

John Merryman

The imprisonment of John Merryman, MAC trustee and stockholder, was the subject of the most famous legal challenge to Abraham Lincoln's suspension of the writ of habeas corpus in the early days of the Civil War.

The writ of *habeas corpus*, a tradition under English and American common law, guarantees that citizens cannot legally be imprisoned without due process. The writ is one of the greatest protections against the arbitrary exercise of power. The Constitution permits its suspension "when in Cases of Rebellion or invasion the public Safety may require it," although it does not specify which branch of government has the power to do so. Because the suspension clause is in Article I of the Constitution, most legal commentators in the 19th century believed that power was left to Congress.

In April 1861, Maryland teetered on the brink of secession after Massachusetts troops travelling through Baltimore were attacked by civilians, causing a riot. On the 27th, Lincoln acted alone to suspend *habeas corpus* along the route between Philadelphia and Washington, allowing military officers to arrest and detain, with or without evidence, those suspected of aiding the Confederacy.

John Merryman was a prominent farmer in Baltimore County, former president of the Maryland Agricultural Society, and member of the Board of Trustees of MAC. As a lieutenant in the Baltimore County Horse Guards, a state militia unit, he had already participated in the burning of railroad bridges north of Baltimore, ordered by local civil authorities, to prevent more troops from travelling through town. On May 25, 1861, Merryman was seized from his home, "Hayfields," in Cockeysville in the middle of the night, without a warrant, and imprisoned at Fort McHenry by federal troops. He was just one of many prominent Baltimoreans, including Mayor George W. Brown, who were arrested and detained.



Through his attorney, Merryman petitioned for a writ of *habeas corpus* to the federal judge assigned to the Maryland circuit. In this instance, it was Chief Justice of the United States Supreme Court Roger B. Taney, a native Marylander. Justice Taney issued a writ ordering the Union commander to appear in court and bring Merryman. When the writ was met with claims of presidential authority, Taney issued an opinion lecturing President Lincoln on the limits of his power. He declared Lincoln's actions illegal and unconstitutional, forcefully reminding him that those charged with a crime had well-established constitutional procedural rights and that he, as president, had a duty "to take care that the laws be faithfully executed."

Lincoln ignored Taney's opinion and defended his position in a message to Congress on July 4, 1861, and through an opinion drafted by his own attorney general.

Later that month, Merryman was released from Fort McHenry, indicted in federal court on charges of treason, and then released on bail. His case never went to trial, and the charges against him were dropped in 1867. He went on to serve as state treasurer from 1870 to 1872 and in the House of Delegates from 1874 to 1876.

The stand-off between President Lincoln and Justice Taney was a classic constitutional debate over executive powers. Eventually, Taney's decision in *Ex parte Merryman* was upheld, but in the meantime, the actions of Lincoln and his federal troops kept Maryland in the Union, in part, by force.



JOHN MERRYMAN

BREEDER OF

BLACK HAWK HORSES, CATTLE, HAMPSHIRE DOWN SHEEP,
MEREFORD, & BERKSHIRE PIGS.

HAYFIELDS, COCKEYSVILLE,

BALTIMORE COUNTY, MD.