

Key:

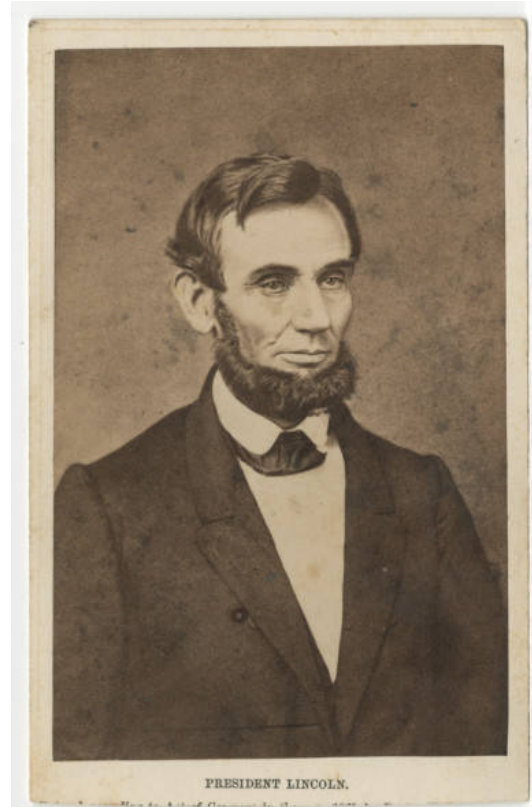
President Lincoln and Habeas Corpus

On April 27, 1861, President Abraham Lincoln suspended the writ of habeas corpus between the cities of Washington, D.C., and Philadelphia. This occurred after the rebel Southern states started an insurrection and organized the Confederate States of America in the spring of 1861.

What is *Habeas Corpus*?

Habeas corpus is a provision in the U.S. Constitution that protects citizens against unlawful arrest by granting the right to be brought before a judge for the court to determine whether the arrest is lawful, and if not, to release the accused from detention. This allows for a check and balance between the government, the court, and the accused. Finding its roots in England's Magna Carta of 1215, habeas corpus is an idea that the Founders of the United States knew would be not just a privilege but a safeguard for freedom.

Article 1 of the Constitution lists the limits of the powers of Congress, and Section 9 of it states: "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."



Digital image © Lincoln Financial Foundation Collection, Allen County Public Library

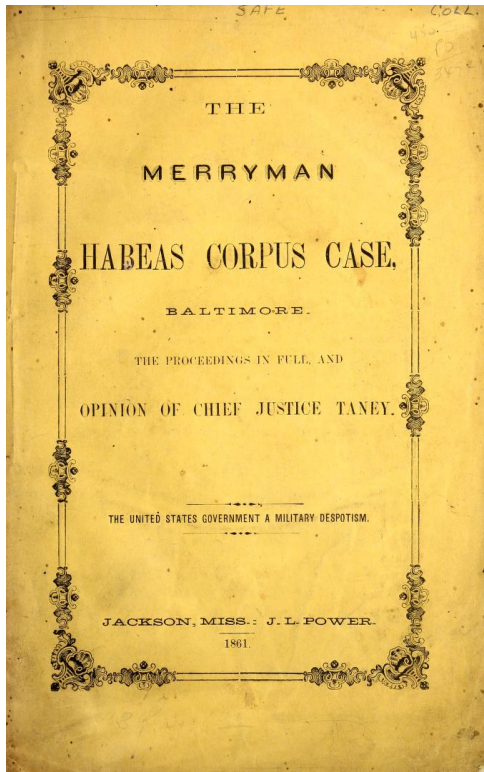
The Civil War & Habeas Corpus

On December 20, 1860, after the election of Republican Party candidate Abraham Lincoln, the southern state of South Carolina declared its secession, or severance, from the United States. Soon Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas would follow and create the Confederate States of America and elect Jefferson Davis as their president. On April 12, 1861, the Confederate forces opened fire on Fort Sumter located off the coast of South Carolina, thus beginning the Civil War. Virginia would join the Confederacy just five days later. On May 6 Arkansas seceded, and by the end of the month North Carolina did as well. The final Confederate state, Tennessee, seceded on June 8, 1861, for a total of 11 rebel states.

With the threat of more slave states joining the Confederacy, President Lincoln began to worry about how to keep border states in the Union. Leaders in Maryland--a slaveholding border state--began showing interest in secession. The Confederate sympathizers were numerous, organized, and sometimes violent. If Maryland seceded from the U.S. it would have left the Federal capital of Washington, D.C., completely surrounded by the Confederate States of America (CSA).

Key:

President Lincoln and Habeas Corpus

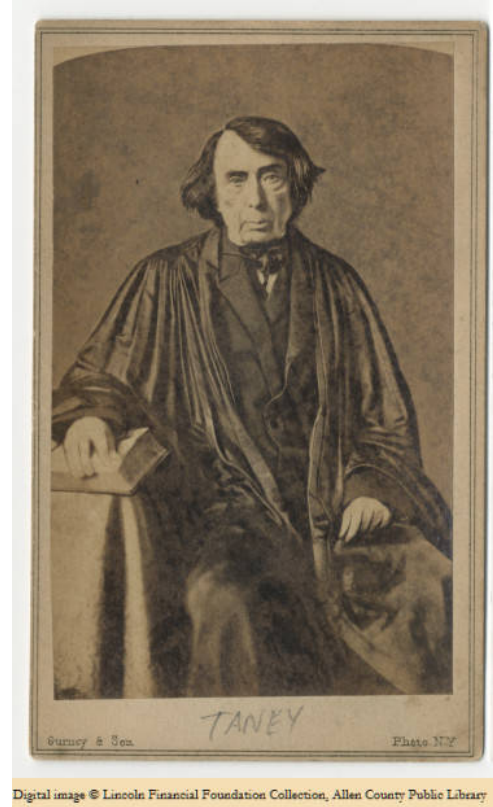


In an effort to keep Maryland in the Union and suppress organizing insurrectionists, President Lincoln issued an order to General Winfield Scott allowing him to suspend the writ of habeas corpus between the military lines of Philadelphia and Washington, D.C., if public safety was threatened.

On May 25, 1861, John Merryman, a vocal Confederate sympathizer, was arrested in Cockeysville, Maryland. Detained at Fort McHenry in Baltimore, Merryman appealed for his release arguing that his right of habeas corpus was denied. While the Supreme Court was not in session, Chief Justice Roger B. Taney served as a circuit court judge where Merryman's case, *ex parte Merryman* (1861), was brought before him. Taney issued a strongly worded ruling. Taney's opinion stated that only Congress could suspend habeas corpus and that President Lincoln had exceeded his Constitutional powers.

President Lincoln ignored Taney's ruling and worked to issue more suspensions in other areas within the Union. Lincoln believed that the Constitution allowed him to suspend habeas corpus because the country was navigating an ongoing rebellion.

In his address to Congress on July 4, 1861, President Lincoln stated, "Are all the laws, but one, to go unexecuted, and the government itself go to pieces, lest that one be violated?" On September 24, 1862, President Lincoln suspended habeas corpus throughout the United States in his General Orders No. 141. This order laid out that anyone found rebelling against the U.S. would be jailed and tried in court without a jury, and the trial would take place in military court rather than civilian court. On March 3, 1863, Congress issued a suspension of habeas corpus after the Habeas Corpus Act was passed.



Key:

President Lincoln and Habeas Corpus

Directions: Use the reading to choose the **best** answer.

1) What is habeas corpus?

- A A power of Congress
- B A provision in the Constitution that protects citizens from unlawful arrest by allowing the accused to be brought before a judge to determine whether the arrest is lawful
- C A Latin phrase in the Magna Carta

2) When did the Civil War begin?

- A December 20, 1864
- B May 6, 1861
- C April 12, 1861

3) Why was Maryland an important border state?

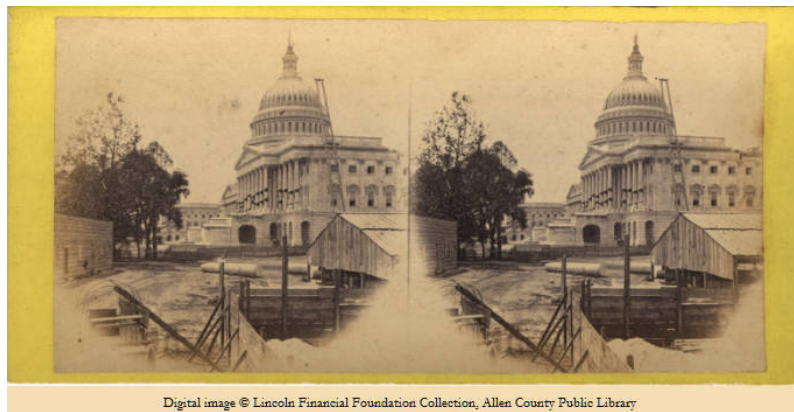
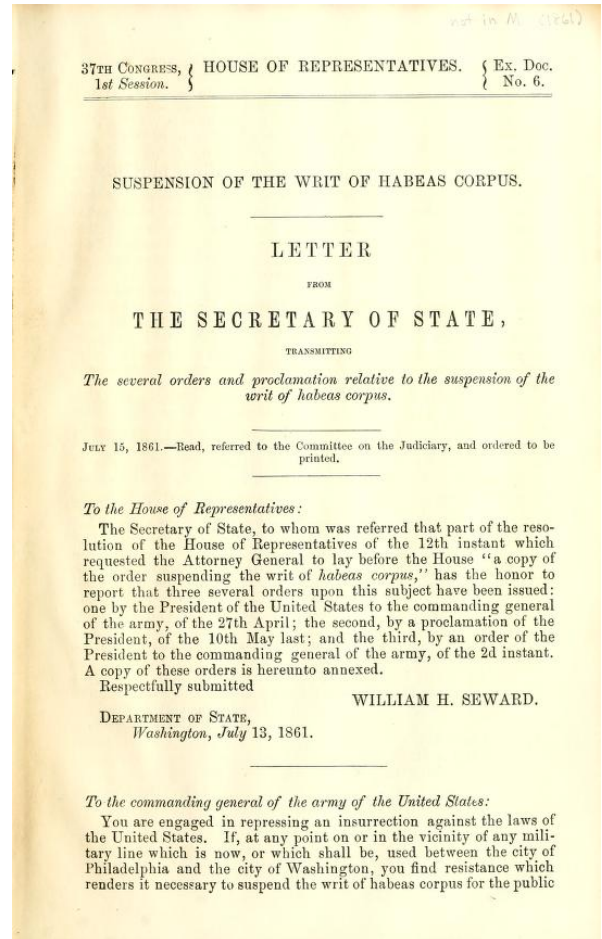
- A It bordered the capital
- B It was a slave state
- C Important political figures lived in the state

4) What was Judge Taney's opinion from the *ex parte Merryman* (1861) case?

- A Lincoln was wrong
- B Habeas corpus can only be suspended by Congress
- C Merryman was not guilty

5) When did President Lincoln suspend habeas corpus throughout the nation?

- A July 4, 1863
- B September 24, 1862
- C May 25, 1861



Digital image © Lincoln Financial Foundation Collection, Allen County Public Library

