What difficulties does President Lincoln face in trying to reunite the Nation?

What should the President’s powers during wartime, or what authority should he have as Commander-in-Chief?

What does the North feel that this war is about? What does the South feel is their justification for leaving the Union?

Form into small groups (2-4 individuals)

You are President Lincoln, and the nation is torn in two by rebel states that call you a tyrant in the South, and Northern Unionists who think you are weak in standing up to Southern treason.

You will make the decisions that could doom or save the Union, but be aware that every choice you make could make you unpopular, and even the “right” choices could
WAR POWERS

By the morning of April 14, 1861, news of Fort Sumter's surrender had reached Washington. In the face of open insurrection, an immediate response is called for, but my options may be limited. Although I am commander-in-chief of the armed forces, the Constitution gives Congress, not the president, the power to declare war and raise armies. Congress, however, is not in session. Must I wait for Congress to reconvene, or should I act now to meet the crisis?

Option 1: Wait for Congress
Under a 1795 law, I do have the power to call up the militia. However, the Union may need more men and equipment to put down this rebellion. To satisfy the letter of the law and our national traditions, I should call Congress back to the capital but wait to take further actions until they authorize them.

Option 2: Act Now
I may not have time to wait for Congress. Throughout the Union, citizens are demanding action. They cannot wait for a special session to come together. Moreover, without Congress, I have a freer hand to do what I think is necessary to put down the rebellion.

CIVIL LIBERTIES

One week after the war begins, a pro-Confederate mob attacks Union regiments in Baltimore. Four soldiers and a dozen citizens die in the rioting. The city's unrest and secessionist sentiment coupled with its strategic location just north of Washington put the capital at risk. It's not clear at all that Union troops can arrive here safely on the rail lines to defend us in Washington.

To restore order, I authorize General-in-Chief Scott to arrest hundreds of Maryland citizens because they were suspected of participating in the rebellion. This included militia officer John Merryman, who was charged with directing acts of sabotage as well as recruiting and training Confederate sympathizers. Merryman's lawyer petitions for a writ of habeas corpus, requiring this military arrest to be justified in a civilian court. On May 26, the presiding federal circuit judge, Chief Justice Roger B. Taney, issues the writ, arguing that the power to suspend civil liberties belongs to Congress, not the president.

Must I obey Taney?

Option 1: Obey Taney
The provision authorizing the suspension of the writ appears in Article I of the Constitution, specifying the powers of Congress. “The President … cannot suspend the privilege of the writ of habeas corpus nor authorize a military officer to do it.”

Option 2: Ignore the Order
The President has the legal authority to arrest and imprison persons who are engaged in a great and dangerous insurrection [and] is fully justified in refusing to obey a writ of habeas corpus.

VALLANDINGHAM CASE

My military commanders are determined to stop interference with the draft and so am I, but where do you draw the line? On April 13, 1863, General Ambrose Burnside issues an order in Ohio stating that anyone who commits “acts for the benefit of the enemies of our country,” including declaring sympathies for them, will be arrested and tried as a spy or traitor.

On May 5, Clement Vallandigham, a former Ohio Congressman who is seeking the state’s Democratic nomination for governor, is arrested for a speech he gave a few days earlier denouncing the war as “wicked, cruel and unnecessary.” A military commission soon finds Vallandigham guilty of “declaring disloyal sentiments and opinions,” and sentences him to prison for the duration of the war.

I’ve read about this controversy in the newspapers and discussed it with my cabinet. We are facing widespread complaints. Critics are calling me a tyrant for suppressing free speech. Even friends are bemoaning the heavy-handed tactics. What should I do? Support General Burnside, or repudiate his actions in the Vallandigham affair?

Option 1: Support General Burnside
The arrest of Vallandigham was “arbitrary and injudicious,” but the Administration cannot disavow it or call Burnside to account.

Option 2: Repudiate General Burnside
We must denounce the recent assumption of a military commander for an action…for no other reason than words addressed to a public meeting, in criticism of the course of the Administration, and in condemnation of the military orders of that general.
The patriotic fervor and desire to serve in the army that marked the early days of the war has faded. Volunteers are in short supply and resistance to state drafts is mounting. To maintain the Union Army’s strength, Congress in March 1863 imposes a national draft, the first in our nation’s history. Reaction is violent. That July in New York, a week of rioting claims more than 100 lives, wounds over 1,000 people, and destroys buildings and property.

Some of my Democratic opponents say conscription, forced military service, is unconstitutional, and the draft law is unfair. But how is the Union to be saved if we cannot maintain a capable fighting force?

**Option 1: Let Supreme Court Decide**

“The right of this Government to enforce military service in any other mode than that pointed out by the Constitution cannot be established by a violent enforcement of the Statute. It should be determined by the judiciary, in advance of any enforcement which must be destructive to so many lives.”

**Option 2: The Draft is Constitutional**

“It is absolutely necessary that efficient means be taken, with vigor and promptness, to keep the army up to its strength, and supply deficiencies occasioned by the losses sustained by casualties in the field. To the end resort must be had to a draft.”