

The president has power to summon Congress to a special session. Lincoln waited several months into his first term before calling on Congress to convene. In the interim, he took action on several fronts to address the actions of the seceding states, including ordering a blockade of southern ports and suspending the writ of habeas corpus. The power to suspend the writ is located in Article I, Sect. 9, cl. 2. Does the power reside in the President? In Congress? Both? What limits does the Constitution place on the power of the President to wage war in times of domestic insurrection?

Message to Congress in Special Session

July 4, 1861

Fellow-Citizens of the Senate and House of Representatives:

Having been convened on an extraordinary occasion, as authorized by the Constitution, your attention is not called to any ordinary subject of legislation.

At the beginning of the present Presidential term, four months ago, the functions of the Federal Government were found to be generally suspended within the several States of South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Florida, excepting only those of the Post-Office Department.

Within these States all the forts, arsenals, dockyards, custom-houses, and the like, including the movable and stationary property in and about them, had been seized and were held in open hostility to this Government, excepting only Forts Pickens, Taylor, and Jefferson, on and near the Florida coast, and Fort Sumter, in Charleston Harbor, South Carolina. The forts thus seized had been put in improved condition, new ones had been built, and armed forces had been organized and were organizing, all avowedly with the same hostile purpose. [...]

Finding this condition of things and believing it to be an imperative duty upon the incoming Executive to prevent, if possible, the consummation of such attempt to destroy the Federal Union, a choice of means to that end became indispensable. This choice was made, and was declared in the inaugural address. The policy chosen looked to the exhaustion of all peaceful measures before a resort to any stronger ones. It sought only to hold the public places and property not already wrested from the Government and to collect the revenue, relying for the rest on time, discussion, and the ballot box. It promised a continuance of the mails at Government expense to the very people who were resisting the Government, and it gave repeated pledges against any disturbance to any of the people or any of their rights. Of all that which a President might constitutionally and justifiably do in such a case, everything was forborne without which it was believed possible to keep the Government on foot. [...]

And this issue embraces more than the fate of these United States. It presents to the whole family of man the question whether a constitutional republic, or democracy--a government of the people by the same people--can or can not maintain its territorial integrity against its own domestic foes. It presents the question whether discontented individuals, too few in numbers to control administration according to organic law in any case, can always, upon the pretenses made in this case, or on any other pretenses, or arbitrarily without any pretense, break up their government, and thus practically put an end to free government upon the earth. It forces us to ask, Is there in all republics this inherent and fatal weakness? Must a government of necessity be too strong for the liberties of its own people, or too weak to maintain its own existence?

So viewing the issue, no choice was left but to call out the war power of the Government and so to resist force employed for its destruction by force for its preservation. [...]

The forbearance of this Government had been so extraordinary and so long continued as to lead some foreign nations to shape their action as if they supposed the early destruction of our National Union was probable. While this on discovery gave the Executive some concern, he is now happy to say that the sovereignty and rights of the United States are now everywhere practically respected by foreign powers, and a general sympathy with the country is manifested throughout the world. [...]

It might seem at first thought to be of little difference whether the present movement at the South be called "secession" or "rebellion." The movers, however, well understand the difference. At the beginning they knew they could never raise their treason to any respectable magnitude by any name which implies violation of law. They knew their people possessed as much of moral sense, as much of devotion to law and order, and as much pride in and reverence for the history and Government of their common country as any other civilized and patriotic people. They knew they could make no advancement directly in the teeth of these strong and noble sentiments. Accordingly, they commenced by an insidious debauching of the public mind. They invented an ingenious sophism, which, if conceded, was followed by perfectly logical steps through all the incidents to the complete destruction of the Union. The sophism itself is that any State of the Union may consistently with the National Constitution, and therefore lawfully and peacefully, withdraw from the Union without the consent of the Union or of any other State. [...]

This sophism derives much, perhaps the whole, of its currency from the assumption that there is some omnipotent and sacred supremacy pertaining to a State--to each State of our Federal Union. Our States have neither more nor less power than that reserved to them in the Union by the Constitution, no one of them ever having been a State out of the Union. The original ones passed into the Union even before they cast off their British colonial dependence, and the new ones each came into the Union directly from a condition of dependence, excepting Texas; and even Texas, in its temporary independence, was never designated a State. The new ones only took the designation of States on coming into the Union, while that name was first adopted for the old ones in and by the Declaration of Independence. Therein the "United Colonies" were declared to be "free and independent States;" but even then the object plainly was not to declare their independence of one another or of the Union, but directly the contrary, as their mutual pledge and their mutual action before, at the time, and afterwards abundantly show. The express plighting of faith by each and all of the original thirteen in the Articles of Confederation, two years later, that the Union shall be perpetual is most conclusive. Having never been States, either in substance or in name, outside of the Union, whence this magical omnipotence of "State rights," asserting a claim of power to lawfully destroy the Union itself? Much is said about the "sovereignty" of the States, but the word even is not in the National Constitution, nor, as is believed, in any of the State constitutions. What is a "sovereignty" in the political sense of the term? Would it be far wrong to define it "a political community without a political superior"? Tested by this, no one of our States, except Texas, ever was a sovereignty; and even Texas gave up the character on coming into the Union, by which act she acknowledged the Constitution of the United States and the laws and treaties of the United States made in pursuance of the Constitution to be for her the supreme law of the land. The States have their status in the Union, and they have no other legal status. If they break from this, they can only do so against law and by revolution. The Union, and not themselves separately, procured their independence and their liberty. By conquest or purchase the Union gave each of them whatever of independence and liberty it has. The Union is older than any of the States, and, in fact, it created them as States. Originally some dependent colonies made the Union, and in turn the Union threw off their old dependence for them and made them States, such as they are. Not one of them ever had a State constitution independent of the Union. Of course

it is not forgotten that all the new States framed their constitutions before they entered the Union, nevertheless dependent upon and preparatory to coming into the Union. [...]

What is now combated is the position that secession is consistent with the Constitution--is lawful and peaceful. It is not contended that there is any express law for it, and nothing should ever be implied as law which leads to unjust or absurd consequences. [...]

The seceders insist that our Constitution admits of secession. They have assumed to make a national constitution of their own, in which of necessity they have either discarded or retained the right of secession, as they insist it exists in ours. If they have discarded it, they thereby admit that on principle it ought not to be in ours. If they have retained it, by their own construction of ours they show that to be consistent they must secede from one another whenever they shall find it the easiest way of settling their debts or effecting any other selfish or unjust object. The principle itself is one of disintegration, and upon which no government can possibly endure. [...]

It may well be questioned whether there is to-day a majority of the legally qualified voters of any State, except, perhaps, South Carolina, in favor of disunion. There is much reason to believe that the Union men are the majority in many, if not in every other one, of the so-called seceded States. [...]

This is essentially a people's contest. On the side of the Union it is a struggle for maintaining in the world that form and substance of government whose leading object is to elevate the condition of men; to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford all an unfettered start and a fair chance in the race of life. Yielding to partial and temporary departures, from necessity, this is the leading object of the Government for whose existence we contend. [...]

Our popular Government has often been called an experiment. Two points in it our people have already settled--the successful establishing and the successful administering of it. One still remains--its successful maintenance against a formidable internal attempt to overthrow it. It is now for them to demonstrate to the world that those who can fairly carry an election can also suppress a rebellion; that ballots are the rightful and peaceful successors of bullets, and that when ballots have fairly and constitutionally decided there can be no successful appeal back to bullets; that there can be no successful appeal except to ballots themselves at succeeding elections. Such will be a great lesson of peace, teaching men that what they can not take by an election neither can they take it by a war; teaching all the folly of being the beginners of a war. [...]

ABRAHAM LINCOLN