

I ordered the attachment yesterday upon  
decision upon the fact 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 offence against the laws  
of the laws 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 Murray  
the petitioner is entitled to his liberty and  
discharged immediately from imprisonment

Done 25 May 1861

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.



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Box 28 - 25 May 1861