THE PECULIAR KIND OF CLARITY WHICH HELL AFFORDS: DEFINING LOYALTY IN THE WARTIME NORTH, 1860-1865.

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ABSTRACT

The focus of this research is on disloyalty investigations during the Civil War. In this research I sought to understand how disloyalty was defined within these loyalty investigations, navigating the question: what can the loyalty investigations of Israel Blanchard and Dennis Mahony tell us about the definitions of loyalty and disloyalty in the Union? To answer this, I analyzed two specific cases—the case of Dennis Mahony, a Democratic newspaper editor from Dubuque Iowa and Israel Blanchard, a physician and prominent Democrat from Illinois. I carefully examined the legal documentation from the Turner-Baker files, a compilation of wartime correspondence between Provost Marshals, as well as partisan newspapers that covered the men’s arrests. I also read two books published during the war that discussed the cases—Prisoner of State and American Bastille. In this analysis, I examined the evidence and the charges posed against these men, looked at the cases through a social lens, taking note of the detainee's political associations and social status and studied the rhetorical strategies used to describe their loyalty. Throughout this research, it became increasingly clear that disloyalty lacked a consistent definition, an ambiguity that gave local officials acting under the orders of August 8th, 1862, which suspended habeas corpus, the flexibility to stifle political dissent. Though many historians absolve Lincoln of blame, either by noting the political severity of the Civil War, blaming his administrators for breaches of power, or concluding the majority of arrests were justified, the precedence Lincoln set, specifically illuminated by the cases of Blanchard and Mahony, is a dangerous precedent for American Civil Liberties in Wartime today.
ACKNOWLEDGMENTS

Note: The title of this thesis is inspired by a line by C.S. Lewis in the novel *The Screwtape Letters*

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# TABLE OF CONTENTS

Introduction ............................................................................................................................................. 1  
Chapter I: The Great Writ ..................................................................................................................... 12  
Chapter II: Stifling Political Dissent .................................................................................................... 31  
Chapter III: Disloyalty and the Court of Public Opinion ................................................................. 51  
Conclusion ............................................................................................................................................ 69  
Bibliography .......................................................................................................................................... 78
INTRODUCTION

Dubuque Iowa, 3 a.m., August 14, 1862

There is a loud rapping on Dennis Mahony’s door. His wife answers. From his bed he hears the muffled sounds of men’s voices and goes downstairs to inquire about the situation. A strange man asks Mahony to take him to the Herald’s office on a matter of business, but Mahony, confused by the situation at the early hour, refuses and begins to grow suspicious. Upon Mahony’s refusal, the stranger whistles to a group of men. Immediately, Mahony begins to cry “Murder!” frightened by the mob. This sound of alarm brings out Marshal Hoxie, who threatens to shoot Mahony if he keeps yelling. Mahony, who knows Marshal Hoxie well, is relieved when he sees a familiar face.

Mahony learns that Edwin Stanton, the Secretary of War, has directed his arrest; he is not informed of the charges against him. Mahony naively thinks he will be able to visit the governor and clear his name in a matter of days; instead, he will be confined in Washington, D.C.’s Old Capitol Prison for the next three months, without a trial or definitive explanation of the charges against him.

Mahony’s arrest was just one of the thousands of military arrests that took place in the Civil War North. After President Abraham Lincoln’s initial suspension of habeas corpus in Maryland on April 27, 1861, the suspension of the writ spread nationwide. On August 8th, 1862, Secretary of War Edwin Stanton suspended the writ of habeas corpus; this expansion of federal power resulted in thousands of arrests throughout the North. Many of those arrested were incarcerated on account of their “disloyalty.” This thesis closely examines two of these cases and seeks to understand how government officials, as well as the Northern public, defined disloyalty
in the wartime North. In this thesis, I argue that an in-depth analysis of the cases of Israel Blanchard and Dennis Mahony reveals that disloyalty was ill defined during the Civil War.

When one considers the cases of Mahony and Blanchard, it becomes clear that disloyalty arrests during the Civil War were not limited to cases in which individuals were accused of committing direct actions that undermined the war effort, such as espionage and sabotage: Mahony was a newspaper editor arrested for discouraging enlistments. He did not directly aid the enemy, but his vitriolic rhetoric against the Lincoln Administration was considered sufficient cause for arrest. Thus, during the Civil War loyalty investigations included rhetorical actions.

An analysis of wartime newspapers covering the cases of Mahony and Blanchard also revealed how many definitions of disloyalty circulated in the wartime North. This public preoccupation with disloyalty and abundance of definitions further complicated the definition. This lack of clarity combined with the disorganized delegation of power after Lincoln suspended habeas corpus created a hostile atmosphere for those arrested. Due to disloyalty’s ambiguity, local officials in the homeland security system had wide-ranging powers to make arrests on the suspicion of disloyalty, giving them the legal latitude to repress political dissent. Though Mahony and Blanchard’s cases were relative anomalies compared to the average arrest of blockade-runners, spies, and guerrillas, their cases reveal the potential danger of Lincoln’s suspension of habeas corpus and the dangerous precedent it set.

Methods
This thesis is primarily based on two cases found in the Turner-Baker Papers. In my research I analyzed the cases in the Turner-Baker Papers to understand the legal justification for the arrests and supplemented this research with newspaper articles to learn more about the public’s reaction
to the arrests. To begin, I looked at the Turner-Baker Papers, which are now digitized and available on Fold3, a website dedicated to military records and owned by the genealogical company Ancestry. The Turner-Baker Papers are a compilation of investigations into subversive activities conducted by Lafayette Baker and Lewis Turner. Baker and Turner were Provost Marshals\(^1\) during the Civil War, and together these men had jurisdiction over thousands of arrests that took place in the wartime North. The Turner-Baker Papers contain thousands of investigations, most of which are handwritten, so my first task was to narrow down the scope of my investigation to a manageable size. My research focuses on accusations of disloyalty, so I began by sifting through the index of the Turner-Baker Files and pulling names of those marked as disloyal. The Baker files contain thirty-three cases of disloyalty, while the Turner files contain three hundred and forty-three cited cases of disloyalty. The majority of cases are entirely handwritten and, as a result, were time-consuming to read. I completed two two-hour tests to see how many I could reasonably read and transcribe in the time allotted. On the first test, I completed five pages, and completed fourteen on the second. Thus, I decided I needed to narrow the scope of my research significantly. I narrowed my investigation from three hundred seventy-six cases to three by assessing the length and number of people involved in each case, as well as cases cited by historian Mark Neely, whose work contains relevant information for my research.

By the time I wrote the first paper, I had begun to brainstorm ways to narrow the cases further. By this point, I had developed three potential avenues of research, all of which were based on cases I read and found interesting. The first dealt with prisoners held at Old Capitol Prison. The second dealt with citizens of Illinois accused of being a part of the Knights of the Golden Circle. The third dealt with investigations into the Lincoln Assassination. That week, I

\(^1\) Provost Marshal is the title given to someone in charge of military police. found in John M. Collins, *Martial Law and English Laws, c.1500–c.1700* (England: Cambridge University Press, 2016), 110.
scratched the surface of all of these avenues, and returned to Mark Neely’s footnotes.² A line in Neely’s book helped me narrow my study down to two cases. When describing the case of Dr. Blanchard, Neely states that John A. Logan, who wrote a letter in support of Blanchard, “symbolized the loyalty. . . of the North.”³ This discovery led me to wonder about how connections to “symbols” of loyalty influenced the course and outcome of loyalty investigations. This interest also led me to the case of Dennis A. Mahony, who was arrested for allegedly disloyal remarks published in his newspaper, the Dubuque Herald. Mahony received a letter of support from Archbishop John Hughes, the preeminent Catholic leader in Civil War America. These cases fit well together for a number of reasons. First, because the outcomes of both men’s cases were influenced by their connections to “symbols of loyalty.” Second, both Mahony and Blanchard were public figures well connected within their respective regional political circles. Thirdly, both won election to public positions after their respective arrests; they were thus both, to some degree, successful opponents of the Lincoln administration that used their experience being arrested for disloyalty to criticize Republican policy.

Once I narrowed my scope of inquiry to these two cases, I analyzed them by looking specifically at three attributes. First, I transcribed each case, examining the evidence cited as cause for disloyalty. I took detailed notes on all the affidavits contained within the case files and the evidence presented for and against Mahony and Blanchard. Second, I analyzed the documents through a social lens, looking at individuals’ identities, places of origin, occupations, and political affiliations. Another reason I chose the cases of Dennis Mahony and Israel


Blanchard was because both were influential public members of their respective communities and, thus, there exists a relatively large amount of primary-source documentation concerning their lives. I used their names to search in the indexes of the footnotes of the secondary sources I gathered in my literature review. Using this method, I found Frank Klement’s *Lincoln’s Critics* particularly useful for background information about Copperheads in the Midwest and how they fit into the Democratic Party.  

I also searched WorldCat and Proquest using their names. With this search, I obtained a dissertation about Mahony, as well as a number of articles. I found less information on Blanchard, but I started to research John Logan, who was intimately tied to Blanchard’s case and well documented in secondary literature. I also found an interesting article about Blanchard and emailed its author, Michael Jones, who is the director of the John A. Logan Museum in Illinois, and maintained an email correspondence with him. He pointed me toward a few relevant newspaper articles. Lastly, I analyzed the rhetorical strategies used in the documents I gathered about the cases of Blanchard and Mahony, taking note of recurring themes and keywords.

I altered my original plan to include a discussion of Lafayette Baker and Lewis Turner because my research shifted from a focus on military officials’ definition of disloyalty to include the public’s interpretation. I found the focus on political officials limiting when I discovered through Mahony’s publication and newspaper searches that the concept of disloyalty was widely discussed in the public sphere. This discovery led me to investigate further how disloyalty was debated in the court of public opinion.

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The second half of my research consisted of an analysis of wartime newspapers, Mahony’s *Prisoner of State*, and the chapter on Blanchard’s case in *American Bastille*. Mahony published *Prisoner of State* in 1863; in it, he recounted his arrest and imprisonment under the Lincoln administration. When John Marshall, published *American Bastille* nearly twenty years later, in 1881, his book contained discussions of dozens of cases of individuals who were arrested during the Civil War. Both books were exposés of the Lincoln administration and the results of the 1862 decision to suspend habeas corpus nationwide. To find newspaper sources, I started my search on Chronicling America, per the suggestion of my advisor, and NewspaperArchive.com, per the recommendation of the Director of the John Logan Museum. I did advanced searches in the newspaper archives, limiting my dates to 1860-1865 and typing in the exact names of Israel Blanchard and Dennis Mahony. This specificity narrowed the search to a handful of historical newspapers. The most valuable articles that came out of this search included details about the cases, citing others involved and charges against each individual, as well as the arrest strategy employed by Lincoln’s military officials. When analyzing newspapers I cross-referenced key words and phrases that I saw repeat in the Turner-Baker Files. I also took note of each newspaper’s geographic origin and audience. For instance, the *Daily Wabash Express* was a paper devoted to Whig policy written for the people of Terre Haute, in Vigo County, Indiana. This chunk of research dealing with the public sphere and how disloyalty was

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8 John Marshall was the Democratic author of *American Bastille*, a book recounting wartime arrests during the Civil War that has become a key source for many historians that write on this topic. Mark E Neely, *Fate of Liberty: Abraham Lincoln and Civil Liberties* (New York: Oxford University Press, 1991), 225.

9 My advisor: Brian M. Taylor, PhD History; Director of John Logan Museum: Michael P. Jones

widely interpreted led me to Mahony's book *Prisoner of State*, which I found in the footnotes of the dissertation written about Mahony.11 I closely read his interpretation of his own arrest, cross-referencing his ideas with the ideas presented in the affidavits against him, and taking note of how the themes he used fit with the Copperhead platform. I found *American Bastille*, which served a similar purpose to *Prisoner of State*, in Mark Neely’s epilogue. Within this book, there is a chapter on Israel Blanchard, which I analyzed using the same method that I used in approaching *Prisoner of State*. First, I cross-referenced similar ideas that I saw within the affidavits. Second, I noted underlying themes within the piece that fit into the Copperhead platform. The addition of Mahony’s and Blanchard’s interpretation of their own arrests allowed me to understand how the prisoners understood their own loyalty, and the newspaper sources allowed me to better understand how the public recounted their arrests and discussed their loyalty or disloyalty.

During this research it became increasingly clear that loyalty was widely discussed in the wartime North. This research is based on a desire to understand how the term disloyalty was defined in the wartime North in order to develop a historical definition of disloyalty. However, on this quest to find a definition of disloyalty, it became increasingly apparent that the widespread discourse on disloyalty made the term itself ambiguous. Disloyalty had a variety of definitions. For instance, according to Republicans during the Civil War any subversion of military authority, including indirectly discouraging enlistments, constituted disloyalty; Democrats, on the other hand, argued that the Lincoln administration was disloyal to the Constitution. Disloyalty was not simply a charge lodged against perpetrators of violence against

military authority and direct aid to the enemy – for many in the wartime North, disloyalty included simply engaging in public dialogue that undermined public opinion of the commander-in-chief. This movement from physical to rhetorical actions against authority dangerously blurred the line between dissent and disloyalty and gave those in power the flexibility to stifle political dissent.

**Literature Review**

Much of the historical literature on loyalty and imprisonment uses research on arrest records (like the Turner-Baker Papers) as a basis for understanding Lincoln’s constitutional record, especially the constitutionality of Lincoln’s suspension of habeas corpus. The first scholarly examination of Lincoln and the Constitution was James G. Randall’s 1923 *Constitutional Problems Under Lincoln*. Randall’s work is useful for understanding the legal basis for Lincoln’s policy and the climate in which Civil War-era civilian arrests took place. Mark Neely’s *Fate of Liberty* is the most important recent work on this topic. Neely closely examines civilian arrest records to explain the constitutionality of Lincoln’s suspension of habeas corpus. Neely argues in favor of Lincoln’s actions during the war: though concerned about the constitutionality of the war powers Lincoln proclaimed, he concludes that Lincoln did not use the powers in a dictatorial way. He uses citizen arrest records, like those found in the Turner-Baker Papers, as evidence to argue that that Lincoln’s efforts were carefully crafted statesmanship; any abuses represented failure by military officials themselves in their implementation of justice. I have used Neely's work as a guide to my methodology, particularly in his use of the Turner-Baker Papers. But while Neely examined evidence in the cases out of his concern with the constitutionality of civilian arrests and the reflection these documents had on the image of the

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Lincoln’s presidency, I will use this evidence and the public reaction to these arrests to understand the definition of disloyalty in the wartime North. Neely finds that the majority of those charged with disloyalty were engaged in overt acts such as blockade running, spying, and guerilla warfare, and uses this reality to further his argument that the majority of Lincoln’s actions were justified despite their questionable constitutionality. This thesis questions this logic by analyzing two cases where Lincoln’s machinery of military arrests served questionable justice. Though these cases may be anomalies, they highlight the problematic nature of the atmosphere Lincoln created, and the precedent Lincoln set. Even under the leadership of Lincoln, a historical figure defined by his statesmanship, this apparatus enabled clear abuses of power.

The ongoing historical conversation regarding the reality of threats posed by anti-war Northern Democrats, often called “Copperheads,” is also necessary for understanding how loyalty was defined in the Union. Copperheads were often the targets of loyalty investigations. Frank L. Klement is a leading voice in this conversation. His research on the Copperheads in the Midwest, Northern conspiracies and disloyalty is highly regarded in the Civil War field. In Klement’s most important work, Dark Lanterns, he analyzes conspiracies and lore about secret societies and concludes that no well-organized disloyal opposition existed in the North. Klement’s work on Copperheads concludes that Copperheads’ actions during the war were relatively harmless, a conclusion that some historians like William Hanchett, who specializes in the Lincoln assassination, and James McPherson have disputed, citing disruptions to the draft.

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13 For the purposes of this research project the term “Northerners” will refer to all those living within Union and border states.


15 Frank L. Klement, Dark Lanterns: Secret Political Societies, Conspiracies and Treason Trials in the Civil War (Baton Rouge: Louisiana State University Press, 1984).
spying for the Confederacy and sabotage as examples of Copperheads’ aggression. More recently, Jennifer Weber has written on this topic. In her article “Lincoln’s Critics: The Copperheads,” Weber examines the political dynamic between Copperheads and Republicans, and discusses issues related to Copperhead identity and loyalty. Weber’s work will provide my study with the context necessary for understanding the Northern political landscape, specifically the ideology of those considered disloyal and how they interpreted the Union. This research is important to my analysis of those who were accused of disloyalty, why they were accused, and whether these accusations were well founded. Richard Curry’s article furthers this conversation, offering a useful summary of literature relating to Copperheads, starting with historians’ traditional views of Copperheads as traitors and moving into the modern interpretation of authors like Frank L. Klement, Robert Rutland, David Lindsey, Justin E. Walsh, John D. Barnhart, and A. B. Beitzinger, whose work has undermined the traditional view that Copperheads were treasonous. Using these sources, Richard Curry suggests that Copperheads were proponents of the Union, just a radically different Union than their Republican counterparts. I have used this overview of literature and modern historical interpretation when reading about Copperheads in the Turner-Baker Case files, noting the evidence considered reasonable to deem a person guilty and closely analyzing the rhetorical strategies investigators used to implicate those charged with disloyalty.

Finally, research into espionage and intelligence during the Civil War will be helpful for

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understanding the actions of Turner and Baker. Edwin Fishel’s *The Secret War for the Union* used government records to understand the role of intelligence in the Civil War. Fishel drew upon the Turner-Baker Papers in his research, but used them to learn more about the efficiency of intelligence gathering during the war. ¹⁹ My study will focus on the content, rather than the results, of this intelligence. Fishel’s book also offers relevant historical information about Turner and Baker, which will be useful in my analysis of the documents produced by their operatives. Historians have written more about Lafayette C. Baker than about Lewis C. Turner, in part because of the autobiography Baker wrote after the war. However, this autobiography contains many false statements. The scholarship on Baker, like Michael Sulick’s work in *Spying for America*, portrays him as a corrupt figure who leveraged the fear of Southern conspiracies during the war to his advantage, continually gaining power throughout the war. ²⁰ Understanding the background and character of the investigators is necessary for a successful analysis of case files their investigations produced, which I will examine in my research by looking at who was convicted and the evidence used to convict them.

A comprehensive analysis of these loyalty investigations reveals that a consistent definition of loyalty did not exist in the wartime North. This research incorporates a variety of sources and voices in an attempt to uncover the various definitions of loyalty during the Civil War -- how the government defined it, how parties to loyalty investigations defined it, and how the larger public understood it. Their conflicting, amorphous definitions bring to light an more important question about what it means to be a loyal American during wartime. Where is the line drawn between dissent versus disloyalty, and who gets to draw it? What is the priority of


allegiance between one’s party versus one’s nation? These questions, when left unanswered, benefit the party in power. When loyalty and disloyalty are defined in ambiguous ways, the party in power possesses the rhetorical flexibility to suppress political dissent. The questionable justice that results from this ambiguity can be seen in the cases of Israel Blanchard and Dennis Mahony.

CHAPTER ONE: THE GREAT WRIT

Pre-War Conceptions of Habeas Corpus

In order to understand the unprecedented nature of Lincoln’s suspension of habeas corpus during the Civil War, it is useful to understand the nature of the writ in the years prior to the outbreak of the conflict. Habeas corpus, or the legal necessity to provide any person held in custody a judge to show reason for detention, was deeply linked with the nation’s founding and was the only common-law principle mentioned throughout the entirety of the Constitution.\(^{21}\) Before the war, Republicans tended to use the Constitution as the linchpin in their arguments for freedom in debates about slavery. In fact, Republicans used habeas corpus as a political tool to free fugitive slaves. For instance, Salmon P. Chase, an Ohio lawyer and politician who would later become Lincoln’s treasury secretary, became famous for using habeas corpus to free his fugitive-slave clients. He used it so frequently, he became nicknamed “Attorney General for Runaway Negroes.”\(^{22}\) Even Lincoln, during his legal career in Illinois, used the writ in cases that freed fugitive slaves.

Unfortunately, with the passage of the Fugitive Slave Law in 1850, habeas corpus no

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\(^{22}\) One of the leading historians on the topic of civil liberties and loyalty Investigations during the Civil War is Mark Neely. I will reference his scholarship quite frequently in my work because of he is the dominant voice in the field. Mark E Neely, *Fate of Liberty: Abraham Lincoln and Civil Liberties* (London: Oxford University Press, 1991), x-xvii.
longer served as a legal tool for freeing fugitive slaves. Its suspension caused a vehement reaction from Republicans and sparked many court cases over its legality. Once the war began, however, Republicans’ mentality towards the writ flipped completely. Republicans became the perpetrators of suspension, fearful of disloyal conspirators aiding the Confederacy. Meanwhile, as the line between Democratic partisanship and disloyalty blurred, Democrats became frequent victims of arrest without trial. 23 Thus, by 1861, Republicans, who had defended the necessity of the writ, suspended it, while Democrats, who had advocated for federal intrusions into antebellum state courts, became staunch defenders of it.24

The suspension of the writ of habeas corpus by the Lincoln administration was an unprecedented action, one that raised many concerns amongst Republicans who took into consideration the symbolic nature of the writ. Since the nation’s founding, habeas corpus was intimately linked with freedom in U.S. law. Habeas corpus served as a check on the legality of an imprisonment. After the abusive exercise of power by the British, the writ of habeas corpus was used as a tool to protect citizens against any abusive exercise of governmental power.25 Due to this history, the writ was linked to freedom against the abuse of the British and became known as the “writ of liberty” or “the great writ.” Its symbolic link with freedom was so poignant that many Republicans were concerned that its suspension would have lasting political effects.26

The Suspension of Habeas Corpus


Despite Republican fears about the symbolism of suspending the writ, the dire situation occurring in Maryland in 1861 sparked the declaration of martial law and Lincoln’s first suspension of the writ. Positioned between the Capital and the rest of the North, Maryland was a key Border State in the Union and thus Lincoln saw the necessity of preventing its secession. On April 19, 1861, as federal troops marched through Maryland on their way to defend the capital, a mob of Confederate sympathizers blocked their route. The mob attacked the regiment with bricks, stones, and pistols. Fearful, some of the troops opened fire. This action caused an uproar. By the end of the day, four soldiers and twelve Baltimore citizens lay dead, and many more had been injured.\textsuperscript{27} The administration had to respond, but Lincoln was unsure of the power afforded to him in this instance. As Commander-in-Chief during wartime he was allowed to declare martial law, but to be able to arrest civilians without a warrant, he needed an act of Congress. In this predicament he asked his Attorney General, Edward Bates, for legal guidance and refrained from taking immediate action. Meanwhile, in Maryland the situation escalated and pro-Confederate guerillas burned bridges and destroyed telegraph wires, attempting to sever Washington’s connections with the North. Confederate sympathizers in Maryland were numerous and organized, and many members of the Maryland legislature held secessionist proclivities.\textsuperscript{28} As tensions grew, many in Lincoln’s cabinet suggested that he arrest the secessionist members of the Maryland legislature. At first, Lincoln refused this suggestion, though he alluded to his willingness to do so in the “extremist necessity.”\textsuperscript{29} Luckily, when the


state legislature met, it did not consider the “secession ordinance” and two days after Lincoln told General Winfield Scott not to arrest the members of the Maryland legislature, the much-anticipated troops finally arrived in the Capital.  

However, after all the tension was resolved Lincoln made a bold political move and gave General Scott the right to suspend the writ. This permission was granted after Lincoln and his generals learned of a potential threat to the Capital. On April 27, Lincoln wrote in a private letter to Scott:

You are engaged in repressing an insurrection against the laws of the United States. If at any point on or in the vicinity of the military line, which is now being used between the city of Philadelphia and the city of Washington, via Perryville, Annapolis city and Annapolis Junction, you find resistance which renders it necessary to suspend the writ of Habeas Corpus for the public safety, you, personally or through an offer in command at the point where the resistance occurs, are authorized to suspend the writ.  

This was the first suspension of habeas corpus in the wartime North; Lincoln suspended the writ to assist federal officials in protecting the route by which federal troops could reach the capital. Lincoln did not use any formal executive proceedings to suspend the writ but, instead, wrote a private note directly to the General. Lincoln made his first public proclamation of the writ’s suspension days later, on May 10, 1861 when he suspended habeas corpus in the state of Florida:

I, Abraham Lincoln, to permit no person to exercise any office or authority upon the islands of key west, which may if he shall find it necessary, to suspend there the writ of habeas corpus and to remove from the vicinity of the united states fortresses all dangerous or suspected persons

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By the time of this proclamation, however, Florida had seceded from the Union; thus, the proclamation sparked little controversy. Many Northerners believed that seceded states had forfeited their civil liberties under the Constitution.  

Lincoln’s actions met with immediate criticism. For instance, the case of John Merryman, a citizen who allegedly raised a pro-Confederate militia unit, came to the attention of Chief Justice Roger Taney. Taney issued a writ of habeas corpus for the case, but was refused as a result of the April 27th order. In response to the suspension, Taney wrote an angry opinion against Lincoln’s action, arguing that the power to suspend habeas corpus belonged to Congress, not the president. In the Constitution, the founders wrote all references to suspending habeas corpus in the section defining Congressional powers. Taney used this placement as evidence to ground his point. This response was published widely within the Democratic press and across the North. Instead of responding directly, Lincoln asked Edward Bates to craft an answer. Finally, on July 4, 1861, he defended his actions before an emergency session of Congress, while also revealing his apprehension about making these unprecedented decisions. To defend his actions, he explained that he understood that the power to suspend the writ normally belonged to the legislative branch. He had faced an unprecedented situation, however, in which national security justified immediate suspension of the writ, and the reality that it was impossible for

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Congress to convene when troops were blocked from reaching the capital. He also noted the importance of his actions, stating that the power to suspend the writ had “purposely been exercised but very sparingly.” To conclude, he argued that, “These measures whether strictly legal or not were ventured upon, under what appeared to be popular demand, and a public necessity.”

Lincoln justified his actions by noting the extremity of the situation and describing a worst-case scenario, which justified the means he took to prevent the hypothetical end.

“Are all the laws, but one, to go unexecuted, and the government itself go to pieces, lest that one be violate. . . .would not the official oath be broken, if the government should be overthrown when it was believed that disregarding the single law, would tend to preserve it?”

Lincoln realized the questionable legality of his actions but argued that the extraordinary circumstance created by the Civil War afforded the president wartime power that extended beyond the Constitution. However, by the end of the speech, he added “but it was not believed that this question was presented. It was not believed that any law was violated.”

This addition suggested the internal struggle Lincoln had over the suspension, especially considering its symbolic importance. As historian James Randall noted, “The appearance of a military dictatorship was a matter of deep concern to the nation’s war chief.”

Still, as the war continued Lincoln steadily increased his wartime powers despite the questionable legality of an executive suspension of the Great Writ.

Despite his initial hesitation, Lincoln steadily grew more comfortable increasing his

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presidential war powers. In fact, by October 10, 1861, just a few months after his original refusal to seize pro-Confederate legislators in Maryland, he reversed himself and arrested them. Historians debate what caused this sudden shift, but some suspect that Lincoln knew a “disunion majority” in the state legislature would pass an ordinance of secession.\textsuperscript{42} If these historians are correct, then these arrests enabled the administration to preemptively prevent the secession of the crucial state of Maryland.\textsuperscript{43} Others have argued that there was a sufficient military threat from Maryland, and that a combination of riots in Baltimore and a rumored plot for a Confederate invasion into Maryland sparked Lincoln’s change of heart.\textsuperscript{44} Either way, for the purposes of this study it is important to understand that the Lincoln administration had arrested powerful politicians and achieved the political capital necessary to get away with it. Lincoln’s political power, and the argument that rationalized its use, would steadily increase and be used to justify thousands of arrests in the wartime north.\textsuperscript{45}

Lincoln rapidly expanded executive power. During the July 4 emergency session of Congress, Lincoln’s speech was filled with doubt. He expressed concern about using a power that was normally considered a legislative prerogative, but argued that the extremity of the situation called for swift and immediate action. Lincoln’s address on July 4th, using justification-filled speech, revealed his hesitation to take unprecedented actions. However, by autumn he was comfortable giving the responsibility of drafting proclamations suspending citizen’s rights to

\textsuperscript{42} Mark E Neely, \textit{Fate of Liberty: Abraham Lincoln and Civil Liberties} (New York: Oxford University Press, 1991), 14-16.

\textsuperscript{43} Maryland was an extremely important state that kept the Capital connected to the rest of the Union.


General Scott.\textsuperscript{46} In September, he allowed for the arrests of legislators, which he had declined to do five months earlier. A letter he wrote in 1863 confirms his confidence in his decision:

> The constitution contemplates the question as likely to occur for decision, but it does not expressly declare who is to decide it. By necessary implication, when rebellion or invasion comes, the decision is to be made, from time to time; and I think the man whom, for the time, the people have, under the constitution, made the commander-in-chief, of their Army and Navy, is the man who holds the power.\textsuperscript{47}

Oddly, there was never mass public opposition to Lincoln’s suspension of habeas corpus, like there would eventually be to the draft, despite its unprecedented authority. In fact, after the arrests had taken place, especially within Maryland, the Republican Party considered the newfound powers of the homeland security system a success, because with these powers authorities had kept Maryland in the Union.\textsuperscript{48}

Until 1862, Lincoln refrained from suspending habeas corpus across the nation, confining the suspension to the “military line,” a geographic area from Washington DC to Bangor, Maine. However, this would soon become extended to include the entirety of the U.S. population. The Militia Act of July 17, 1862 sparked the nationwide suspension. The militia act enacted the first military draft in U.S. history, which the Lincoln administration knew was going to be unpopular and likely resisted. In order to avoid widespread resistance to the act, Secretary of War Edwin Stanton issued orders on August 8, 1862 to suspend habeas corpus nationwide:\textsuperscript{49}

> By direction of the President of the United States, it is hereby ordered that until further order no citizen liable to be drafted into the militia shall be allowed to go to a foreign country. And all marshals, deputy marshals, and military officers of the United States are directed, and all police authorities, especially at the


ports of the United States on the seaboard and on the frontier, are requested, to see that this order is faithfully carried into effect. And they are hereby authorized and directed to arrest and detain any person or persons about to depart from the United States in violation of this order, and report to Major L. C. Turner, judge-advocate at Washington City, for further instructions respecting the person or persons so arrested or detained.

II. Any person liable to draft who shall absent himself from his county or State before such draft is made will be arrested by any provost-marshal or other United States or State officer, wherever he may be found within the jurisdiction of the United States, and be conveyed to the nearest military post or depot and placed on military duty for the term of the draft; and the expenses of his own arrest and conveyance to such post or depot, and also the sum of $5, as a reward to the officer who shall make such arrest, shall be deducted from his pay.

III. The writ of habeas corpus is hereby suspended in respect to all persons so arrested and detained, and in respect to all persons arrested for disloyal practices.

EDWIN M. STANTON,
Secretary of War.

With this order began a series of civilian arrests that marked the “lowest point for civil liberties in all of American history.” However, not until six weeks after, on September 24, 1862, did Lincoln issue a formal proclamation suspending the writ throughout the entire nation:

Whereas it has become necessary to call into service not only volunteers, but also portions of the militia of the States by draft in order to suppress the insurrection existing in the United States, and disloyal persons are not adequately restrained by the ordinary processes of law from hindering this measure and from giving aid and comfort in various ways to the insurrection:

Now, therefore, be it ordered, first, that during the existing insurrection, and as a necessary measure for suppressing the same, all rebels and insurgents, their aiders and abettors, within the United States, and all persons discouraging volunteer enlistments, resisting militia drafts or guilty of any disloyal practice affording aid and comfort to rebels against the authority of the United States, shall be subject to martial law and liable to trial and punishment by courts-martial or military commissions; second, that the writ of habeas corpus is suspended in respect to all persons arrested, or who are now or hereafter during the rebellion shall be imprisoned in any fort, camp, arsenal, military prison, or other place of confinement by any military authority or by the sentence of any court-martial or military commission.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 24th day of September, A.D. 1862, and of the Independence of the United States the eighty-seventh.

ABRAHAM LINCOLN

By the President:


WILLIAM H. SEWARD, 
Secretary of State.  

This proclamation was anticlimactic, as multiple arrests had already taken place under authority of Stanton’s August 8th orders. All of these orders and this sweeping assertion of presidential and wartime power were enacted before Congress (which, according to many legal scholars, had legal jurisdiction over matters in this arena) took any actions to suspend the writ of habeas corpus. On September 15, 1863, nearly a year later, Congress passed the Habeas Corpus Act, which retroactively approved the writ’s suspension. Thus, the legislative branch retroactively approved an unprecedented use of presidential power with questionable legality after the power had already been used. Whether the arrests before September 15 were legal is a subject for historical debate. For the purposes of this study, it is important to note the incremental amounts of power the administration had that steadily gained from the beginning to the middle of the war.

Responsibility

Historians examining the numerous arrests that took place in the wartime North not only question the constitutionality of this presidential use of power but also seek to determine who to blame for its widespread and disorderly enactment. Some historians, like Dean Sprague in his book *Freedom under Lincoln*, condemned the extent to which wartime power was used to arrest civilians but absolved Lincoln from guilt, instead blaming Seward for harsh implementation during the first ten months of the writ’s suspension. However, some historians

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55 Dean Sprague, *Freedom under Lincoln: Federal Power and Personal Liberty Under the Strain of Civil*
also absolve Seward. For instance, Mark Neely noted that, although Seward used harsh rhetoric against disloyal opposition, he never enforced many civilian arrests. Neely estimated that Seward only presided over the arrests of about 864 civilians out of some 13,000 that took place over the course of the war. Neely concluded that Seward’s rhetoric earned him a reputation for draconian enforcement, but in actuality many pressing war matters took up Seward’s attention. For instance, Seward was preoccupied with foreign incidents like the Trent affair. Seward did not have the resources at the State Department to deal with the arrests, and the State Department lacked the organizational capacity to make mass arrests. In fact, Neely found that State Department records show that its officials often did not know the motivations for arrests or that arrests had even taken place until relatives of or the lawyers of detainees contacted them. Seward simply delegated power to local authorities and did not actively oversee the arrests that took place during the early months of the war. 

Others blame Stanton, whose War Department was given the power to make military arrests beginning in February 1862. However, it was difficult to tell if Stanton intentionally increased the number of arrests, because he also delegated power to local officials. Like Seward’s State Department, Stanton’s War Department was ill-equipped to make mass arrests. Correspondence between Levi C. Turner, the judge advocate, and local officials revealed confusion over who had the authority to make arrests and the disorganization of the whole process. Even if the September 24 proclamation was not intended to be abused, its disorganized implementation gave unprecedented power to local officials, a terrifying reality that put people’s

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reputations and lives in the hands and discretion of “petty functionaries” with the power to separate the loyal from the disloyal. Though the Judge Advocate sometimes reviewed loyalty investigations, this check was made after the arrest had occurred, and the “victim's local reputation stained.” Though the administration may not have intended the orders of August 8th to be used for such far-reaching purposes, hundreds were arrested between August 8th when orders were issued and September 8, 1862, when Turner revoked the orders, stating that:

The quota of volunteers and enrollment militia having been completed in several States, the necessity for stringent enforcement of the orders of the war department in respect to volunteering and drafting no longer exists.

Arrests for violation of these orders and for disloyal practices, will hereafter be made only upon my express warrant or by direction of the military commander or governor of the state in which such arrest may be made; and restrictions upon travel, imposed by those orders, are rescinded.

Turner decided to rein in the power to make military arrests because he no longer considered them necessary to combat draft resistance. Mark Neely used this action as proof to argue that government officials only suspended the writ to ensure a successful draft. He argued that, though at times the power of arrest was used in partisan ways, it was mostly used to ensure the successful operation of the militia draft. Despite Neely’s defense, in hindsight it is difficult to tell whether the high number of arrests were caused by Union officials’ lack of organization, their engagement in intentional political suppression, or if the number was necessary because officials successfully prevented a government overthrow. However, it is useful to recognize the unprecedented use of power and the important fact that the ambiguity of the orders and their loose delegation afforded the possibility for widespread local corruption.

Politics in the Wartime North

Over the course of the 1850s, the American party system underwent significant changes. The war sparked a break in the old two-party system and replaced it with a much more fluid party identity.\(^6\) The war also renewed old philosophical debates about partisan versus national loyalty. At the outbreak of the war, many Democrats and Republicans united behind the war effort and the preservation of their nation. However, these early patriotic inclinations had many differing underlying motives, a fragmented foundation that Adam I.P. Smith discussed at length in his book *No Party Now*. Smith argued that underneath this initial patriotic unity lay a series of fractured ideologies.\(^7\) Democrats and Republicans had contradictory ideas about what the United States would become after the war’s completion.\(^8\) These conflicting ideas underscored the fragmented “unity” of support for the war effort.

Further dividing the population were the different interpretations of loyalty that resulted from the ideological divisions in the Northern population. Democrats, as the opposition party, believed that they assumed the responsibility of keeping the Lincoln administration aligned with the public’s best interest. As the guardians of civil liberties, many Democrats outwardly opposed the Lincoln administration, Unfortunately, this public opposition created a solid base for dissenters. The party was full of factions.\(^9\) For instance, some Democrats considered themselves Unionists but argued against abolition and faulted abolitionists for causing the South

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\(^8\) Most notably was the distinction between abolitionists who wanted the complete removal of slavery in America contrasted with Democrats that simply wanted a restoration of the Union as it was.

to secede. Some were extreme supporters of emancipation and still others vehemently opposed the administration so much so that their “attacks on radicalism of the administration...shaded into sympathy for the rebel cause.”

The Copperhead Democrats wanted peace above all else and stridently opposed the Lincoln administration, an opinion Republicans quickly associated with treason. In relation to the peace Democrats, supporters of the Administration were quick to “connect partisanship with treason.” As the war continued, patriotic expressions became associated with the Republican Party. Though at the beginning of the War the Republican Party engaged in bipartisan rhetoric, it eventually re-branded itself the “Union Party,” a name that connoted an ideology aligned with emancipation and the “new conception of nationality based on equal rights.” Thus, nationalism and patriotism became partisan. Republicans identified their party with patriotism, claiming that their devotion to the national good surpassed partisanship. This was an astute political move than enabled them to enact a radical agenda while maintaining the guise of being above partisanship and for national unity. Democrats, meanwhile claimed that they were the protectors of constitutional liberty. Republican’s re-branding into the “Union Party” and the party’s new association with patriotism and the war effort undermined political beliefs against the Republican party, making dissenters appear unpatriotic against the “Union.”


The Democratic Party and the War

In this shifting political atmosphere some Democrats joined Republicans in supporting the Union war effort. This was in part a survival tactic that enabled Democrats to remain in conversations about the war effort rather than cast aside as disloyal traitors. This group was led by Stephen A. Douglas, who convinced a number of prominent Democrats, including John A. Logan, to join the war effort. These Democrats played into the Republican narrative that the Union consisted of two parties—“the party of patriots and the party of traitors.” 69 This sharp dichotomy caused a split in the Democratic Party between those who supported the war and those who opposed it.

Despite the Democrats who turned toward Republicanism, many Democrats continued to oppose the war. Anti-war Democrats sharply criticized Lincoln’s conscription policy and other measures. This Democratic “peace movement” started to grow in popularity in August 1861 and was most prominent in the Midwest. The movement lasted throughout the war, and increased in popularity as the economic situation in the Midwest grew increasingly dire and the war’s violence escalated.70 Another sect of Democrats grew disenchanted with the war effort in response to the Lincoln administration’s evolving anti-slavery policy. An additional group supported the war but despised abolition. Montgomery Blair, Lincoln’s Postmaster General and a prominent Maryland Democrat, led what became a powerful coalition. This group of Democrats, mostly composed of conservative former Whigs and Know-Nothings, only supported the war as long as its aim was to “restore the Union as it was.”71 Though this group became an important


oppositional force, in the elections of 1862 the supporters of the administration, be they Border State Unionists, War Democrats, or Republicans maintained a majority in Congress. Even citizens pushed back against Democratic opposition, throughout the war men in different parts of the country began forming a robust network of Union Leagues. These men’s clubs were created for the purpose of promoting Union loyalty. Though Democratic opposition did exist, Republicans maintained political favor in the 1860s and successfully formed a “spell woven around the hearts of the people, by cunning use of the words conservatism, patriotism, and unionism.”

Midwestern Dissent

During the Civil War, the Midwest contained several dissenting groups who rejected the Lincoln administration. The historian Frank Klement separated these dissenters into five main groups that included Irish Americans, German Americans, former Southerners that had crossed the Ohio River, and middle-class Americans who aligned themselves with Democracy. This thesis will explore the imprisonment of Dennis Mahony, an Irish-Catholic Democratic newspaper editor and public critic of the Lincoln administration. It will also analyze the imprisonment of Israel Blanchard, a prominent citizen in Illinois and a dedicated Jacksonian Democrat. Both men fit well into the paradigms Klement laid out for the typical groups of dissenters and their specific reasons for dissent.

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In the Midwest, it was common for Irishmen to favor Democratic Principles. Many Irish-Americans strongly believed in the principles of Jacksonian Democracy and the celebration of the “common man” within the Jacksonian ideological framework. Irish-American Democratic leanings were also practical because many Republican policies were detrimental to the Irish-American community. For instance, some Republicans aligned themselves with the Know-Nothings, a nationalist sect that despised immigration and Irish-Americans. Some Republicans also advocated for prohibition, a policy the Irish loathed. Lastly, Irish-Americans strongly opposed abolition out of fear that former slaves would compete with them for work. Republicans also tended to treat the Irish-Americans with malice. For instance, the Freeport Journal, a Republican newspaper in Illinois, called the Irish “cattle who disgrace our soil.”

Others, like Blanchard, fell into the category of middle-class Americans who supported the Jacksonian Democratic principles. Jacksonian Democrats tended to favor states’ rights and oppose the expansion of federal power, which was increasing significantly under the Lincoln administration. These Jacksonian Democrats were also anti-abolition and against the war because they believed it to be a quest to attack slavery.

Many members of the Midwestern population were anti-Lincoln and anti-war for a myriad of practical and ideological reasons. While the rest of the population was invigorated by the patriotism in the North, many in the Midwest suffered from an economic depression caused by the wartime disruption of trade with the South. Thus, these inhabitants tended to support peace out of economic necessity, as they were dependent on the Confederacy and slave-grown

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products. Second, there was a wave of western sectionalism within the Midwest. Midwesterners also had economic grievances against Eastern businessmen. For instance, with the trade closed on the Mississippi River, Midwestern farmers had to use the railroads to get their crops to market, and many Eastern railroad owners charged extraordinarily high shipping rates. These high rates were widely unpopular and added to the pre-existing grievances, like high tariff duties from Congress and Puritanical moral domination, that Midwesterners had with their Eastern counterparts. Atop this economic hardship, Congress raised tariff duties in 1861, furthering the divide between the power in the East and those in the West who felt that Easterners were unfairly charging them and causing further economic disruption. Democratic Midwesterners also opposed abolition, and many feared that Lincoln’s anti-slavery leanings would turn the war into an abolitionist conquest. For Mahony and many Democrats in the Midwest, Lincoln’s Emancipation Proclamation was the “last straw.”

In a newspaper article responding to the new proclamation, Mahony stated that the proclamation emancipating slaves freed Democrats from and obligation to support the war, angrily adding that, “Lincoln, his Cabinet, Congress and all, should be hurled into the Potomac.” Finally, like many Democrats, Midwestern Democrats also disagreed with Lincoln’s use of wartime powers and became quite concerned with civil rights. These various factors combined to create a large group of Midwestern Democrats who opposed the war. This group steadily grew in influence as a threat to the administration throughout the war.

As Democratic power grew in the Midwest, this geographic area, that included all states


west and north of the Ohio river, became the main target of arrests. This thesis closely analyzes two cases from the upper Midwest: the case of Israel Blanchard, a doctor from Illinois and the case of Dennis Mahony, a newspaper editor from Iowa. Both Blanchard and Mahony hailed from this geographical hub of dissent, and comprised part of this Democratic opposition to Lincoln that flourished in this region.

Conclusion

After the official suspension of the writ of habeas corpus, the Lincoln administration arrested thousands of civilians and military personnel in the wartime North. Historians who defend the Lincoln administration’s use of power argue that those arrested were traitorous and disloyal persons who, if not arrested, could have brought down the Union. However, Northern Democrats maintained that they were the principal victims of Lincoln’s policies, and argued that their arrests had been motivated by partisan concerns. The work of Frank Klement further problematizes historians’ defense of Lincoln. Klement’s work revealed that no substantial disloyal opposition capable of effective resistance existed in the North. If this lack of substantial opposition is true, then the Lincoln administration may have lacked justification for suspending the writ. However, a potential counter-argument could point out that the reason the disloyal opposition failed to coalesce was because the administration successfully arrested dissenters who might have spearheaded a more effective internal resistance movement. Nevertheless, in Fate of Liberty Mark Neely made an important and persuasive argument for the constitutionality of Lincoln’s actions, utilizing citizen arrest records, like those found in the Turner-Baker Papers, as evidence that Lincoln’s efforts represented carefully-crafted statesmanship; any abuses represented failures by military officials in their implementation of justice. This study, however,
will not examine the legal nature of the arrests; rather, it will carefully analyze two specific cases to try to understand how Northerners defined disloyalty. It will try to add to the work of historians like Klement and Neely by understanding the homeland-security system Lincoln’s wartime policies created, and examining how Northerners’ ideas about loyalty and disloyalty developed within the political and legal atmosphere created by the Lincoln administration.

Though many historians, like Mark Neely, tend to absolve Lincoln of harsh criticism, noting the number of justified arrests of blockade runners, spies and guerrillas, this thesis purposely highlights cases that blur the line between partisan dissent and direct disloyal action against the administration. This emphasis draws important attention to instances of questionable justice that took place under the leadership of one of history’s most respected leaders. The Blanchard and Mahony cases call into question the legality of the apparatus Lincoln created and the dangerous precedent it set.

**CHAPTER TWO: STIFLING POLITICAL DISSENT**

The Lincoln administration’s disorganized delegation of authority created an atmosphere that limited the bounds of tolerable dissent in the wartime North. The loyalty investigations to which Union officials subjected Mahony and Blanchard, both of whom were prominent Democrats in their respective states, exemplify the suppression of dissent that Lincoln’s military justice apparatus made possible. It is important to note that these cases were anomalies compared to the average arrest in the Civil War North which, Mark Neely has shown, detained a blockade runner, guerilla, spy or like offender whose actions directly undermined the Union war effort and who would have been arrested whether habeas corpus had been suspended or not. However, despite their rarity, cases such as Blanchard are Mahony’s should not be ignored – they reveal the dark side of the legal apparatus the Lincoln administration created. Even under the leadership
of a well-respected leader, who acted in a non-dictatorial way, military arrests served questionable justice. These military arrests in the wartime North set a concerning precedent for the future. After Lincoln suspended habeas corpus nationwide, he gave the War Department the power to implement the policy, and Secretary of War Edwin Stanton further delegated the power of arrest to local officials.81 Lincoln did not have control over events in the field, and these delegations of authority to employees of the federal bureaucracy produced a number of abuses. The partisan motivations of Lincoln administration officials become apparent through an analysis of how officials conducted loyalty investigations and a close reading of the affidavits against Blanchard and Mahony. The lackluster evidence, the strong rhetoric and the assumption of guilt all reveal how ill-defined charges of disloyalty were in the wartime North.

As their cases developed, both Blanchard and Mahony faced dehumanizing and somewhat dangerous treatment. This treatment gives a glimpse into how the partisan accusation of disloyalty divided the population, and in some instances, created a dangerous atmosphere for those accused. Blanchard’s first arrest in 1862 exemplifies this danger. After Blanchard was stopped and arrested by five armed men in the streets of his hometown, he was placed on a train headed for Cairo. As he boarded the train, a crowd gathered and began crying, “Take Blanchard out and hang him.”82 Some of the soldiers involved in this mob attempted to board the train to find Blanchard. The conductor purposely lied about Blanchard’s location. Misled, the soldiers were unsuccessful finding and hurting Blanchard. However, they succeeded in smashing the windows of the train’s rear car. These acts of spite occurred before Blanchard was ever questioned. When he arrived in Cairo, he was charged with speaking “disrespectfully of


President Lincoln, discouraged enlistment, and attempted to raise a company to burn Big Muddy Bridge.” He only pleaded guilty to the first accusation, and though witnesses claimed “his conversation had a tendency to discourage enlistments,” he was released within a few days of this first arrest.\(^8^3\) This violent mob, formed as a result of Blanchard’s suspected disloyalty, exemplifies how detrimental even the *accusation* of disloyalty was in the wartime North. The soldiers did not wait for an official proceeding; they assumed Blanchard’s guilt and attempted to take justice into their own hands. To some Northerners, disloyalty merited immediate retribution. Even its accusation was enough to instigate violence.

As the investigation into this loyalty proceeded, Mahony faced dehumanizing rather than dangerous treatment. At the beginning of his detainment, Mahony’s captors treated him like a “wild beast.”\(^8^4\) Mahony encountered this harsh treatment after Marshal Hoxie arrested and escorted him to a boat to begin his journey to Old Capitol Prison in Washington D.C. When he arrived on the boat, he was assigned two sergeant guards. At the beginning of his arrest, these guards treated him “as if I were a wild beast whom it was whom it was as dangerous to approach as it was to let me roam at large.”\(^8^5\) In one instance, he described when newly-recruited soldiers came aboard the ship and were so rambunctious that “to avoid their impertinent stares” he decided to go into a room by himself; even then, however, they “place their faces against the glass panels to have a stare.”\(^8^6\) All of a sudden, as a result of his disloyalty investigation, Mahony had become an object to be mocked and looked upon with curiosity like a zoo animal. Though initially, the guards treated Mahony with spite because of the accusation against him they


\(^{8^4}\) Dennis A Mahony, *Prisoner of State*, (New York:Carleton Publisher, 1863), 124.

\(^{8^5}\) Dennis A Mahony, *Prisoner of State*, (New York:Carleton Publisher, 1863), 123.

\(^{8^6}\) Dennis A Mahony, *Prisoner of State*, (New York:Carleton Publisher, 1863), 123.
eventually came to know Mahony as his case developed and became friendly with him. For instance, at one point, as they engaged in conversation with Mahony, they offered him a “slug” of whiskey from a flask. However, their initial hostility shows how negatively accusations of disloyalty could affect one’s reputation and others’ initial opinion of their character.

Mahony and Blanchard both suffered indignities as a result of their arrests, and both cases also contained elements of secrecy and calculated manipulation that reveal the questionable justice they served. The administration first arrested Blanchard in August 1862, but they released him within a matter of days. His second arrest, by contrast, began a detention that lasted months. Unlike his first arrest, which took place in the middle of the street, his July 1863 arrest took place within the privacy of a hotel bar-room. A man in uniform asked Blanchard his name and when Blanchard replied, the man led him to a hotel. When he entered the bar room of the hotel, Blanchard was surrounded by five armed men. Blanchard was informed of his arrest and told to board a train six o’clock the next morning. Under the cover of darkness, he boarded the train and went on to Centralia, from which he would eventually depart for Washington and spend a number of weeks in Old Capitol Prison. Every part of this arrest process in 1863 was purposely secretive.

Mahony’s arrest proceeded in similar fashion. Mahony was also arrested in the middle of the night. At 3 A.M., he was frightened by a mob he feared was going to murder him. When Mahony saw Marshal Hoxie, a man he recognized, he began to calm down. After this recognition, Mahony chastised the Marshal for the secretive manner the Marshal used during Mahony’s arrest. In response, the Marshal stated that he feared a rescue of Mahony “would be

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87 Dennis A Mahony, *Prisoner of State*, (New York: Carleton Publisher, 1863), 122.

attempted if he had waited until the citizens should be awake.” 89 The Marshal’s careful control of public reaction reveals the strength of Mahony’s supporters, a force strong enough to warrant calculated manipulation. Local officials in both cases used manipulative tactics and covert strategies that call into question the justice these arrests served.

The legal proceedings in both cases reveal the underlying anxiety officials had that the accused would seek retribution when released. In *American Bastille*, John A. Marshall reprinted the Judge Advocate’s 90 examination of Blanchard at Old Capitol Prison in 1862. 91 In this legal proceeding, Blanchard claimed he did not know why his arrest took place and asked for his accuser’s name. However, instead of revealing the name, the Judge Advocate replied that “we have made it a rule not to let prisoners see the papers filed against them nor tell them who made a complaint against them, or what the charges are, as it might lead to unpleasant consequences hereafter.” 92 This anonymity gave local officials the opportunity to charge people with disloyalty for personal or political gain without consequence. The anonymous structure of the investigation process left detainees like Blanchard forever uncertain about the reasoning behind his arrest:

He was immediately discharged without knowing why he was arrested and imprisoned, what the charges were against him or who made them, if any were ever made. 93

Mahony’s Oath of Allegiance served a similar purpose. After his arrest, the Provost Marshal forced him, along with the three others who were arrested at the same time, 94 to sign

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89 Dennis A Mahony, *Prisoner of State* (New York: Carleton Publisher, 1863), 118-119.

90 Judge with jurisdiction over military arrests.


94 Case 413, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The
Oaths of Allegiance. This was a normal request after most cases for disloyalty. However, their oath contained a clause that stipulated that they would not “prosecute Federal or State officers who had been concerned in our arrest.” This provision, unique to their case, ensured that Mahony, along with J.H. Mulkey, D. Sheward, and Andrew D. Duff, would be unable to pursue legal action against their prosecutors. It is likely that this stipulation was included because the case was so publicly contested. The unprecedented nature of this clause was controversial even during the legal proceedings. In a letter, James F. Wilson, a member of the House of Representatives, requested an explanation for the unprecedented action. In response, Lewis C. Turner replied that Mahony and his comrades asked for such an inclusion to expedite their release and because it was the prisoners who asked for it, it was granted and their released was processed. Federal officials’ calculated manipulation of the former prisoners’ legal ability to seek retribution calls into question the legality of investigations whose administrators proactively silence the wrongfully accused.

In both cases, authorities employed tactics that controlled the reaction from the supporters of those arrested and attempted to silence the detainees themselves.

The Turner Baker Files and the Questionable Evidence Used To Justify Arrest

Affidavits contained in the Turner-Baker Files reveal that charges of disloyalty were not

95 Case 413, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.


97 This public outrage will be seen in the many newspaper articles I analyze within the next chapter.


99 The Turner-Baker Files are a compilation of investigations into subversive activities during the civil war.
limited to cases of espionage or sabotage. Neither Blanchard nor Mahony directly aided the Confederacy, yet both were accused of disloyalty. Mahony’s newspaper was considered a rhetorical means of discouraging enlistments; Blanchard, meanwhile, was accused of being part of a secret organization, the Knights of the Golden Circle, whose efforts were to dissuade enlistments. In their cases, threatening the Northern war effort was enough to justify arrest. The vast array of evidence used in affidavits to prove their guilt reveals the ambiguity of disloyalty. This ambiguous definition was starkly divided along partisan lines. Loyalty’s vague definition gave Republicans the latitude to pick and choose who would be arrested and who would be spared. Ambiguity gave the power of discretion to those in charge of arrests, a power that could be easily abused.

Blanchard’s case file contained a number of supportive affidavits that attempt to prove his loyalty. The layout of these supportive affidavits used a more traditional legal argument highlighting practical portions of evidence to support Blanchard throughout his disloyalty investigation rather than using emotional anecdotes of his loyalty. Almost every affidavit in support of Blanchard followed the same format. The affiants began by stating their name and age, then proceeded to describe their relationship to Blanchard; most often this relationship referenced the number of years they knew Blanchard or the number of miles they lived away from him. Afterwards, the affiants described Blanchard’s habits throughout the summer of 1862, and many used the same alibi in reference to the day of his alleged meeting with the Knights of conducted by Lafayette Baker and Lewis C. Turner. Baker and Turner were Provost Marshals during the Civil War and together these men had jurisdiction over thousands of arrests that took place in the wartime North.


the Golden Circle.\textsuperscript{102} In the last portion of the affidavits, there were occasional notes with personal opinions about Blanchard’s character. It is likely that the structure of these documents mirror one another because they were written down by the same clerk in the Marshal’s office, who asked the same questions and wrote down answers from each witness. Even if their consistency was a result of the methods used to record the affidavits, it is important to note that they all lacked detailed descriptions of Blanchard’s loyalty and instead only used factual evidence to prove Blanchard did not attend a Knights of the Golden Circle meeting on August 10, 1862.\textsuperscript{103}

Many affiants in Dr. Blanchard’s case avoided arguments about loyalty and disloyalty; instead, they directly referred to the date of the accusation and cited evidence to prove that particular incident wrong. Though they referred to Blanchard as a “good and loyal citizen,”\textsuperscript{104} they omitted any mention for or against his past involvement with the Knights of the Golden Circle. Instead, the affiants universally mentioned an alibi from the day of his arrest and were only concerned with proving Blanchard’s innocence and loyalty at that point in time.\textsuperscript{105} Some, like John Logan,\textsuperscript{106} even admitted the possibility of Blanchard’s past involvement with the Knights of the Golden Circle, but deemed this fact irrelevant to the his case. Logan admitted that,\textsuperscript{107}

\textsuperscript{102} On the day of his alleged attendance at the Perry county Knights of Golden Circle meeting the affiants universally claim Blanchard was attending to a sick child. Case 142, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.

\textsuperscript{103} Case 142, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.

\textsuperscript{104} Case 142, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.

\textsuperscript{105} It should be noted one affidavit, the affidavit of Cyrus Thomas does state, that Blanchard “is not and never has been a member of the Knights of the Golden Circle.” However, the only evidence he used to prove this point is the same evidence used in most all of the affidavits, that Blanchard was impossibly far from Pinckneyville on August 10th. Case 142, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.

\textsuperscript{106} Refer to my introductory chapter for more information on the importance of Logan in the Civil War North and his relationship with his family.
“he may be a member of the Knights of the Golden Circle, I do not know whether he is or not but I am satisfied the published charges are utterly false and have no foundation.” Thus, the affiants in support of Blanchard did not deny the existence of the Knights of the Golden Circle nor his place within the organization. Instead, they offered a consistent alibi to prove Blanchard’s innocence from the day of the accusation. These supporters, rather than denying Blanchard’s involvement, denied his involvement in that specific instance, testified to Blanchard's loyalty at that moment and promised to ensure his loyalty for the remainder of the war. Thus, they defined Blanchard’s loyalty by his most recent actions, rather than the totality of his previous behavior.

Some affidavits in Blanchard’s file contained bits of information referring to Blanchard’s character and the traits that proved him loyal. In these instances, affiants associated loyalty with military action. In his affidavit, Logan repeatedly noted Blanchard’s interest in military service, which he believed served as evidence of his loyalty. He stated that,

Blanchard is a peaceable citizen, and as I believe a loyal man to this government, and has always delivered himself as such. He has frequently made applications to me to assist him in obtaining a position in the army, and at one time he tried to get up part of a company that he might enter the army as a lieutenant.

Here it seems the question of loyalty is resolved once Logan mentioned military service. Later in the letter, as Logan continued to describe the nature of Blanchard’s arrest, he stated that if the administration released Blanchard, he would ensure Blanchard’s loyalty with the promise that, upon release, Blanchard, “will enter into the service of the United States and make a good and efficient soldier.” Other affidavits make this association between military service and loyalty. For instance, Joseph Bumost, another Blanchard supporter who had known him for nearly ten years.

years, referenced Blanchard’s character, calling him “honest,” “hard working,” and a “good citizen.” In relation to the discussion of Blanchard’s loyal nature, Bumost stated that he knows “Dr. Israel Blanchard was trying to get a company for the purpose of joining the Union Army.” In both instances, affiants associated loyalty with military service; by extension it seems that to be disloyal was to have no intention of fighting. However, this mindset, linking support for the war with loyalty suggested partisan motives. Many Democrats refused to participate in the war effort because they considered it an “abolitionist war” and believed it to be destructive to the nation. Republicans, on the other hand, associated loyalty with participation in the war effort. Thus, one could be arrested for leaning towards the Peace Democratic political platform that refused to support the war. The belief that military support was linked with loyalty was pervasive throughout the investigations. Even supportive affiants thought the best proof of loyalty was to mention that the detainee had wanted to fight. Willingness to participate in military service became a test of loyalty in the wartime North.

Unlike Blanchard, whose case contained only supportive affidavits, Mahony’s case file was filled with nearly eighty pages of affidavits against him. Most of the evidence against him referenced his newspaper and charged him with influencing his readers to “discourage enlistments.” For instance, Joseph B. Door claimed that Mahony’s newspaper, the Dubuque Herald, “constantly misrepresented the government and the armies of the United States. . .


holding up to his readers exaggerated statements of the hardships and suffering of Federal soldiers with a view to prevent enlistments.”\textsuperscript{114} A number of affiants used similar evidence to support the claim that Mahony purposely discouraged enlistments when writing for his newspaper. The ambiguity of this charge enabled political opposition to suppress Mahony’s newspaper, which promoted a strong Democratic message. In another affidavit, a man named H. Henon stated that Mahony was disloyal because his paper:

> Advocates for unconditional peace and the recognition of the southern confederacy as a government de-jure while at the same time he denounces the President and advisers as traitors to their country. His influence is growing daily and in my opinion he should at once be arrested and the paper suppressed.\textsuperscript{115}

According to these affiants, Mahony’s rejection of the Lincoln administration and his opposition to the war constituted disloyalty. These loose accusations served as the evidence that justified a three-month long arrest. The affiants in Mahony’s case define a variety of ways that Mahony’s paper “discouraged enlistments,” and was therefore disloyal but none refer to any specific action of treasonous behavior. Instead, all refer to rhetorical strategies Mahony used against the Lincoln administration.\textsuperscript{116} The ambiguity of the word disloyalty enabled legal officials to suppress dissent with minimal evidence in cases like Mahony’s, whose newspaper only spoke out against the war and the Lincoln administration, yet was considered disloyal.

Mahony’s case file also contained a number of affidavits that associated loyalty with military involvement. Many of the affidavits that referred to Mahony and the military also contained elements of ethnic bias and constantly referenced his Irish heritage and the influence he had over the Irish-American community. The affiants specifically mention his ability to raise

\textsuperscript{114} Case 413, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.
\textsuperscript{115} Case 413, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.
\textsuperscript{116} Case 413, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.
an Irish-American regiment. For instance, Frank Robinson’s testimony stated the particular influence that Mahony, an Irish Catholic, had over the Irish population: “Mahony has instead of raising a regiment has exerted such an influence upon the Irish people as to prevent the raising of a regiment by others of the Irish Population and almost entirely deterred that class of our citizens from entering the field with American and German citizens.” Another affidavit by Frederick E. Pierce, used a similar argument, and angrily concluded that Mahony misused his influence over the Irish-American people to discourage enlistments rather than raise an Irish-American regiment in the county. Therefore, in Mahony’s case, it was the failed fulfillment of the potential he had to help support the military in the war effort that constituted his disloyalty.

Affiants who supported Mahony used a constitutional argument to aid their imprisoned friend. Rather than discussing the traits that made Mahony a loyal citizen, these authors made a point of describing the necessity for a trial in their affidavits. They claimed that Mahony was loyal and would be proven so in a court with a proper trial. A number of affiants used this argument. For instance, a judge named R. Steward called for a trial stating that “authorities who have him custody are requested to bring him forthwith to trial if he has committed any crime, and if not, to discharge him.” In another instance, a group of citizens from Delaware County, Iowa sent a resolution in relation to Mahony’s arrest. These citizens sent their resolution to the President, the Secretary of War, and every newspaper published in their Congressional District.


120 Case 413, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.
In their resolution they stated:

Whereas we learn with much surprise that our fellow citizen D. A. Mahony of Dubuque has been arrested by a force of armed men whose arrest is said to be by the authority of the War Department and without any allegation of crime against him we therefore find that the authorities who have him custody are required to bring him forthwith to trial if he has committed any crime and if not discharge him.\(^{121}\)

This large cohort of citizens was trying to get Mahony a trial, knowing that his loyalty would be easily proven in court. Mahony’s supporters refrained from using distinct examples of his loyalty; instead, they assumed it and pointed out the failure of the Lincoln administration to give him a chance to prove his innocence at trial. These requests, which questioned the Lincoln administration’s military-justice apparatus, highlight the political suppression that was occurring in the wartime North under the guise of “disloyalty.”

The Turner-Baker Papers also included correspondence between local government officials and Stanton in Old Capital about the investigations. These documents reveal the ambiguity of disloyalty even within governmental leadership. For instance, in Blanchard’s case D.L. Phillips, the U.S. Marshal of the Southern District Illinois, took note of his success in arresting the group of “leading members of the Knights of the Golden Circle,” stating that they were “a most dangerous and numerous lot of people in many parts of Illinois and that eight of the eleven persons arrested and delivered as aforesaid are shown to be leading members.”\(^{122}\) Later in the letter, he described the success of the arrests. With the “troublemakers” removed, enlistments increased in the regions where the Knights of the Golden Circle meetings had previously occurred. Meanwhile, the officials in Mahony’s case used the blanket accusation of “discouraging enlistments” to charge him with disloyalty. In a letter to Stanton, Marshal Hoxie referenced the influence Mahony’s newspaper had on lowering the number of enlistments in...

\(^{121}\) Case 413, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.

\(^{122}\) Case 142, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.
region. Hoxie stated that “Mahony had by every means in his power, sought to create divisions among the people of the North. . . and pledged to compel the United States Government to cease carrying on the war by recognizing the independence of the so called confederate states.”

Thus, some authority figures use the charge of “discouraging enlistments,” to prove Mahony’s disloyalty but they loosely interpret this action to include rhetoric against the war effort. Disloyalty is no longer bound to direct actions against the war effort but includes rhetoric opposing the war, creating a dangerous atmosphere for free speech during the Civil War.

**Friends in the Right Places**

After Lincoln suspended habeas corpus, he delegated military arrests to the State Department and, later, the War Department. Both departments were ill-equipped to make arrests, and each further delegated its authority down to local officials, giving local officials a great amount of power with little oversight. State Department records display this lack of oversight and organization: they show that at least forty-three percent of cases were made by local officials acting under the auspices of the State Department without specific authority or oversight. Due to this disorganization, local arrests often took place without the knowledge of high-ranking officials in the State Department. Analysis of correspondence between State Department officials and local police reveals that, in many cases, State Department officials only learned that arrests had been made when disgruntled family members or friends the prisoners had in Washington came to inquire about their status. If not for these influential people, cases were only seen by local officials, and never reached the judgment of higher-ranking authorities in the State Department. As Mark Neely has noted, “in this maze of fragmented authority, only the

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influential, resourceful, or lucky person found the proper channel for an appeal.” 125 Thus, only Northerners who knew the right people could get high-ranking officials to review their case for potential release.

Throughout their detentions, both Israel Blanchard and Dennis Mahony had supportive letters written on their behalf. John A. Logan directly influenced Blanchard’s case with a letter to President Lincoln, who informed State Officials that, after reading Logan’s letter, he was “strongly inclined” 126 to release Blanchard after the prisoner took a loyalty oath. A number of influential men likewise wrote on Mahony’s behalf. In his book, Mahony alluded to the necessity for influential assistance. One of the first things he did after his arrest was contact and request the help of his powerful friends in Washington. 127 In both cases, connections with influential people in Washington served as a way to inform State officials about the cases and expedite their processing. The disorganized nature of arrests and imprisonments gave extreme power to local officials that they sometimes abused, but loyalty’s ambiguous definition also enabled State Department Officials to mend their Departments’ transgressions quickly. Disloyalty’s lack of definition also created an ambiguous space through which politically-connected individuals could more easily secure a discharge

John A. Logan positively influenced Blanchard’s case. Just ten days after the arrest, Logan, Blanchard’s brother-in-law, wrote a letter to Lincoln strongly supporting the Doctor. 128


127 Dennis A Mahony, Prisoner of State (New York: Carleton Publisher, 1863), 122.

Logan was a Congressman and prominent voice from the region of Southern Illinois known as “Egypt.” In the beginning of the war he was a staunch Democrat who was reluctant to fight. However, soon it became politically imperative for Logan to support the war effort, because many publications were beginning to question his loyalty. These publications used the stigma attached to family, many of whom were highly sympathetic to the South (including Blanchard’s wife), as the basis to question his loyalty. After spending time in Washington, debating whether to join the war effort, Logan subtly grew more inclined to loosely support political measures that helped the war, though he still remained a proponent of compromise. However, as support for the war increased Logan’s approval began to suffer because of his resistance to the war effort. Finally, by the end of 1861, he came to witness a number of battles on the Bull Run campaign in person and “proved to his detractors that he was not afraid of the war, though he deplored it.” As the war continued to escalate he decided to resign his position in Congress and join the war effort Logan successfully erased the stigma surrounding his family by joining the war effort and becoming an ally of the administration. Thus, by 1863, when he wrote the letter on Blanchard’s behalf, Logan had become a close political ally of Lincoln by helping him increase Democratic support for the war.

Logan’s progression from staunch anti-war Democrat to military leader made him into a

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129 The origin of the name Egypt is debated but some claim the name originated from the region’s abundance of grain that many people sought during a drought in the 1830s, it was said these people’s carts of grain looked like the Israelites traveling to Egypt to purchase grain. Jon Musgrave, “Welcome to New Egypt,” IllinoisHistory.com, accessed April 16, 2017, http://www.illinoishistory.com/index.htm.

130 James P. Jones, Black Jack: John A. Logan and Southern Illinois in the Civil War Era (Florida: Florida State University, 1967), 103.


“political soldier” of the Civil War. His influence in the Midwest, a notoriously anti-Lincoln section of the U.S., made him a vital asset to the Lincoln administration.\textsuperscript{133} Due to his position in Washington, he was able to address his affidavit supporting Blanchard directly to President Lincoln. In the letter, Logan used associations with the military as a way to defend Blanchard’s loyalty. Throughout the letter he noted the many times Blanchard had attempted to join the war effort, and he ensured that Blanchard would fight if allowed to take the Oath of Loyalty.\textsuperscript{134} Logan also used himself and his association with Blanchard as a way to prove Blanchard’s loyalty. In the letter Logan stated, “If a bond of future conduct is required I myself am willing to enter one of any amount it may be fixed.”\textsuperscript{135} Here, Logan assured that he, a loyal person with a positive reputation in the eyes of the Lincoln administration, would ensure the continued loyalty of his brother-in-law. As a “symbol of loyalty”\textsuperscript{136} in the wartime North, Logan was able to use his status and future oversight as guarantors of Blanchard’s continued loyalty. Thus, association with those considered already loyal could make one “loyal” in the eyes of the law.\textsuperscript{137} In his letter, Logan also noted the other community members who supported Blanchard’s case. In the letter he stated that, “many of the most respectable citizens of Murphysboro and vicinity irrespective of party are willing to testify” that Blanchard’s arrest was “without

\textsuperscript{133} James P. Jones, \textit{Black Jack: John A. Logan and Southern Illinois in the Civil War Era} (Florida: Florida State University, 1967), intro.


\textsuperscript{135} Ibid


logan made a point to note that these were “respectable” citizens supporting blanchard. in this same line, logan also used the phrase “irrespective of party.” logan, a democrat, did not shy away from bringing up partisan politics. considering the context in the midwest, where copperhead democrats were prominent yet often associated with disloyalty, logan made an effort to show bipartisan support for blanchard’s loyalty. logan made sure to include republicans in his discussion to appeal to authorities reading the affidavit. this addition of party politics reveals the political nature of loyalty, which needed the approval of both democrats and republicans.

in prisoner of state, mahony noted the usefulness of influential advocates. after his arrest, he immediately wrote to powerful friends who, he hoped, could help him secure his release: “i took the first opportunity afforded to me to write some letters, to my wife first, then to some friends, as i thought, at home, and to others in iowa, information those who could not yet have heard of my arrest, and suggesting to some of them the interposition of their known personal influence with the secretary of war to obtain for me an early hearing.” though some of his close friends disapproved of mahony after his arrest, other connections helped him achieve freedom. for instance, as a fellow irish catholic, mahony obtained a letter of support from john hughes, the highest ranking catholic prelate in america, whom mahony had heard was visiting washington. hughes was closely connected to the secretary of state seward and wrote a letter

138 case 142, case files of investigations by levi c turner and lafayette c baker, 1861-1866, the national archives, washington d.c..

139 frank l. klement, lincoln’s critics, ed. by steven k. rogstad (pennsylvania: white mane publishing, 1999) 5-11 and case 142, case files of investigations by levi c turner and lafayette c baker, 1861-1866, the national archives, washington d.c..

140 dennis a mahony, prisoner of state (new york: carleton publisher, 1863), 121-124.

on August 27 on Mahony’s behalf. Historians like Richard Shaw have noted Hughes’ sympathy for the South. In his work, Shaw wrote that Hughes “had traveled in the South, made southern friends, and the University of North Carolina had honored him in a friendlier manner than he had ever met in the North.” Though Hughes was somewhat sympathetic to the Southern way of life, when war broke out he flew a Union Flag over the Cathedral as a symbol of Northern Catholic support for the Union and the war. However, this support was not without fear: he expressed grave concern about the violence of war, stating that, “it will be the most sanguinary if not ferocious war that ever dismayed humanity.” Many Irishmen were Democrats who opposed the war, and were enraged by Hughes’ expression of support. In response to these men, Hughes referred to his own loyalty and his fear that the church would be targeted. He stated, “The press would have sounded a report that Catholics were disloyal.” Thus, not only was the flag a gesture of support, it was also a manifestation of the church’s loyalty and a symbol Hughes had deployed strategically.

Hughes was a powerful Catholic figure in the U.S. and had a close long-standing relationship with Seward. He began his letter of support with a description of the long-term acquaintance he had with Mahony, stating, “I have known him for some thirty years.” He then excused Mahony’s actions as “foolish” rather than disloyal. In the letter, Hughes stated, “At first

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I thought him an idiot—or what the Irish people, in their strange bendings of charity and poetry together would have called an “innocent.” He is not a traitor, though he may have been foolish.\textsuperscript{147} Instead of attempting to explain Mahony’s loyalty, Hughes directly asked that Mahony be allowed to take an oath of allegiance. Hughes’ letter was not an attempt to decisively prove loyalty, but a maneuver to get Mahony’s case expedited and re-examined. After he stated his proposal to allow for Mahony to take the Oath, he recommended that “if he should refuse to take the oath of allegiance then let him be dealt with according to a merciful but rigorous interpretation of the law.”\textsuperscript{148} After this letter, as well as a mass of other letters of support, the Judge Advocate released Mahony on November 11, six weeks after John Hughes’ letter.

A close analysis of the affidavits in Mahony and Blanchard’s case files, the process by which they were arrested, and the methods by which they were released calls into question Lincoln’s military-justice apparatus. Both men had hundreds of affidavits written for and against them, but in neither case did either man’s accusers advance a consistent interpretation of disloyalty. This inconsistency demonstrated loyalty’s ambiguous definition in the wartime North, and the existence of a dangerous atmosphere for those accused that gave local officials the latitude to stifle political dissent. The secretive process of arrest, combined with the legal tools put in place to stifle dissent after release, further complicated the integrity of loyalty investigations. The dehumanizing actions taken by members of the general public and military during the process of these arrests exposed how divided the Northern population had become and how quickly many Northerners assumed guilt once charges of disloyalty had been leveled.

\textsuperscript{147} Case 413, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.

\textsuperscript{148} Case 413, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.
Disloyalty’s ambiguity worked two ways--it made it easy to charge someone and it gave officials the flexibility to clear the charge when politically convenient. Blanchard and Mahony both used influential political figures that adapted the definition of loyalty and disloyalty to benefit members of their immediate political networks. Mahony and Blanchard’s cases show that disloyalty in the Civil War was not limited to physical actions that clearly hindered the war, like sabotage or espionage, but also included indirect actions like speaking out against the government. This shift from direct actions to rhetoric gave an extraordinary amount of power to the discretion of local officials and blurred the line between dissent and disloyalty. These nebulous charges, combined with a partisan atmosphere of assumed guilt, gave the Lincoln administration the flexibility to stifle dissent under the pretense of punishing the genuinely disloyal. The manner in which these loyalty investigations took place and the ease through which authorities reversed charges when politically convenient reveals the questionable justice that reigned in the Civil War North.

CHAPTER III: DISLOYALTY AND THE COURT OF PUBLIC OPINION

Prior to their arrests, both Israel Blanchard and Dennis Mahony were prominent figures in their respective communities. Mahony, publisher of the Dubuque Herald, was a loud critic of the Lincoln Administration with a loyal following of Democrats in Iowa. During his arrest he alluded to this popularity throughout his encounter with Marshal Hoxie, who arrested Mahony in the middle of the night out of fear that Mahony’s large following would attempt a rescue. 149 Mahony was also politically prominent at the time of his arrest, and was nominated to represent Iowa’s Third Congressional District Congress during his time in prison. 150 Though he lost the

149 Dennis A Mahony, Prisoner of State (New York:Carleton Publisher, 1863), 118.
150 David W. Bulla, Lincoln’s Censor (Indiana: Purdue University Press, 2009), 109.
election to William B. Allison, he retained a loyal following and won the nomination despite his imprisonment and accusations that he was disloyal to the Union.

Israel Blanchard, a doctor from Illinois and the brother-in-law of John A. Logan, was also a prominent Democrat in his community. Local officials arrested Blanchard with a group of men accused of attending a Knights of the Golden Circle meeting, a conspiratorial organization whose goal was to assist the South in annexing the “Golden Circle,” a widespread geographic region that included the Caribbean, Mexico, and Central America that the group planned to use to add slave states to the Confederacy. One newspaper article claimed the “object of the organization is to throw obstacles in the way of the government and give aid and comfort to the rebellion in every possible way.” Officials arrested Blanchard after the organization held a meeting on August 10, 1862, during which members allegedly made plans to resist the draft, federal taxes and the general authority of the government. The Chicago Tribune described this mass arrest as well as local law enforcement's arrest strategy of targeting influential community members within the organization first: “It was thought better to secure the leaders, men of influence and standing in the community and let the dupers remain unmolested for the present.” Blanchard was one of these “men of influence” in Illinois, arrested and accused of disloyalty for his alleged attendance at the meeting. Both Blanchard and Mahony were well-known in their communities, so their arrests became high-profile cases that sparked public debate

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151 Refer to the Men of Influence Section in the previous chapter for more detailed information about Logan. He was a prominent Congressman turned war hero during the Civil War.


about their disloyalty in the press. This widespread circulation reveals that conversations about disloyalty were not limited to legal venues but also hotly debated in the public sphere.

After their arrests, both Blanchard and Mahony still remained prominent voices within their Democratic communities. Many supporters remained loyal to the men after their arrests, strengthening their public personas. For instance, when Mahony returned to Iowa from Old Capital on November 11, 1862, a crowd of thousands greeted him.\textsuperscript{155} As one newspaper reported, he was met by ‘huge concourse of citizens’ benefits on the levee, a marching band, speeches by Ben M. Samuels and Judge James Wilson, and a parade through the streets of Dubuque to Mahony’s home.’\textsuperscript{156} Mahony’s arrest did not weaken his Democratic support in Dubuque; after his arrest, he was elected sheriff, a role he held for the next four years. Neither did his arrest stop his journalistic quest to undermine the Lincoln administration. In fact, in 1869, he started another newspaper called the \textit{St. Louis Star} and eventually returned to Dubuque where he continued to edit the \textit{Dubuque Herald} until his death in 1879.\textsuperscript{157}

If his arrest was intended to stop him from publicly opposing the Lincoln administration, it did the opposite. While imprisoned, he began writing \textit{Prisoner of State}, a book that would become his most “seminal work” and a scathing attack on the Lincoln administration.\textsuperscript{158} Almost immediately after his arrest, he worked to have it published. By 1863, it was published both as a book and as a pamphlet entitled “Four Acts of Despotism” in New York. The works were both

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\item \textsuperscript{155} Mercedes Maloney, “With Malice Toward One: Dennis A. Mahony during the American Civil War,” (master’s thesis, Marquette University, 1979), 25.
\item \textsuperscript{156} David W. Bulla, \textit{Lincoln’s Censor} (Indiana: Purdue University Press, 2009), 111.
\item \textsuperscript{158} It is relevant to note that he was allowed to publish this book at all, under a true dictatorship this would be forbidden.
\end{itemize}
extremely influential. In fact, after its publication, one pro-Republican newspaper noted that “Four Acts of Despotism” played an influential role in the draft riots in New York in July 1863.\textsuperscript{159} The price also increased the publication’s reach. Mahony purposely limited the book’s price “to such an amount as will place it within the reach of most persons who desire to read a book of this kind.”\textsuperscript{160} Mahony’s arrest did not squash his efforts to criticize the Lincoln administration; instead, his imprisonment became a source of evidence that Mahony used in his writing to exhibit the wrongdoings of the Lincoln administration.\textsuperscript{161}

*Prisoner of State* argues against the constitutionality of the powers Lincoln assumed during the war, detailing the conflict between Chief Justice Taney and Lincoln over the President’s assumption of power, Mahony’s own arrest and imprisonment in Old Capitol, as well as the stories of a number of other inmates imprisoned during the Civil War. At the end of his book’s introduction, Mahony stated his book’s purpose: “A perusal of the following pages of this work might aid in arriving at such conclusions as will have a tendency to restore our violated Constitution to its former purity, and our subverted government to its original integrity, harmony and glory.”\textsuperscript{162} Throughout the book, he discussed his imprisonment and argued vehemently against the Lincoln Administration’s use of wartime power. For instance, when describing the process of his arrest, he expressed regret over conceding so easily to arrest. In the book he noted,

And I would take this opportunity to say, that never did the American people make a greater mistake or sacrifice their rights so cheaply as to have submitted to these arbitrary and illegal arrests. I blame myself as well as others for having submitted as I did to be taken from my home by Marshal Hoxie without making some effort, even though it should have been unsuccessful to preserve my personal rights as an American

\textsuperscript{159} David W. Bulla, *Lincoln’s Censor* (Indiana: Purdue University Press, 2009), 111.

\textsuperscript{160} Dennis A Mahony, *Prisoner of State*, (New York:Carleton Publisher, 1863), conclusion.


\textsuperscript{162} Dennis A Mahony, *Prisoner of State*, (New York:Carleton Publisher, 1863), 28.
citizen. Had I shot him own, or any one of the party who accompanied him, I would have only performed my duty and exercised my inalienable and constitutional rights as an American. 163

In his writing, Mahony turned himself into a political symbol, making a mockery out of the word disloyalty by turning the accusation of disloyalty against him into an exposé of the Lincoln administration’s abuse of power. He used his case as a piece of evidence in larger argument about Lincoln’s assumption of extra-constitutional wartime power that was central to the Democratic Party’s politics during the Civil War. For instance, in his book he made a point to include the issues he had with Governor Kirkwood during his investigation. When Marshal Hoxie first arrested Mahony, Mahony asked to see Governor Kirkwood before exiting Iowa. He attempted to get the governor to examine his case because he knew Kirkwood personally and assumed the Governor would give him a trial, which would prove his innocence. Marshal Hoxie, however, lied about his intention to let Mahony see Governor Kirkwood. In a desperate last attempt to get the governor’s attention, Mahony wrote to him and received a cold reply, an “insulting letter, assuming that I was disloyal to the government.” 164 Mahony used this instance with the Governor as a piece of evidence to prove that the federal government was abusing its power over the states. He noted, “what security is there in State governments from the encroachments of Federal power, if the Governors of States become, whether through dread of power or influenced by its favor, recreant to their duty and treacherous to the trust reposed in them by the people.” 165

Mahony used his experience as a “martyr of arbitrary arrest” 166 to build his credibility to

163 Dennis A Mahony, Prisoner of State, (New York: Carleton Publisher, 1863), 129.
164 Dennis A Mahony, Prisoner of State, (New York: Carleton Publisher, 1863), 129.
165 Dennis A Mahony, Prisoner of State, (New York: Carleton Publisher, 1863), 131.
166 Burlington Daily Hawk-Eye, June 25, 1863, accessed November 10, 2017,
speak against the Lincoln administration. Thus, Mahony reclaimed the definition of disloyalty, shifting the definition from a label disdain against him to a word that described the Lincoln administration’s corrupt use of wartime power. Using his book as a platform, Mahony created his own definition of disloyalty. He used his experience to continue his campaign against Lincoln, describing the partisan nature of his arrest and the violation of his civil rights. Mahony defined his own actions as partisan, not disloyal. He considered a government that arrests its citizens without trial disloyal to its people and in violation of the civil rights laid out in the Constitution.

Even while in prison, Mahony remained politically active and campaigned for the rights of political prisoners, in addition to the publication of his book in 1863. For instance, he was president of the “Prisoner of State Association,” which fought for prisoner’s rights to:

> Obtain satisfaction for the outrages to which we, prisoners of State, have been subjected, and reparation for the injuries done us in person and property for the further purpose of doing what becomes us as American patriots to preserve our constitution and government from total subversion and the liberties of the people from subjection to arbitrary powers.  

After his release, the group held a “Convention of State Prisoners,” on March 4, 1863, in New York. He published his book in the same year and *Prisoner of State* served as a platform for Mahony to express his opinion about his imprisonment and the growing number of wartime arrests for disloyalty. Within his own community, Mahony’s arrest did not harm his popularity -- not only was he able to continue his campaign against Lincoln but his arrest also gave him a personal experience he could use to express dissatisfaction with the way the Lincoln government used wartime power.

Blanchard, on the other hand, was released from prison after a number of weeks. While

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less documentation existed concerning Blanchard’s post-arrest life than on Mahony’s, it is clear that Blanchard remained a prominent citizen in Murphysboro, Illinois after his arrest and continued to speak out against Lincoln and his party. After his imprisonment Blanchard, like Mahony, became a public official, serving in the State Senate of Illinois in 1864, winning the election by a 3,000 majority in November 1863.\textsuperscript{169} Despite the prominence of his brother-in-law, John Logan, who by the end of the war had become a decorated war hero and switched political parties to represent the Republican Party in Congress, Blanchard remained an outspoken critic of the Republicans and Lincoln. In fact, Logan’s political shift estranged him from many family members, including Blanchard who, on one occasion, physically attacked Logan for his view of the war and political beliefs.\textsuperscript{170} Even after the war, Blanchard and his wife continued to disrupt Logan’s Republican agenda. For instance, in a political debate in Carbondale in 1866 when Logan was running as a Republican for Congress, Logan denied that he affiliated with the Democrats and what he called “the party of treason.” Upon hearing this, Dorothy, Blanchard’s wife, stood “to her feet shouting that Logan aided her husband in support of the Rebellion.”\textsuperscript{171} It was clear that Israel and his wife were adamantly against Logan’s political transformation and remained opposed to Republican policy after Israel’s arrest. Blanchard’s imprisonment was also cited in \textit{American Bastille}, a book that was widely circulated after the war that offered accounts of illegal arrests and imprisonments.

\textit{American Bastille} would become a linchpin in the historiography on Lincoln’s suspension of habeas corpus. The agenda of the author, John A. Marshall, was partisan in nature


\textsuperscript{170} James P. Jones, \textit{Blackjack: John A. Logan and Southern Illinois in the Civil War Era} (Florida: Florida State University, 1967), 101.

\textsuperscript{171} James P. Jones, \textit{Blackjack: John A. Logan and Southern Illinois in the Civil War Era} (Florida: Florida State University, 1967), 281.
and the book, first published in 1869, would go through an estimated thirty-four editions. The book achieved wide popularity within Democratic circles, and Democratic leaders often used Marshall’s accounts of the arrests in political speeches. However, the discussion of Republican tyranny and Lincoln’s wartime actions was not without impediment, because bringing up the constitutionality of Lincoln’s actions also reopened concerns about the Democrats’ past loyalty in a war the United States won. However, the book itself had lasting importance, shaping historical scholarship around the subject. Blanchard, like Mahony, used his arrest as evidence of the Lincoln administration’s faults when he participated in the public conversation about loyalty. After his imprisonment, Blanchard’s reputation was not ruined; rather, he became, as Marshall stated, a “sterling advocate of the principles of Liberty and Free Government.” After a stint in the State Senate he moved back to Murphysboro, Illinois to continue practicing medicine.

Newspapers that reported on the cases of Israel Blanchard and Dennis Mahony reveal the variety of public opinion in the wartime North and the perpetual discussion about loyalty and disloyalty that preoccupied wartime Northerners. Some abolitionist newspapers excoriated Mahony, calling him “the blackest-hearted traitor in the country.” Others, like the Chicago Tribune, which reported on Blanchard’s arrest, contain evidence and details about the cases. In fact, multiple people involved in Blanchard’s case cited newspapers as the means through which

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175 “The Traitor Mahony Elected for Congress,” *The Daily Wabash Express* (Terre-Haute, Indiana), September 1, 1862.

they found out about the accusation against him.\textsuperscript{177} In this sense, newspapers were the medium through which the public defined and discussed disloyalty.

As the publisher of his own newspaper, Mahony’s arrest was widely covered within the partisan press. Almost every newspaper discussing Mahony’s loyalty used different evidence to supplement its argument for or against his loyalty. The broad journalistic interpretation of Mahony’s arrest combined with the wide variety of accusations made against Mahony contributed to the ambiguity of the definition of disloyalty. Constant debate over cases of disloyalty in the public sphere furthered this ambiguity.

Every time Mahony’s arrest was mentioned in the press it afforded newspapers the opportunity to spread a partisan message about the nature of loyalty. A number of Republican newspapers described his arrest, but each offered different evidence as reasoning for his imprisonment. For instance, the \textit{Iowa Daily Register} described Mahony’s connection to the Knights of the Golden Circle, a secret secessionist society, as an example of his traitorous ways. The paper noted the number of Iowa members and accused Mahony and his paper of membership, stating with strong anti-Catholic sentiment that “their chief priest has felt the strong hand of the law! Let his disciples attempt his rescue if they dare!” \textsuperscript{178} Meanwhile, newspapers like the \textit{Fairfield Weekly Ledger} focused on a particular instance in which the paper failed to criticize Senator George Washington Jones, a man who the \textit{Fairfield Weekly} believed to be a secession sympathizer, at a state convention. The \textit{Ledger} accused both men of harboring secessionist sympathies—Jones for writing a letter to Jefferson Davis at the beginning of the

\textsuperscript{177} Case 142, Case Files of Investigations by Levi C Turner and Lafayette C Baker, 1861-1866, The National Archives, Washington D.C.

war, and Mahony for not criticizing Jones. The \textit{Ledger} considered them both “avowed sympathizers with the rebellion.”\textsuperscript{179} Thus, in the eyes of the editors of these newspapers, mere affiliation with those who favored the South was cause for arrest and evidence of disloyalty. In the eyes of this media, Mahony was guilty by association.

The idea that Mahony had committed crimes of omission was behind charges of disloyalty from the \textit{Iowa Daily Register}. Mahony, the \textit{Register} claimed, was guilty because he failed to use his newspaper to support of the Lincoln administration. “Instead of proffering that aid, they have thrown every possible obstacle in the way of the union cause, palliating if not defending the great crime of the revolted states”\textsuperscript{180} So not only was one guilty for interacting with Southern sympathizers, one could also be guilty of disloyalty if he/she did not support the government sufficiently. Republican newspaper editors had different ideas about what constituted loyalty or disloyalty, though they agreed that Mahony was disloyal. Disloyalty was a strangely ambiguous concept that could be proven by many different pieces of evidence. Some newspapers did not articulate a clear reason why Mahony should be considered disloyal, instead they made a general charge of “discouragement of enlistments.” As the \textit{Burlington Hawkeye} noted, “The principle of Mahony's just as certainly discourages enlistments as it gives aid and comfort to rebels.”\textsuperscript{181} Almost every Republican newspaper reported Mahony’s arrest under different terms, and Republicans editors made no attempt to create a standard report of the incident. Mahony’s arrest for disloyalty was not simply contained to a legal proceedings but an

\textsuperscript{179} Fairfield Weekly Ledger, August 14th 1862, accessed November 5, 2017,\url{https://newspaperarchive.com}.

\textsuperscript{180} Iowa Daily State Register, August 21, 1862, quoted in David W. Bulla, \textit{Lincoln's Censor} (Indiana: Purdue University Press, 2009), 108.

\textsuperscript{181} Burlington Hawkeye quoted in \textit{Iowa Daily State Register}, Sept 2, 1862, quoted in David W. Bulla, \textit{Lincoln’s Censor} (Indiana: Purdue University Press, 2009), 107.
issue partisan newspapers debated in the public sphere.

Meanwhile, Democratic newspapers, particularly Mahony’s *Dubuque Herald*, attempted to defend Mahony and his loyalty. Many of these newspapers attacked the Lincoln Administration and questioned the constitutionality of its behavior, asserting that the government had political motivations for arresting Mahony. The Democratic press criticized the Lincoln administration’s actions, claiming that the government, through its actions, was disloyal to its people. Democratic newspapers made a point to describe Mahony’s loyalty to the law, not his loyalty to Lincoln. Many Democratic newspapers purposely omitted Lincoln and his administration from the discussion of loyalty altogether. In their reporting, they separate Mahony’s loyalty to the administration from his loyalty to the country. For instance, the *Dubuque Herald* covered the entirety of his arrest. On August 13, 1862, the day before Mahony’s incarceration, it alluded to the population’s general suspicion about Irish-Americans, and specifically referred to a *Times* article that questioned the loyalty of the Irish and the influence Mahony’s newspaper had over this population.¹⁸² Once arrested, the *Herald* argued in favor of Mahony, making a particular point to discuss Mahony and the paper’s loyalty to the Constitution while omitting any suggestion of loyalty to Lincoln. The paper used a constitutional argument to defend its editor: “If the president subverted the constitution the people ‘had a right to resist such a subversion.’”¹⁸³ The *Davenport Daily Democrats and News* also used a constitutional argument, claiming that the “law” is the only chance someone like Mahony had:

Let Democrats remember that there is but one safe way out of the terrible troubles which rebellion against the law, north, and South, has brought upon us. This is, by standing up for the SUPREMACY OF THE

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LAW at all times, in all places and under all circumstances. If Mr. Mahony has been wrongfully arrested, and if he be innocent, the law will vindicate him, and nothing else can.\textsuperscript{184}

Democratic newspapers used constitutional and legal arguments in Mahony’s defense. They made a distinction between loyalty to the government and loyalty to the Constitution, favoring the constitutional argument which they used to defend Mahony and shift the question of loyalty onto the government and its loyalty to the Constitution and the rights of the American people.

Democratic newspapers also chastised the Lincoln administration for targeting and arresting Democrats and using the machinery of government to serve partisan ends. On August 21, 1862, the \textit{Herald} referred to the large number of Democrats who authorities frequently arrested but rarely ever found guilty of disloyalty.\textsuperscript{185} Charles Mason, a former Iowa Supreme Court Justice, tried to have Mahony released, but by the time he attempted to use a legal maneuver to rescue Mahony, the authorities had already turned Mahony over to a military commission to be tried as a political prisoner. Mason, who reported information to the \textit{Herald}, assumed that authorities arrested Mahony and other politically prominent Iowa Democrats to secure political advantage for the Republican Party in “the approaching election in our State.”\textsuperscript{186} Mason predicted that Mahony, who would not be able to receive outside news when imprisoned, would become the nominee for Congress and would be released just after the election.\textsuperscript{187}

\footnotesize\textsuperscript{184} \textit{The Davenport Daily Democrats and News}, September 23, 1862, quoted in David W. Bulla, \textit{Lincoln’s Censor} (Indiana: Purdue University Press, 2009), 110.


\footnotesize\textsuperscript{186} David W. Bulla, \textit{Lincoln’s Censor} (Indiana: Purdue University Press, 2009), 109 and \textit{Dubuque Herald} quoted in \textit{De Moines Iowa Daily State Register}, September 1862.

\footnotesize\textsuperscript{187} David W. Bulla, \textit{Lincoln’s Censor} (Indiana: Purdue University Press, 2009), 109.
Mason’s predictions proved accurate. In their writing it becomes clear that Democrats were aware of the political convenience of these arrests, which, particularly in Mahony’s case, were advantageous to the Republican Party.

Mahony’s arrest and political prominence kept his case and the broader debate about loyalty circulating within the journalistic community. Just five days after his arrest, Democrats nominated Mahony to represent the third congressional district of Iowa in the House of Representatives. His nomination sparked a new wave of articles for and against him. Many Republican newspapers expressed outrage at his nomination. Some, like the Iowa State Register, noted that his nomination “was bold to say the least.” Meanwhile, other newspapers used inflammatory rhetoric, calling his nomination an outrage and stating that Democrats “cannot expect any considerable portion of the people of that District to treat such a nomination with anything but scorn, contempt, and loathing.” Still others, like one entitled “The Traitor Mahony Nominated to Congress,” used similar critical rhetoric against Mahony and those who supported him to express their discontent with the Democratic Party’s support of Mahony. After his nomination they stated: “thus, the Democratic party formally sanctions the acts of one of the blackest hearted traitors of the country.” Republican journalists expressed discontent with the nomination and anger at the direction of the Democratic Party, furthering the partisan divide already apparent in the newspapers of the wartime North. Some publications went so far as to

188 Dennis A Mahony, Prisoner of State, (New York: Carleton Publisher, 1863), 127.

189 Des Moines Iowa Daily State Register, August 26, 1862 quoted in David W. Bulla, Lincoln’s Censor (Indiana: Purdue University Press, 2009), 110.

190 Fairfield Weekly Ledger, September 4, 1862 quoted in David W. Bulla, Lincoln’s Censor (Indiana: Purdue University Press, 2009), 110.

191 “The Traitor Mahony Nominated to Congress,” The Daily Wabash Express, September 01, 1862, accessed December 21, 2017, http://chroniclingamerica.loc.gov/lccn/sn84038189/1862-09-01/ed-1/seq-2/#date1=1860&index=1&rows=20&words=Dennis+Mahony&searchType=basic&sequence=0&state=&date2=1868&proxtext=dennis+a+mahony+&y=0&x=0&dateFilterType=yearRange&page=1/.
claim that anyone who supported him should be arrested for supporting a traitor. The *Chicago Tribune* argued that any man who voted for him ought to see time in a military prison.\(^{192}\) The range of anger and the sweeping assertions about how to respond to Mahony’s disloyalty and nomination reveal how partisan the debate about loyalty had gotten; it appears that some Republicans only tolerated certain opinions during wartime. This included opinions that fell within the range of what Republican’s considered ‘loyal.’ Namely, full support for the war effort.

These newspapers not only displayed the partisan discontent that arose with Mahony’s nomination, but also the variety of opinions within the Republican Party. The level of anger expressed as a result of his nomination ranges widely from a comment on its boldness to a vitriolic statement requesting the arrests of those who voted for Mahony. The magnitude of punishment and discontent reveals the problematic nature of disloyalty’s ambiguous definition and Mahony’s arrest. Some of the Republican Party believed that his supporters should be arrested and imprisoned for voting, while others believed his election was constitutional but unwise. While there is likely some level of hyperbole in these statements, they still created a dangerous atmosphere for those accused of disloyalty, subject as they were to Republicans’ range of emotional responses. This range of emotion and lack of clearly-defined parameters increased the number of arrests in the wartime North. With this range of emotion, no one was safe. Some moderate Republicans made few justified arrests, meanwhile Radical Republicans who were eager to stamp out disloyalty arrested hundreds regardless of evidence.

The Democratic press was quieter on the topic of Mahony’s nomination. Instead, its view was manifested in its ability to help Mahony win the nomination, which amounted to a sweeping

\(^{192}\) *Chicago Tribune* paragraphed in *Des Moines Iowa State Register*, September 5, 1862, quoted in David W. Bulla, *Lincoln’s Censor* (Indiana: Purdue University Press, 2009), 110.
statement of their support.\textsuperscript{193} The day before the election, Stilson Hutchins, who ran the \textit{Herald} during Mahony’s arrest, printed Mahony’s views in a long letter. Mahony began this article with an acceptance of the nomination pending his release from prison and his ability to exercise the office. He then addressed each of the accusations against him and discussed the political platform he shared with many Democrats, quoting the slogan “constitution as it is the Union as it was, the government as it should be.”\textsuperscript{194} Mahony argued against the accusation of his disloyalty against him by posing a rhetorical question: “Is it disloyalty to believe and to say that the President of the United States has no more right to trample on the Constitution and subvert the Government than any other citizen has[?]”\textsuperscript{195} Mahony also used the piece to describe his political platform, which favored the Constitution but opposed the Lincoln administration, which he believed had acted contrary to the Constitution. He also opposed the war, which he believed to be a major part of the abolitionist agenda.\textsuperscript{196} Though Mahony won the nomination and the support of many Democrats, he lost the election to William B. Allison by 3,660 votes.\textsuperscript{197} Despite his defeat, his nomination kept the debate about his loyalty in the public eye, and gave him an opportunity to continue to argue against his arrest and for Democratic policies. Dennis Mahony never fully faded from the public eye despite the four months he spent in prison.

There was much less discussion and variety of opinion about Israel Blanchard while he was imprisoned. Many newspapers that wrote about Blanchard focused more on the Knights of

\textsuperscript{193} Note the number of Republican Newspapers above that expressed discontent about his nomination.


\textsuperscript{197} David W. Bulla, \textit{Lincoln’s Censor} (Indiana: Purdue University Press, 2009), 111.
Golden Circle’s activities and the meeting that took place in August rather than concentrating specifically on Blanchard. Many of the newspapers that described Blanchard referred to him as a “secessionist sympathizer,” assuming his guilt and political leanings without question. For instance, the *New York Herald* lumped his arrest in with the rest of the news from Cairo, stating matter-of-factly that “Israel Blanchard, another secessionist sympathizer, living at Carbondale, has been arrested and sent to Springfield for trial for treason.” 198 This article automatically assumed his guilt and discussed his arrest as a piece of news rather than a hotly-debated topic. The *Vincennes Gazette*, from Indiana, reprinted the exact same line. 199 Questions over Blanchard’s loyalty sparked little debate; many editors assumed his guilt and there seemed to be little to no need for further explanation about the motivations behind his arrest. Blanchard’s presence in the news cycle was much different from the widely and hotly debated case of Dennis Mahony. This difference may be explained by a number of contributing factors. First, Mahony ran his own newspaper and benefitted from the support of numerous Democratic journalists who defended him throughout his imprisonment, which made it necessary for Republican publications to give evidence in their rebuttals. Second, Mahony was nominated to Congress while in prison, making his case particularly controversial and widely acknowledged within the journalistic sphere. Blanchard’s case was also not an individual one; authorities arrested him with a large group of men they accused of participating in the Knights of Golden Circle meeting on August 10th, 1862. 200 Some newspapers focused on the details of that meeting, stating Blanchard’s name

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but refraining from including personal details. For instance, the Chicago Tribune, in an article reprinted in the National Republican, discussed the meetings and common practices of the Knights of the Golden Circle as well as the agenda of the meeting in detail but failed to describe Blanchard individually. Blanchard’s name was often buried within the list of prominent citizens of Illinois accused of attending the KGC meeting. These newspaper articles were vital sources of information for citizens in Illinois. In fact, many people who wrote affidavits in favor of Blanchard learned about the crime and details of case proceedings through newspapers. For instance, in his affidavit, Cyrus Thomas, who claimed to have known Blanchard for ten years, stated that he did not know anything about the charges other than what was written in the newspaper and, based on these accounts, he noted that Blanchard was never a member of the Knights of the Golden Circle and had been attending to a sick child on August 10th. After the handful of articles published during Blanchard’s imprisonment, he was only mentioned a few times again in the press. After his arrest, Blanchard was mentioned for allegedly committing fraud in the 1864 election; the newspaper in question referred to him in hostile terms, as, “The notorious Israel Blanchard.” After the war, his name was used in relation to his brother-in-law, John A. Logan, who became a famous Democrat turned Republican.


\[204\] “Loyalty of Logan,” The Evening Argus, October 10, 1866, accessed December 22, 2016, http://chroniclingamerica.loc.gov/lccn/sn84038628/1866-10-10/ed-1/seq-2/#date1=1860&index=0&rows=2.0&wory=0&x=0&dateFilterType=yearRange&page=1&start=&date2=1866&proxtext=Israel+Blanchard+Israel+Blanchard&
was less discussed than Mahony’s, but his assumed guilt in many of the newspapers in which his name did appear reveals how quickly the press could brand someone disloyal.

Newspapers also assisted in the calculated manipulation of the public. For instance, a newspaper article in the *Chicago Tribune*,\(^{205}\) discussing Blanchard’s arrest, noted the editor’s role in strategically delaying the release of information about the case. After Blanchard’s arrest, the paper ran a delayed article on his case that began with an apology. In the apology, the newspaper’s editor explained that he had purposely delayed publication in compliance with a request from Major Merrill, who claimed that the “ends of justice” might be “defeated if a premature publication was made.”\(^{206}\) Thus, the *Chicago Tribune* cooperated with the government to stall the publication of Blanchard’s arrest to ensure that Blanchard’s supporters would fail to be able to act against the detention. This argument mirrored Marshal Hoxie’s justification for arresting Mahony in the early hours of the morning.\(^{207}\) During the war the Lincoln administration systematically censored the press: many Democratic editors were imprisoned and occurrences like the one noted above were relatively commonplace.\(^{208}\) The Lincoln Administration’s press censorship and careful control of public reaction to arrests brings to light the questionable justice served in loyalty investigations.

Disloyalty’s definition was partisan and ambiguous, and constantly changing in the public sphere. The concept was hotly debated in the Northern press, both by Republican

\(^{205}\) In 1862 the *Chicago Tribune* was a Republican Paper owned by Joseph Medill, a proponent of abolition and a supporter who helped Lincoln rise to power in his first presidential election. The paper was Republican and anti-Catholic as well as anti-Irish. This information is from: Lloyd Wendt, *Chicago Tribune: The Rise of a Great American Newspaper* (Chicago: Rand McNally & Company, 1979).


\(^{207}\) Dennis A Mahony, *Prisoner of State*, (New York:Carleton Publisher, 1863), 121.

newspapers and from Democratic defenders. Mahony’s case, which was more widely debated and reported than Blanchard’s, revealed the range of opinions about loyalty within the Republican Party. In Blanchard’s case, most newspapers failed to even offer a reason for his disloyalty, instead they assumed the truth of the charges against him and refer to him as a “secessionist sympathizer” without explanation. Mahony and Blanchard, who remained prominent citizens after their arrests used their experiences to continue to criticize the Lincoln administration, highlighting the ambiguous definitions of disloyalty that existed in the wartime North. Not only did both become elected public officials, a testament to the loyal allegiance of their supporters, but their cases were both featured in published pieces that accused the government of disloyalty to the Constitution. In these pieces, both authors argued against their arrests by questioning the legality of the Lincoln administration’s actions. Thus, on one hand Mahony and Blanchard turned themselves into martyrs for the Democratic cause in the wake of these accusations. However, on the other hand, newspaper accounts of their arrests reveal how differently people in the public sphere perceived them and how members of the Northern public defined disloyalty. The partisan nature of these accounts about disloyalty further hindered Northerners’ ability to define disloyalty consistently, which contributed to its vague definition. This blurry line between tolerable dissent and disloyal action becomes apparent in the public discourse, adding to the ambiguity surrounding disloyalty in the wartime North.

CONCLUSION: LOYALTY & WAR IN AMERICA

Every major war in American history has called into question the balance between American civil liberties and national security. Frequently the conversation about dissent, civil liberties and patriotism during wartime has been accompanied by a supplementary legal...
conversation about presidential use of wartime power. This thesis draws attention to a concept, and two specific cases, that might otherwise be easily lost in the sea of legal and historical work on the topic of presidential wartime powers and civil liberties. My research zeros in on one specific word, which has become ubiquitous in America during wartime: disloyalty. I began this a research project attempting to understand how the word disloyalty was used in the wartime North, but my research showed me that disloyalty had no consistent definition during the war. This lack of definition gave rise to various interpretations about what constituted disloyalty in a situation where local officials possessed concerning amount of power to make arrests outside the normal bounds of legal procedure. An analysis of wartime newspapers covering Dennis Mahony and Israel Blanchard’s arrests reveals the wide range of charges various Northerners made in an attempt to describe the disloyalty of these detainees. This inconsistency and ambiguity displayed in these newspapers was emblematic of the atmosphere created by the Lincoln administration: one in which the vague nature of ideas about loyalty and disloyalty could allow government officials to not only suppress dissent but also drop the charges when it became politically convenient. Though these two cases were relative anomalies compared to the average arrest for disloyalty, their cases reveal the dark side of the military-justice apparatus Lincoln created.210

Even under President Lincoln’s, benevolent leadership, war powers that ultimately led back to the executive could be easily abused. The Lincoln Administration’s assumption of seemingly unlimited presidential war powers, poor delegation of authority and, most importantly, rhetorical flexibility surrounding “loyalty” and “disloyalty” during the Civil War set an alarming precedent for the rights of American citizens during wartime, especially in the event that a subsequent American president lacks the honest demeanor of a president like Abraham Lincoln.

The ambiguously defined nature of loyalty and disloyalty during the Civil War, and the actions this ambiguity enabled, highlights two closely related themes that have been present during wartime throughout American history. The first is the distinction between nation and party. During the Civil War, Republicans rebranded their party as the “Union Party.” The Union Party was intended to stand in for the nation as a symbol of patriotism and nationalism, a reality that made anyone who opposed this ‘party’ a traitor to the nation. This created an atmosphere in which the administration could suppress political resistance under the guise of disloyalty. The second theme, closely linked to the first, is the difference between disloyalty and dissent. Historically, many Americans have seen disloyalty in anything that undermines American national interest; and during wartime Americans have branded anything that undermines the war effort as disloyal. The word “dissent,” however, is a close cousin of the word disloyalty. Many Americans see dissent as productive resistance. America thrives on dissent, as, historically speaking, dissent against the status quo has enabled progress and change in democracy. The distinction between these two words blurs during conflicts like the Civil War where it became hard to distinguish between political interests and concerns about national security. This thesis brings attention to a question that Americans must continue to ask today: what is the difference between dissent and disloyalty? Neither Blanchard nor Mahony directly aided the Confederacy, yet Northern officials accused both of disloyalty. Local officials considered Mahony’s newspaper a rhetorical means of discouraging enlistments, and they accused Blanchard of membership in a secret organization, the Knights of the Golden Circle, which sought to dissuade enlistments. Disloyalty cases were not limited to cases of espionage or sabotage; simply opposing the Northern war effort was enough to justify arrest. As Lincoln noted

in a letter about his understanding of loyalty:

The man who stands by and says nothing, when the peril of his government is discussed cannot be misunderstood. If not hindered, he is sure to help the enemy. Much more if he talks ambiguously for his country with “buts” “it’s” and “ands.”

It seems that Lincoln believed one could be guilty of disloyalty if he/she did not support the government sufficiently. However, if simply opposing the war is an act of disloyalty, where is the line between dissent and disloyalty? This unresolved tension between loyalty and disloyalty, and the suggestion that one cannot oppose the war without being disloyal, set a dangerously partisan and frightful precedent that has influenced subsequent American history.

The Lincoln administration’s robust military-justice apparatus created to stamp out disloyalty set a precedent for loyalty investigations that wartime Presidents have continued to built upon. In fact, just forty-nine years later, at the start of World War I, President Woodrow Wilson created an extraordinarily similar apparatus. In the early years of World War I, isolationist Americans stayed out of the European war. However, German aggression on the high seas, combined with Wilson’s growing desire to use US involvement in the war to control the post-war peace settlement propelled America into war. In 1917, Wilson, who had been re-elected in 1916 as the president who “Kept Us Out of War,” oversaw America’s entry into the war as well as a harsh campaign to stamp out resistance to the war effort. “If there should be disloyalty it will be dealt with a firm hand of stern repression,” he told Congress. Wilson’s mind had changed about the war, but many other Americans continued to oppose US involvement. Many citizens, and some members of Congress argued against the war, finding American intervention

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in the conflict unnecessary. However, pro-war Congressmen passed the Espionage Act in 1917, which both reflected and furthered a sense of hyper patriotic hysteria. Though the act was aimed at preventing espionage and protecting military secrets, it also affected free speech, defining as illegal anything the President declared “of such character that it is or might be useful to the enemy.” In order to manufacture unity on the home front, the Wilson administration established the Committee on Public information (CPI), an organization that actually “created an outraged” public. As the CPI fostered a suspicious and mistrusting public, the administration began making arrests. By 1918, Congress had passed another act that broadened the scope of arrests, the Sedition Act, which forbid people to use “abusive language about the form of Government of the United States” while the country was at war. As during the Civil War, these acts delegated an extreme amount of power to an untrained network of amateurs (the American Protective League). The American Protective League (APL) was a group of citizens that aided federal agents in monitoring and identifying disloyal Germans. These novice loyalty enforcers notoriously abused their newfound powers. The APL’s “agents” bugged, burglarized, slandered, and illegally arrested other Americans. The wartime hysteria engendered by the CPI, in combination with the power given to local authorities and citizens, created space where anyone could be accused of disloyal utterances or insufficient patriotism, regardless of the validity of these accusations. Similar to the Civil War, this accusation of disloyalty was enough

to tarnish a reputation. This nationwide patriotic fervor produced many arrests and deportations.\textsuperscript{219} For instance, after the Espionage Act of 1917, Eugene Debs, a political leader in the American socialist party that openly opposed World War I and was arrested and sentenced to ten years in prison for creating a document entitled \textit{Anti-War Proclamation and Program}.\textsuperscript{220} During World War I, as during the Civil War, the public and the administration used the word disloyalty without a clear definition to justify arrests. Again, the party in power failed to clearly define disloyalty, which afforded the opportunity for political repression to occur.

During World War II, Franklin Delano Roosevelt’s administration likewise used the word disloyalty to justify arrests and detentions, and delegated the powers of arrest and detention to members of a far-flung bureaucracy. After the Japanese attack on December 7, 1941, Congress immediately declared war on Japan, but the attack on Pearl Harbor also sparked a war against disloyalty on the home front and, in the wake of Pearl Harbor, the conversation about loyalty revolved around racial and ethnic heritage. West Coast officials, fearful of espionage, demanded power to suppress Japanese disloyalty. On February 19th Roosevelt signed Executive Order No. 9066, which gave military officials the power to begin the process of capturing and confining Japanese families in internment camps.\textsuperscript{221} Over the course of the war, the U.S. government interned over 110,000 individuals of Japanese descent. \textsuperscript{222} Similar to the Lincoln administration’s apparatus, Roosevelt’s program of internment was run by a complicated


network of government agencies; it featured a decentralized power structure that gave local and state officials broad discretionary power to make determinations about loyalty and disloyalty. In fact, these agencies, including the Western Defense Command, (army in charge of defense for West coast), War Relocation Authority (ran the internment camps), Provost Marshal General's Office (military policing), often came to different conclusions about the loyalty or disloyalty of particular individuals. “In truth,” historian Eric L. Muller has written, “neither the WRA nor the PMGO nor the WDC ever managed to settle on a coherent definition of loyalty even for itself.” Again loyalty lacked definition, and again local officials misused and abused this power, this time creating an apparatus of legalized racial oppression.

The attacks on September 11, 2001 reinvigorated debates about loyalty and government power in America. Directly after the attacks, President Bush pushed the Patriot Act through Congress, enabling the secret detention of hundreds of non-citizens, the interception of phone calls and emails without warrants and “indefinite detention of American citizens on the basis of secret determinations that they are “unlawful enemy combatants.” Though most of the 9/11 attackers were aliens, law enforcement found some American citizens, many of Muslim or Arab descent, who played supporting roles in the attack. Since the attacks, fear of terrorism has reverberated within our society, reinvigorating fears about disloyalty. As one historian recounted after 9/11, “the airwaves and bookstore shelves have been full of loose accusations of disloyalty and even treason against those who oppose government policy, especially military policy.”


Similar to Civil War, during which a partisan understanding of disloyalty as support for the war effort created a dangerous atmosphere for Democrats, after 9/11, the word disloyalty became associated with opposition to the war on terror as defined by the Republicans. As one historian noted “the bush administration have gone out their way to tar their political opponents as “disloyal”. . .stating “you are either with us or with the terrorists.””

Here we see again what could be understood as partisan dissent blur with disloyalty and terrorism. Though neither Bush nor his successors initiated the widespread suspension of habeas corpus or a systematic loyalty-testing program, this state of warfare is new to American history. The war on terrorism is a new kind of warfare that is both indefinite and borderless. The day Bush declared a “war on terror,” war in America was no longer time bound. What does the end to a war on terror look like, when the enemy is amorphous and changing? Terrorists are not aligned with one nation or one place; they are a nebulous enemy, an enemy that will never cease to exist. Our new enemy is a tactic rather than an identifiable group of people. This war is no longer just the business of the military, but citizens are both targets and perpetrators. The war is borderless, and its battles take on many forms ranging from coordinated mass bombings of subway stations to an independent attacker that drives through a Christmas market.

Given the unprecedented nature of this conflict, the precedent set in the Civil War, and the repetition of similar scenarios in subsequent American wars, it is important for Americans to realize the importance of clearly defining loyalty and disloyalty. There has never been a historical conflict in America where disloyalty was clearly defined, and various administrations have profited from this ambiguity: it has given them the flexibility to stifle dissent. This ambiguity blurs the line between dissent and disloyalty and creates a dangerous atmosphere for

the rights of U.S. citizens. This thesis contains an important lesson about the necessity for a clear definition of disloyalty, especially in this new, seemingly eternal state of warfare. To continue to have an America without a clear definition of loyalty is to continue to live in a society where citizens’ rights are in danger, and dissent can be equated with disloyalty.
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