

The question you propose, ¹ Whether circumstances do not sometimes occur which make it a duty to officers of high trust to assume authorities beyond the law, is easy of solution in principle, but ² sometimes embarrassing in practice. A strict observance of the written law is doubtless one of the high duties of a good citizen but it is not the highest. The laws of necessity, of self-preservation, of saving our country when in danger, are of higher obligation, to lose our country by a scrupulous adherence to written law, would be to lose the law itself, with life, liberty, property & all those who are enjoying them with us; thus absurdly sacrificing the end to the means. when, in the battle of Germantown, Genl Washington's army was assailed from Chew's house, he did not hesitate to plant his cannon against it, altho' the property of a citizen, when he besieged Yorktown, he levelled the suburbs, feeling that the laws of property must be postponed to the safety of the nation, while that army was before York, the Genl of Virginia took horses, carriages, provisions & even men, by force, to enable that army to stay together till it could master the public enemy; it he was justified. ³ A ship at sea in distress for provisions meets another having abundance, yet refusing a supply, the law of self preservation authorizes the distressed to take a supply by force. ⁴ In all these cases the unwritten law of necessity, of self preservation, & of the public safety control the written laws of man & man. ⁵ Further to exemplify the principle I will state an hypothetical case, suppose it had been made known to the Executive of the union in the autumn of 1793, that we might have the Rhodan for a reasonable sum, that that sum had not indeed been so appropriated by law, but that Congress were to meet within three weeks, and might appropriate it on the first or second day of their session, might he, for so great an advantage to his country, to have risked himself by transgressing the law, and making the purchase? the public advantage offered, in this supposed case was indeed immense: but a reverence for law, and the probability that the advantage might still be legally accomplished by a delay of only 3 weeks, were powerful reasons against transgressing the act.—but suppose it furrows that a John Fitch might would find means to obstruct the proceeding, or it by Congress until the ensuing spring, by which time new circumstances would change the mind of the other party, ought the Executive, in that case, and with that foreknowledge, to have secured the good to his country, and to have trusted to their justice for the transgression of the law. I think he ought, and that the act would have been approved.—after the affair of the Chesapeake we thought war a very possible result, our magazines were fully provided with some necessary articles, we had any appropriations been made for their purchase. ⁶ we went several hundred to provide them, and to place our country in safety, and starting the case to Congress they sanctioned the act.

I had never read that "Letter to John Colvin" until today. Wow, it is striking that the circumstances of "General Wilkerson" discussed in paragraph two almost exactly mirror those of Cicero in the Cataline conspiracy.

Another link to the letter: <http://teachingamericanhistory.org/library/docume...-john-b-colvin/>