Today, Vintondale, Pennsylvania, is a small isolated former coal town, nestled in a narrow valley between steep hills characteristic of the Laurel Ridge of the Allegheny Mountains in west-central Pennsylvania. The forests surrounding Vintondale appear pristine—indeed much of the area is dedicated as state game land. The railroad line that brought Vintondale to life in 1894 is now a quiet and lovely bicycle trail. The site of the once imposing company store building now sports a small modern post office. The single road that runs through Vintondale wanders westward to Rexis and the ghost town of Wehrum or winds through the valley eastward to Twin Rocks and Nanty-Glo. One would need to be quite lost to get to Vintondale by mistake. From all outward appearances, it seems a town tucked away from the world, forever unnoticed by all but the few who came from distant corners of Europe to live and work in more prosperous times—a town in which little of real interest ever happened.
But in the spring of 1922, Vintondale became the scene of a pitched battle over the rights of peaceful assembly and free speech—rights guaranteed in the Constitution but denied to many American workers, including the coal miners of Vintondale. In the decades preceding 1922, Vintondale had justifiably earned a reputation as a dangerous place for union organizers and anyone else who challenged the company's authority. So in May of 1922, when the United Mine Workers of America went to Vintondale to speak to miners about the benefits of unionization, they did not go alone. They took with them attorneys from the American Civil Liberties Union and members of the liberal press. Perhaps the attorneys and reporters believed that the presence of the outside world would intimidate the company into granting civil liberties—but the miners knew better.

The legal battle that ensued over the union's right to hold meetings in Vintondale is in many ways particular to the central Pennsylvania coal fields, but it contains the essential story of many American industrial workers in the early 1920s. It is the story of workers who had supported a war for democracy abroad and now found themselves waging a war against autocratic bosses for the freedoms of speech, assembly, and association as a prerequisite to achieving both collective bargaining and the full benefits of citizenship. It is the story of the collaboration between liberal middle-class organizations such as the ACLU—outgrowths of the World War I era's renewed interest in democracy at home—and the labor movement in an attempt to redress the undemocratic circumstances under which many Americans lived and worked. It is also the story of why that movement ultimately failed.

The fight for civil liberties that occurred in Vintondale in 1922 challenged the coal company's autocratic control of the local community and sought to break corporate domination of the instruments of state, specifically the courts and police. To understand the events surrounding what would come to be known as the Vintondale free speech fight, it is necessary to understand something about the larger context which encompassed a national coal strike, a history of local and regional conflict between miners and operators over the denial of civil liberties, the use of the courts in labor conflicts, and a new source of assistance to labor.

In 1922, District 2, a fourteen-county region in west-central Pennsylvania, represented the second largest, and one of the most progressive, districts in the United Mine Workers of America (UMWA). Under the dynamic leadership of John Brophy, the district operated under
a system of democratically elected officers and organizers, provided its members with the only death fund in the union, and was developing a network of cooperative stores.\(^1\)

Despite the progressive nature of their union and a significant degree of autonomy underground, the coal miners of District 2 lived within a social, economic, and political system that was largely controlled by the region's coal, steel, and railroad interests. Although the district contained well over two hundred coal companies, the majority of miners were employed by fewer than a dozen firms representing some of the most powerful corporate names in America, including Rockefeller, Mellon, Berwind, Vanderbilt, Iselin, and Schwab. For the most part, these corporate giants had remained stubbornly antiunion; despite some gains made during the teens, twenty thousand of the district's sixty-three thousand miners remained outside the union at the time of the 1922 strike.\(^2\)

Corporate control of the powers of the state—local and county government, courts, and police—was standard practice in western Pennsylvania, and this control was never more apparent than during times of labor unrest. On the eve of the 1919 coal strike, the miners of District 2 had received a warning from William Z. Foster who was coordinating the steel strike in a number of localities, including the city of Johnstown where District 2 representatives were in conference. "The State Government will be against you," Foster cautioned the miners, "the City Governments will be against you, the press will be against you and with the skillful manipulation of public opinion the [operators] are able to bring about you will be lucky if

\(^1\) District 2 was located just east of the Pittsburgh fields. It was bordered to the north by New York and to the south by Maryland. Although located in the western half of the state, within the union District 2 was referred to as Central Pennsylvania to distinguish it from District 5 (the Pittsburgh region) which was called Western Pennsylvania. Within this essay, the term western Pennsylvania (with a noncapitalized western) refers to the western geographical portion of the state which included Districts 2 and 5 (as well as the southwestern coke region), while the term Central Pennsylvania refers specifically to District 2.

\(^2\) Portions of the Vanderbilt interests (Clearfield Bituminous Coal of the New York Central Railroad) were unionized before World War I, and the Iselin interests (Rochester & Pittsburgh Coal) were unionized during the war era. Both companies, however, retained strict social and political control over their communities. The Iselin interests, in particular, eagerly awaited an opportunity to break the union in their towns. Elizabeth Ricketts, "Our Battle for Industrial Freedom": Radical Politics in the Coal Fields of Central Pennsylvania, 1916–1926," Ph.D. diss., Emory University, 1996, esp. chap. 3.
public opinion isn't against you."

Foster's predictions of corporate control of the instruments of state during the 1919 strike proved to be an accurate forecast of the means by which the strikes in both steel and coal were crushed. In county courts throughout District 2, coal operators were routinely granted injunctions that curtailed virtually all strike activities, while the violent and illegal activities of their private police and, on occasion, the state police and National Guard were systematically ignored. In addition, as Foster indicated, corporate dominance of the local press allowed operators to manipulate public opinion against the miners. With relative ease, for example, the Potter Coal Company was able to turn a strike of several hundred miners in the small community of Coral (Indiana County) into a full-blown red scare; frightened citizens were mobilized into a paramilitary organization, the Defense Society of Indiana County, to protect their homes against a putative bolshevik revolution. Clearly, the operators' ability to control the powers of the police, judiciary, and the press were decisive factors in their victory over the miners in 1919, not only in Central Pennsylvania, but also in the nation at large.

In the period between the 1919 strike and the beginning of the 1922 strike, District 2 president John Brophy became increasingly active in a developing network of socialist individuals and organizations, based primarily in New York. In general, these organizations were formed following World War I and shared many of Brophy's moderate socialist goals. Among these groups were the Bureau of Industrial Research (initially part of the New School for Social Research), the League for Industrial Democracy, the Workers' Education Bureau, Brookwood Labor College, the Garland Fund, and the American Civil Liberties Union (ACLU). Within

3 "Proceedings of the District 2 Convention, Johnstown, Pennsylvania, 1919," 77-78, District 2 Collection, box 328, Special Collections, Stapleton Library, Indiana University of Pennsylvania. At the time, Foster was secretary of the National Committee to Organize Iron and Steel Workers; he would become best known as a leader of the American Communist Party during the 1930s. In 1919 he was in the District 2 region organizing steelworkers during the steel strike of that year.

these groups, Brophy functioned as an articulate and respected labor intellectual, taking a leading role, for example, in efforts to win nationalization of the coal industry. The approach of the 1922 strike found Brophy seeking the assistance of these organizations in an attempt to redress the imbalance of power between labor and capital which had crippled the union during the 1919 strike.5

As one might expect, the district's coal interests, particularly the region's large nonunion operators, entered the strike equally determined to maintain control of the industry. As the 1922 strike began on April 1, the district's coal operators launched a well-financed newspaper campaign to gain public sympathy. The only regional source of support for the miners came from the Johnstown Democrat, whose editor, Warren Worth Bailey, held strong prolabor sympathies. Other favorable publicity, however, was largely dependent on the efforts of the New York network and their connections with the liberal press. Heber Blankenhorn, already in the district (working with Brophy through the Bureau of Industrial Research) when the strike began, stayed several months, visiting communities and interviewing miners, organizers, and, on occasion, operators. In May, articles by Blankenhorn began appearing in the Nation, Survey, and the New Republic. Labor Age also published a number of articles regarding the strike, and Art Shields, a reporter for the Federated Press, stayed in the district for three months, helping to edit the union's strike paper and keeping the story alive in liberal newspapers. Powers Hapgood, who in 1921 had been engaged by the Bureau of Industrial Research to conduct an investigation into the conditions of the

5 Little research has been done on the connections between organized labor and these postwar organizations. Gloria Samson's work on the Garland Fund provides a notable exception. See Gloria Garrett Samson, The American Fund for Public Service: Charles Garland and Radical Philanthrophy 1922-1941 (Westport, Conn., 1996). Interestingly, the fund's first donation was to the relief efforts for the striking miners of Somerset County in 1922. The UMWA national conventions had consistently passed resolutions in favor of nationalization. The strongest such statement occurred in 1919, and in 1921 the union formed a Nationalization Research Committee (NRC) with John Brophy as chair. Despite the lack of support from the national president, John L. Lewis, (a conservative business unionist), the NRC formed a strong alliance with some members of the New York network, particularly the Bureau of Industrial Research which did the statistical work for the committee and the League for Industrial Democracy which published the committee's reports and provided publicity for the resulting proposal for nationalization. Brophy's political views were expressed in his "Miners' Program" and included nationalization of the railroads and mines, the thirty-hour week, complete unionization of the coal industry, creation of a labor party, and a broad-based program of workers' education.
nonunion mines in District 2, quickly enlisted as an organizer in nonunion Somerset County.\(^6\)

The American Civil Liberties Union had been formed in 1921 as an outgrowth of the National Civil Liberties Bureau (an organization that provided assistance to conscientious objectors during World War I). The ACLU was particularly interested in the problems of labor. ACLU founder and director, Roger Baldwin, argued that labor was the "class whose rights are most attacked." Accordingly, he committed the ACLU to "champion the rights of labor to meet, organize, and picket." On April 7, Baldwin wrote to Brophy offering the services of the agency "in any difficulties during the present strike involving free speech, free press or the right of assemblage." Legal services were offered free of charge whenever possible; at most, the union was responsible for the reimbursement of actual expenses. Baldwin assured Brophy that the ACLU was "thoroughly familiar with the arbitrary and repressive measures taken by the authorities . . . during the 1919 coal strike, and we do not propose to see them repeated without the most vigorous protests and measures to combat them." Baldwin's resolve was soon put to the test in numerous challenges to corporate control of the region.\(^7\)

The borough of Vintondale was one of several company towns owned primarily by the Delano Coal interests. Located along the eastern boundary of Cambria County, Vintondale was accessible by a single road that ran through the town and by a spur line of the Pennsylvania Railroad. The principal owner of the local mining operation, Vinton Colliery Company (VCC), had originally been Warren Delano, of an old New York family known for its social position and philanthropy and which, incidentally, was the Delano family of Franklin Delano Roosevelt. Following Delano's death in 1920, management of the family business interests fell to Clarence


Schwerin, who had already been named president of Vinton Collieries. The 1920 census recorded Vintondale with a population of 2,053. In 1922, the year of the national strike, Vinton Collieries had two working mines in the community and employed 670 miners.8

Construction on the town of Vintondale began in 1894. Among the initial investors in the Vintondale enterprise was Cambria County judge A.V. (Vinton) Barker. During his twelve-year term (1890–1902), Barker used the bench to his decided economic advantage, buying up coal lands for the price of back taxes and reselling them to coal companies. Barker was the source of most of the land holdings acquired by the Vinton Colliery Company. When construction on Vintondale began, Barker bought a number of lots on which he built rental houses. After retiring from the bench, Barker sold his Vintondale homes. In 1903 one of those homes was acquired by the UMWA for use as a local union hall; although the company quickly drove the union local out of existence, the property remained under the ownership of District 2 and would prove critical in the events of 1922.

Although there were some privately owned structures in Vintondale, Vinton Collieries owned the vast majority of property in the community and exercised a rigid authoritarian control over the community's inhabitants. Using the familiar carrot and stick analogy to evaluate company efforts to secure worker loyalty and cooperation, one could argue that Vinton Collieries provided an attractive carrot, backed up by a very large and clearly visible stick. Countering the stereotypical image of coal camps as dirty and dingy, Vintondale presented a veneer of pleasant orderliness. Houses were kept in good repair and painted a dazzling white each summer by the superintendent's son and his Lehigh (and later, Harvard) classmates, earning the town the nickname of the “Snow White Mining Town.” Following the example of other coal companies in the region, Vinton Collieries also provided the town with a nickelodeon, a social hall, a baseball field, and a park complete with band shell.

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These amenities, however, were the result of pragmatic policy decisions, not altruistic concern for the welfare of town residents. The company provided fringe benefits and made improvements to the town primarily as a means to attract, hold, and control a labor force. Thus, the labor shortage of World War I encouraged the company to upgrade existing houses and undertake the construction of a number of newer, larger, and more modern residences. Furthermore, it was the company, not community residents, who organized and supervised most social activities. The company decided which films would be shown at the nickelodeon, organized weekly dances at the social hall, and booked traveling carnivals and circuses during the summer. National holidays were celebrated with company-sponsored picnics—festive with parades, races, and concerts presented by the company-sponsored band. Sporting events featured a company-sponsored baseball team and a high school basketball team which also benefited from company contributions.

During the early 1920s, the authority of Vinton Collieries was personified by Superintendent Otto Hoffman and Chief of Police Jack Butala. Hoffman, who became superintendent of Vinton Collieries in 1914, ruled the mines and the community with an iron hand until his death in 1930. He was variously known as “Pappy” (although in 1922 he was only forty-seven years old) and “King Otto,” and lived in a house that one resident, Frances Wojtowicz Pluchinsky, recalled as “a mansion, with large lawn, fruit trees, garden and gardener, tennis court, stable, and plumbing indoors.” According to local historian Denise Weber, Hoffman “kept a tight rein over his domain.” He rose every day at five in the morning to see the mantrip off. He knew every miner and his working place in the mines. He also knew every family member and spent Sunday evenings visiting miners in their homes. He attended all dances, movies, and ball games, even traveling to most away games. He settled domestic disputes and once made an employee take an oath before the Catholic priest to stop drinking.9

Hoffman could appear generous at times; when one miner broke his back in a rock fall, Hoffman visited him every Sunday bringing him books, ice cream, and other small gifts. At the same time he regarded foreign miners with contempt, and referred to them as “Payday Hunks” in his diary. The earliest ethnic group to come to Vintondale were Finns. Many were socialists

9 Weber, Delano's Domain, 61, 124. Francis Wojtowicz Pluchinsky’s autobiographical “Memories of Vintondale” is included in Weber’s local history. The mantrip was an electric locomotive that transported miners from the outside of the mine to their working places within.
who supported nationalization; most were evicted and left Vintondale during the 1909 strike. The largest ethnic group in Vintondale consisted of Hungarians, or Magyars, who were brought in as strikebreakers during the 1909 strike. After 1910 there was also a sizable Italian population, but most were discharged and evicted during the 1916 strike. Other ethnic groups included Carpatho-Russians, Serbians, and Croatians.10

Miners were encouraged to live in company houses and "Pappy" demanded that miners purchase their groceries, clothing, and household goods at the company store. Miners who disobeyed were reprimanded for the first offense, then fired for further infractions. Miners who showed union tendencies were immediately discharged, evicted if they lived in company houses, and sometimes beaten. Although District 2 owned a house and lot that was located across the street from the company store, efforts to unionize the miners of Vintondale had been largely unsuccessful, primarily owing to company intimidation. Strikes in 1896 and 1909 had brought discharges and evictions. Union organizing attempts in 1912, 1916, and 1917 likewise met with infiltration by company spies, intimidation, and eviction. The town was so thoroughly controlled that the union did not even attempt organization during the strike of 1919.11

Community political activity was dictated by Hoffman. As Weber noted, "Pappy demanded that miners vote his way—the Republican way." On election day, according to Weber's interviewees, Hoffman "stood at the polls reminding everyone how to vote . . . . Some people claimed that the ballots were marked. Others said that a list of those to vote for was included in the pay envelope." Hoffman, himself, was president of borough council for twelve years, while his wife served as president of the local school board. Not surprisingly, the local school was known as "the Delano school."12

Hoffman was assisted in maintaining control of the town by the

10 Weber, Delano's Domain, 33–34; The 1920 manuscript census shows no Finns living in Vintondale in 1920. There were only a handful of Italian families remaining; a few were employed by Nevvy's (a local general store), one worked for the Pennsylvania Railroad, and about two dozen were miners employed by Vinton Colliery Company. U.S. Bureau of the Census, Manuscript of the Fourteenth Census of the United States Taken in the Year 1920, Population, microfilm, reel 1548.


company's chief of police, Jack Butala. Butala was a member of the coal and iron police commissioned by the governor and acting under the authority of the county sheriff, but paid by the coal company. He quickly earned a reputation for his authoritarian manner. Pluchinsky remembered Butala as "a strict disciplinarian" who enforced the company's 9:00 P.M. curfew for all residents and was particularly feared by the local children: "When he coughed, or cleared his throat, children knew he was nearby and so they scattered homeward."

As it happened, Vintondale had been one of the nonunion camps visited by Powers Hapgood during his research into conditions in nonunion coal operations in the summer of 1921. Upon his arrival in Vintondale, Hapgood had immediately been accosted by a coal and iron policeman (undoubtedly Butala) who demanded to know his business. Although he secured work from the Vinton Colliery Company, Hapgood was quickly discharged and ordered to leave town when he inquired about payment for dead work. Waiting for the train under the watchful eye of the company guard, a traveling salesman advised Hapgood: "The company pays him [the guard] to watch the town for them and they can keep anyone out of town just the way you can keep a man out of your house. They own the town and can do as they please."14

The events that occurred in Vintondale during the 1922 strike provide a case study of the nature and extent of corporate hegemony in the region, working-class resistance to corporate power, and the involvement of the New York network, specifically the ACLU, in the struggle for civil liberties in the coal fields of UMWA District 2. When the 1922 strike began on April 1, Vinton Collieries turned the community of Vintondale into an armed camp to prevent its employees from having contact with union organizers. Each road into town was blocked by a guardhouse where all visitors were stopped

13 Ibid., 124.

14 Heber Blankenhorn, "The Reminiscences of Heber Blankenhorn," interview by Harlan B. Phillips, 1955-56, Columbia Oral History Collection (New York, 1957), microfiche, 128; and Powers Hapgood, In Non-Union Mines: The Diary if a Coal Digger in Central Pennsylvania, August-September, 1921 (New York, 1921), 28-30. Dead work refers to all work preparatory to the actual mining of coal: laying track, timbering, removing rock, taking down loose roof, etc. Tonnage miners (who were paid by the ton for coal taken from the mine) had to negotiate separate payment for dead work. Many nonunion mines did not pay for dead work, and thus, the issue was frequently a source of conflict.
and questioned concerning their intended business. The company hired five additional mounted coal and iron police and arranged for a contingent of National Guardsmen to camp on the ball field and conduct daily drills up and down Main Street. As an extra precaution, the company erected six spotlights in strategic locations around town.15

Shortly after the strike began, Heber Blankenhorn, who was investigating alleged violations of civil liberties in the region, attempted to test Vintondale's reputation as an inaccessible company town. Blankenhorn made it as far as the company store where the store manager informed him that the town was “off bounds to any union organizer” and warned him that “you'll soon be run out of here.” Blankenhorn, unaccustomed to Central Pennsylvania's symbols of justice, was considerably impressed by the sight of Jack Butala, who came to ensure his speedy departure:

I saw a man come thundering down the middle of the street, a big black horseman, dressed like a Pennsylvania State Police, black boots and a black uniform, and riding a big black horse with one hell of a big club. He was the police head of Vintondale, and this store keeper kind of grinned. Well, I turned and skipped right down the street and over the bridge, the dividing line. Brutella [sic] stopped his horse at the far side of the bridge, cursed hell out of me, and said, “We don't want any goddamn union organizer or anybody else in here!” Finally he rode off. I tell you he was a bad looking object to me.16

Shortly after this incident, Blankenhorn returned to New York where he wrote a number of pieces for the liberal press about his Vintondale experience and recounted the story to his friends, including the prominent corporate attorney Arthur Garfield Hays. According to Blankenhorn, “Hays as much as said that I was inaccurate, that there couldn’t be such a place and that I had let my fears run away with the facts. I said, ‘All right, you can verify it easily enough. It's on the main line of the Pennsylvania [Railroad]. Get off a train!’" As fate would have it, Roger Baldwin, director of the American Civil Liberties Union, soon contacted Hays, soliciting his


16 Blankenhorn, “Reminiscences,” 191–92. At the time of the 1922 strike, Blankenhorn was employed by the Bureau of Industrial Research. He had been one of the core of liberal intellectuals who had assisted John Brophy in developing the union’s plan for nationalization of the mines and was quite familiar with industrial conditions in District 2.
assistance in investigating alleged violations of civil liberties in the region. On May 27, 1922, in the company of fellow attorney Julian Rosenberg, Hays boarded a train in New York City headed for Central Pennsylvania.\textsuperscript{17}

In Altoona, Hays and Rosenberg were joined by Philadelphia attorney Clarence Loeb, and the group proceeded to strike headquarters in Cresson (Cambria County). Following a meeting with union attorney J.J. Kintner and strike leaders T.D. Stiles, James Mark, and William Welsh, Hays decided to hold a public meeting in one of the “closed” company towns to challenge what Blankenhorn had dubbed “the normalcy of repression.” Vintondale was chosen as the site of the proposed meeting, partly because it was known as the “toughest town” to access. Hays would later tell reporters that he went to Vintondale to see “whether the stories in the New York papers about hard riding cavalry of that town were true.”\textsuperscript{18}

In addition to Blankenhorn’s encounter, there had been several other incidents involving Vintondale since the beginning of the strike. On April 19 three correspondents—one from the \textit{New York Herald}, one from the Federated Press, and one from Chicago—were turned away by guards. On Saturday, April 22, District 2 board member William Welsh had been escorted out of town at the point of a shotgun. Four miners who refused to go to work as a result of their meeting with Welsh were immediately discharged and evicted from their homes. Brophy protested the evictions to President Warren Harding and Governor William Sproul in a telegram which read in part: “You realize that when thrown out of a house in a company town, the miner can find no shelter within miles for his family or his household goods. The company owns the earth in those quarters. Eviction means exile.” District vice-president James Mark had appealed to Sheriff Logan Keller, who had gone to Vintondale on Sunday, April 23, to

\textsuperscript{17} Blankenhorn, “Reminiscences,” 192–93. Arthur Garfield Hays would become best-known for his participation, along with Clarence Darrow, in the trial of John Scopes.

\textsuperscript{18} “Report to American Civil Liberties Union,” box 32, folder 13, Arthur Garfield Hays Papers, Seeley G. Mudd Manuscript Library, Princeton University Archives, Princeton University (hereafter, Hays Papers); Blankenhorn, \textit{Strike}, 30; and \textit{Indiana Evening Gazette}, May 29, 1922. T.D. Stiles was the director of the district’s cooperative stores and editor of the union newspaper, the \textit{Penn Central News}. During the course of the strike he became noted for his fiery speeches. James Mark was the district vice-president; William Welsh was a member of the district executive board and John Brophy’s brother-in-law. J.J. Kintner was from Lock Haven and was also the district attorney of Clinton County.
meet with union representatives and two of the evicted miners.¹⁹

Despite Keller’s warning to company officials to keep the road open and “cease interfering with the right of free speech and orderly assemblage,” the discharged miners were forced to leave Vintondale and the town remained as off-limits to union organizers as ever. On May 1, a number of union miners attempted to march on Vintondale. The parade was halted by company guards, and, following a minor fracas, several of the miners were arrested and placed in jail in Ebensburg. Meanwhile, nonunion miners in the rest of District 2 were joining the strike by the thousands. By May 9, the only mines outside of Somerset County that remained in production were at Colver, Heilwood, and Vintondale.²⁰

When Hays arrived at strike headquarters on May 27, he found union leaders determined to bring a full halt to production in the district. Hays believed that the union’s property in Vintondale could provide the legal wedge needed to access the town. So, on Saturday, May 27, only hours after Hays’s arrival from New York, two cars left strike headquarters in Cresson on their way to Vintondale. In one car were the attorneys Hays, Loeb, Rosenberg, and Kintner. In the second car were union publicist John Guyer, reporter Art Shields of the Federated Press, and two district board members, William Welsh and David Cowan. Hays would later describe his first view of Vintondale:

Suddenly around a turn in the road we reach Vintondale, in the State of Pennsylvania—by geography inside, by order of the coal company outside, the United States of America. Trees flank one side of the road; on the other dips a deep, dirty hollow, dotted by slag and slate dumps. Railroad tracks run here and there, broken by piles up which crawl little cars dumping their burdens at the top. On the piles and at other points of vantage are mounted powerful searchlights to warn of strangers at night. Machine guns? No doubt. An armed


²⁰ Indiana Evening Gazette, Apr. 24, May 1, 9, 1922.
guard stands near a sentry booth. In the road are obstructions squarely planted to hold up traffic.\textsuperscript{21}

When the two cars failed to stop at the guardhouse, they were immediately pursued by two coal and iron policemen on horseback. Like Blankenhorn before him, Hays was impressed at the sight of “the coal and iron police, wearing awe-inspiring gray uniforms, belted with ammunition, armed with gun and blackjack.” As the group was ascending the steps of the company store, five mounted guards caught up with them; riding their horses onto the sidewalk and rearing them over the heads of Hays and the others, the police ordered them out of town with the threat, “You bust up, or we’ll bust you up.” Company superintendent Otto Hoffman and comptroller, L.I. Arbogast emerged from the company store and demanded that the visitors be removed from the town. Hays asked to see the ordinances of the town that justified such an order and was referred to a posted copy of a recently issued sheriff’s proclamation. The proclamation stated that in the event of public disorder, the sheriff (or deputy) would order a crowd (defined as more than two people) to disperse, and if they did not do so immediately, he could place them under arrest. Responding that he saw no public disorder, Hays declared that he would “stand here as long as I damn please.”\textsuperscript{22}

In short order, Hays found himself escorted to his vehicle “with the assistance of one of the troopers and a bystander [that] grabs me by the nape of the neck and the seat of the trousers while others are busy with my companions.” As Hays was being forcibly removed to his car, he loudly demanded that the leader of the coal and iron police arrest the comptroller on charges of assault and shouted to the crowd that he was a New York lawyer representing the Civil Liberties Union, that he had heard stories in New York of Vintondale that were “hard to believe” and had come to find out “if Vintondale was an American city.” The experience impressed upon Hays something that every miner in Central Pennsylvania already knew; as

\textsuperscript{21} Hays, “Report,” 2; Hays, Freedom, 104. John Guyer, who had worked with Brophy in 1920 and 1921 in the Community Service program, became a member of Governor Pinchot’s Citizen’s Committee following the 1922 strike. Judging from his correspondence with Brophy, he diligently pursued charges made against the coal and iron police.

\textsuperscript{22} Hays, Freedom, 104–5; Hays, “Report,” 2.
Hays put it, "when one is in that position he may talk constitutional law, insist upon his rights as an American citizen, he may proclaim the Declaration of Independence, but all the dignity is on the side of the authorities."\(^{23}\)

After Hays had been deposited in his car, the union caravan was forced to leave Vintondale amidst the jeers and threats of the company guards. Welsh took the group to Nanty-Glo, a union stronghold located six miles from Vintondale. Here, Hays appeared before Justice of the Peace Robert Harnish (who also happened to be a union miner) and obtained warrants for the arrest of the five coal and iron police on charges of assault. Following the hearing, the union group, accompanied by two constables from Nanty-Glo, returned to Vintondale. The group’s plan was as follows: the two constables would arrest the Vintondale coal and iron police and take them to Nanty-Glo to post bail. While they were gone, Hays and the others would hold a free speech meeting on the union’s property. As the cars entered Vintondale, they were once again pursued by the mounted police. But this time, as the coal and iron police surrounded the cars, they were served with arrest warrants.\(^{24}\)

Clearly shocked by this breach of "protocol," Hoffman and Arbogast closeted themselves with the local justices of the peace, Justice Blewett and Justice Daly, in the company store building which housed their offices. Emerging from their meeting, the superintendent reported that they had spoken by telephone to county district attorney D.P. Weimer who had authorized Justice Daly to accept bail for the policemen (a claim that later proved to be false). When Hays attempted to enter the company store in order to participate in the proceedings, he was placed under arrest for trespass and escorted unceremoniously to the local lock-up which he described as “a three by six cell, littered with scraps of paper, cigar butts and

\(^{23}\) Hays, "Report," 3; Hays, *Freedom*, 105–6. On hearing of the story, Heber Blankenhorn ventured that the only thing that saved Hays from a beating was the fact that he was crippled. Blankenhorn, "Reminiscences," 193.

refuse, and containing an iron bed covered with a filthy blanket, and a toilet."\textsuperscript{25}

Within a few hours, Hays was taken before Justice Blewett where he received a further lesson in coal town justice. Blewett signed Hays's arrest warrant and then proceeded immediately with the trial:

Justice Blewett: All right, I find you guilty and fine you $5.
Hays: I insist on a trial.
Blewett: I was near enough; I know what happened.
Hays: I want a trial. There are people all over the United States interested to know what happens in these closed towns.
Blewett: You don't have to pay the $5 if you get out of town.
Hays: I won't pay the $5 and I won't get out of town. I want a trial.
Blewett: Well, it's all over.
Hays: I won't let a verdict of guilty stand against me.
Blewett: Then you're not guilty.\textsuperscript{26}

Hays was released, and once again, escorted out of Vintondale.

On June 1, when the coal and iron policemen of Vintondale appeared in Nanty-Glo for arraignment in Justice Harnish's court, the tables on harassment were turned; according to Hays, "The striking vocabulary of forceful profanity, exhibited by [the police] on our excursion to Vintondale, was not superior to that displayed by the union miners of Nanty-Glo when their traditional enemies appeared. Considerable persuasion was required to stop [the] stoning of the visitors." The Vintondale police appeared before Harnish and were bound over for a grand jury hearing in Ebensburg, where they were charged with assault and battery.\textsuperscript{27}

In addition to the criminal charges filed in county court, the union and the ACLU moved against Vinton Collieries on a number of fronts. First,

\textsuperscript{25} Hays, "Report," 4; \textit{Nanty-Glo Journal}, June 1, 1922; Hays later ventured the opinion that, if the civilization of a town may be judged by its jails, "Vintondale was very low in the scale." Hays, \textit{Freedom}, 107–8. The 1920 manuscript census lists John Daly as an assistant mine foreman and George Blewitt as a purchasing agent—both employed by Vinton Colliery Company. Fourteenth Census, Population, microfilm, reel 1548.

\textsuperscript{26} Hays, \textit{Freedom}, 108–9; \textit{Indiana Evening Gazette}, May 29, 1922.

\textsuperscript{27} Hays, \textit{Freedom}, 110, 113; \textit{Nanty-Glo Journal}, May 1, June 1, 1922. Arrested were Harry McCardle, James Dempsey, John Butala, Richard Esias, George Blewitt, Samuel Feldman, and Lloyd Arbogast.
Hays pursued a civil suit against Vinton Collieries in the courts of New York state where the company was headquartered. Secondly, the union and the ACLU jointly appealed to Governor Sproul to intercede on behalf of the miners. Thirdly, the union and the ACLU appealed to the Court of Common Pleas of Cambria County for injunctive relief. Lastly, both the union and the ACLU sought to keep the story alive in the press in order to popularize the case of the miners and bring the force of public opinion to bear against the company. The course of these strategies would determine the outcome of the union's efforts in Vintondale.

On May 31, the day before the guards' appearance in Nanty-Glo, Hays issued a press release to the New York papers detailing the conditions in Vintondale, charging that he had been illegally arrested and detained, and announcing his intention to file a civil suit against the Vinton Colliery Company. Company president Clarence Schwerin of New York City quickly responded to Hays's charges with a statement denying that the company "owned" schools and churches, that the justice of the peace was a company employee, or that court was held on company property. His statement read in part:

My best advice is that Hays deliberately trespassed. If he feels that he has a case, however, and he . . . wants to take it to the Supreme Court we'll go there with [him]. Whatever means we adopt to keep undesirables out of Vintondale are taken to protect the non-union men in our mines from the Black Hand letters, intimidation, dynamite and threatened invasion of the United Mine Workers and we believe the laws of Pennsylvania will uphold us in the use of our own police for that purpose.

On June 9 Hays filed suit against the Vinton Colliery Company in the New York Supreme Court asking $35,000 in damages for "malicious seizure and arrest and brutal assault." 28

On May 31, Samuel Untermyer, acting as special counsel to the ACLU, sent a lengthy appeal to Governor Sproul detailing the conditions of martial

28 Indiana Evening Gazette, May 29, June 1, 1922; Altoona Tribune, May 31, June 1, 10, 1922; and New York Call, May 31, June 1, 9, 1922. The Black Hand was a name given by the press to gangs practicing extortion schemes involving death threats. These groups were widely active in Italian-American communities in the early twentieth century, including the mining communities of District 2. Schwerin's use of the term is an attempt to blame the unrest in Vintondale on outside agitators, and, of course, links the UMWA with the idea of criminal extortion and violence.
law that existed in Vintondale, asking the governor to revoke the commissions of Vintondale’s coal and iron police, and lecturing the governor on the finer points of the Pennsylvania constitution. ACLU investigators, argued Untermeyer, had “found an indescribably shocking situation” in Vintondale,

amounting to a virtual usurpation of the powers of government, and especially of the machinery of justice, by the Mining Company of this district. All these powers and this machinery are being prostituted by the Company in its struggle to subdue the workers and prevent them from organizing. . . . This intolerable situation presents grave questions . . . of paramount national concern and cannot longer be ignored. A reign of despotism and terror has been set up in our midst, with all the sanction, attributes and power of government, by an element of the capitalistic class against the toilers in the mines.

Untermeyer appealed to Sproul to “teach these non-American autocrats a few object lessons in the dignity and supremacy of the law” and to “take such action as will restore the rule of law and order, freedom of speech and right of public assembly” in Vintondale. On June 11 the ACLU issued a press release detailing the contents of Untermeyer’s appeal to Sproul, identifying the miners with American ideals expressed in the Bill of Rights and placing the company among those forces that, if left unchecked, would destroy American values. Although Sproul eventually ordered an investigation into the allegations surrounding Vintondale, he did not take a stand on behalf of the miners.29

The union’s next step was to seek injunctive relief, a strategy generally employed by operators against striking miners. On June 12 Hays appeared before county judge John H. McCann in the Court of Common Pleas of Cambria County seeking an injunction to prevent the coal and iron police from interfering with meetings held on the UMWA property in Vintondale. The union’s petition asked that the company be restrained from placing armed guards on roads leading into Vintondale for the “purpose of preventing public assemblies and the right of free speech.” The union argued that its members were “behaving in a lawful manner” yet were being denied a tangible property right. For its part, Vinton Collieries insisted that it was

acting within the legitimate parameters of the sheriff's proclamation. In addition to the union's petition, Hays presented a second petition on behalf of members of the ACLU and several newspaper reporters who alleged that the company was interfering with their right to conduct business. Attorneys for the Vinton Colliery Company, clearly expecting a short hearing, were stunned when Hays launched into a two-hour presentation challenging the practice of sheriff-made law. Citing one case after another as precedent, Hays argued that a sheriff's proclamation was not law, but merely a warning that violation of the law would be prosecuted. Insisting that "that which cannot be punished without proclamation cannot be punished with it," Hays expounded on a section of the Pennsylvania Bill of Rights which guaranteed that "the free communication of thoughts and opinions is one of the invaluable rights of man and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty."  

After hearing testimony, Judge McCann refused to enjoin the company from interference with reporters or members of the ACLU, but was equally unwilling to challenge the inviolable nature of property rights. He therefore granted a preliminary injunction to restrain the company from interfering with the holding of meetings on the mine workers' property. A judicial decision in favor of workers was a rare occurrence in western Pennsylvania, but McCann was not a typical judge. Elected in the fall of 1921, McCann had run for office on the tickets of the Democratic, Socialist, and Labor parties. He had actively solicited the labor vote and had been officially endorsed by District 2. Anticipating the possibility of an unfavorable ruling in McCann's court, Vinton Collieries had already contacted a friendly superior judge, Justice John Kephart of the state supreme court who was a native of Ebensburg and an acquaintance of Otto Hoffman. Kephart had agreed to grant a writ of supersedeas halting any injunction issued by McCann. According to Hays, the union was aware of the company's arrangement with Kephart, and so gathered a group to proceed to Vintondale as quickly as possible: "Word was sent to miners in the vicinity and automobiles loaded with cheering, exultant union men made their way

30 Hays, Freedom, 112-16; Altoona Tribune, June 13, 1922; and Indiana Evening Gazette, June 13, 1922.
to the little house owned by the United Mine Workers Union at Vintondale."

Despite company harassment, the meeting was held without serious incident. Union miners packed the lawn; speakers held forth from the veranda, speaking loud enough to be heard by approximately three hundred nonunion miners who lined the street opposite the house. Throughout the meeting, Vintondale’s coal and iron police thundered up and down the street on their horses, riding between the union meeting and the nonunion onlookers. Both union and nonunion miners heard the exhortations of union speakers including John Brophy, Dave Cowan, and William Welsh. Other speakers included McAlister Coleman, representing the New York Commission on Coal, and, of course, attorney Arthur Garfield Hays. Company officials, watching from the windows of their offices, heard themselves branded as “un-American and Bolsheviks, men who would rule by force and overturn the institutions of this country.” The union speakers, on the other hand, portrayed themselves as the “vanguard of the march to freedom.” Coleman spoke to the miners concerning the operators’ reluctance to disclose the economic facts of the industry. Hays lectured the company officials as well as the miners, noting that he was “particularly interested in seeing Superintendent Otto Hoffman present, for no man needs education in the principles of the constitution or the fundamental principles of life more than Mr. Hoffman.”

Upon their return to Ebensburg following the meeting, the union delegation was served with Justice Kephart’s stay of injunction, and meetings in Vintondale were summarily brought to an end. Once again, the company had gained the upper hand. The free speech gathering and the messages of the speakers had, however, put the company on clear notice regarding the union’s intentions to conduct an all-out fight for civil liberties in Vintondale.

As it was issued, Justice Kephart’s writ of supersedeas was returnable on

31 Weber, Delano’s Domain, 94; Indiana Evening Gazette, June 19, 1922; and Hays, Freedom, 117.

32 Weber, Delano’s Domain, 94-95; Hays, Freedom, 117; and Indiana Evening Gazette, June 19, 1922.

June 24. On that date, the ACLU and UMWA were summoned to appear before the state supreme court to show cause why a grant of supersedeas should not be granted to Vinton Colliery Company. Union attorney J.J. Kintner traveled to Philadelphia to present the union's position to the court. By telegram, a seemingly confident Kintner assured Brophy that Kephart had clearly "exceeded his authority." Nevertheless, after a lengthy internal discussion, Kephart's colleagues on the supreme court agreed to back him in refusing to hear the union's argument. Clearly frustrated, Kintner wrote to Brophy:

It would make no difference if we had all the authorities in the world, our friend Mr. Kephart had made up his mind to pull the trick and the Supreme Court of Pennsylvania . . . finally succeeded to his wishes. I never saw a man as excited as Kephart was . . . . I had no chance to argue the case, nor to show the Court the importance of the position. They not only were wrong in their conclusion, but the Supreme Court had no jurisdiction. But it is the old statement, "What is the Constitution between friends?" But we have got to fight just the same, and show by publicity what we are up against.34

Thus, the hands of both the union and the ACLU were tied until Kephart's stay of injunction could be heard by the Pennsylvania Supreme Court in its fall session. In the meantime, the national coal strike was settled in August, and life for union miners in Cambria County began to return to normal. Although free speech meetings in Vintondale itself were temporarily out of the question, the ACLU published a pamphlet written by Hays on the Vintondale efforts; the distribution of this pamphlet was intended to "prompt attorneys and our friends elsewhere to similar vigorous and courageous action." When the Pennsylvania Supreme Court ruled on October 9, 1922, that the Kephart writ of supersedeas was illegal, thereby reinstating the McCann injunction, the ACLU issued a press release hailing the decision as "another victory for free speech in the coal regions of western Pennsylvania."35

Despite the fact that the national strike had ended, ACLU director Roger

34 Weber, Delano's Domain, 95; Altoona Tribune, June 19, 1922.

Baldwin was eager to resume the free speech fight in Vintondale. On October 14, he wrote district president John Brophy inquiring about the union’s plans to hold free speech meetings in Vintondale, offering to “furnish speakers and the machinery necessary to do the job.” Brophy, too, was determined to continue the fight. After some discussion, a free speech meeting was scheduled for November 20, featuring the Reverend Richard Hogue of New York, secretary of the Church League of Industrial Democracy. Vinton Collieries, however, had no intention of allowing the union to initiate contact with its miners, who were working for wages well below union scale. While the union made plans for the rally, the company made a countermove, this time having the borough of Vintondale pass a municipal ordinance which required all meetings and parades to obtain a permit from the burgess, based on a municipality’s authority to control its streets in view of traffic requirements and its halls in service of fire safety.\(^{36}\)

Despite the new ordinance, the union decided to attempt the meeting. When Reverend Hogue reached Vintondale, he approached Burgess Evans for permission to hold an open air meeting either in the street or on the union’s property. The following exchange between Hogue and Evans was reported to Baldwin by John Guyer, who had taken over coordination of the union’s efforts in Vintondale:

Hogue: May we hold a street meeting?
Evans: For what purpose?
Hogue: To test the question raised last May in regard to the right to hold such a meeting in this town.
Evans: Under the circumstances, I cannot give you a permit.
Hogue: May we use the miners’ property?
Evans: Refusing to answer, walks away with a negative shake of his head.

With tongue in cheek, Hays commented on the new ordinance: “No Mayor, in denying permits to union men, Socialists or radicals, while granting them to Republicans and Democrats, is moved by any consideration other than public safety. Certainly this is so when the case gets to court. It is a clever

Seeking to counter this latest legal tactic by Vinton Collieries, William Welsh and attorney J.J. Kintner approached Judge McCann, asking him to amend his injunction to counter the new municipal ordinance in Vintondale. Although they anticipated a favorable response from McCann, Guyer suggested to Baldwin that further efforts in Vintondale be halted until the newly elected governor, Gifford Pinchot, assumed office on January 16. Then, suggested Guyer, “unless Pinchot, for the first time in 20 years, backs down on his word, I will get some real action. I'd like Hays along, just for the satisfaction he'd get of giving the thugs a damned good going over BACKED WITH THE POWER OF THE STATE.”

Hays, however, strongly objected to any delay: “We are not after favors here but rights. I think a meeting would be held on the United Mine Workers' property right away. In fact, unless it is done, I will feel that my efforts have largely gone for nothing. We always felt that the situation would be changed when Pinchot came in, but I want to feel that we had a right to change it without the acts of particular individuals.” After a letter from Baldwin assuring him that the ACLU would do “everything we can to help with the speakers and publicity,” Guyer amended his position, proposing a meeting on either December 11 or 18, featuring an Altoona minister, Reverend Paul Fuller, as a respected man in the district and “an excellent man for this purpose.” In an effort to bolster public pressure against the company, the ACLU issued a press release detailing the history of the free speech fight in Vintondale and announcing that Hays himself would be on hand to inaugurate free speech in Vintondale “supported by a decision of the Supreme Court of Pennsylvania” upholding the McCann injunction against the company.

37 John Guyer to Roger Baldwin, Nov. 21, 1922, ACLU Collection, vol. 224; Hays, Freedom, 124; and Weber, Delano's Domain, 95. John Guyer had worked as a publicist for District 2 during the strike. The Vintondale ordinance had apparently gone through several modifications dating from June 16.


39 John Guyer to Roger Baldwin, Nov. 21, 23, 1922, Arthur Garfield Hays to Roger Baldwin, Nov. 23, 1922, Roger Baldwin to John Guyer, Nov. 22, 1922, ACLU Collection, vol. 224. Paul Fuller had worked in the mines and steel mills of Western Pennsylvania before entering the ministry. He was well known in the district where, in addition to labor issues, he spoke on behalf of the cooperative movement and the state Labor Party. New York Call, Dec. 2, 1922.
Unfortunately, at the same time that Guyer was planning this new meeting, word came from William Welsh that instead of amending the injunction to include the new ordinance, Judge McCann had inexplicably dismissed the injunction entirely, undercutting the union's entire legal position and effectively granting Vinton Collieries the right to continue their authoritarian policies. Having lost the backing of the only "pro-labor" judge in the region, Guyer again took the position that further efforts should be halted until Gifford Pinchot assumed office. Lamenting that no local newspaper had even carried the story, Guyer wrote Baldwin that "the fight will have to be made again. But the next move will be after Pinchot takes office . . . . Tell Hays." Undeterred, Hays insisted that a meeting be held immediately in Vintondale. Baldwin concurred and wrote Guyer: "If there ever was a time to meet a challenge such as we're confronted with there, it's now. It will not do to wait until Pinchot gets in. Whatever the practical result, the moral effect of carrying on an aggressive conflict is always good locally and wherever the word goes."40

Once again, Guyer acceded to the desires of Baldwin and Hays, agreeing to make arrangements for a Vintondale meeting when Hays arrived in the district for the assault case against the Vintondale coal and iron police scheduled for county court on December 4. Although local papers published little beyond the bare facts of the case, the ACLU carried on the publicity campaign through the New York liberal press. An editorial in the *New York Call* published on December 4 and entitled "The Struggle for Civil Rights" characterized "the barony of Vintondale" as "one of the rotten boroughs where the public regulations are the will of a coal corporation expressed through arbitrary force."41

For a time following Hays's arrival in District 2 in early December, circumstances appeared to be turning in favor of the miners. First, the assault trial brought a successful verdict and raised spirits considerably. Claiming that Hays had gone to Vintondale for the express purpose of violating the law—i.e. the sheriff's proclamation—and nevertheless had been treated with


41 *New York Call*, Dec. 4, 1922.
propriety by the police, company attorney Percy Allen Rose demanded that Hays explain what business it was of his what went on in Vintondale. Hays's response drew cheers from the miners who packed the courtroom: "As a lawyer and citizen, I was sworn to uphold the laws and the Constitution of the United States, and that was what I was doing when I went into Vintondale and was manhandled by a crowd of gunmen." Following a two-hour deliberation, the coal and iron policemen were found guilty of assault, sentenced to fines of ten dollars each, and ordered to pay the costs of prosecution which amounted to several hundred dollars.42

Although the judgment amounted to little more than a slap on the wrist for the coal and iron policemen, it represented a moral victory for the union and the ACLU and generated a degree of publicity both locally and in the New York press. On December 1, the ACLU announced that there would be a third attempt to hold a free speech meeting in Vintondale, featuring Hays as the main speaker. Although no record remains, Hays apparently did hold a free speech meeting in Vintondale, probably on December 18. Following his return to New York, Hays contacted fellow attorney Samuel Untermyer and together they urged the newly elected governor of Pennsylvania, Gifford Pinchot, to issue a proclamation "restating the fundamental rights guaranteed the citizen, with special reference to violations by police officials." The governor-elect declined to issue such a proclamation, but agreed to initiate an investigation into the conduct of the coal and iron police. With a successful meeting under their belts and the pro-labor Pinchot headed for the governor's mansion, the union and the ACLU began to feel optimistic about the prospects of organizing Vintondale. Just before Christmas, Baldwin wrote Guyer that the Hays meeting in Vintondale "ought to be followed up on pretty quick if you're going to clinch what looks like a victory."43

Then, without warning, Vinton Collieries played a final card; it raised the


43 _New York Call_, Dec. 2, 1922; Hays, _Freedom_, 121–22; and Roger Baldwin to John Guyer, Dec. 22, 1922, ACLU Collection, vol. 224. Nothing of substance came of this investigation, perhaps at least partly, because Pinchot lost his bid for reelection in 1926 to Indiana County coal attorney John Fisher. Following Pinchot's election to a second term in 1930, the coal and iron police were replaced by a somewhat more controlled system of industrial police. Interestingly, however, one of the investigators appointed to serve in the study was Guyer, who diligently reported the systematic denial of civil rights in the coal fields.
wages of the Vintondale miners to the union scale, thereby removing a major grievance and effectively ending the current organizing efforts in Vintondale. The raising of wages by approximately one-third was hardly a sacrifice for the company, whose profits had increased dramatically as coal prices rose from $2.00 to $12.50 per ton during the national strike. Vinton Collieries had been well situated to take excellent advantage of the price increases, since the Vintondale mines were the only operations in Cambria County that were never involved in the strike. While most mining operations experienced a significant drop in production because of the strike, the production levels at the Vintondale mines increased dramatically, from 557,612 tons in 1921 to 631,899 tons in 1922. The number of days worked also increased, from an average of 233 days in 1921 to an average of 280 days in 1922.  

As disappointing as this turn of events was to Hays, his civil suit against Vinton Collieries would prove at least equally distressing. Charging the company with assault, battery, false arrest, and malicious prosecution, Hays sought $35,000 in damages. The case came to trial in New York City in November of 1924; Judge William Harmon Black refused to allow the record of the Ebensburg conviction of the company police, and also barred evidence showing that Vintondale was a "closed" town. As a result, a skeptical jury concluded that Hays had no case. In a frustrating tautology, the jury ruled that Hays could claim no damages, since he had provoked the assault by entering a town to which entrance had been forbidden by uniformed men patrolling the highway. Corporate hegemony in the judicial system, it would seem, was not lessened by crossing the state line from Pennsylvania to New York.

The events that occurred in Vintondale during the 1922 strike provide insight into the political dimensions of a key coal strike of the 1920s and illustrate an important historical reality—that in an autocratic society, where

44 Vintondale day wage rates rose from $5 to $7.50, and tonnage rates from 72¢ to 95¢ per ton. Weber, Delano's Domain, 96; Nanty-Glo Journal, July 20, 1922; and Department of Internal Affairs, Mine Reports, 1921-22, 193, 378. The company would reduce wages by one-third in March of 1924, triggering a major walkout, another unionization effort, and further actions involving civil rights violations. Despite the direct intervention of Governor Pinchot, these efforts would prove no more successful than in 1922.

workers are denied a public voice, political power and industrial power are inextricably intertwined. In communities such as those that existed in the nonunion areas of western Pennsylvania during the 1920s, industrial struggles necessarily included political struggles over the instruments of state power. Because industrial unionism is predicated on the civil liberties of workers, where these do not exist, workers must first win the freedoms of speech, movement, and assembly.

Clearly management, as well as labor, was cognizant of the relationship between civil liberties and industrial liberties. In Vintondale it was the claiming of public space in the name of civil liberties, not a work stoppage, that alarmed corporate power. Vinton Collieries would not allow free speech in its community precisely because it recognized that freedom of speech and assembly were the prerequisites to successful unionism. When Arthur Garfield Hays came to Vintondale, he challenged an entrenched system of company control, specifically the system by which company rules and sheriff's proclamations became the law—he challenged the de facto legislative authority of capital which was used to abrogate the constitutionally guaranteed rights of workers.

Despite Hays's successful challenge to corporate authority at the county level, when Judge McCann (in an unusual move for this time and place) temporarily sided with the workers, the company's successful appeal to Judge Kephart for a writ of supersedeas demonstrates the ease with which corporate influence could be extended to the state level. It would be a mistake, however, to view the Vintondale episode as a total failure for the union and the ACLU. Vinton Collieries was, after all, forced to institute the union wage. Although the district's efforts in Vintondale in 1922 did not immediately bring civil liberties or unionization, they were clearly "disturbing the tranquillity" (to borrow a phrase from Martin Luther King Jr.) of an authoritarian and exploitative system. When the company revoked the union scale in March 1924, it triggered an immediate walkout of 98 percent of its 650 miners who reactivated their local union within the day. Although these efforts were once again crushed (despite the intervention of Governor Pinchot), the 1924 strike represented a continued commitment to the struggle for civil liberties in Vintondale.46

46 Nanty-Glo Journal, Mar. 20, May 1, 1924; Johnstown Democrat, Mar. 18, 1924; Johnstown Tribune, Apr. 4, 11, 22, 25, 1924; and New York Times, Apr. 16, 1924.
The Vintondale story does more than contribute to our knowledge of an important coal strike; it makes plain the nature and content of the autocratic corporate control that plagued many American industrial workers in the 1920s. The fight for the freedoms of speech and assembly that took place in Vintondale during 1922 illustrates the experience of those American workers who were denied their constitutional liberties and who, therefore, defined the conflicts between labor and capital within that framework. In his speech to the miners at Vintondale on June 17, 1922, John Brophy discussed the vital linkage between civil liberties and unionism:

In Vintondale the coal company has set itself up as an autocracy and dictates to its employes [sic] the conditions under which they shall live in the town, the conditions under which they shall use the highways and the conditions under which they may meet. In other words, it censors, or attempts to censor, the ideas these workers may receive . . . . They know that these conditions can only be maintained through force, through maintaining a feudal borough in which the will of the coal company is law supreme . . . . The United Mine Workers are fighting not only for better economic conditions for the men in the mines but they are fighting for those things that make peaceful settlement of every problem, which are: free speech, free press and the free use of the public highways.47

Although the events in Vintondale involved only six hundred miners and their families, their struggle was not unique in the region. It was the extent of company control in the community, not the nature of the control itself, that made Vintondale stand out among company towns in western Pennsylvania. Vintondale may have been viewed as the most controlled town in District 2, but it was hardly the only closed community in the region. In his speech to the miners in Vintondale, Brophy observed that the union intended to “establish American principles in this community as we have done in other nonunion communities where force was used by the coal companies.” In fact, the western Pennsylvania coal region was infamous for its corporate-dominated communities, and was the subject of a number of

47 Indiana Evening Gazette, June 19, 1922.
contemporary governmental and independent investigations, as well as several historical studies.

Furthermore, the Vintondale free speech campaign illustrates the collaboration between western Pennsylvania coal miners and a network of moderate socialist organizations that emerged in the wake of World War I. Within District 2 this association between the union and organizations such as the ACLU and the Federated Press represented a new and important strategy in combating the autocratic control exercised by coal companies. For their part, these organizations provided assistance to District 2 and considered the Vintondale struggle an important fight with national implications. For example, in 1924 the *American Labor Yearbook*, published by the socialist Rand School of Social Science, classified the Vintondale fight

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48 Beginning with the U.S. Immigration (Dillingham) Commission report published in 1911, and ending with the Pennsylvania Department of Labor and Industry's report "The Coal Miner and His Family in Strike Times of 1931," there were at least six investigations into conditions in the western Pennsylvania coal fields. Reports of these investigations include the U.S. Commission on Industrial Relations (1916), U.S. Bituminous Coal Commission (1920), the Hylan Committee (1922), the U.S. Coal Commission (1923), the Federal Council of Churches of Christ (1927), and the U.S. Senate Committee on Interstate Commerce (1928). In each case investigators condemned the denial of civil liberties and the autocratic nature of company towns. The reports are liberally sprinkled with descriptions of the towns as "feudal." Miners are frequently characterized as "serfs" and "slaves," while coal operators are referred to as "barons," "czars," "slave owners," and "Pharaohs." In 1924 Winthrop Lane published a book devoted to the issue of the denial of civil liberties in the Appalachian coal region. In his introduction Lane asserted: "Of all the localities in the United States where civil rights are most flagrantly violated and denied, these non-union coal districts easily take first place." Winthrop D. Lane, *The Denial of Civil Liberties in the Coal Fields* (New York, 1924), vi. In her study of the Berwind-White community of Windber in Somerset County, historian Mildred Beik describes the strategies used by mining families to counter what she terms "the fundamentally undemocratic forces that impinged on every sphere of their lives," xxiv. Corporate denial of civil liberties also extended to the region's steel towns. In 1922, the *American Labor Yearbook* commented on the 1919 steel strike: "When the strike broke out, Civil Liberties in the affected areas were withdrawn. In all but a very few towns, mass meetings were broken up, and the speakers jailed. In Duquesne [near Pittsburgh] the mayor said, 'Jesus Christ couldn't speak in this town.'" the *American Labor Yearbook*, 1921–22 (New York, 1922), 192. Sociologist Ewa Morawska has described Johnstown, Pennsylvania, a Bethlehem Steel center, as "essentially autocratic," while historian Irwin Marcus characterized the events of the 1919 steel strike in Johnstown as a "struggle for unionism and civil liberties." Ewa Morawska, *For Bread With Butter: The Life-Worlds of East Central Europeans in Johnstown, Pennsylvania, 1890–1940* (Cambridge, England, 1985), 19; and Irwin Marcus, "The Johnstown Steel Strike of 1919: The Struggle for Unionism and Civil Liberties," *Pennsylvania History* 63 (1996), 96–118. This is not to argue that the corporate use of the powers of state to deny the civil liberties of workers was confined either to western Pennsylvania or to the industries of coal and steel.
as one of the "important free speech cases of the era." 49

Neither the struggle for civil liberties nor the collaboration with the ACLU was unique to Vintondale or even western Pennsylvania. The free speech fight that took place in Vintondale in 1922 was part of a much larger movement for civil liberties that emerged following World War I and was tied to the rhetoric and expectations raised by that conflict. As Alan Dawley notes in his work, Struggles for Justice, "fighting a war to make the world safe for democracy would inevitably raise their [working-class] aspirations for true democracy at home." The strike wave of 1919 was in part a response to this demand for democracy at home. In the words of Basil Manly, the last chairman of the War Labor Board: "The workers have been told that they were engaged in a war for democracy . . . . They are asking now, Where is that democracy for which we fought?" Certainly, workers who went on strike in 1919 were driven by postwar inflation to seek higher wages; but they also sought their full rights as American citizens and the realization of "industrial democracy"—a share of power in industry. More than four million workers—365,000 in steel and 400,000 in coal—were involved in a surge of strikes and lockouts which affected perhaps one in five American industrial workers. These strikes were put down with a widespread show of police power, including the Wilson administration's use of the army as domestic police. The issue of democratic rights would erupt again, however, in the coal and railroad shopmen's strikes of 1922. 50

49 The American Labor Yearbook, 1923–24 (New York, 1924), 211. For additional examples of District 2's association with liberal organizations such as the Bureau of Industrial Research, the League for Industrial Democracy, the Workers' Education Bureau, Brookwood Labor College, and the Garland Fund, see Ricketts, "Industrial Freedom," chaps. 5, 6.

50 Alan Dawley, Struggles for Justice: Social Responsibility and the Liberal State (Cambridge, Mass., 1991), 196, 234–35; Basil Manly as quoted in Dawley, 234. Industrial democracy was a widely used term during the period from the 1890s through the 1920s. The exact meaning of the term was so varied and fluid as to generally deny precise definition—by contemporaries as well as historians. Nelson Lichtenstein and Howell John Harris provide a cogent summary of the term's breadth in the introduction to their edited volume, Industrial Democracy in America: The Ambiguous Promise (Cambridge, England, 1993): "As the term was actually used, it was freighted with hope—it referred to a variety of schemes involving the spread of producers' cooperatives and workers' control, or public ownership and the gradual socialization of the economy, or trade union recognition and collective bargaining, or simply the improvement of workers' participation in, and acceptance of, the organizational purposes of the firms where they worked." Milton Derber provides a discussion of the progressive union idea of industrial democracy in "The Idea of Industrial Democracy in America, 1915–1933," Labor History 8 (1967), 3–29. The railroad shopmen's strike, which was brutally put down by the use of federalized troops is detailed in Colin Davis, Power at
Criticism of the autocratic bosses of industrial capitalism was not limited to the labor movement or left-wing radicals. Early in the war, Frank Walsh, the labor attorney who served with former president William Howard Taft as the first cochair of the War Labor Board, proclaimed that "The country ... is beginning to understand that we may have 100 per cent democracy in the form of our political government and yet autocracy of the most despotic kind in industry." Social critic Walter Lippman echoed Walsh's rhetoric: "We shall stand committed as never before to the realization of democracy in America ... We shall turn with fresh interest to our own tyrannies—to our Colorado mines, our autocratic steel industries, our sweatshops and our slums."\(^{51}\)

This was the momentum that lay behind the ACLU's general interest in labor, and behind their commitment to District 2 and the miners of Vintondale in 1922. According to historian Donald Johnson in his work on the origins of the ACLU, by 1919 Roger Baldwin and his associates in the National Civil Liberties Bureau (the precursor to the ACLU) had come to the conclusion that "the struggle for civil liberties is essentially a struggle against industrial capitalism." In the opinion of the NCLB, most of the postwar violations of civil liberties were the result of "organized business [coming] into the open with the program against Labor."\(^{52}\)

Thus the Vintondale free speech fight was part of the movement for democratic rights that emerged from the experience of World War I. The events surrounding Vintondale illustrate both the linkage between the ACLU and labor in the attempt to expand democracy in America, and an important reason for the movement's ultimate failure—the antilabor posture of the American judiciary. An antilabor judiciary, of course, was nothing new. According to Melvyn Dubofsky, in the opening decades of the twentieth century, the federal judiciary "simultaneously stripped unions of effective weapons of economic warfare and sanctioned the employers' favorite anti-union devices." When the Supreme Court was faced with contradictory lower court rulings, it "invariably decided against labor." Even

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Odds: The 1922 National Railroad Shopmen's Strike (Urbana, Ill., 1997).

\(^{51}\) Frank Walsh and Walter Lippman as quoted in Dawley, Struggles for Justice, 196, 202–3.

in the midst of the war effort and the War Labor Board’s rulings supporting labor, the Supreme Court upheld the legitimacy of the “yellow-dog” (antiunion) contract in Hitchman Coal (1917). Following the war, the Taft Supreme Court proved to be particularly unfriendly to labor, handing down a series of decisions in 1921 and 1922 which “unleashed the injunction judges and hobbled the ones more tolerant of strikes,” by outlawing most of the conventional forms of strike picketing.\(^{53}\)

Thus, while labor had made some political gains during the war, the years from 1921–24 reversed those gains and saw a return to what Alan Dawley has termed “laissez-faire plus the constable”—a characterization which aptly describes the situation in Vintondale. Labor and segments of the liberal middle class may have emerged from World War I with an agenda that included civil liberties and various plans for industrial democracy, but management decidedly did not. Following the armistice, management began to turn the wartime language of democracy into a weapon against labor—equating patriotism with labor quiescence. Even the language of industrial democracy was coopted by management in their American Plan—an aggressive open-shop drive of the early 1920s.\(^{54}\)

In their efforts to return to the prewar status quo, management received substantial assistance from the state. As discussed above, the Supreme Court issued severe restrictions on picketing and secondary boycotts while upholding the use of the yellow-dog contract. The Harding administration, while ostensibly maintaining neutrality in the conflicts between labor and management, took a hard line against strikes, sending in troops to put down both the coal and railroad shopmen’s strikes of 1922. This was the national atmosphere in which Vinton Collieries felt quite comfortable in denying

\(^{53}\) According to Dubofsky, in a 1921 ruling, Chief Justice Taft “went almost so far as to find peaceful persuasion and picketing to be a contradiction in terms.” Dubofsky, \textit{State and Labor}, 44–45, 88.

both the union and civil liberties to their workers. But denial by management did not equal acquiescence by workers.\textsuperscript{55}

Finally, then, the Vintondale story provides valuable background to the civil liberties struggles of the 1930s. The depression of the late 1920s and early 1930s stripped the veneer of tranquillity from the authoritarian control of capital in western Pennsylvania and across the nation. Aided, eventually, by the federal government in the form of section 7(a) of the National Industrial Recovery Act in 1933 and the Wagner Act in 1935, the coal miners in Vintondale and the other nonunion towns of District 2 at last began to mount successful campaigns for civil liberties and unionization. In the intervening decade between the 1922 strike and the first New Deal labor legislation, the nature of life in the company towns of western Pennsylvania had not changed appreciably. In 1933, following a study of private police in Pennsylvania, Professor J.P. Shalloo concluded that the nonunion miner was "even less free than a medieval serf." And in a radio speech broadcast in December 1936 (as reported in the \textit{CIO Union News}), Pennsylvania governor George Earle decried the nature of company towns as symbolic of a feudalism of the Dark Ages . . . in effect a feudal establishment, company owned, operated and controlled by the industry which employs its inhabitants. In some of these towns, chiefly in Western Pennsylvania, men and women are brought into this world by company doctors, live in company towns, buy their food and clothing from company stores, work in company mines or mills, die in company hospitals and finally are buried in company cemeteries.\textsuperscript{56}

In 1937, there were still twelve hundred company towns within the state of Pennsylvania, many operating in the familiar authoritarian style indicated by Governor Earle. Even in the atmosphere of the New Deal, the fight for democratic rights in the company towns of western Pennsylvania was long


and arduous. The legacy of struggle established by the miners of the 1920s provided an important foundation and heritage for those who continued the struggle in the 1930s and beyond.

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