

Copperheads
By Jennifer L. Weber,
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Reviewed by Ronald W. Meister

In a country colonized by dissidents, founded by rebels, and priding itself on individual liberty, it is no surprise to find a long history of antiwar protest. When recent candidates for President and Vice President have included a general and a draft dodger, a military academy graduate and the head of veterans against a war, a wounded soldier and a multiply-deferred chicken hawk, public toleration of a wide range of expression is apparent.

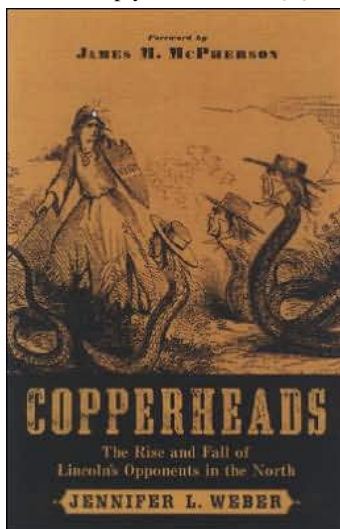
Antiwar protest is of particular interest to Constitutional lawyers, who have seen some of the Supreme Court's most memorable decisions arise out of the government's efforts to suppress dissent in wartime. As far back as *Ex Parte Merryman*, Chief Justice Taney (actually sitting as circuit justice in Maryland) held that the military could not arrest a vocal Confederate sympathizer. After World War I, Justice Holmes's opinion in *Schenck*, though upholding a conviction for distributing antiwar leaflets, ushered in the modern era of First Amendment jurisprudence, and in fiery theatres and present dangers gave us two of the most enduring phrases in the law of free expression. And *Street* and *O'Brien*, respectively overturning a conviction for insulting the flag and upholding one for burning a draft card, both arose out of the Vietnam War. While the Iraq war has yet to produce a landmark First Amendment decision, both *Hamdi* and *Hamdan* have sharply curtailed executive claims of expansive wartime powers.

It is thus of both historic and contemporary interest that Jennifer Weber, an academic historian at the University of Kansas, takes a new look at the northern Peace Democrats who under the collective name of Copperheads vigorously, and at times violently, opposed the Union effort in the Civil War.

The Copperheads, so-called by Republicans who compared them to poisonous snakes, and by themselves after the Goddess of Liberty appearing on copper pennies, objected to the exercise of wartime executive powers that are eerily familiar in modern America: excessive defense spending, military tribunals, the draft, and the suspension of habeas corpus. They had a point. Lincoln, for all his admirable qualities, was not President of the American Civilwar Liberties Union. He made clear his determination not to allow "all the laws but one" (the right to habeas corpus) to be violated at the expense of the Union – though he, unlike a later President, could at least rely on Article I's reference to "Rebellion or Invasion" to support his action.

But a major difference distinguishes the Civil War protesters from their modern counterparts. The Copperheads were shot through with racism, and increasingly opposed a war that moved from a goal of restoring the Union to one committed to abolition. Nor were Civil War protesters able to enlist the support of a major political party. Once the war began, the North's leading Democrat, Stephen Douglas, stood squarely behind his great rival from Illinois, declaring, "There can be but two parties, the party of patriots and the party of traitors. We belong to the former." How familiar to modern ears is the equating of opposition to treason.

Ms. Weber takes as her theme that the Copperheads were stronger, more influential, and more successful than earlier historians believed. They were no fringe protesters, she contends, but an influential faction, engaging in seditious violence, disrupting the draft, promoting powerful candidates in local elections, and almost highjacking the Democratic Party's convention in 1864.



The Copperheads eventually failed for two reasons, one philosophical and one practical. All their rhetoric to the contrary, they were never able to propose a practical resolution of the War. Their platform of restoring the Union with slavery intact was unacceptable to both North and South. Lincoln's *sine qua non*, even before the Emancipation Proclamation, was a restored Union; Davis's, especially after it, was independence. As late as 1864, after Gettysburg, Vicksburg and Missionary Ridge, and with Union forces besieging Petersburg and Atlanta, Davis was still refusing to consider any terms that included reunion, writing, "We are not fighting for slavery. We are fighting for independence, and that, or extermination, we will have."

Equally important, the Copperheads' fortunes rose and fell inversely with Union army success. Throughout the Union defeats at Bull Run, Fredericksburg and Chancellorsville, with morale low and dissatisfaction high, the Copperheads were a focus for dissent. Peace Democrats won governorships in New York and New Jersey in 1862, and their leading spokesman, ex-Congressman Clement Vallandigham, ran a spirited campaign for Governor of Ohio the following year. Once Mobile Bay and Atlanta fell, the Copperheads were doomed. Their last gasp was to commandeer the platform committee at the Democratic national convention in 1864, declaring the war a failure and denouncing emancipation – only to have their own candidate, George McClellan, disassociate himself from them and campaign as a War Democrat.

Vallandigham, meanwhile, had a notable and bizarre career. A successful trial lawyer, he was arrested by General Burnside for traitorous speech, convicted by a military court, and transported behind Confederate lines. Escaping to Bermuda, he took ship to Canada, and survived the war only to die in 1871 while demonstrating all too realistically how a client's alleged victim could have shot himself in the head.

While a fine source with a helpful thesis, Ms. Weber's book suffers from its dry academic style, and her tendency to reiterate the same themes too often, as if she were in her classroom in Lawrence. She makes good use of soldiers' journals and letters, reminding us, as Ken Burns did, of their highly literate content. She is at her most original in providing details of the Copperheads' involvement in a genuine movement for Western secession, a topic barely touched on in such standard texts as those by Randall, Donald and McPherson. Her work is a valuable contribution to Civil War history, and a timely discussion of American dissent.

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