

Problems in Maryland Document Packet
Part One: Communication Concerning Activities in Central Maryland¹

THE MARYLAND ARRESTS.

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[Appended to the foregoing.]

His Excellency ABRAHAM LINCOLN,
President of the United States:

I have been in Baltimore since Tuesday evening last and co-operated with Mayor G. W. Brown in his untiring efforts to allay and prevent the excitement and suppress the fearful outbreak as indicated above and I fully concur in all that is said by him in the above communication.

Very respectfully, your obedient servant,

THOMAS H. HICKS,
Governor of Maryland.

STATE OF MARYLAND, EXECUTIVE CHAMBER,
Annapolis, April 20, 1861.

Hon. S. CAMERON.

SIR: Since I saw you in Washington last I have been in Baltimore City laboring in conjunction with the mayor of that city to preserve peace and order but I regret to say with little success. Up to yesterday there appeared promise but the outbreak came; the turbulent passions of the riotous element prevailed; fear for safety became reality; what they had endeavored to conceal but what was known to us was no longer concealed but made manifest; the rebellious element* had the control of things. * * * They took possession of the armories, have the arms and ammunition, and I therefore think it prudent to decline (for the present) responding affirmatively to the requisition made by President Lincoln for four regiments of infantry.

With great respect, I am, your obedient servant,

THOS. H. HICKS.

WASHINGTON, April 20, 1861.

Governor HICKS:

I desire to consult with you and the mayor of Baltimore relative to preserving the peace of Maryland. Please come immediately by special train which you can take at Baltimore; or if necessary one can be sent from hence. Answer forthwith.

LINCOLN.

BALTIMORE, Saturday, April 20, 1861—10 o'clock.

[General SCOTT.]

MY DEAR GENERAL: There has been no arrival from the North. Some one or more bridges have been destroyed; where it is not known; telegraph interrupted. Warford has sent by horses along the road to find where the trouble is. * * * Depend upon it a vigorous and efficient plan of action must be decided on and carried out or we will have to give up the capital.

The communication with the South is perfect both by railroad and telegraph and we must have the same or we are gone. No arrivals

* For reports of the attack of the mob on the U. S. troops passing through Baltimore April 19, 1861, here alluded to by Governor Hicks, see Series I, Vol. II, pp. 7-21.

from Philadelphia or New York and no information. Rumor says the bridge across the Gunpowder is destroyed and also a bridge some six or eight miles out of the city. * * * Let there be prompt action. * * *

Yours, truly,

D. WILMOT.

SATURDAY, *April 20, 1861—11 o'clock.*

[General SCOTT:]

Have just heard that the bridges between Ashland and Cockeyville and two or three nearer town are burned. Will advise the forces in Philadelphia and such as may be at Harrisburg to come upon this road as far as they can and protect the balance of the road and protect while temporarily repairing the bridges or so much as is necessary—the balance to come in force and well armed to within three miles of Baltimore and cross over to Washington [branch], and if in our possession as it should be to proceed by rail to Washington; if not to march by forced marches to Washington. * * *

Yours,

D. WILMOT.

HAGERSTOWN, *April 22, 1861.*

Governor T. H. HICKS, *Annapolis:*

Virginia troops searching houses in Maryland on Saturday near Harper's Ferry for arms. I appealed to General Harper, commander, to recall them which he promised if Northern troops are forbidden. What is to be done with Southern? What steps shall I take?

EDWARD M. MOBLEY,
Sheriff of Washington County.

PHILADELPHIA, *April 23, 1861.*

Hon. SIMON CAMERON, *Secretary of War.*

DEAR SIR: Since I wrote my last of this date I have been informed that the Baltimoreans and Marylanders have destroyed the whole of the bridges on the Northern Central. This seems to have been a mere spite action and must convince the Government that those loyal to the Government in Maryland are in a vast minority. As soon as the capital is safe from attack it seems to me that the Government should at once turn on Baltimore and place it under martial law and require that it should pay all damages to the railroads it has destroyed and to their business.

* * * * *

Yours, truly,

J. EDGAR THOMSON,
President Pennsylvania Central Railroad.

Part Two: News Article Concerning the Arrest of John Merrymanⁱⁱ

Arrest of John Merryman, Esq., by the Military.—Writ of Habeas Corpus.—Quite an excitement was produced in the city on Saturday morning by the announcement of the arrest of John Merryman, Esq., of Hayfields, near Cockeysville. It appears, that on Friday night, Lieut. Abell, with a squad from the forces stationed at the Relay House, on the Northern Central Railway, moved up the road. They reached the house of Mr. M. about two o'clock on Saturday morning, took him into custody, and awaited the passage of the down train, in which they reached this city shortly before 8 o'clock. He was then placed in a hack and taken to Fort McHenry. While in the custody of the military he declined to hold any conversation with those on the train. The charge upon which he was arrested is said to have been a participation in the burning of the bridges on the Northern Central railway, between Cockeysville and the Maryland line, after the departure of the Cockeysville camp. Mr. M. is still detained at Fort McHenry. He is a prominent citizen of Baltimore county, has for several years held the position of president of the Maryland State Agricultural Society, and is respected by the people generally.

ⁱ United States War Department. *The War of the Rebellion: a Compilation of the Official Records of the Union and Confederate Armies*. Washington: Gov't Printing Office. Series I, 1-53; Series II, 1-8; Series III, 1-5; Series IV, 1-4 (1880 - 1901).

ⁱⁱ The Sun Papers. May 27, 1861.

Lincoln's Response to Congressⁱ

Abraham Lincoln, [May-June 1861] (Message to Congress, July 4, 1861, Handwritten Draft)

Soon after the first call for militia, I felt it my duty to authorize the Commanding General, in proper cases, according to his discretion, to suspend the privilege of the writ of habeas corpus -- or, in other words, to arrest, and detain, without resort to the ordinary processes and forms of law, such individuals as he might deem dangerous to the public safety. At my verbal request, as well as by the Generals own inclination, this authority has been exercised but very sparingly-- Nevertheless, the legality and propriety of what has been done under it, are questioned; and I have been reminded from a high quarter that one who is sworn to "take care that the laws be faithfully executed" should not himself be one to violate them-- ~~So I think.~~ Of course I gave some consideration to the questions of power, and propriety, before I acted in this matter--

The whole of the laws which I was sworn to ~~see~~ take care that they ~~should~~ be faithfully executed, were being resisted, and failing ~~of execution~~ to be executed, in nearly one third of the states. Must I have allowed them to finally fail of execution, even had it been perfectly clear that by the use of the means necessary to their execution, ~~some provision of one single law, made in such extreme tenderness of the citizens liberty, that more rogues than honest men practically more of the guilty than the innocent, find shelter under it, should, to a very limited extent, be violated?~~ some single law, made in such extreme tenderness of the citizens liberty, that practically, it relieves more of the guilty, than the innocent, should, to a very limited extent, be violated? To state the question more directly, are all the laws, but one, to go unexecuted, and the government itself go to pieces, lest that one ~~law~~ be violated? Even in such a case I should consider my official oath broken if I should allow the government to be overthrown, when I might think the disregarding the single law would tend to preserve it-- But, in this case I was not, in my own judgment, driven to this ground-- In my opinion I violated no law-- The provision of the Constitution that "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" is equivalent to a provision -- is a provision -- that such privilege may be suspended when, in cases of rebellion, or invasion, the public safety does require it. I decided that we have a case of rebellion, and that the public safety does require the qualified suspension of the privilege of the writ of habeas corpus, which I authorized to be made. Now it is insisted that Congress, and not the executive, is vested with this power-- But the Constitution itself, is silent as to which, or who, is to exercise the power; and as the provision plainly was made for a dangerous emergency, I can not bring myself to believe that the framers of that instrument intended that in every case the danger should run it's course until Congress could be called together, the very assembling ~~of which might be prevented, and in as was in-~~ of which might be prevented, as was intended in this case, by the rebellion--

I enter upon no more extended argument; as an opinion, at some length, will be presented by the Attorney General--

Whether there shall be any legislation upon the subject, and if any, what, I submit entirely to the better judgment of Congress--

ⁱ Abraham Lincoln Papers at the Library of Congress. Transcribed and Annotated by the Lincoln Studies Center, Knox College. Galesburg, Illinois.

Opinion of Chief Justice Taneyⁱ

“The following is the opinion in the habeas corpus case of John Merryman, filed by Chief Justice Taney, of the Supreme Court of the United States, in the Circuit Court of the United States for the fourth Circuit in and for Maryland district.

...A copy of the warrant, or order, under which the prisoner was arrested, was demanded by this counsel and refused. And it is not alleged in the return that any specific act, constituting an offense against the laws of the United States, has been charged against him upon oath; but he appears to have been arrested upon general charges of treason and rebellion, without proof, and without giving the names of witnesses, or specifying the acts which, in judgment of the military officer, constituted these crimes. And, having the prisoner thus in custody upon these vague and unsupported accusations, he refuses to obey the writ of habeas corpus, upon the ground that it is duly authorized by the President to suspend it.

...As the case comes before me, therefore, I understand that the President not only claims the right to suspend the writ of habeas corpus himself at his discretion, but to delegate that discretionary power to the military officer, and to leave it to him to determine whether he will or will not obey judicial process that may be served upon him.

*...And I am certainly adorned to it with some surprise, for I had supposed it to be one of those points of constitutional law upon which there was no difference of opinion and that it was admitted to all hands that the privilege of the writ could not be suspended, **except by act of Congress.***

...I should have contended myself with referring to the clause in the constitution...But, being thus officially notified that the privilege of the writ had been suspended under orders and by the authority of the President, and believing as I do that the President has exercised a power which he does not possess under the constitution, a proper respect for the high office he fills requires me to state plainly and fully the grounds of my opinion.

...This article {writ of habeas corpus} is devoted to the legislative department of the United States, and has not the slightest reference to the Executive department. It begins by providing ‘that all legislative powers therein granted shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives.’ ...it proceeds to enumerate specifically the legislative powers which it hereby grants, the legislative powers which it expressly prohibits, and at the conclusion of this specification, a clause is inserted, giving Congress, ‘the power to make all laws which may be necessary and proper for carrying into execution the foregoing powers, and all other powers.’

...the only power, therefore, which the President possesses where the ‘life, liberty, or property’ of a private citizen is concerned is the power and duty prescribed in the third section of the second article, which requires ‘that he shall take care that the laws be faithfully executed.’ He is not authorized to execute them himself or through agents or officers, civil or military, appointed by himself, but he is to take care that they be faithfully carried into execution...

With such provisions in the constitution expressed in language too clear to be misunderstood by anyone, I can see no ground whatever for supposing that the President, in any emergency; or in any state of things, can authorize the suspension of the privilege of the writ of habeas corpus or arrest a citizen except in aid of the judicial power. He certainly does not faithfully execute the laws, if he takes upon himself legislative power by suspending the writ of habeas corpus and the judicial power also, by arresting and imprisoning a person without due process of law.”

ⁱ The Sun Papers, June 3, 1861

My Side

Directions: Complete each question using the document provided.

The author of the document I am reading is _____.

Part A: Basic Document Analysis

1. When was the document written? _____
2. What is the type of document? _____
3. Who is the audience? _____
4. Is this a public or private statement? How do you know? _____

Part B: Key Document Information

5. Summarize the main message of the document.

6. List two details that the author made to support the main message.

7. Write a question to the author you would have wished to have answered in the document.

8. Do you agree with this person's point of view? Explain.
