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210 28 28 May 1861

[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page.]

I forbore yesterday to state orally the provisions of the Constitution of the United States which make these principles the fundamental law of the Union - because an oral statement might be misunderstood in some portions of it: and I shall therefore put my opinions in writing & file it in the office of the Clerk of the Supreme Court in the course of this week.



Filed 28 May 1961

I ordered the attachment yesterday upon
because upon the face of the return the detention
of the prisoner was unlawful upon two
grounds.

1. The President under the constitution & laws
of the United States cannot suspend the privilege
of the writ of Habeas Corpus - nor authorize any
military officer to do so

2. A military officer has no right to arrest
& detain a person not subject to the rules and
articles of war - for an offense against the laws
of the land of the U. States - except in aid of the
judicial authority & subject to its control -
and if the party is arrested by the military - it is
the duty of the officer to deliver him over
immediately to the civil authority to be dealt
with according to law



It is therefore very clear that John Merryman
the petitioner is entitled to be set at liberty and
discharged immediately from imprisonment