

MISSION.

Decision of the Supreme Court in the Milligan case.

The decision of the Supreme Court in the case of Milligan has just been published.

Mr. Justice Davis delivered the opinion of the court.

On the 10th day of May, 1865, Lambda P. Milligan presented a petition to the Circuit Court of the United States for the District of Indiana, to be discharged from an alleged unlawful imprisonment. The case made by him was that he had been held for the space of three years and four months in the military prison at Indiana; that he had lived for twenty years in Indiana; and that at the time of the grievances complained of he was not, and never has been in the military or naval service of the United States.

On the 5th day of October, 1861, while at home, he was arrested by order of (General James H. Hovey) commanding the military district of Indiana, and has ever since been kept in close confinement.

On the 20 day of January, 1865, after the proceedings of the military commission were completed, the grand jury of the United States for Indiana met at the court house, and impaneled a grand jury, who were charged to inquire whether the laws of the United States had been violated; and if so, to make presentment thereon. The grand jury met on the 22nd of January, having, prior thereto, discharged from further service the grand jury, who did not find any bill of indictment or make any presentment. The grand jury, on the 22nd of January, having, in fact, so discharged, no bill of indictment has been found, or presentment made against him by any grand jury of the United States.

tion had no jurisdiction to try him upon the charges preferred, or upon any charges whatever; because he was a citizen of the United States, and the State of Maryland had no jurisdiction over him, since the commencement of the rebellion, a resident of any of the States whose citizens were arrayed against the Government, was not entitled to a right of trial by jury as guaranteed to him by the Constitution of the United States.

The prayer of the petition was, that under the act of Congress, approved March 3, 1863, and the act of Congress, approved March 3, 1867, and regulating judicial proceedings in *ex parte*, and *habeas corpus*, he may be brought before the court, and either turned over to the proper civil tribunal, or held to answer according to the law of the land, or discharged from custody altogether.

As to the disposal of the special case before the court, the judges unanimously agreed. On the merits proper to be considered, they were of opinion that Justice Davis, it was agreed, should be discharged.

The opinion begins with a clear, brief statement of the facts involved, and the three points certified to the Supreme Court from the Circuit Court of Indiana. It disposes of the objections raised to the jurisdiction of the court. There follows a discussion of the question whether the Circuit Court is authorized to entertain the application for the writ of habeas corpus. The objection that a certificate of division between the judges can only occur in a *cause*, and that the present case is not such a *cause* until the writ and a return are issued, is disposed of. Any prosecution of a remedy which the law allows is a *cause*, and Milligan par-

The controlling question is stated to be, "Did the military commission have jurisdiction to try the petitioner?" and the exhibits filed, "had the military commission mentioned in its jurisdiction legally to try and sentence him?" Naturally it enlarges upon the question of such an inquiry, and recalls the history of the military commission, the liberty of the citizen. The provisions of the Constitution are claimed to be too plain for controversy. Jury trial is guaranteed expressly in the Fifth Amendment. The right of habeas corpus is claimed to be a right of habeas corpus, because the amendments secure exemption from unreasonable search and seizure, presentment by a grand jury, and jury trial. The right of habeas corpus is claimed to be a right of habeas corpus, because the amendments secure exemption from unreasonable search and seizure, presentment by a grand jury, and jury trial. The right of habeas corpus is claimed to be a right of habeas corpus, because the amendments secure exemption from unreasonable search and seizure, presentment by a grand jury, and jury trial.

he Government." In the case of Milligan he Constitution was infringed. 1. By a trial before a military tribunal not created and established by Congress. 2. By denying him a trial by jury. The decision affirms that not only was the commission illegal, but that no use of war could sanction a military trial there (in Indiana) for a crime which was not a military offense. It is wise in no wise connected with the military service," and it goes so far as to affirm that "Congress could grant no such power." There was no right to a commission, and the military courts were open in Indiana, although military courts are necessary for men in the military or naval service, yet to all others the Constitution guarantees a trial by jury. "This is a vital principle." It is "not a mere technicality, and cannot be frittered away on any of state or political necessity." It is the principle of martial law unable to be applied to civilians, and a soldier for the authority of law, and if accepted, would make republican government a failure. The writ of

The security of the country cannot be pleaded in behalf of such a suspension, for a country pre-eminently a market for the world's commodities, and where the free trade of the world is at stake, the security of the country is not worth the sacrifice. But the least of safety can be raised in this case, for the courts were unobstructed, and though necessary to the security of foreign invasion, may compel the substitution of a military government, *after* the courts are reinstated, is usurpation. It is equally usurpation if the courts have never been obstructed, and the military government is to last for the actual war. The opinion cites several precedents both from English and American history in support of these views.

ated liberty, upon official responsibility secured by law, and upon the frequency of elections, rather than upon doubtful constructions of legislative powers"

♣ They have a skatolator queen in Wheeling.

♣ In England they are reviving the old custom of burying suicides during the night and without religious ceremonies.

♣ A new play is entitled "Played Out," and lady wrote it.

♣ A Louisville paper says to take of the clip of State in Kentucky, means to get the citizenship.

♣ A French statistician has ungalantly stated that 7,500 ladies in Marseilles, France, wear false hair.

♣ An Indianapolis paper says that Parson Brownlow took a severe cold on the occasion of having his shirt washed.

57 And the girls and boys work much;  
 58 And wealth, with umrellas to lend are  
 59 friends indeed.  
 60 Last Monday, a pretty young lady of  
 61 seventeen became mother on the accommoda-  
 62 tions on train when near Northeast, Chautauque  
 63 The price of gold has fluctuated more  
 64 in one month than during any December since  
 65 its suspension, except in 1864.  
 66 Ann Hines, about nineteen years old,  
 67 committed suicide at Thompsonville, Ut., on  
 68 Monday.  
 69 The contest in the dramatic world is  
 70 being to be between dramatic crudities  
 71 and dramatic nudities, neither of which tend  
 72 to elevate the character of the American stage.  
 73 The telegraph continues to bring details  
 74 of the progress of the war. It happens to  
 75 have been filled with severity all the way from  
 76 Malinal to Atlanta, Georgia.  
 77 At the Christmas performance of the

A Wisconsin physician is on trial for having administered Spanish flies to a young lady and then outraging her.

57 A At the recent funeral of a clergyman in Orange the sermon which the deceased had prepared to preach on the very day of his sudden death, was laid on his coffin.

58 The acquitted Penian prisoners think of clapping their hands and dancing to the Government for false imprisonment.

59 A clergyman gave a toast that was not very gallant, at a late firemen's celebration: "Our fire engines—may they be like old maids and old bachelors."

60 Ice chafers will soon begin at Maine, immense ice-boats are located at Farmington, Pittston, and Richmond, holding from 15,000 to 20,000 tons each.

61 A young Englishman of rank has grieved and angered his parents by sloping with the handsome cook.

62 A every fellow in Illinois proclaims that he has been commissioned by heaven to kill all