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Title: Letter from Roger B. Taney to Samuel Nelson

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washington may 8 h 1864 My Dear fei I think you told me as our last interview that you were accustomes to hear appears at your office upon briefs or oral arguments & transmit you Decision to the place of halding the Court. - Is the Certies court - hight open from Day to day for that performe? - and how, and of what day is it intered on the mois! I hould you with these questrong because I Soult whether I shall be able to go to Baltimore I have not been sulside of my house since I last down you - although I am every day in my office, I do not find that business

fatigues me, or ingures grey hasthe But from the all ingary in my hip I cannot walk fice mineds herthout feeling that my thing to is general way and I get very much disposes to follow your example I require the Bon to come to me -I have made up my mond to continue the indistructo for treason whether I go to Balance or not; - The official browns ifour by the military authoris this almost every day- and the arrest of citizens, who do not belong to the army or miletion in services - beethant afrigue my any course . These that manys land is under mortise law I that the civil authority is altaly powerles - It is not in the previous of the Court while such circina Stones, to give a party a fair

and importist trice - or to protection if he should be four not quilty by the Jerry For he could horder brave a fair and importion trial when the withefres & counsel I juroso wonto all feel that is They doed any thing disposasing to the miletary authority they might be imprisanio in an how afterward in fast millery I the court wood hove no power to frotiet them - and of the pointy Should be aguitad he might sometcately even in the sight of the court be arrested & mis -Insomed by the military without genting any reason for it - and the Court coals not protect him orar punish the offendus - 2 well not place the judicial power en this humiliating position - nor consume this to Degrade and debgrace it and if the Distreet

attorney presses the pracesa tions I shall requos to take them up I shall ander the cases to be continued. and shall in a willer opinion place my decision whom the grounds abore States. - lestat do you Think of it? yeary truly 2 respectfully yours B. B. Janey mr. Justier helson of the Sup Ch bu S. Coaper Lower - grewyork

My Dear Sir,

I think you told me in our last interview, that you were accustomed to hear appeals at your office upon briefs or oral arguments, & transmit your decision to the place of holding the court. Is the Circuit Court kept open from day to day for that purpose? And how, and on what day is it entered on the record?

I trouble you with these questions, because I doubt whether I shall be able to go to Baltimore. I have not been outside of my house since I last saw you – although I am every day in my office, & do not find that business

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fatigues me, or injures my health. But from the old injury in my hip I cannot walk five minutes without feeling that my strength is giving way – and I feel very much disposed to follow your example and require the Bar to come to me.

I have made up my mind to continue the indictments for treason whether I go to Baltimore or not. The official orders issued by the military authorities almost every day, and the arrest of citizens, who do not belong to the army or militia in service without assigning any cause show that Maryland is under martial law and that the civil authority is entirely powerless. It is not in the power of the Court under such circumstances, to give a party a fair

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and impartial trial, or to protect him if he should be found not guilty by the jury. For he could hardly have a fair and impartial trial, when the witnesses and counsel and jurors would all feel that if they said anything displeasing to the military authority, they might be imprisoned in an hour afterward in Fort McHenry, and the Court would have no power to protect them. And if the party should be acquitted he might immediately, even in the sight of the Court, be arrested and imprisoned by the military without giving any reason for it, and the Court could not protect him nor punish the offenders. I will not place the judicial power in this humiliating position, nor consent thus to degrade and disgrace it. And if the District

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Attorney presses the prosecutions I shall refuse to take them up and shall order the cases to be continued and shall in a written opinion place my decision upon the grounds above stated. What do you think of it?

Very truly and respectfully yours R. B. Taney

Mr. Justice Nelson of the Sup. Ct. U.S. Cooperstown New York