

## SAMPLE ANSWERS: Habeas Corpus

### What Was Happening?

After the election of Abraham Lincoln in 1860, southern slave states began to secede from the Union. Lincoln seemed to face a mountain of difficulties, with Washington D.C. wedged between now-seceded Virginia and contemplating-secession Maryland. President Lincoln felt forced to order the first volunteers, called up in the aftermath of the attack on Fort Sumter, to quickly occupy Baltimore, Maryland's largest city. On April 27, 1861, Lincoln suspended the writ of habeas corpus in the area between Washington, D.C., and Philadelphia to give military authorities the power they needed to keep peace and prevent further secession. Residents of Baltimore rioted. On May 25, 1861, John Merryman, a vocal Maryland secessionist, was arrested for helping lead a mob in cutting telegraph lines. He was placed in jail but was not charged. This seemed to go against habeas corpus.

Summarize the historical background:

In order to keep the peace during a time when states were seceding from the Union, President Lincoln gave military authorities the power to keep the peace and prevent further secession. He did this by suspending the writ of habeas corpus.

### What Rights Were Restricted?

According to Article I, Section 9 of the U.S. Constitution, *"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."* Habeas Corpus refers to a law that states that a person who is placed under arrest be brought before a judge or a court. The court or judge can then decide upon the legality of the arrest and detainment. President Lincoln believed that because of the portion that reads *"unless when in Cases of Rebellion or Invasion the public Safety may require it,"* he had the power to suspend it as commander-in-chief at this moment during the Civil War. So he issued an executive order granting his military commanders the power to arrest and detain individuals they deemed threatening to public safety.

What right(s) were restricted?	no person shall be deprived of life, liberty or property, without due process of law; right to a speedy trial Habeas Corpus
What was the rationale provided at the time?	That because they were in a war it covered the cases of rebellion/invasion. Public safety required it. Power as commander-in-chief

## What Did The Courts Say?

Quote	Summarize in your own words
<i>it was admitted on all hands that the privilege of the writ could not be suspended except by act of Congress</i>	A president can't suspend it, only Congress
<i>the President has exercised a power which he does not possess under the Constitution</i>	A president can't suspend it
<i>But the documents before me show that the military authority in this case has gone far beyond the mere suspension of the privilege of the writ of habeas corpus</i>	The military in question has taken things too far and violated rights
<i>The Constitution provides, as I have before said, that "no person shall be deprived of life, liberty or property, without due process of law"</i>	Life, liberty, and property can't be taken/held without due process of law
<i>And these great and fundamental laws, which Congress itself could not suspend, have been disregarded and suspended, like the writ of habeas corpus, by a military order, supported by force of arms. Such is the case now before me, and I can only say that, if the authority which the Constitution has confided to the judiciary department and judiciary officers, may thus, upon any pretext, or under any circumstances, be usurped by the military power at its discretion, the people of the United States are no longer living under a government of laws, but every citizen holds life, liberty and property, at the will and pleasure of the army officer in whose military district he may happen to be found</i>	<p>It is dangerous to the principles of American democracy if we allowed a president to suspend rights with a simple military order</p> <p>The U.S. is a nation of laws and protected individual rights</p>
<p>Based on the court's words, analyze the constitutionality of the government-imposed restriction on rights:</p> <p>Habeas corpus can be suspended but only "when in Cases of Rebellion or Invasion the public Safety may require it" and only by Congress.</p>	