

## Handout B: Chief Justice Taney and the *Merryman* Ruling Answer Key

1. Justice Taney charged that President Lincoln had disregarded rights guaranteed to Merryman in the following ways:
  - Suspended the writ of *habeas corpus* and delegated that power to a military officer
  - Deprived Merryman of due process
  - Violated his rights against unreasonable search and seizure
  - Violated his rights to a speedy trial in a court of justice
2. According to Taney, only Congress has the power to suspend *habeas corpus*.
3. Accept reasoned responses. Students may say that the people of the United States are no longer living under the rule of law, but are subject to unrestrained arbitrary rule.
4. Taney ordered the clerk to deliver Taney's written opinion to the president, so that he may "determine what measures he will take to cause the civil process of the United States to be respected, and enforced..."
5. Accept reasoned responses that provide evidence regarding Lincoln's reasoning and that of Taney, and then provide the student's own judgment regarding the controversy. Tell students that there is no record of any response Lincoln may have had to Taney's opinion when it was delivered to him. However, in his message to a special session of Congress on July 4, Lincoln asserted that suspension of *habeas corpus* had "purposely been exercised but very sparingly," and defended his actions as necessary to preserve the Union. He asked the Congress, "are all the laws, but one, to go unexecuted, and the government itself to go to pieces, lest that one be violated?" Lincoln explained that the power to suspend *habeas corpus* belonged to both the president and the Congress, and left it to Congress to decide whether legislation was necessary to justify suspension of the privilege of the writ of *habeas corpus*. In 1863, Congress formally suspended *habeas corpus* with the passage of the *Habeas Corpus Act*.