

Orders to Benjamin Butler

Simon Cameron

August 8, 1861

Maj. Gen. B. F. Butler,

Commanding Department of Virginia, Fortress Monroe.

GENERAL: The important question of the proper disposition to be made of fugitives from service in States in insurrection against the Federal Government to which you have again directed my attention in your letter of July 30 has received my most attentive consideration.

It is the desire of the President that all existing rights in all the States be fully respected and maintained. The war now prosecuted on the part of the Federal Government is a war for the Union and for the preservation of all constitutional rights of States and the citizens of the States in the Union. Hence no question can arise as to fugitives from service within the States and Territories in which the authority of the Union is fully acknowledged. The ordinary forms of judicial proceeding which must be respected by military and civil authorities alike will suffice for the enforcement of all legal claims. But in States wholly or partially under insurrectionary control where the laws of the United States are so far opposed and resisted that they cannot be effectually enforced it is obvious that rights dependent on the execution of those laws must temporarily fail; and it is equally obvious that rights dependent on the laws of the States within which military operations are conducted must be necessarily subordinated to the military exigencies created by the insurrection if not wholly forfeited by the treasonable conduct of parties claiming them. To this general rule rights to services can form no exception.

The act of Congress approved August 6, 1861, declares that if persons held to service shall be employed in hostility to the United States the right to their services shall be forfeited and such persons shall be discharged therefrom.* It follows of necessity that no claim can be recognized by the military authorities of the Union to the services of such persons when fugitives.

A more difficult question is presented in respect to persons escaping from the service of loyal masters. It is quite apparent that the laws of the State under which only the services of such fugitives can be claimed must needs be wholly or almost wholly suspended, as to remedies, by the insurrection and the military measures necessitated by it.† And it is equally apparent that the substitution of military for judicial measures for the enforcement of such claims must be attended by great inconvenience, embarrassments and injuries.

Under these circumstances it seems quite clear that the substantial rights of loyal masters will be best protected by receiving such fugi-

* Cameron refers here to the so-called "First Confiscation Act."

† Like many Republicans, Cameron believed that slavery could only exist as a creature of explicit state and local law.

tives as well as fugitives from disloyal masters into the service of the United States, and employing them under such organizations and in such occupations as circumstances may suggest or require. Of course a record should be kept showing the name and description of the fugitive, and the name and the character as loyal or disloyal of the master, and such facts as may be necessary to a correct understanding of the circumstances of each case after tranquility shall have been restored. Upon the return of peace Congress will doubtless properly provide for all the persons thus received into the service of the Union and for just compensation to loyal masters. In this way only it would seem can the duty and safety of the Government and the just rights of all be fully reconciled and harmonized.

You will therefore consider yourself as instructed to govern your future action in respect to fugitives from service by the principles herein stated, and will report from time to time—and at least twice in each month—your action in the premises to this Department.[‡]

You will, however, neither authorize nor permit any interference by the troops under your command with the servants of peaceful citizens in house or field, nor will you in any way encourage such servants to leave the lawful service of their masters, nor will you except in cases where the public safety may seem to require prevent the voluntary return of any fugitive to the service from which he may have escaped.

I am, general, very respectfully, your obedient servant,
SIMON CAMERON
Secretary of War.

[‡] Although these orders were addressed to Butler, Cameron later copied them to generals in other departments.

Source: *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, series 2, volume 1, 761-762, online at <http://texashistory.unt.edu/ark:/67531/metapth139682/m1/770/>