

■ *Ex Parte Milligan*

Date: April 3, 1866

Author: Davis, David

Genre: court opinion

“By the protection of the law, human rights are secured; withdraw that protection and they are at the mercy of wicked rulers or the clamor of an excited people. If there was law to justify this military trial, it is not our province to interfere; if there was not, it is our duty to declare the nullity of the whole proceedings.”

Summary Overview

Ex parte Milligan is a Supreme Court decision written by Justice David Davis in 1866. It made it clear that even in times of war, citizens of the United States who are not in the military must be tried in civilian, not military, courts when civilian courts are open and operating. Two years prior, in 1864, lawyer Lambdin P. Milligan and four others were tried as a group in a military court in Indiana for being involved in a conspiracy to liberate Confederate prisoners of war and lead an armed rebellion against the Union Army. They were convicted and sentenced to death by hanging. Days before his execution, Milligan petitioned a federal court for a writ of habeas corpus, an order to release a prisoner held illegally. In the petition, Milligan argued that the military court in which he had been tried and convicted had no jurisdiction over him, since he was a civilian, not a member of the armed forces. The Supreme Court agreed, ruling that a United States citizen—even if involved in violent acts or the planning of an armed uprising—should be tried in civilian court unless the nation is in such a state that the civilian courts are no longer functioning. *Ex parte Milligan* was also a response to the broad suspension of individual legal rights that took place during the Civil War, and returned the country to rule by civilian law.

Defining Moment

During the Civil War, many of the legal rights of United States citizens were stripped away by President Lincoln’s suspension of habeas corpus, the principle that a person cannot be detained without just cause. Lincoln was responding to a very unstable situation at the beginning of the Civil War, as states decided, sometimes amid scenes of mob violence, to secede from the Union or to remain in it. The situation in Maryland was particularly troubling, since it was a slave state that was closely linked to the South; had Maryland joined the Confederacy, it would have cut Washington, DC, off from the rest of the Union. When Marylanders began to interfere with Union military preparations—rioting in Baltimore and destroying roads and bridges, for example—Lincoln began to fear an attack on the capital. The president therefore authorized the suspension of habeas corpus, meaning that citizens could be detained by the military without proof, if the situation called for it.

At first the suspension was only called for in Maryland, but in 1862 a new conscription (draft) law was put in place and caused widespread unrest. Lincoln extended the suspension of habeas corpus to deal with resistance to conscription, and it went into effect all over the country. Lincoln made it clear that he felt that

the ordinary process of law was insufficient to deal with many situations encountered during war. Lincoln also paved the way for Milligan's arrest by listing "disloyal practices" as enough reason for the military to detain a US citizen, even in states that were part of the Union. This 1862 proclamation also authorized the military to not only detain, but bring to trial, those that were suspected of "disloyal practices." It made such people "subject to martial law and liable to trial and punishment by Courts Martial or Military Commission."

On March 3, 1863, Congress passed the Habeas Corpus Suspension Act, which agreed that no court could issue a writ of habeas corpus, but put in place certain measures designed to keep prisoners from being held indefinitely with no recourse. They said, essentially, that anyone held by the military without a trial could apply to a federal court for relief; if a grand jury did not find sufficient reason to try the prisoner, he or she could apply to be released after taking an oath of loyalty. The act did not, however, explicitly deal with what happened when a person had already been tried and convicted in a military court. Milligan was arrested and tried while the 1863 act was still in effect.

By the time Milligan's case went before the Supreme Court, however, it was 1866 and the Civil War was over. The Supreme Court's decision in this case clearly states that, in times of war, civilian courts must be used for the trial of noncombatant American citizens when such courts are available. It reaffirmed the constitutional rights of all Americans.

Author Biography

The majority opinion in *Ex parte Milligan* was written by Supreme Court Justice David Davis, joined by fel-

low justices Nathan Clifford, Stephen J. Field, Robert C. Grier, and Samuel Nelson. Chief Justice Salmon P. Chase wrote a concurring opinion, which agreed with the decision, but made the case that military courts should have greater power during wartime.

David Davis was a Lincoln nominee to the Supreme Court from Illinois. He was later a US senator. Davis served on the Supreme Court from 1862 until 1877. In May, 1865, Milligan petitioned the circuit court at Indianapolis for a writ of habeas corpus. Davis was one of the two judges hearing the case that day, as he was on the circuit in Indiana at the time. Milligan was therefore able to get a hearing before a Supreme Court justice who would take his case all the way to the top. Though both Davis and his fellow judge were in favor of Milligan's petition, they issued a split decision—this forced the case to be heard before the Supreme Court, where it would be argued on a national stage. This was an important legal maneuver, since the Supreme Court had determined during the war that it did not have jurisdiction on appeals from military prisoners, but a split decision from a circuit court would put the case on the docket.

David Davis shepherded the case through the Supreme Court and wrote the majority opinion when the case concluded in Milligan's favor. Four other justices joined him.

It is important to note that Chief Justice Chase's concurring opinion represented the four justices who argued that, in some cases, civilian courts may be inadequate to avert danger or deal with punishing criminals during war, and that Congress should be allowed to authorize the use of military trials. They did not, however, disagree with the judgment that Milligan's case was one for civilian, rather than military, courts.

HISTORICAL DOCUMENT

The controlling question in the case is this: upon the facts stated in Milligan's petition and the exhibits filed, had the military commission mentioned in it jurisdiction legally to try and sentence him? Milligan, not a resident of one of the rebellious states or a prisoner of war, but a citizen of Indiana for twenty years past and never in the military or naval service, is, while at his home, arrested by the military power of the United States, imprisoned, and, on certain

criminal charges preferred against him, tried, convicted, and sentenced to be hanged by a military commission, organized under the direction of the military commander of the military district of Indiana. Had this tribunal the legal power and authority to try and punish this man?

No graver question was ever considered by this court, nor one which more nearly concerns the rights of the whole people, for it is the birthright of every American citi-

zen when charged with crime to be tried and punished according to law. The power of punishment is alone through the means which the laws have provided for that purpose, and, if they are ineffectual, there is an immunity from punishment, no matter how great an offender the individual may be or how much his crimes may have shocked the sense of justice of the country or endangered its safety. By the protection of the law, human rights are secured; withdraw that protection and they are at the mercy of wicked rulers or the clamor of an excited people. If there was law to justify this military trial, it is not our province to interfere; if there was not, it is our duty to declare the nullity of the whole proceedings. The decision of this question does not depend on argument or judicial precedents, numerous and highly illustrative as they are. These precedents inform us of the extent of the struggle to preserve liberty and to relieve those in civil life from military trials. The founders of our government were familiar with the history of that struggle, and secured in a written constitution every right which the people had wrested from power during a contest of ages. By that Constitution and the laws authorized by it, this question must be determined. The provisions of that instrument on the administration of criminal justice are too plain and direct to leave room for misconstruction or doubt of their true meaning. Those applicable to this case are found in that clause of the original Constitution which says "That the trial of all crimes, except in case of impeachment, shall be by jury," and in the fourth, fifth, and sixth articles of the amendments. The fourth proclaims the right to be secure in person and effects against unreasonable search and seizure, and directs that a judicial warrant shall not issue "without proof of probable cause supported by oath or affirmation." The fifth declares that no person shall be held to answer for a capital or otherwise infamous crime unless on presentment by a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, nor be deprived of life, liberty, or property without due process of law.

And the sixth guarantees the right of trial by jury, in such manner and with such regulations that, with upright judges, impartial juries, and an able bar, the innocent will be saved and the guilty punished. It is in these words:

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

These securities for personal liberty thus embodied were such as wisdom and experience had demonstrated to be necessary for the protection of those accused of crime. And so strong was the sense of the country of their importance, and so jealous were the people that these rights, highly prized, might be denied them by implication, that, when the original Constitution was proposed for adoption, it encountered severe opposition, and, but for the belief that it would be so amended as to embrace them, it would never have been ratified.

Time has proven the discernment of our ancestors, for even these provisions, expressed in such plain English words that it would seem the ingenuity of man could not evade them, are now, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublous times would arise when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends deemed just and proper, and that the principles of constitutional liberty would be in peril unless established by irrepealable law. The history of the world had taught them that what was done in the past might be attempted in the future. The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false, for the government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority.

Have any of the rights guaranteed by the Constitution been violated in the case of Milligan? And, if so, what are they?

Every trial involves the exercise of judicial power, and from what source did the military commission that tried him derive their authority? Certainly no part of judicial power of the country was conferred on them, because the Constitution expressly vests it “in one Supreme Court and such inferior courts as the Congress may from time to time ordain and establish,” and it is not pretended that the commission was a court ordained and established by Congress. They cannot justify on the mandate of the President, because he is controlled by law, and has his appropriate sphere of duty, which is to execute, not to make, the laws, and there is “no unwritten criminal code to which resort can be had as a source of jurisdiction.”

But it is said that the jurisdiction is complete under the “laws and usages of war.”

It can serve no useful purpose to inquire what those laws and usages are, whence they originated, where found, and on whom they operate; they can never be applied to citizens in states which have upheld the authority of the government, and where the courts are open and their process unobstructed . . .

It is claimed that martial law covers with its broad mantle the proceedings of this military commission. The proposition is this: that, in a time of war, the commander of an armed force (if, in his opinion, the exigencies of the country demand it, and of which he is to judge) has the power, within the lines of his military district, to suspend all civil rights and their remedies and subject citizens, as well as soldiers to the rule of *his will*, and, in the exercise of his lawful authority, cannot be restrained except by his superior officer or the President of the United States.

If this position is sound to the extent claimed, then, when war exists, foreign or domestic, and the country is subdivided into military departments for mere convenience, the commander of one of them can, if he chooses, within his limits, on the plea of necessity, with the approval of the Executive, substitute military force for and to the exclusion of the laws, and punish all persons as he thinks right and proper, without fixed or certain rules.

The statement of this proposition shows its importance, for, if true, republican government is a failure, and there is an end of liberty regulated by law. Martial law established on such a basis destroys every guarantee of the Constitution, and effectually renders the “military independent of and superior to the civil power”—the attempt to do which by the King of Great Britain was deemed by our fathers such an offence that they assigned it to the world as one of the causes which impelled them to declare their independence. Civil liberty and this kind of martial law cannot endure together; the antagonism is irreconcilable, and, in the conflict, one or the other must perish.

This nation, as experience has proved, cannot always remain at peace, and has no right to expect that it will always have wise and humane rulers sincerely attached to the principles of the Constitution. Wicked men, ambitious of power, with hatred of liberty and contempt of law, may fill the place once occupied by Washington and Lincoln, and if this right is conceded, and the calamities of war again befall us, the dangers to human liberty are frightful to contemplate. If our fathers had failed to provide for just such a contingency, they would have been false to the trust reposed in them. They knew—the history of the world told them—the nation they were founding, be its existence short or long, would be involved in war; how often or how long continued human foresight could not tell, and that unlimited power, wherever lodged at such a time, was especially hazardous to freemen. For this and other equally weighty reasons, they secured the inheritance they had fought to maintain by incorporating in a written constitution the safeguards which time had proved were essential to its preservation. Not one of these safeguards can the President or Congress or the Judiciary disturb, except the one concerning the writ of habeas corpus . . .

It will be borne in mind that this is not a question of the power to proclaim martial law when war exists in a community and the courts and civil authorities are overthrown. Nor is it a question what rule a military commander, at the head of his army, can impose on states in rebellion to cripple their resources and quell the insurrection. The jurisdiction claimed is much more extensive. The necessities of the service during

the late Rebellion required that the loyal states should be placed within the limits of certain military districts and commanders appointed in them, and it is urged that this, in a military sense, constituted them the theater of military operations, and as, in this case, Indiana had been and was again threatened with invasion by the enemy, the occasion was furnished to establish martial law. The conclusion does not follow from the premises. If armies were collected in Indiana, they were to be employed in another locality, where the laws were obstructed and the national authority disputed. On her soil there was no hostile foot; if once invaded, that invasion was at an end, and, with it, all pretext for martial law. Martial law cannot arise from a *threatened* invasion. The necessity must be actual and present, the invasion real, such as effectually closes the courts and deposes the civil administration . . .

It is proper to say, although Milligan's trial and conviction by a military commission was illegal, yet, if guilty of the crimes imputed to him, and his guilt had been ascertained by an established court and impartial jury, he deserved severe punishment. Open resistance to the measures deemed necessary to subdue a great rebellion, by those who enjoy the protection of government, and have not the excuse even of prejudice of section to plead in their favor, is wicked; but that resistance becomes an enormous crime when it assumes the form of a secret political organization, armed to oppose the laws, and seeks by stealthy means to introduce the enemies of the country into peaceful communities, there to light the torch of civil war and thus overthrow the power of the United States. Conspiracies like these, at such a juncture, are extremely perilous, and those concerned in them are dangerous enemies to their country, and should receive the heaviest penalties of the law as an example to deter others from similar criminal conduct. It is said the severity of the laws caused them; but Congress was obliged to enact severe laws to meet the crisis, and as our highest civil duty is to serve our country when in danger, the late war has proved that rigorous laws, when necessary, will be cheerfully obeyed by a patriotic people, struggling to preserve the rich blessings of a free government.

The two remaining questions in this case must be

answered in the affirmative. The suspension of the privilege of the writ of habeas corpus does not suspend the writ itself. The writ issues as a matter of course, and, on the return made to it, the court decides whether the party applying is denied the right of proceeding any further with it.

If the military trial of Milligan was contrary to law, then he was entitled, on the facts stated in his petition, to be discharged from custody by the terms of the act of Congress of March 3d, 1863. The provisions of this law having been considered in a previous part of this opinion, we will not restate the views there presented. Milligan avers he was a citizen of Indiana, not in the military or naval service, and was detained in close confinement, by order of the President, from the 5th day of October, 1864, until the 2d day of January, 1865, when the Circuit Court for the District of Indiana, with a grand jury, convened in session at Indianapolis, and afterwards, on the 27th day of the same month, adjourned without finding an indictment or presentment against him. If these averments were true (and their truth is conceded for the purposes of this case), the court was required to liberate him on taking certain oaths prescribed by the law, and entering into recognizance for his good behavior.

But it is insisted that Milligan was a prisoner of war, and therefore excluded from the privileges of the statute. It is not easy to see how he can be treated as a prisoner of war when he lived in Indiana for the past twenty years, was arrested there, and had not been, during the late troubles, a resident of any of the states in rebellion. If in Indiana he conspired with bad men to assist the enemy, he is punishable for it in the courts of Indiana; but, when tried for the offence, he cannot plead the rights of war, for he was not engaged in legal acts of hostility against the government, and only such persons, when captured, are prisoners of war. If he cannot enjoy the immunities attaching to the character of a prisoner of war, how can he be subject to their pains and penalties?

This case, as well as the kindred cases of Bowles and Horsey, were disposed of at the last term, and the proper orders were entered of record. There is therefore no additional entry required.

GLOSSARY

loyal states: states loyal to the Union during the Civil War

martial law: the rule of military authority over certain areas, usually for short periods of time when civilian law has ceased to function.

pernicious: having a harmful effect, in a subtle or slowly developing way

prisoner of war: a person in the custody of opposing armies during times of armed conflict who were formerly enemy combatants

writ of habeas corpus: a legal action that demands that an accused or detained person be brought before a court or released

Document Analysis

Ex parte Milligan is a decision that must be understood in the context of legal questions that were raised during the Civil War. The unstable state of Indiana and the alleged crime that took place must be considered as well. The Supreme Court was reacting not just to the particulars of the case against Milligan, but also to the issue of whether the military court had jurisdiction over his case. The threat of disloyalty and insurrection perceived as an emergency by the military powers in Indiana is also very important to understanding how this case unfolded as a military, rather than a civil, affair.

Background

Lambdin P. Milligan was arrested at his home by military officials in October of 1864. He was ill at the time and was brought out of his house on his couch. After being put on a special train, he was incarcerated at the Soldier's Home prison in Indianapolis. Milligan was a lawyer and a small-time politician who had made no secret of his states' rights inclinations. He was a Democrat—a member of a party whose position in Indiana was in strong opposition to Lincoln's Republican Party. Many such "peace Democrats," also known as "Copperheads," opposed the Civil War and called for an end to fighting at almost any cost. While some maintained, at least publically, support of the Union, others advocated for a separate, regional "Old Northwest Confederacy" whose interests would be closely aligned with those of the South, and whose formation would have guaranteed that the Union was lost.

In 1863, Milligan had joined a secret society known as the Knights of the Golden Circle, which later reorganized as the Order of American Knights and the Order of the Sons of Liberty. Secret societies had long been suspected of supporting the Confederacy, but when Brigadier General John Hunt Morgan led a Confederate raid into Indiana, the concern of the government and Union elevated. Though quickly stopped, the raiders became the focus of a long investigation by the government, which was convinced that they were planning armed insurrection.

Proof of this plot was uncovered in a search of a society member's print shop, where a cache of weapons and incriminating documents was uncovered. In later court testimony, it was revealed that the society only allowed Democrats to join, further politicizing the plot. Milligan and his codefendants were identified in these documents as officers of the Order of the Sons of Liberty, and they were arrested shortly thereafter. They were brought before a military tribunal three weeks later and all faced multiple charges: conspiracy against the government of the United States, affording aid and comfort to the Rebels against the authority of the United States, inciting insurrection, disloyal practices, and violation of the laws of war. These charges stemmed from a plot that was uncovered during the raid and from a previous investigation that involved members of the Order of the Sons of Liberty coordinating with invading Confederate forces to storm installations where Confederate prisoners of war were held. The plotters believed that the newly freed prisoners would then join with them

and together they would overthrow state government. Witnesses offered testimony that direct meetings were held with Confederate representatives, and that the entire affair was being paid for with Confederate money. Though evidence of direct Confederate involvement in the plot was flimsy, the fact that Milligan and his codefendants were officers in this secret society was proof enough for the military court that they were culpable for its treasonous plotting; they were all convicted by the tribunal and sentenced to hang, with the exception of one who had made a deal to testify against the others. Milligan's execution was to be carried out in May of 1865.

Milligan, who was a lawyer himself, and his friends and legal counsel immediately appealed the decision—both through the court system and through personal relationships and contacts in Washington. Milligan's case was even brought up to Lincoln himself, who stayed his execution. Meanwhile, his counsel applied to the Circuit Court for Indiana for a writ of habeas corpus. In filing for a writ of habeas corpus, Milligan asked the civilian courts to intervene in the military proceedings against him. Justice Davis, acting as a judge on the circuit court level, asked the Supreme Court to resolve the question of whether to grant the request for habeas corpus, whether to order that Milligan be released, and whether the military commission had been entitled to exercise jurisdiction over Milligan in the first place.

Supreme Court arguments began in March 1866. In Milligan's original petition for a writ of habeas corpus, he had argued that the military tribunal that tried him had no authority to do so, since there were civilian courts in full function during that time. He was an American citizen, neither living in a Confederate state nor in military service, and therefore was entitled to a criminal trial in the civilian court system. The Supreme Court ruled in Milligan's favor, and its ruling, *Ex parte Milligan*, outlines in detail what rights American citizens are entitled to based on the Bill of Rights, regardless of whether the country is at war.

The Decision

Ex parte Milligan begins by outlining the key questions of the decision. Did the military leadership for the state of Indiana have the right to arrest, try, and sentence an American citizen in a nonrebellious state? The court asked for an examination of the Constitution and its applicability and protection of legal rights,

even during times of war. The Constitution must be adhered to, it argued, “equally in war and in peace,” and nothing is more dangerous than the idea that it can be suspended in times of extraordinary circumstance. The question at hand is whether any rights guaranteed under the Constitution were denied to Milligan in this case. The court then asks whether the military process under which Milligan was tried is constitutional. They reiterate the Constitution's provisions for a jury trial, the prohibition of unreasonable search and seizure, and the requirement that a grand jury must decide whether to prosecute a capital crime unless cases arise in the military. *Ex parte Milligan* focuses on the Constitution's guarantee of a jury trial—a right that was certainly not granted to Milligan during his trial before a tribunal of military officers and a military judge advocate. It raises the question of whether Milligan could be denied that right because he had engaged in treasonous conspiracy during a time of emergency.

The court then asked whether the jurisdiction of the military court was valid as an alternative to constitutional civilian courts—because of the “laws and usages of war”—and quickly determined that these do not apply to the “citizens in states which have upheld the authority of the government, and where the courts are open and their process unobstructed.” In other words, military law was not an option in the Milligan case, and he should have been tried from the beginning in a civilian court.

The court opinion then made it very clear that this case is not about Milligan alone, but about clarifying the rule of law in post-Civil War America in important and lasting ways. Because President Lincoln had broadly suspended rights guaranteed in the Constitution during the Civil War, which he and Congress saw as necessary to the preservation of the Union, the Supreme Court now took on the responsibility of laying out when military law is allowed to function, and when civilian law must be paramount. If any military commander can exercise legal jurisdiction over civilians without the legal safeguards guaranteed by the Constitution, then “republican government is a failure.” It was the British king's attempt to make the military power more important than civilian power that caused the American Revolution, and defending the people of the United States against this unchecked power is the purpose of the Constitution. No legal safeguards can be changed or overridden except for the suspension of

habeas corpus, or it will open up the nation to tyrannical rule, argued the court.

The court addressed the question of whether or not military authorities can exercise legal jurisdiction over civilians in a place like Indiana, which, though unstable and briefly subject to a raid by enemy forces, was not invaded at the time that the military court tried Milligan and his companions. The majority of the court clearly and strongly ruled that the threat of an invasion is not sufficient to allow for martial law, and even if there were an invasion, it must be so dangerous that the civilian courts are unable to function.

The court was careful not to appear to excuse Milligan's behavior, however. If he was determined to be guilty by an impartial court process, he would deserve severe punishment. Even conspiracies against the government, however "wicked" and "perilous" they may be, are subject to the rule of law. Congress had been right to enact severe laws during the Civil War, while staying within the bounds of the Constitution. The severity of these laws is no excuse to disobey them. This is the foundation of a free government.

The court then refers to the Habeas Corpus Suspension Act of 1863, which stated that prisoners could not be detained indefinitely and that they had the right to have their cases reviewed by a grand jury and freed if no indictment was made. Since Milligan had not been indicted by a grand jury, he should have been released. The argument that he was actually a prisoner of war also failed to hold up with the court, since he lived and was charged in Indiana, and was not ever a resident of a Confederate state. Because Milligan was not eligible for the rights of a prisoner of war, he was not eligible for the punishments of one—"pains and penalties" referred to by the court. Milligan was not under the jurisdiction of military courts, even though his crime involved plotting an insurrection against the government. Milligan and his comrades were therefore released on December 17, 1866.

With that, the Supreme Court set in place a firm and unyielding bulwark against the use of military courts for civilians during times of war. *Ex parte Milligan* reflected the reassertion of legal norms and the rule of law, displacing the sense of crisis and the legal abnormalities of the Civil War. Americans had struggled to reconcile the stripping away of legal rights with the military realities of a nation in conflict. This decision affirmed that the constitutional rights guaranteed to all citizens hold true even in times of war or emergency.

Essential Themes

Ex parte Milligan is an affirmation of the strength and supremacy of civilian laws and the rights guaranteed to citizens under the Constitution. The primary theme of this document is that the rule of law must apply, even when a war or national emergency seems to call for martial law. When civilian courts are functioning, citizens are entitled to be heard in them. Even when a citizen plots to overthrow a civilian government or plan an armed uprising, he or she is still entitled to a trial, and that citizen's rights are protected by the Constitution.

This document leaves no ambiguity about the role of military jurisdiction. It is for members of the armed services, or for places where civilian courts are not functioning. It also clarifies that though the writ of habeas corpus can be suspended, it does not change the fact that citizens of the United States cannot and should not be held indefinitely. *Ex parte Milligan* remains an important affirmation of the rights of American citizens, unchanged even under extreme circumstances.

Bethany Groff, MA

Bibliography

- Birkhimer, William E. *Military Government and Martial Law*. Kansas City: Franklin, 1914. Print.
- Burton, Harold H. "Two Significant Decisions." *American Bar Association Journal* (1955): 121–25. Print.
- Duker, William F. *A Constitutional History of Habeas Corpus*. Westport: Greenwood, 1980. Print.
- Latimer, Christopher P. *Civilian Liberties and the State: A Documentary and Reference Guide*. Santa Barbara: Greenwood, 2011. Print.
- Neely, Marc. *The Fate of Liberty: Abraham Lincoln and Civilian Liberties*. Oxford: Oxford UP, 1991. Print.

Additional Reading

- Klaus, Samuel. *The Milligan Case*. New York: Knopf, 1929. Print.
- Kutler, Stanley. *Judicial Power and Reconstruction Politics*. Chicago: U of Chicago P, 1968. Print.
- Neely, Mark E. *Lincoln and the Triumph of the Nation: Constitutional Conflict in the American Civil War*. Chapel Hill: U of North Carolina P, 2011. Print.
- Vile, John R. *Essential Supreme Court Decisions: Summaries of Leading Cases in US Constitutional Law*. Lanham: Rowman, 2010. Print.
- Witt, John Fabian. *Lincoln's Code: The Laws of War in American History*. New York: Free, 2012. Print.