

WITH MALICE TOWARD ONE: DENNIS A. MAHONY  
DURING THE AMERICAN CIVIL WAR.

by

Mercedes Maloney

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Advisor

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Dr. Frank L. Klement

## PREFACE

Since the American Civil War, most historians have lauded Abraham Lincoln for his strength of leadership and castigated the Copperheads for undermining their country in time of war. Even in 1979, a "Copperhead" is defined as a person in the Northern states who sympathized with the South during the Civil War.

Dennis A. Mahony, a prominent Copperhead in Iowa, was imprisoned during the Civil War for speaking out against the Lincoln administration. Although he was a Copperhead, he was not a Southern sympathizer, nor was he guilty of treason or disloyalty to the nation.

This paper attempts to vindicate Dennis A. Mahony, an Irish immigrant who was probably aware of intolerance and oppression in his native country. As editor of the Dubuque Herald in Iowa, he would not be silenced and spoke out consistently in defense of tolerance and freedom as guaranteed under the Constitution.

During the Lincoln administration there existed malice toward one: namely, Dennis A. Mahony, the Copperhead.

Five score and nineteen years ago, the United States became the disunited States when the North and the South locked horns in a civil war. The South fought for independence and state's rights; the North fought initially for the preservation of the Union and later for the abolition of slavery. During the course of the war, the country was torn apart and violent emotions began to surface--hatred, fear, grief, and despair.

The war was fought between the North and South, but the conflict did not end there. The North was a house divided against itself: there was friction between the Republicans and the Democrats, families were split on the issues involved, and even Abraham Lincoln's wife, Mary, was accused of sympathizing with the South. The political factions that appeared in the North at the start of the war strengthened as the war progressed. Each of these cliques had its own idea of how the war should be conducted. Later on, they would even disagree as to the purpose of the war itself. It was no longer a question of Republican versus Democrat; within each party there existed extremism and disparity.

Radical Republicans, known as Jacobins, disagreed with moderate Republicans on crucial issues. The Radicals, true to their name, favored extreme change--abolition of slavery and revision of the entire social, economic and political structure of the United States. In the Democratic party, the counter-parts of the Republican Radicals were the Peace

Democrats, or, as they were labelled by the Republicans, the "Copperheads." Peace Democrats believed that the Union should be restored through compromise and negotiation. These Democrats favored the "status quo"; they wanted life in America to remain as it had been before the war.

It was not unusual that the atmosphere of the Civil War bred propaganda; throughout history, war and propaganda have walked hand-in-hand. In the emotionally charged atmosphere that existed between the North and the South, propaganda became a tool used by both parties. Each was guilty of distortion and misrepresentation of the facts. In their eagerness to impress their opinions upon the minds of the masses, the two parties resorted to methods which were excessive and at times dishonest.

The Democrats accused the Republicans of promoting an unnecessary and unprovoked war and castigated them for their refusal to compromise. They held the Republicans responsible for the war itself; Democrats condemned the North for "goading" the South into the war. Incompetency, economic oppression, corruption, advocacy of equality for Negroes, and "tinkering with the Constitution"--all these were charges hurled at the Republicans.

The Republicans were not merely the victims of invective; they, in turn, flung accusations at the Democrats. The Republicans charged the Democrats with hatred of big business, hatred of the railroads, hatred of the Negroes. They condemned the Peace Democrats for aiding and abetting

desertions, for obstructing the draft and discouraging enlistments, and for being allies of the South. Because the Peace Democrats were primarily from the Midwest--in particular, Ohio, Indiana, Michigan, Illinois, and Wisconsin--they were vulnerable to the accusation of sectionalism with a view toward their own economic interests. In the midst of the polarizing atmosphere brought on by the Civil War, people tended to identify strongly with one party and vilify the other.

From the Northern point of view, the original objective of the war was the restoration of the Union and the preservation of the Constitution. As time passed, however, it became a war for abolition and the reconstruction of the Union. This metamorphosis infuriated the Peace Democrats--the Copperheads--because they favored a peaceful settlement between the states. When the objective of the war became abolition, the Peace Democrats presented themselves as the true Union party with the slogan, "The Constitution as it is, the Union as it was, and the government as it should be." Their displeasure with the Republicans encompassed the Republican President. The Peace Democrats accused President Lincoln's administration of the illegal blockade of Southern ports, of declaring war improperly, and of borrowing money from the United States treasury without the consent of Congress.

The administration considered such criticism of the

government's war policies disloyal, even treasonous. Consequently, Abraham Lincoln, who in 1856 stated that "the Constitution must be maintained, for it is the only safeguard of our liberties,"<sup>1</sup> decided that in order to cope with dissent during the emergency situation of war he could use any power which was not clearly illegal. As a result, the President assumed arbitrary powers, maintaining that war justified extra-constitutional measures. Among the powers that Lincoln assumed were trials of civilians by military tribunals, suppression of the Copperhead press, and suspension of the Writ of Habeas Corpus, a provision of the Constitution under which the accused cannot be held against his will unless he has been informed of the nature of his crime, except in the cases where the public safety is at issue. Lincoln defended his action by pointing out that the Constitution did not specify whether Congress or the President possessed the power to decide the necessity of suspension of the Writ of Habeas Corpus. He believed that efficient military law was necessary in order to preserve internal security; he felt that he was justified in standing firm against the "fire in the rear."

The Copperheads charged Lincoln with violation of the Constitution on the "flimsy pretext of its being necessary for the preservation of the government."<sup>2</sup> They saw a

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<sup>1</sup>James A. Rawley, ed., Lincoln and Civil War Politics, (New York: Holt, Rinehart and Winston, 1969), "Introduction," p. 3.

<sup>2</sup>Dubuque Herald, 1 October, 1861.

dictatorial bent in his policies, and accused him of subverting the very Constitution he had sworn to uphold:

Necessity of circumstances placed in extenuation of the President's guilt, is precisely the same plea put in by tyrants, despots and usurpers...of the world and<sup>3</sup> under any forms of government which ever existed.

Disregard of personal and civil rights had become the order of the day, and the Copperheads feared that the Civil War would be the final chapter of the experiment in democracy. History pointed out to them that at the close of European Civil Wars, autocratic rule was the form of government imposed upon the people. Democratic newspapers took up the cause and attempted to incite fear of a tyrannical federal government by pointing out that peoples' political rights were in danger.

Abraham Lincoln or the Constitution must become the rule of our government. The will of a tyrant or the will of the people must become the law. Which shall it be with you, reader? With us it shall be the Constitution.<sup>4</sup>

Men who were regarded as obstacles to the prosecution of the war were arrested and imprisoned without an opportunity to hear the charges levelled against them. Military law was supreme. "Citizens were arrested by the thousands and incarcerated without warrant."<sup>5</sup> Civil liberties such as free speech, free press, and trial by jury—all guaranteed

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<sup>3</sup>Ibid., 19 June-10 July, 1861.

<sup>4</sup>Herald, 9 June, 1861.

<sup>5</sup>John A. Marshall, American Bastille: A History of the Illegal Arrests & Imprisonment of American Citizens During the Late Civil War, (Philadelphia, 1878), p. XV.

under the Constitution--were suspended.

In a free government, the Constitution throws around the citizen certain safeguards or protections to his liberty. It gives him the right to trial by jury, it secures him against unreasonable searches and seizures. It protects him against arrest...<sup>6</sup>

This was not the case during the time of the Civil War. The life of one of the most famous exponents of the Copperhead position in the Middle West serves as a clear illustration of this fact. Dennis A. Mahony served in the House of Representatives in 1858, was chairman of the state Democratic Executive Committee in 1860 and was Editor of the Dubuque Herald at the time the Civil War began. As editor, he considered the Herald a newspaper with a "mission to advocate and defend constitutional principles and to discover and oppose usurpation and tyranny."<sup>7</sup>

Although Mahony felt that the election of Abraham Lincoln to the Presidency portended tragedy for the future of the United States, he agreed with Lincoln on the issue of Southern secession. He stated these views on November 15, 1860 when he wrote, "I cannot perceive that the election of Lincoln affords the South a just pretext for the course they seem inclined to pursue."<sup>8</sup>

Peaceable secession, peaceable secession--where is the line to be drawn...What is to remain of America?

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<sup>6</sup>Ibid., p. XXVI.

<sup>7</sup>Herald, 10 September, 1860.

<sup>8</sup>Ibid., 15 November, 1860.

What am I to be? Am I to be some sectional man, a local man...Where is the flag of the Republic to remain?<sup>9</sup>

According to Mahony, "the Constitution makes no provision for secession. There can be no such thing as secession from the Union."<sup>10</sup> Mahony's anti-secession sentiments were balanced by his conviction that the Northern abolitionists had given the South no other choice but to secede, and that the South was justified in refusing to submit to "aggression upon their domestic institutions... The South will not do it--the South ought not to do it."<sup>11</sup> The Irishman "implored the North to concede the Constitutional rights to the South and the South to maintain its political relations inviolate with the North."<sup>12</sup>

In January of 1861, when Abraham Lincoln was President-elect, the Senate saw war looming on the horizon and tried to find some way to avert it. One such measure was the Crittendon proposal, "whereby, slavery would be guaranteed forever in the slave states and the District of Columbia, continuance of domestic slave trade would be assured and slave owners would be indemnified for runaways."<sup>13</sup> This plan

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<sup>9</sup>Ibid., 16 November, 1860.

<sup>10</sup>Dennis Mahony, Prisoner of State (New York, 1863), p. 16.

<sup>11</sup>Herald, 11 November, 1860.

<sup>12</sup>Mahony, Prisoner of State, p. 19.

<sup>13</sup>Benjamin A. Thomas, Abraham Lincoln (New York: Alfred A. Knopf, 1952), p. 229.

also included an extension of the Missouri Compromise line. Dennis Mahony favored the Crittendon proposal; he voiced his view in an editorial dated January 11, 1861: "Let it be adopted and the Union will be preserved,"<sup>14</sup>

The President-elect, however, was not of one mind with those who favored the proposal nor with the Irish editor. Lincoln thought there should be no compromise on the question of the extension of slavery. "There is no possible compromise upon it...Have none of it. We are not going to let the Republican party become a mere sucked egg, all shell and no meat, the principle all sucked out."<sup>15</sup>

The proposal went down to defeat in the Senate. A peace convention held in Washington was also unsuccessful; Lincoln had refused to endorse it. On Wednesday, April tenth, Mahony responded to the failure of compromise:

A parental government would have tried remedial measures before resorting to the exercise of vengeance but the government as administrated by Mr. Lincoln seems to know of but one course to pursue and that is to provoke a conflict between the government and its disaffected people for the purpose of coercing them."<sup>16</sup>

Mahony was convinced that the Lincoln administration had provoked the war and that the North had driven the South into a corner from which war was the only escape. Mahony said, "Step by step, blow by blow, civil war was provoked and

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<sup>14</sup>Herald, 11 January, 1860.

<sup>15</sup>Stephen B. Oates, With Malice Toward None (New York: Harper and Row, 1977), p. 199.

<sup>16</sup>Herald, 10 April, 1861.

the end is not yet."<sup>17</sup>

On April 22, 1861, the South attacked Fort Sumter.

Dennis Mahony wrote the words of a patriot in his newspaper the following day:

The conflict of the Civil War has at last commenced...the precipitation of the country into Civil War brings upon us all the solemn duty of rallying our physical energies and mental powers in the sacred cause of our country.<sup>18</sup>

On April 28, 1861, he reiterated his patriotism and said that he felt it was the obligation of every American to defend the Constitution and the government whenever it was attacked by foreign or domestic enemies. In that same editorial, he went on to say that it is a duty to preserve the flag of the Union "crimsoned as it is by the blood of our fathers" from traitors.<sup>19</sup>

On May 3, 1861 President Lincoln increased the size of the regular army and navy and prescribed that the volunteers called into service serve for three years should the war continue for that period of time. Mahony called Lincoln's action "one of the most flagrant acts of executive violation of the Constitution"<sup>20</sup> and he was quick to respond to the

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<sup>17</sup>Mahony, Prisoner of State, p. 94.

<sup>18</sup>Herald, 13 April, 1861.

<sup>19</sup>Ibid., 28 April, 1861.

<sup>20</sup>Mahony, Prisoner of State, p. 29.

President's order:

Almost his first public act and he violated the Constitution when a little over a month previous he had taken an oath to preserve, protect and defend it.<sup>21</sup>

Dennis Mahony disagreed vehemently with Lincoln's interpretation of the power of the Executive branch of the government. At the time, however, people were divided on the issue of Presidential power, and some thought that it was "not the duty of the President to call Congress together whenever, in his judgement it is necessary for the good of the state."<sup>22</sup> Mahony, on the other hand, firmly believed that the "Constitution delegates the sole authority to Congress to raise armies and navies."<sup>23</sup> Furthermore, he disagreed heartily with those who maintained that the Constitution is silent in time of war.

If no law in time of war, by what authority-- if not of law, does the President, aided by Congress raise armies, appropriate money for their support and hurl them upon the batteries and bayonets of the so-called rebels?<sup>24</sup>

In the early days of the war, President Lincoln blockaded the Southern states, deeming the action necessary if the North was to win the war. Mahony criticized Lincoln's action; he considered the blockade illegal because, as he put it,

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<sup>21</sup> Ibid., p. 30.

<sup>22</sup> Ibid., p. 39.

<sup>23</sup> Ibid., p. 40.

<sup>24</sup> Ibid., p. 21.

"the suspension of commerce between Northern and Southern states is a prerogative that belongs to Congress."<sup>25</sup> But the President's actions had not stopped there.

On April 22, 1861, Lincoln authorized "any officer in command to suspend the Writ of Habeas Corpus, in cases of necessity, along the railroad line from Washington to Philadelphia."<sup>26</sup> On May 21, 1861, Mahony reacted to this authorization in the Herald. He described the country as "astounded" to hear that, without any authorization from Congress, military officers of the United States army were acting in the name of the Executive and suspending the Writ of Habeas Corpus. On that same day, he proclaimed that the personal liberty of Americans was one of their "paramount rights." He stated that he believed that the founding fathers were wise and prudent when they provided that the Writ should not be suspended except in cases of rebellion or invasion when the public safety required it.<sup>27</sup>

Later that same month, Mahony compared Lincoln's actions to Louis Napoleon's coup d'etat and begged the American people not to be indifferent to French history or to the history of any free people who had lost their liberties by assenting to the usurpation of power.

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<sup>25</sup>Mahony, Prisoner of State, p. 39.

<sup>26</sup>Benjamin P. Thomas, Abraham Lincoln, p. 377.

<sup>27</sup>Herald, 21 May, 1861.

God save the Commonwealth not only from stratogarchs...but from the people who go far ahead of their rulers in substituting a stratocratic form of government for that which was instituted by their Revolutionary ancestors...which system will you choose, reader, that which you inherited from Washington and his compeers or that which has been established lately in utter derogation of your former inheritance?<sup>28</sup>

On Independence Day of 1861, Mahony printed the entire Declaration of Independence and the Constitution of the United States in the Herald. He described the documents as the "most important that ever emanated from the mind of man...were they lived up to by the people, their happiness and prosperity as a nation would be forever."<sup>29</sup>

By August of 1861, the North was extremely concerned about the progress of the war and even newspapers that ordinarily agreed with the administration became critical of the conduct of the war. On August 25th, the usually pro-Lincoln New York Herald stated:

The people of the North have offered themselves, their services and their money by the hundreds of thousands for the support of the government in the prosecution of the war for the Union, and yet now the country is startled by the announcement from Washington that the Federal Capital itself is actually in danger of an attack and perchance of capture by the rebels.<sup>30</sup>

The people were fearful at this point that the South could

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<sup>28</sup>Herald, 28 May, 1861.

<sup>29</sup>Ibid., 4 July, 1861.

<sup>30</sup>New York Herald, 25 August, 1861, Reprinted in Dubuque Herald, 28 August, 1861.

be victorious and the Union would be lost. The North seemed to be pouring all of their effort into winning the war yet getting nowhere. "The treasury was empty and the War Department a mess."<sup>31</sup>

By the winter of 1861, the end of the war was still not in sight and Abraham Lincoln was beset with difficulties in his attempt to find competent generals who could lead the Northern armies to victories. The Chicago Post castigated the generals for their inability to plan and execute a penetration into the South. The Post pointed out that at the beginning of the war, their newspaper predicted that the war would last two months at the most. However, nine months passed and the Post declared that "much is wrong, the North can suffer no more defeats."<sup>32</sup>

Dennis Mahony now felt vindicated because a Republican newspaper criticized the Lincoln administration. The editor was happy to say "I told you so:"

So now the Chicago Post is getting its eyes open...daylight is exposing to view the real unmitakeable fact that the administration has been committing blunders in its selection of army officers and in its conduct of the war.<sup>33</sup>

At the beginning of the war Mahony was asking, "What is the fight about?" Although almost a year had passed since the war began, Mahony felt the question of the purpose of the war had not been answered. He considered the South to be

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<sup>31</sup>Oates, With Malice Toward None, p. 262.

<sup>32</sup>Chicago Post, 18 November, 1861, reprinted Dubuque Herald, 21 November, 1861.

<sup>33</sup>Herald, 21 November, 1861.

fighting for independence but felt that there was confusion in the North as to the purpose of the Civil War. In Mahony's opinion, the people were divided as to whether they were fighting for emancipation of the slaves, for the restoration of the Union, or for the preservation of a constitutional government. He believed that for the abolitionists, the destruction of slavery was the primary goal of the war. For the conservatives, which included most of the Democratic party, the fight was being conducted for the restoration of the Union and for the preservation of the Constitution. Mahony felt that once the administration officially declared the abolition of slavery as the purpose of the war, no one would be bound to continue fighting. He did not believe that a war should be conducted against an institution recognized as legitimate by the Constitution.

Let the war be prosecuted against crime and criminals and not against institutions which we have no right to attack. Otherwise, the war is illegitimate, unnecessary and should cease at once.<sup>34</sup>

On August 6, 1861, Congress passed an act which authorized the confiscation of property used in the aid of insurrection. On July 17, 1862, Congress passed the second Confiscation Act. This bill freed the slaves of all persons involved in the rebellion and gave the President discretion in the employment of Negroes for any purpose.<sup>35</sup> The measure stated that if the

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<sup>34</sup>Herald, 17 January, 1862.

<sup>35</sup>Thomas, Abraham Lincoln, p. 361.

insurrection did not cease in sixty days, the Executive branch could confiscate the property of all those who supported or participated in the rebellion. The guilt of the Southerners would be determined by the Federal Courts. Those convicted would forfeit their estates and slaves to the federal government and their slaves would be liberated. However, the bill exempted loyal Unionists in the South. Another section allowed for the enlistment of Negroes in the military service. The bill further appropriated five thousand dollars to colonize blacks outside the United States.<sup>36</sup>

Dennis Mahony urged President Lincoln to veto this "unconstitutional, arbitrary, tyrannical Act." He felt that a veto of this bill would give Lincoln a chance to show the people that he respected his oath of office. "The country awaits his action with anxiety, trembling between fear and hope...God give him the wisdom and fortitude to do his duty."<sup>37</sup>

Abraham Lincoln signed the Confiscation Act into law on July 18, 1862 and the measure was to be enforced by the army after the sixty day waiting period. The President, however, could not bring himself to use black men to kill white men but believed using Negroes for labor in the Union army would release white men for combat. He also thought that depriving the South of the services of slaves was a legitimate and

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<sup>36</sup>Oates, With Malice Toward None, p. 309.

<sup>37</sup>Herald, 17 July, 1862.

necessary war measure.<sup>38</sup> The opposition newspaper in Dubuque, Iowa, the Daily Times, called the bill "mild and just" and said it would meet with the approval of all loyal men.<sup>39</sup>

The people, especially those in the Midwest, were becoming more restless and even more dissatisfied with the progress of the war. They were blaming the President for the defeats the Northern armies were still experiencing. There was widespread discontent and criticism followed. On July 27, 1862, the Herald added its voice to the voices of discontent that were heard throughout the North.

The people ask when will this war stop? The administration, by its acts, says, not until the last man in rebellion against us is put down, and when will that be?...What is the reason for the radical change among the people everywhere?...it is to be ascribed to wholly second thoughts...at last the people begin to think.<sup>40</sup>

The United States Constitution guarantees freedom of the press. However, the Copperhead press seemed to the Lincoln administration to be damaging the war effort in the North. As a result, Lincoln decided to suppress the newspapers to a degree. The endangering of freedom of the press naturally concerned the editor of the Herald. Therefore, through the medium of his newspaper, he asked why the administration did not "lift its heavy hand from the press." He went on to say that the press did not want to make trouble or breed dissension. "We want to say what we believe to be the truth, without fear of

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<sup>38</sup>Oates, With Malice Toward None, p. 310.

<sup>39</sup>Dubuque Daily Times, 18 July, 1862.

<sup>40</sup>Herald, 27 July, 1862.

consequences...or is the truth dangerous and to be suppressed?"<sup>41</sup>

On August 1, 1862, the Lincoln administration denied Habeas Corpus to all persons imprisoned by military order on the basis that the action was necessary because of the "enemy in the rear." Lincoln was taking aim at the Copperheads.

Dennis Mahony believed that Congress and only Congress had the right to suspend the Writ. He agreed with Justice Taney of the United States Supreme Court, who had warned Lincoln not to violate the very laws he had sworn to uphold. Through the editorial column of the Herald, the Irishman chastised the people and said that anyone who acquiesced to Lincoln's usurpation of power was a traitor to his country.<sup>42</sup> Later, Mahony would remark, "People acquiesce in assumption of power and many approve and commend the act. Who could believe this of the American people?"<sup>43</sup> Still later, he would add, "How dangerous to liberty it is to permit these assumptions of power to pass unrebuked and to be exercised unrestrained."<sup>44</sup>

Mahony did not permit what he saw as President Lincoln's wrongful seizure of power to pass unrebuked. However, the indomitable Irish editor who wrote editorials in the hope that he could be a voice of freedom in time of war could not preserve even his own liberty. In the early morning hours of

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<sup>41</sup> Ibid., 27 July, 1862.

<sup>42</sup> Herald, 26 July, 1862.

<sup>43</sup> Mahony, Prisoner of State, p. 116.

<sup>44</sup> Ibid., p. 117.

August 14, 1862, Dennis Mahony was awakened from a sound sleep and arrested at his home by the United States Marshal for Iowa, Herbert M. Hoxie, the Deputy Marshal for Dubuque, Philip H. Conger, and a squad of federal troops. Mahony demanded to see the warrant for his arrest but was informed that the order for his arrest came from Edwin M. Stanton, the Secretary of War. Stanton, according to Mahony was guilty of "duplicity, hypocrisy, treachery, and a tyrant of the most despicable character."<sup>45</sup>

Mahony assumed that he would not be taken out of the state of Iowa without a trial or hearing to ascertain whether or not he was guilty of a crime. In fact, Marshal Hoxie assured him that he would be taken to see the Governor of Iowa, Samuel J. Kirkwood, a personal friend of Mahony's although a Republican. On the basis of this assurance, Mahony agreed to accompany the Federal Marshal. However, the editor later regretted this action. He was sorry that he did not make some effort to preserve his rights as an American citizen. "Had I shot him down...I would have only performed my duty and inalienable and constitutional rights as an American citizen."<sup>46</sup>

On August 14, 1862, the following appeared in the Dubuque Herald:

Readers of the Herald and fellow citizens of Iowa: I have been arrested this morning by an arbitrary order from the War Department. On what grounds I know not, except it be for expression of my sentiments, which as true as

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<sup>45</sup>Mahony, Prisoner of State, p. 410.

<sup>46</sup>Ibid., p. 121.

God, I believe to be loyal to the Constitution of my country. I have only to commend my wife and children to your care and protection.<sup>47</sup>

Although he had been charged with no crime and guilty of no alleged or known misconduct, Dennis Mahony was a prisoner of state. He had been caught in the snare he had so vehemently protested against.

On August 13, 1862, however, the Daily Times reported a different view of events, stating that the editor of the Dubuque Herald:

From the commencement of the rebellion, exerted all the influence he could command over those of the same religion and nativity, by the foulest abuse and most malignant falsehoods against the administration to enlist their sympathies on the side of the rebels and against the government by the constant reiteration of its treasonable lies and libels, as to the character and objects of the war and conduct of the government.<sup>48</sup>

The Federal Marshal put Mahony on board the steamship Bill Henderson bound for Davenport, Iowa. Initially, while on board the steamship, he was accompanied at all times by two guards who had loaded muskets and fixed bayonets. "They guarded me for a while as if I were a wild beast."<sup>49</sup> However, the guard was soon relaxed when it was decided that Mahony had no intention of trying to escape.

When Mahony arrived in Davenport he wrote a letter to Governor Kirkwood in which he requested an interview and stated his bewilderment as to why he had been arrested. He

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<sup>47</sup>Herald, 14 August, 1862.

<sup>48</sup>Times, 13 August, 1862.

<sup>49</sup>Mahony, Prisoner of State, p. 123.

received a reply by return mail from the Governor refusing an interview. Mahony described the response as a very "cold, formal, and in some respects an insulting letter" assuming disloyalty to the government. Mahony then sent another letter to Kirkwood stating

I have never had the design or intention of embarrassing the government in any way. I have presumed it was committing errors, and surely it is not a crime to say that if one believes it earnestly.<sup>50</sup>

Mahony believed his fault had been too much loyalty to the Constitution and maintained that his only crime was the loss of the inheritance that the founding fathers had bequeathed to him. He later wrote, "I would not bend, therefore, I must be broken."<sup>51</sup>

While in Davenport Mahony wrote to some friends asking them to intercede with the Secretary of War so that an investigation could be conducted. He wanted to discover what charges had been placed against him. However, he learned later that his personal and political friends never wrote on his behalf with the exception of the Senator from Iowa, Senator James W. Grimes, a political opponent.<sup>52</sup>

From Davenport, Marshal Hoxie took Mahony to Burlington where he visited with friends and acquaintances. The abolition newspaper in Burlington, the Hawk-eye, took advantage of Mahony's position while in Burlington and expressed great

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<sup>50</sup> Mahony, Prisoner of State, p. 129.

<sup>51</sup> Ibid., p. 136.

<sup>52</sup> Ibid., p. 134.

satisfaction over Mahony's arrest stating that the editor had been in sympathy with the rebels since the beginning of the war.<sup>53</sup> Mahony felt compelled to answer this accusation through the Burlington Argus and in stating his position with regard to the war and the Lincoln administration, he maintained that he had never once questioned the right of President Lincoln and the federal government to exercise the authority granted under the United States Constitution to the Executive. Mahony told the Argus readers that his only objective as editor of the Dubuque Herald had been to make certain that President Lincoln did not abuse the Constitution by allowing the Executive branch of government to tread on the rights of the people. As Mahony himself wrote:

I have never questioned its [the Lincoln administration] right, never interfered with the exercise of its authority, and only admonished it not to transcend its legitimate authority in assuming and exercising arbitrary power.<sup>54</sup>

From Davenport, the editor was taken to Washington, D. C. When they arrived in Washington, Marshal Hoxie had Mahony and his guards wait outside while he went into the office of the Military Governor where he obtained the necessary papers committing the editor to Old Capitol Prison where other political prisoners were incarcerated. According to Mahony, "We were martyrs in the cause of the Constitution, liberty, objects of partisan malignity and arbitrary tyranny."<sup>55</sup>

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<sup>53</sup>Ibid., p. 133.

<sup>54</sup>Mahony, Prisoner of State, p. 135.

<sup>55</sup>Mahony, Prisoner of State, p. 138.

Judge Charles Mason of Iowa acted as counsel for Mahony and arranged to bring his case to the attention of the Secretary of War. Mason tried to get a copy of the charges against Mahony but was unsuccessful. The only answer the Judge ever received was "Let him prove himself innocent."<sup>56</sup>

Mahony was never granted a hearing nor was he ever informed of the charges against him.<sup>57</sup> While in prison Mahony wrote to everyone he could think of from the President down to a detective Lafayette C. Baker stating that his arrest was illegal and arbitrary.<sup>58</sup> However, his efforts were in vain; he never received any replies.

The editor was of the opinion that he had been arrested on the grounds of disloyalty to the government, discouraging enlistments and because he was a dangerous person in the eyes of the administration.<sup>59</sup> Mahony was incensed because "tyrants dared to take away his political and human rights as well as the rights of others confined in Old Capitol Prison with him."<sup>60</sup>

But what a sight was this in the United States of America to see a throng of freemen! No, no, not freemen any longer but men who but a short time before were freemen some of them administering justice at the Bar, others in the practice

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<sup>56</sup> Marshall, American Bastille, p. 410.

<sup>57</sup> Mahony, Prisoner of State, p. 146.

<sup>58</sup> Ibid., p. 137.

<sup>59</sup> Ibid., p. 12.

<sup>60</sup> Mahony, Prisoner of State, p. 139.

of the humane and honorable profession of medicine—to see these men in a crowded throng, coatless rushing to be first at the trough set by the government for the victims of despotism... This would surely provoke the indignation of the American people unless they have lost all sense of propriety and dignity of character for which they were once distinguished and characterized.<sup>61</sup>

Six days after the arrest of Mahony, he was visited by a correspondent of the Chicago Times, F. B. Wilkie, Esq., a former editor of the Dubuque Herald. Mr. Wilkie informed Mahony that the Irishman had been nominated for Congress. He accepted the nomination by letter. However, the letter of acceptance was returned to him and he was informed that only letters of a personal or business nature would be allowed out of the prison. Mahony then decided that he was being detained in prison "to gratify partisan malice." He was convinced that the administration wanted him defeated in the Congressional race and would use any means to accomplish this that it could avail itself of. Mahony then wrote another letter to his constituents in which he accepted the nomination and expressed his views on the important issues of the day. Mahony managed to get the second letter to Dubuque by using "surreptitious" means.<sup>62</sup>

Mahony was not released from prison until the Republican nominee defeated him. He was not elected although the Demo-

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<sup>61</sup>Ibid., p. 229.

<sup>62</sup>Marshall, American Bastille, p. 409.

crats swept the elections in key states including New York, Pennsylvania, Ohio and Illinois.

As of September 24, 1862, Abraham Lincoln, in order to suppress insurrections in the North, issued the following official public announcement:

All persons discouraging volunteer enlistments, resisting militia drafts and guilty of any disloyal practices...shall be subject to martial law and liable to trial and punishment by court marshal or military commission. 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 or military commission.<sup>63</sup>

Mahony was a prisoner of the federal government at the time of the pronouncement, but the Dubuque Herald did not remain silent. Six days later, an editorial appeared which denounced this proclamation of Abraham Lincoln.

Suspension of the Writ of Habeas Corpus cuts the citizen off from this poor privilege and reduces him, the victim at one blow, to the power of the federal administration or any of its insolent and irresponsible subordinates.<sup>64</sup>

Before the federal government released Dennis Mahony, he was required to sign an Oath of Loyalty to the government and the Constitution. This oath was prepared especially for him and a few other political prisoners. An extra clause was inserted which read, "I will not cause or commence any action or suit against the officers of any loyal state of the United

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<sup>63</sup>Quoted in Mahony, Prisoner of State, p. 114.

<sup>64</sup>Herald, 30 September, 1862.

States, for causing my arrest at any future time."<sup>65</sup> The editor maintained that he would never have signed the paper had his health not declined while he was a prisoner of state.<sup>66</sup>

On November 11, 1862, Mahony was released, and he returned to Dubuque on November 15, 1862. According to the Herald the citizens of Dubuque gave him a hero's welcome: "It was almost worth a man's while to bear the rigors of incarceration, if they were sure to be followed by an ovation such as was tendered to Mr. Mahony last evening...He is home without a stain or a spot."<sup>67</sup>

The Times, while also reporting on Mahony's homecoming, had a different version of the affair. "The reception was a ridiculous failure. The crowd was about as large as that which follows a common circus...Many of the loyal citizens darkened their homes and places of business in expression of contempt and indignation at the treasonable and disgraceful exhibition."<sup>68</sup>

Previous to President Lincoln's signing of the Emancipation Proclamation, Midwesterners, particularly most German-Catholics and nearly all Irish-Americans, were fearful of abolition because of a concern that Negroes would one day become economic rivals and social equals if they were to be allowed to "run loose in the North." Mahony's imprisonment had not curtailed

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<sup>65</sup> Mahony, Prisoner of State, p. 403.

<sup>66</sup> Ibid., pp. 400-402.

<sup>67</sup> Herald, 15 November, 1862.

<sup>68</sup> Times, 18 November, 1862.

his desire to speak out against the administration. Once again the outspoken Democrat voiced his anti-administration sentiments and attempted to excite local prejudices regarding abolitionism. "With its first breach, abolitionism repudiated the Constitution and appealed for its obligations to the higher law."<sup>69</sup> On December 17, 1863, the still-controversial Mahony said:

The President has given himself over to the small abolitionist faction, where the whole Republican Party has landed. The mountain has gone to Mohamet [sic] in this case. It was less than three years ago that the whole body of the dominant party were upon their knees swearing that nothing was further from their intentions than to interfere with slavery in the states.<sup>70</sup>

On New Year's Day, 1863, President Abraham Lincoln issued the Emancipation Proclamation "declaring that all slaves in the rebellious states shall be forever free."<sup>71</sup> Lincoln felt that the Proclamation was a military necessity at the time, and an absolute essential if the Union was to be preserved. In an editorial dated January 3, 1863, Mahony deplored the Emancipation Proclamation: "The people who submit to the insolent fanaticism which dictates this last act are and deserve to be enslaved to the class which Abraham Lincoln self-sufficiently declares free."<sup>72</sup> Mahony then went on to argue

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<sup>69</sup>Mahony, Prisoner of State, p. 13.

<sup>70</sup>Herald, 17 December, 1862.

<sup>71</sup>Thomas, Abraham Lincoln, p. 358.

<sup>72</sup>Herald, 3 January, 1863.

that had the people possessed the spirit of their revolutionary forefathers, they would hurl Lincoln into the Potomac, Cabinet, Congress, and all.<sup>73</sup>

Mahony was even more outspoken on January 10, 1863, when he clearly stated his opinion that the Lincoln administration was waging the war for the sole purpose of abolition. He urged his readers to have none of it:

Abolition created the administration, has shaped its policy, has dictated its appointments and must be left to furnish the material requisite of men and money. We know that we speak for the party in Iowa. A slave emancipated labor degrading war is not their war. Nor will it in any single particular command their support.<sup>74</sup>

The Times, true to its course, took a stance opposite from that of the Herald, defending Abraham Lincoln's act to free the slaves. The editor of the newspaper, G. T. Stewart, maintained that slavery was hostile to the principles of freedom and humanity, and that it would either demolish the Union or the allies of the Union would destroy slavery. "Slavery is the embodiment of treason and rebellion against all free government."<sup>75</sup>

On March 3, 1863, Congress passed the National Conscription Act. This act, signed into law by the President, put the Union draft on a national basis and included a provision under which

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<sup>73</sup>Ibid., 3 January, 1863.

<sup>74</sup>Herald, 10 January, 1863.

<sup>75</sup>Times, 6 May, 1863.

a man unwilling to fight could hire a substitute or pay three hundred dollars to avoid the draft. Complaints about the Conscription Act came quickly and in large numbers. The cry that the Civil War had become "a rich man's war and a poor man's fight" resounded throughout the North. Discontent was boiling in Civil War America: Anti-war demonstrations erupted in the cities and both the press and the people, convinced that the Conscription Act was unfair and unconstitutional, let their displeasure be heard. The American people had not been altogether happy with the Emancipation Proclamation; now it seemed clear that because of the Conscription Act, their sons and husbands would be forced into a war to liberate the Negroes.

In response to this latest move of the Lincoln administration, the Copperheads made the counter-move of starting a "Peace Movement" to bring a halt to the war. The objectives of the movement were to stop the killing and bring the soldiers home. Draft riots exploded in the streets and in most cases were quickly put down. In New York, however, the situation was critical: "For four days a mob controlled the city. Estimates of the dead ranged from five hundred to twelve hundred. More than one million dollars worth of property was destroyed."<sup>76</sup> Eventually, federal troops suppressed the rebellion. On May 30, 1863, the Dubuque Times accused Mahony

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<sup>76</sup>Thomas, Abraham Lincoln, pp. 391-392.

of encouraging draft riots in Dubuque.

To produce a similiar outbreak in Dubuque County...has been the object of his editorials and speeches ever since his return. If the blood of revolution shall flow through the streets of Dubuque, he will be the incarnate fiend who caused it, and upon his head the hand of vengeance will visit it.<sup>77</sup>

Mahony would not call a moratorium on his criticism of the administration because he felt that the American people had a right to oppose a war that was being fought in order to free the slaves. In his opinion, the Lincoln administration had deceived the people by changing the purpose of the war from preservation of the Union to freedom for the slaves. On July 3, 1863, Mahony published an editorial entitled "We Won't." In it, he told his readers that they were being taken advantage of if they allowed the abolitionists to send them into war.

Abolition malignity towards the Copperheads or Democrats waxes because the latter will not, as a body turn out and hold back the invaders, while they, the Abolitionists carry on the government. What have the Abolition Party done or what has Abraham Lincoln done for us that we should defend him or them. Should we form a battle array against a Southern enemy, while they mob and assault and murder us in the North: While they taboo our families, beat our children for wearing copper cents, insult our daughters, suppress our papers, imprison our leaders, deny us the common justice accorded to murderers and in many places

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<sup>77</sup>Times, 30 May, 1863.

hunt us down like savages? Should we stand a barrier of defense between them and danger when all the wrongs we have suffered have been received at their hands?<sup>78</sup>

In the battles of Gettysburg and Vicksburg in July of 1863 the Northern armies won victories that lifted Northern morale tremendously. However, Mahony persisted in his battle against the Lincoln administration, and in particular against the issue of abolition. While soldiers from the North and South engaged in bloody conflict, Mahony continued to repudiate the abolitionists, calling them "cracked brains" because they "affected" to believe that the nation would never have a lasting peace until they could abolish the peculiar institution. He went on to accuse them of never asking themselves or answering when others asked what could be done with four millions of worthless blacks. Mahony was absolutely convinced that slavery should not die--it was abolitionism that deserved to perish. In an editorial, he used this watchword: "Death to abolition is therefore our motto."<sup>79</sup>

As time passed the war wound down, but Dennis Mahony did not. The editor continued to write the news as he saw it unfolding, and to uphold steadfastly the people's right to know every aspect of the war of which he could inform them. Mahony had watched the war rip his country asunder, had seen

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<sup>78</sup>Herald, 3 July, 1863.

<sup>79</sup>Herald, 29 August, 1864.

it divide families, both through death and through hatred, had seen it cause irremediable dissension between North and South. Mahony was able to perceive that the bloody, emotion-charged conflict between the two sections of the country would render cracks so deep in the foundation of his country that even time might not be able to repair them. So it was that in August of 1864, Dennis Mahony wanted above all for the war to end as soon as possible, and since he could not conceive of either side achieving victory in such a battle, he strongly advocated peace through compromise. Mahony himself later wrote that, "war cannot make the people of the North and South love one another...the longer the war, the greater the alienation."<sup>80</sup> Through his editorials in 1864, Mahony suggested an immediate armistice followed by a convention of all the states in the Union.

As was to be expected, he did not advocate the nomination of Abraham Lincoln to a second term in office. In addition to partisanship, a major reason for his position was, of course, Lincoln's apparent belief that the Union could not be restored unless slavery was destroyed. Mahony wanted no part of abolition as one of the conditions for peace, because it was his opinion that if abolition were to enter the peace negotiations, "The youngest child living will not see the end of this embittered sanguinary strife."<sup>81</sup>

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<sup>80</sup> Mahony, Prisoner of State, p. 143.

<sup>81</sup> Herald, 28 August, 1864.

In September, Mahony again tried to persuade his readers that Abraham Lincoln was not the man who should be elected to the Presidency of their country. He stated one of his reasons for this position in an editorial: "Constitutional guarantees have been shamefully stricken down and trampled upon."<sup>82</sup> He then went on to add:

If we judge the future by the past, Abraham Lincoln if re-elected will stop at no obstacle, will respect no right but will trample all Constitutional checks under his feet...in his greed for power and his march to absolutism. Ruined homes, blasted hopes and an enslaved people must be the result of the continuance of Abraham Lincoln in power.<sup>83</sup>

Mahony had misjudged the sentiments of the American people toward Abraham Lincoln and his program. The 1864 election results were proof that the people basically approved of their President and repudiated the ideologies of Copperheadism. The Republican victory in 1864 gave the party virtual control of the government.

Before the war ended, Abraham Lincoln had bowed to the wishes of the Radicals in his party, and much of what they had advocated was now in effect: emancipation, the presence of Negro soldiers in the army, the confiscation of rebel property, and the refusal of recognition to any state governments in the South. Also, Democrats had vanished from the ranks of the Generals, and the moderate members of Lincoln's cabinet had also been replaced. The tide had turned decisively,

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<sup>82</sup> Ibid., 10 September, 1864.

<sup>83</sup> Herald, 10 September, 1864.

and the North was now winning the war. The fight of the Peace Press against the administration was doomed. Victory strengthened ever-present feelings of nationalism, and public opinion swung in favor of abolition and the admittance of Negro soldiers in the army. It had occurred to the people that more Negro soldiers in the army meant less whites being killed. Because of the war, there was prosperity in the country and the people were content to follow wheresoever Lincoln might lead them.

It was not to be. On April 14, 1865, Abraham Lincoln was assassinated. As is almost always the case, a President who is cut down in the midst of his program by an irrational act becomes a hero to the people he had once led. Since that day in April, history has glorified, almost canonized the man who was our President during the Civil War. What historians have neglected to stress is that during his Presidency, Abraham Lincoln followed an extremely liberal interpretation of the power of the Executive.

Abraham Lincoln was one of this country's great Presidents, because he performed one of the hardest and most important tasks a President has: to lead. Lincoln led the nation through the worst crisis in its short history, and under his guidance, the Union was preserved. When all the shooting had ended, however, the final tally was a price higher than any American had wanted to pay. Thousands of American boys paid

with their lives and to unnumbered American families, the war brought nothing but sorrow and tragedy.

Winning the war required harsh measures and hard choices. As President, Abraham Lincoln made those choices, even to the point of depriving the American people of their rights without due process of law. There can be no doubt that some of the decisions he made were unjust and illegal. At the same time, it is not unusual in time of war to regard political enemies as enemies of the nation. Furthermore, since the Civil War other Presidents have at various times found it necessary to usurp power granted to Congress, power that had been purposely withheld from the Executive branch under the Constitution.<sup>84</sup>

In their wisdom, the framers of the Constitution feared the possibility of power-hungry future Presidents and tried to forestall that possibility by carefully distributing, enumerating and limiting the power of the Executive. Under the system of government which the Constitution outlines, certain basic rights are considered sacred. As a result, the people who live under the Constitution find military power repugnant and difficult to tolerate. In time of war, people are never free from the fear that their country will be made over under the cover of war. The Inaugural Oath requires the President to "take care that the laws are faithfully executed" and as Chief Executive he must be held accountable in the land. The Constitution cannot be treated as "as accordion which can be

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<sup>84</sup>Final Report, Annual Chief Justice Earl Warren Conference on Advocacy in the U.S.A., June 20-June 21, 1975, The Powers of the Presidency, "Presidential War Powers" by Raoul Berger, p. 42.

expanded and contracted at will."<sup>85</sup> As James Madison said, "War is the true nurse of executive aggrandizement."<sup>86</sup>

Abraham Lincoln was not a tyrant. Nor was he a despot. He was a man who firmly believed in the democratic way of life. Because of his determination to save the Union, Lincoln felt justified in taking whatever measures seemed necessary to the Union's salvation. All of his energy was ultimately concentrated on that goal; by preserving the Union, Lincoln felt that he was preserving democracy the "last best hope of earth."

The Copperheads were strict constructionists and were a vocal minority in the nation at the time of the Civil War. The word "Copperhead" became a synonym for traitor and coward, and the movement itself was referred to as a "Snake democracy." The Lincoln administration considered the Copperheads disloyal, and filed charges—exaggerated charges, in some instances—of treason against them.

It was forgotten during the Civil War that dissent was not always synonymous to disloyalty. The Copperheads were guilty of emotionalism. In many cases, they were guilty of overstatement. In a few cases they were guilty of disloyalty.

The Copperheads did not consider themselves disloyal for the simple reason that they saw a difference between loyalty to an administration and loyalty to their nation. Loyalty, for the Copperheads, did not encompass blind obedience to the Lincoln administration and everything it stood for. For the

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<sup>85</sup> Ibid., p. 41.

<sup>86</sup> Quoted in Berger, "The Powers of the Presidency."

Copperheads, loyalty did encompass compliance with Constitutional government and respect for the personal rights protected under that government. According to the Copperheads, constitutional government was defined as an "agreement made among the people that the government formed by it is to be just such a government as it prescribes."<sup>87</sup>

Such was not the case in reality. The Copperheads were unduly persecuted and unlawfully jailed for expressing their beliefs. The Copperheads were not disloyal to their country; they were, however, guilty of the failure to judge correctly the temper of their times.

Dennis Mahony, one of the principal exponents of the Copperhead position in the Middle West, faded into obscurity after the Civil War. He failed to realize that in order to get along one must go along, and espoused the principles of conservatism when conservatism was the minority view. During the Civil War, "change" was the word that appealed to the people rather than the "status quo" so dear to Mahony's heart. No one can ever accuse the Irish editor of apathy--he loved his adopted country dearly; none could call him a traitor. If Dennis Mahony was brought down by one thing, it was his "tragic flaw"--his inability to compromise. Mahony could not adjust to the changes he saw taking place in the country he loved, and he never forgave Abraham Lincoln for bringing about those changes.

If harassment from the press did serve as a deterrent to

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<sup>87</sup> Mahony, Prisoner of State, p. 17.

Lincoln's policies, and if Mahony's editorials did their part to preserve some measure of liberty, then Mahony did his duty. The Irishman valued freedom highly, and the idea that America could become a nation of sheep disturbed him profoundly. Mahony saw it as his mission to do everything in his power to stop that possibility from becoming a reality. Dennis Mahony believed that the Lincoln administration was running roughshod over the personal rights guaranteed under the Constitution of the United States and he made himself the sometimes irritating, always vocal spur in the side of that administration. In the end, Dennis Mahony was disloyal to the administration of Abraham Lincoln. Never was Mahony disloyal to his country.

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