

## Lincoln's Message to Congress | July 4, 1861 [excerpt]

1 Soon after the first call for militia it was considered a duty to authorize the Commanding  
2 General in proper cases, according to his discretion, to suspend the privilege of the writ  
3 of habeas corpus, or, in other words, to arrest and detain without resort to the ordinary  
4 processes and forms of law such individuals as he might deem dangerous to the public  
5 safety. This authority has purposely been exercised but very sparingly. Nevertheless,  
6 the legality and propriety of what has been done under it are questioned, and the  
7 attention of the country has been called to the proposition that one who is sworn to "take  
8 care that the laws be faithfully executed" should not himself violate them. Of course  
9 some consideration was given to the questions of power and propriety before this  
10 matter was acted upon. The whole of the laws which were required to be faithfully  
11 executed were being resisted and failing of execution in nearly one-third of the States.  
12 Must they be allowed to finally fail of execution, even had it been perfectly clear that by  
13 the use of the means necessary to their execution some single law, made in such  
14 extreme tenderness of the citizen's liberty that practically it relieves more of the guilty  
15 than of the innocent, should to a very limited extent be violated? To state the question  
16 more directly, Are all the laws but one to go unexecuted, and the Government itself go  
17 to pieces lest that one be violated? Even in such a case, would not the official oath be  
18 broken if the Government should be overthrown when it was believed that disregarding  
19 the single law would tend to preserve it? But it was not believed that this question was  
20 presented. It was not believed that any law was violated. The provision of the  
21 Constitution that "the privilege of the writ of habeas corpus shall not be suspended  
22 unless when, in cases of rebellion or invasion, the public safety may require it" is

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23 equivalent to a provision--is a provision--that such privilege may be suspended when, in  
24 cases of rebellion or invasion, the public safety does require it. It was decided that we  
25 have a case of rebellion and that the public safety does require the qualified suspension  
26 of the privilege of the writ which was authorized to be made. Now it is insisted that  
27 Congress, and not the Executive, is vested with this power; but the Constitution itself is  
28 silent as to which or who is to exercise the power; and as the provision was plainly  
29 made for a dangerous emergency, it can not be believed the framers of the instrument  
30 intended that in every case the danger should run its course until Congress could be  
31 called together, the very assembling of which might be prevented, as was intended in  
32 this case, by the rebellion.

<https://millercenter.org/the-presidency/presidential-speeches/july-4-1861-july-4th-message-congress>