against them, they bombarded and captured. Then they marched armies to take the National Capital, and threatened Philadelphia, New York, and Boston. They asked only "to be let alone," while their measures threatened utter destruction to the Government and to the North. In such a state of things nothing remained to us but to fight, unless we were willing to be dishonored and destroyed. The same is more intensely true now than ever. Nothing remains to us now but to fight, unless we are ready to accept infamy and ruin.

In such a state of things what can be more irrelevant than formally to set forth that we are not aiming to subjugate our enemies, or to emancipate their slaves! We are fighting for life, for national existence, and are not called upon to say how far we mean to go, or what consequences shall ensue to our enemies. Such a thing was never heard of before. When England and Russia are engaged in war, England is not careful to proclaim that she does not mean to subjugate Russia, nor to emancipate her serfs, but that she is only fighting to maintain the British Constitution. Nor does it enter the head of the Czar to make any analogous proclamation on his part. When these get at war with each other they have certain battles in hand which occupy their whole attention. They cannot tell when or under what circumstances the war shall end. Their present work is to fight for the mastery.

And still less can it be expected of a government ruthlessly assailed by conspirators, traitors, and rebels, as our government is assailed, to make apologies for taking up arms in self-defense, or in conducting this defense, to bind itself to certain measures and to limit itself to certain ends. We have no choice left to us. We must fight or perish. When our hand is lifted to strike for victory must we be cautioned to beware of violating the Constitution? The Constitution was not made for a state
of rebellion, nor for the protection of rebels who have cast it aside. Questions about the Constitution are not now in place; the only question is, How can we win the battle?

If the old abolitionists cry out, "you must proclaim universal emancipation or you cannot put down the rebellion," we may reply, we have 600,000 men in the field, and our business is to lead them to victory. If the conservatives cry out, "you must proclaim that you mean to adhere to the Constitution, and that you do not fight for subjugation or emancipation, but for the Union," we may make the same reply. If they aver that unless we do so the border States will become disaffected and the army melt away, we may reply that our business is neither to discuss the principles or issues of the war, nor to make proclamations; we have 600,000 men in the field and some hundreds of ships at sea, and that having some hundreds of thousands of rebel soldiers opposed to us, and hostile demonstrations on the part of foreign nations, we must first of all fight the battle for national existence. We need entertain no fear of disaffection anywhere, if we only press on to victory. If proclamations or discussions could be used as war-like material, or made to do the office of cannons or bayonets, we ought not to reject them; but, as this does not appear very clearly, we have no time to investigate it. We have cannons and bayonets and 600,000 men on the land, and armed ships at sea, with many thousands more; and, until we have fully tried their strength and efficiency, it is wisest for us to adjourn the consideration of all other means.

In the proper and energetic employment of these all parties may unite without any sacrifice of principle. Let the President and Cabinet, and Congress, and all officials—let men of all parties—Democrats, Republicans, and Abolitionists, unite to sustain and give efficiency to the army, and then we shall be mighty and irresistible. The discussion of political, philosophical or moral principles, now, has no bearing upon the work in hand. We are in the midst of a war which leaves us no alternative but brave fighting, or ignominious and fatal submission. It is treason to the great cause for political parties now to strive for pre-
eminence. Whatever party may hold the Government, there is but one course to pursue.

The cry, "Put the Democrats in power," or "put the Abolitionists in power, and then we shall have success," is but the cry of selfish demagogues, who, like Nero, seek only to play upon their own fiddles while Rome is on fire. Nobody asks or cares whether General McClellan is a Democrat, a Republican, or an Abolitionist. We desire only to be assured that he is a great military commander and a true patriot. When General McClellan or his horse is sick, he may show homeopathic partialities, to the great scandal of medical science, in the opinion of some; but when he and his horse are well, we think of him only as the leader of our armies.

In times of peace, our principles, our politics, our fanaticisms, may jostle each other; but, in this time of war, standing as we do upon the fiery edge of battle, we stand shoulder to shoulder for the Republic. We ask not now what is your nationality? what is your creed? what is your party? We ask only what is your banner—are you for the stars and stripes? We reject none who will fight for the stars and stripes. We are the brotherhood of the stars and stripes. We have no time to talk—come, let us fight, one and all, for the stars and stripes. Let us carry our banner victoriously from the upper lakes to the gulf of Mexico—from the Atlantic to the Pacific. This is the work in hand, a work large enough to occupy all our powers, a work majestic and catholic enough to sink all our political differences, a work whose imperious necessities must melt us into one heroic people sworn to conquer or to die.

Secondly, The disposition to be made of the negroes. This is another fruitful subject of discussion, and has elicited a variety of measures.

First, fugitives to our lines were returned by our officers to their masters. The illegality of the military arm executing a civil process, and the absurdity of protecting rights to rebels, guaranteed by the Constitution only to loyal men, at once became apparent.

Then the active and ingenious mind of Gen. Butler conceived
the idea of treating fugitives to our lines as a species of contraband property to be held by the rights of war. But in this there was an unavoidable fiction, for the contraband article had not been conveyed by a neutral or any other power beyond its own voluntary disposition of itself; and after its acquisition was never offered for sale as a contraband.

Then Congress passed an act confiscating slaves actually employed in the service of the rebellion. This was followed by the proclamation of General Fremont confiscating unconditionally the slaves of rebels in the military department under his command. Upon this the President issued an order restricting the proclamation of General Fremont to the terms of the act of Congress.

The instructions of the Secretary of War to General Sherman presented a new phase, and seemed to contemplate the employment of fugitives in the military service.

In the discussions of Congress, three different positions are taken:

First, An act of immediate emancipation is proposed, to take effect, either in all the slave States, with a provision for reimbursing loyal slave-holders, or to take effect only in the rebel States. Secondly, It is proposed to emancipate the slaves of rebels by military proclamation either preceding or during invasion of the enemy's country. Thirdly, All projects of emancipation are opposed as unconstitutional, and it is proposed to carry on the war simply to restore the Union on the old basis, retaining slavery in the slave States under the original conditions and guarantees. To these has recently been added a fourth, presented in a bill declaring the seceded States territories, and slavery therein prohibited. This is a modification of the first position, and aims at the same time to punish rebellion by degradation, and to escape the objection that Congress has no Constitutional power to abolish slavery in the States.

Those who advocate emancipation represent it as an important if not an essential war measure, as well as an act of justice, the obstacles to which the rebels have themselves removed. Those who oppose emancipation represent it as a violation of
the Constitution; and while professing to approve of the war, insist that it shall be carried on constitutionally.

While these discussions are going on and these various measures proposed, many negroes are actually attaining their freedom in the progress of our arms. Hence a plan of colonization has proceeded from a high quarter, looking forward to their ultimate disposition.

Now we bring the charge of irrelevancy against all these discussions and measures. Or, where not positively irrelevant, they are premature.

The appeals currently made to the Constitution, on the subject of slavery, are generally irrelevant. The power of Congress to abolish slavery in the rebel States while we still recognize them as States may be questioned technically. But then Congress may confiscate the slaves as well as any other property of the rebels. But we shall show that both the emancipation and the confiscation of slaves are irrelevant. It is only in relation to the power of Congress to abolish slavery that there can be any show of relevancy in the appeals made to the Constitution. The Constitution, without employing the word *slave* or any of its compounds, contains only two provisions which are understood to comprise any rights of slaveholders, and those relate to the basis of representation, and to the rendition of fugitives. But the rebel States have voluntarily abolished all representation in the Federal Congress; and they cannot claim the rendition of fugitives under a Constitution which they have renounced, and from the States upon whom they have made war.

The assertion so often made that "the war must be carried on Constitutionally," is not only irrelevant, but does not admit even of any clear interpretation, when applied to the subject of slavery. The Constitution confers the power to make war and peace; to raise armies and navies, and to provide for their support; and designates the Commander-in-Chief. To make and carry on war constitutionally is to conform to the provisions of the Constitution relating to peace and war. Now the Constitution imposes no peculiar obligation and restrictions with respect to the treatment of enemies in general, but leaves us to
the presumption that we are to be governed by the laws and usages recognized and appealed to by all civilized nations. But as these laws and usages relate to acknowledged nationalities, there is far less restraint in the treatment of treason and rebellion. Since then the Constitution has made no provision as to the mode of carrying on a war like the one in which we are engaged, and its provisions with regard to representation in Congress and the rendition of fugitives have no application to the present state of affairs, the demand that the war shall be carried on "constitutionally" is at least irrelevant, and is really unintelligible. We are certainly secure from all reproach if we carry on this war according to the laws of nations, and the acknowledged rights and usages of war.

Suppose the seceded States had become a nation with their institution of slavery, and were at war with England or any other power, would it be obligatory upon the foreign belligerent to recognize this institution and to refrain from trespassing upon the relations of master and slave? England or France would not return fugitives, would not protect the masters in their rights, would not sell as property slave captives taken in war; and if masses of the slave population came over to the invaders as friends and allies, the invaders would treat them like the population of any other invaded country, under the same circumstances. Their color and their former condition would not be taken into consideration. The invaders would simply ignore the institution of slavery.

Now this is precisely the policy we are to pursue. To treat them as contraband articles forfeited by the rights of war; to confiscate them in common with houses and lands, horses and sheep and oxen, is to acknowledge that they are chattels. To emancipate them is to acknowledge that they are slaves. We acknowledged them as such, while the States which hold them acknowledged the Constitution of the United States as the supreme law of the land. But when the slave States threw off the Constitution of the United States and established a rebellious Confederacy, they absolved us from our obligations.

The same necessity which now compels us to regard them as
disloyal and as enemies, compels us to regard the State Constitutions which recognize slavery as null and void. Separate from the Constitution of the United States, we cannot recognize these State Constitutions. The negroes of the seceded States are no more slaves to us than are the captives of the King of Dahomey.

Our policy in regard to slavery is not to discuss it, not to legislate about it, to pass no act of confiscation, to issue no proclamations of emancipation, to propound no plans of colonization but simply to ignore it.

Our great work in hand is to press on this war to its conclusion with the utmost might and vigor. When we meet the enemy in the field, we are to make no investigation as to his color or condition. White or black, bond or free, rich or poor, are all alike to us; if he have cannons and rifles we must fight him as one mass; and all whom we capture are prisoners of war alike.

If on invading the enemy's country, the population or any part thereof come over to our side, and declare for the glorious stripes and stars, we are to receive them as friends and allies, whatever may be their color, whatever may have been their former condition. Neither the Constitution of the United States, the laws of nations, the usages of war, the dictates of humanity nor a wise policy demands any other course. Nay, it is a necessary policy—it is sheer common sense.

All our difficulties arise from discussing opinions and institutions existing in the enemy's country, and attempting to frame a policy to meet them, when our proper business is to fight so that we may win. Victory solves a thousand problems in a moment, while speculation is stumbling among the dark mountains of fear and uncertainty.

When we have re-conquered territories violently wrested from us, when we have prostrated the rebellious and thrown our protection around the loyal, then will arise the question, Upon what basis shall the Union be restored, and what measures shall be adopted for the future and permanent security of the Republic. We will wait for the harvest time, to gather the
fruits of our present labors and sacrifices. Now is the time for labors and sacrifices only.

We are managing the ship of state in the midst of a stormy and perilous sea. We are placed, some at the helm to steer, some at the bow to look out, some along the deck to manage the sails, some at the pumps to control the leak. Let every man do his duty. We have but one thing in view now; no one can mistake it; that one thing involves all that is dear to us in life, and is of such awful moment, of such urgent necessity that we cannot pause to deliberate, much less to indulge in words— we can think and speak only in action. Forget everything else, and save the ship.