

1863

**General orders. No. 315 War Department, Adjutant General's
Office, Washington, September 17, 1863: the Following Act of
Congress and Proclamation of the President**

United States. Adjutant-General's Office.

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GENERAL ORDERS, }
No. 315. }

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
Washington, September 17, 1863.

The following *Act of Congress*, and *Proclamation of the President*, based upon the same, are published for the information of all concerned; and the special instructions hereinafter contained for persons in the military service of the United States will be strictly observed:

AN ACT RELATING TO HABEAS CORPUS, AND REGULATING JUDICIAL PROCEEDINGS IN CERTAIN CASES. *Approved March 3, 1863.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the present rebellion, the President of the United States, whenever, in his judgment, the public safety may require it, is authorized to suspend the privilege of the writ of *habeas corpus* in any case throughout the United States, or any part thereof. And whenever and wherever the said privilege shall be suspended, as aforesaid, no military or other officer shall be compelled, in answer to any writ of *habeas corpus*, to return the body of any person or persons detained by him by authority of the President; but upon the certificate, under oath, of the officer having charge of any one so detained that such person is detained by him as a prisoner under authority of the President, further proceedings under the writ of *habeas corpus* shall be suspended by the judge or court having issued the said writ, so long as said suspension by the President shall remain in force, and said rebellion continue.

BY THE PRESIDENT OF THE UNITED STATES—A PROCLAMATION.

WHEREAS the Constitution of the United States has ordained that the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it, and whereas a rebellion was existing on the third day of March, 1863, which rebellion is still existing, and whereas by a statute, which was approved on that day, it was enacted by the Senate and House of Representatives of the United States in Congress assembled, that during the present insurrection the President of the United States,

whenever, in his judgment, the public safety may require, is authorized to suspend the privilege of the writ of *habeas corpus* in any case throughout the United States, or any part thereof; and, whereas, in the judgment of the President, the public safety does require the privilege of the said writ shall now be suspended throughout the United States, in the cases when, by the authority of the President of the United States, military, naval, and civil officers of the United States, or any of them, hold persons under their command, or in their custody, either as prisoners of war, spies, or aiders or abettors of the enemy, or officers, soldiers, or seamen enrolled, drafted, or mustered or enlisted in, or belonging to, the land or naval forces of the United States, or as deserters therefrom, or otherwise amenable to military law, or the Rules and Articles of War, or the rules or regulations prescribed for the military or naval services by authority of the President of the United States; or for resisting a draft, or for any other offence against the military or naval service:

Now, therefore, I, ABRAHAM LINCOLN, President of the United States, do hereby proclaim and make known to all whom it may concern, that the privilege of the writ of *habeas corpus* is suspended, throughout the United States, in the several cases before mentioned, and that this suspension will continue throughout the duration of the said rebellion, or until this proclamation shall, by a subsequent one to be issued by the President of the United States, be modified or revoked. And I do hereby require all magistrates, attorneys, and other civil officers within the United States, and all officers and others in the military and naval services of the United States, to take distinct notice of this suspension, and to give it full effect, and all citizens of the United States to conduct and govern themselves accordingly, and in conformity with the Constitution of the United States and the laws of Congress in such cases made and provided.

In testimony whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed, this (15th) [L. S.] day of September, in the year of our Lord one thousand eight hundred and sixty-three, and of the independence of the United States of America the eighty-eighth.

ABRAHAM LINCOLN.

By the President:

WM. H. SEWARD, *Secretary of State.*

The attention of every officer in the military service of the United States is called to the above Proclamation of the President, issued on the 15th day of September, 1863, by which the privilege of the writ of *habeas corpus* is suspended. If, therefore, a writ of *habeas corpus* should, in violation of the aforesaid Proclamation, be sued out and served upon any officer in the military service of the United States, commanding him to produce before any court or judge, any person in his custody by authority of the President of the United States, belonging to any one of the classes specified in the President's Proclamation, it shall be the duty of such officer to make known by his *certificate, under oath*, to whomsoever may issue or serve such writ of *habeas corpus*, that the person named in said writ "*is detained by him as a prisoner under authority of the President of the United States.*"

Such return having been made, if any person serving, or attempting to serve, such writ, either by the command of any court or judge, or otherwise, and with or without process of law, shall attempt to arrest the officer making such return and holding in custody such person, the said officer is hereby commanded to refuse submission and obedience to such arrest, and if there should be any attempt to take such person from the custody of such officer, or arrest such officer, he shall resist such attempt, calling to his aid any force that may be necessary to maintain the authority of the United States, and render such resistance effectual.

BY ORDER OF THE SECRETARY OF WAR:

E. D. TOWNSEND,
Assistant Adjutant General.

OFFICIAL:

Assistant Adjutant General.