



## Clement Laird Vollandigham: Resounding Silence

### Handout A: Narrative

#### BACKGROUND

Clement Laird Vollandigham was born in Ohio in 1820. Vollandigham was an attorney who was elected to the Ohio legislature in 1845 and served in the United States House of Representatives from 1858 to 1863. He was a Democrat, supported “states’ rights,” and opposed the Lincoln Administration and the Civil War. For his beliefs, Vollandigham became part of the group known as “Copperheads.”

#### NARRATIVE

The former Congressman stood before his audience in Columbus, Ohio, and began to speak. He condemned the Civil War effort. He condemned the Lincoln administration. He argued that the war was not meant to save the Union. Instead, he declared, it was intended to establish a despotic government, one that would free blacks and enslave whites. The government was refusing to acknowledge the states’ right to self-government.

The government, he argued, had become a monarchy in disguise. President Lincoln was “King Lincoln.” If the people of Ohio did not pay attention, he warned, the government that had overstepped its authority with the southern states would do so again, this time with individuals just like them. Clement Laird Vollandigham appealed to the audience to consider his views. He knew that the United States government would not.

An outspoken states’ rights advocate, Vollandigham was addressing a home crowd. A native of Lisbon, Ohio, he was a renowned lawyer and former state representative. Although he had been unsuccessful in his earlier bids for public office, he narrowly won a Democratic seat in the U.S. House of Representatives in 1858. He was popular and was reelected in 1860.

Vollandigham continued to oppose the federal military action against the southern states after the election of Abraham Lincoln as president. He became known as a Copperhead, the term for

Northern Democrats who opposed Lincoln and supported immediate peace with the South. He was not reelected in 1862, a result many attributed to district gerrymandering.

When he conceived the speech, Vollandigham expected to rally public support against the war and provoke the Lincoln administration. A month earlier, there would have been little they could do in response. In the meantime, however, Major General Ambrose E. Burnside, Ohio’s military governor, had issued General Order No. 38, which declared in part:

## NARRATIVE

“All persons within our lines who commit acts for the benefit of the enemies of our country will be tried as spies or traitors, and if convicted will suffer death. . . The habit of declaring sympathy for the enemy will not be allowed in this department. Persons committing such offences will be at once arrested, with a view to being tried as above stated or sent beyond our lines into the lines of their friends.”

Vallandigham considered the consequences if he went ahead with his speech. He decided to deliver it as planned because he was willing to sacrifice his freedom for what he believed. It was his right, he declared, under “General Order No. 1, the Constitution!”

One week later, troops escorted Vallandigham out of his house and into military custody. The next day, he was charged with “declaring sympathy for the enemy” and uttering disloyal sentiments. The military court also denied his constitutional right to a writ of *habeas corpus*, the right to question the government about the lawfulness of his arrest.

Vallandigham, a lawyer, forcefully argued that the military court had no jurisdiction over him. He was a United States citizen, he argued, claiming to have committed no crime according to the laws of the Constitution. He issued the following statement from his cell:

“TO THE DEMOCRACY OF OHIO: I am here, in a military bastille for no other offence than my political opinions, and the defense of them and the rights of the people, and of your constitutional liberties. Speeches made in the hearing of thousands of you, in denunciation of the usurpation of power, infractions of the Constitution and laws, and of military despotism, were the causes of my arrest and imprisonment. I am a Democrat; for Constitution, for law, for Union, for liberty; this is my only crime. For no disobedience to the Constitution, for no violation of law, for no word, sign or gesture of sympathy with the men of the South, who are for disunion and Southern independence, but in obedience to their demand, as well as the demand of Northern Abolition disunionists and traitors, I am here today in bonds; but ‘Time, at last, sets all things even.’

“Meanwhile, Democrats of Ohio, of the Northwest, of the United States, be firm, be true to your principles, to the Constitution, to the Union, and all will yet be well. As for myself, I adhere to every principle, and will make good, through imprisonment and life itself, every pledge and declaration which I have ever made, uttered or maintained from the beginning. To you, to the whole people, to time I again appeal. Stand firm! Falter not an instant!”

In court, Vallandigham was convicted and sentenced to two years in military prison. Ohio Copperheads voiced their outrage and defended Vallandigham in public. How could a civilian be tried in a military court for his political speech? They feared this posed a serious threat to the principles of the Constitution, especially the First Amendment.

The federal government claimed that opposition speech during times of war posed a legitimate threat to the security of the United States. To many in the Lincoln administration, Vallandigham's speech was not political expression worthy of public consideration. It was a call to treason, and federal officials did everything in their power to suppress it.

## NARRATIVE

Vallandigham, on the other hand, claimed that he had a right to his views, the public had a right to consider them, and the government should respect those rights under the supreme law in the land—the United States Constitution. He appealed his case to the Supreme Court of the United States.

In 1864, in *Ex Parte Vallandigham*, the Court unanimously refused to hear Vallandigham's case, saying it had no jurisdiction to do so. The constitutional question—can the government arrest and try civilians in a military court—remained unanswered. To quell the controversy and curb support for the prisoner, President Lincoln commuted Vallandigham's sentence, and he was banished behind Confederate lines.

Vallandigham remained there only a short time. He moved to Canada and managed his campaign for governor of Ohio. When he returned to his home state in secret in 1864, he did not shy away from speaking out against the war. President Lincoln and military officials, this time, decided to leave him alone. Clement Vallandigham understood that speaking out against the war would have consequences, but he ultimately felt a responsibility to stand up for what he believed.