

## *“I shall speak in Philadelphia”: Emma Goldman and the Free Speech League*

WHEN EMMA GOLDMAN, the famous anarchist, came to Philadelphia in 1909 to deliver a speech at the Odd Fellows' Temple, she was met by a hostile police establishment. Anticipating her September 28 arrival on the noon train, assistant police superintendent Tim O'Leary threatened to turn a fire hose on her if she dared to speak a single word about anarchism. “She had better put on a rubber suit if she undertakes to make a speech there, because she certainly will get a ducking,” O'Leary told the press. “There is nothing more distasteful to anarchists than a stream from a fire engine.” He vowed that Emma Goldman would never speak in Philadelphia.<sup>1</sup>

Goldman's less-than-cordial reception in the City of Brotherly Love was similar to her reception in many other cities where she had also recently attempted to hold lectures. The sharp economic downturn of 1907 and 1908 sparked anarchist demonstrations in Philadelphia and many other cities, leading to police crackdowns on anarchist speakers. In 1907, police prevented Goldman meetings planned for Columbus, Toledo, and Detroit. In March 1908, police repeatedly barred Goldman from speaking in Chicago. In December 1908, she was arrested in Seattle and Bellingham, Washington, and in January 1909, she spent four days in a San Francisco jail. During the month of May alone, police stopped eleven of her lectures. In New York City, the police anarchist squad broke up her Sunday morning lecture on Victorian playwright Henrik Ibsen, outraging her middle-class and socially connected audience.<sup>2</sup>

When Goldman brought her anarchist road show to Philadelphia, she was already a national celebrity—“the high priestess of anarchism,”

<sup>1</sup> “The Police May Turn Hose on Anarchists,” *Public Ledger*, Sept. 28, 1909, in *The Emma Goldman Papers: A Microfilm Edition*, ed. Candace Falk, Ronald J. Zbory, and Daniel Cornfort (Alexandria, VA, 1990), reel 47.

<sup>2</sup> Emma Goldman, *Living My Life* (New York, 1970), 451–52; Marian J. Morton, *Emma Goldman and the American Left: “Nowhere at Home”* (New York, 1992), 52.

according to the Philadelphia *Public Ledger*.<sup>3</sup> The mainstream press's portrayal of Goldman and misconceptions about anarchism made this diminutive, slightly stout and now middle-aged, chain-smoking Russian immigrant appear to be a threat to the social order. To many of her detractors, "Red Emma" was synonymous with bomb throwing, political assassination, and free love. Many Americans, in fact, still believed she had something to do with the 1901 assassination of President William McKinley, even though investigators could find no evidence linking her to the crime. As she arrived in Philadelphia in 1909, determined to deliver her scheduled lecture, she would take on still another label—champion of free speech. With the help of the Free Speech League, the first organization dedicated to defending civil liberties, she would argue in a Pennsylvania court that the Philadelphia police had prevented her from speaking at a public forum and thus violated the Pennsylvania Constitution and the First Amendment of the U.S. Constitution. Hers was a most unlikely strategy indeed for an anarchist who philosophically opposed organized government. In her attempt to defend herself, Goldman would take on police, an old nemesis, and the Republican political machine that ruled Philadelphia.

During the two decades prior to World War I, Goldman was just one of many who challenged police for infringing on the rights of free speech, freedom of the press, and freedom to assemble in private halls or public places. Labor agitators connected with the Industrial Workers of the World (IWW or the Wobblies), sex radicals, freethinkers, and anarchists were among the most outspoken advocates of unfettered speech. Not surprisingly, these groups were often official targets of government repression. During the decades preceding World War I, the oppressed challenged this breach of their basic liberties in a vocal libertarian press, on the streets, and in the courts. Meanwhile, legal scholars, public officials at all levels of government, intellectuals, social commentators, and the public debated free-speech issues throughout the Progressive period. Yet, the judicial establishment generally remained hostile to litigants who used free-speech defenses to challenge censorship or police harassment.<sup>4</sup>

According to legal scholar David M. Rabban, legal battles over and the ongoing debate about free speech during the Progressive Era seemingly challenge much of the existing scholarship about First Amendment

<sup>3</sup> "Police May Turn Hose on Anarchists."

<sup>4</sup> David M. Rabban, *Free Speech in Its Forgotten Years* (New York, 1997), 15–16.

jurisprudence. The prevailing historiography divides the history of free speech into three periods. First, there is the era extending from the framing of the Constitution in 1787 to the time of the notorious Alien and Sedition Acts of 1798, when critics of the John Adams administration were prosecuted for seditious libel. It was during this period that intense debate ensued over the true meaning of the First Amendment. This was followed, according to the traditional scholarship, by a long period of negligible judicial activity extending from about 1800 to World War I. The third period began with the passage of the Espionage Act of 1917, which the federal government used to suppress war critics as the country prepared to enter World War I.<sup>5</sup> In Philadelphia, for instance, the city prosecuted members of the local Socialist Party under the act for distributing antidraft literature to soldiers. After being tried and convicted in U.S. District Court, the defendants ultimately appealed their convictions to the Supreme Court in the case of *Schenck v. United States*, the first Espionage Act case to reach the Court.

Rabban argues that traditional accounts of free-speech history continue to reinforce several erroneous assumptions. First, the landmark *Schenck* case began the judicial debate about the meaning of free speech and the creation of the modern First Amendment. Second, *Schenck* and the other espionage cases prompted Professor Zechariah Chafee Jr., who became a leading twentieth-century champion of free speech, to write the first major law review article on this topic, "Freedom of Speech in Wartime." Finally, in 1920, the Espionage Act cases inspired progressives, such as Roger Baldwin and Albert DeSilver, to found the first important organization dedicated to defending freedom of expression—the American Civil Liberties Union.<sup>6</sup>

Rabban observes that this highly suspect version of First Amendment history begins to unravel when one critically examines the events of the years 1870 to 1920. These turbulent decades produced legal decisions that impacted freedom of expression well before *Schenck*. Lawmakers enacted legislation concerning speech before the Espionage Act, legal scholars debated speech before Chafee, and an organization, called the Free Speech League, was founded to defend freedom of expression before the ACLU.<sup>7</sup>

<sup>5</sup> Ibid., 1.

<sup>6</sup> Ibid.

<sup>7</sup> Rabban, *Free Speech in Its Forgotten Years*, 2; Rabban began to challenge the standard historiography in law review articles. See "The First Amendment in Its Forgotten Years," *Yale Law*

Almost forgotten today and long ignored in historical scholarship, the Free Speech League was involved with virtually every major free-speech controversy of the Progressive Era. Founded in May 1902 by lawyers, journalists, and radical libertarians, and incorporated in 1911, the league became the first organization in American history to defend freedom of expression regardless of political viewpoint. League members defended clients in court, published pamphlets, organized protest meetings and demonstrations, communicated with public officials in speech disputes, appeared before governmental committees, and held public lectures on speech. Some of the league's clients included members of the nation's radical fringe, such as free-love reformers, freethinkers, birth-control advocates, Wobblies, and anarchists. The league defended free speech related to advertising (which could include information about impotence, venereal disease, and menstrual problems), anarchism, blasphemy, obscenity, profanity, scandal, and treason.<sup>8</sup>

Two prominent founding members of the league, lawyer Edward Chamberlain and physician Edward Bond Foote Jr., were veterans of free-speech battles as members of the National Defense Association, formed in 1878 as a radical splinter group of the National Liberal League. The league was organized in 1876 to oppose the Comstock Act of 1873, which made it illegal to use the mail to distribute what the government deemed to be obscene materials, including information about abortion and contraception.<sup>9</sup> (In May 1908, Congress amended the act to encompass materials that advocated arson, murder, or assassination. This new legislation clearly aimed to halt the circulation of anarchist publications such as *Mother Earth*, a journal Emma Goldman founded in 1906.<sup>10</sup>) When

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*Journal* 90 (1981): 514–95; “The Free Speech League, the ACLU, and Changing Conceptions of Free Speech in American History,” *Stanford Law Review* 45 (1992): 47–114; “The IWW Free Speech Fights and Popular Conceptions of Free Expression before World War I,” *Virginia Law Review* 80 (1994): 1055–158. In his journal articles and in his book, Rabban challenges legal scholars who assume that courts did not seriously address free-speech issues until Congress passed the Espionage Act of 1917, citing specifically: Walter F. Berns, *The First Amendment and the Future of American Democracy* (New York, 1976); Lawrence M. Friedman, *A History of American Law*, 2nd ed. (New York, 1985); David M. Kennedy, *Over Here: The First World War and American Society* (New York, 1980); Paul L. Murphy, *The Meaning of Freedom of Speech: First Amendment Freedoms from Wilson to FDR* (Westport, CT, 1972); and other works.

<sup>8</sup> Rabban, *Free Speech in Its Forgotten Years*, 2, 63, 68, 71–72; Rabban, “The Free-Speech League,” 98–99.

<sup>9</sup> Paul Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York, 2004), 235–36, 243–44.

<sup>10</sup> “Chronology,” in *Emma Goldman, A Documentary History of the American Years*, ed. Candace Falk (Berkeley, CA, 2003–), 2:493.

the National Liberal League's campaign to repeal the Comstock Act failed, the National Defense Association sought to aid defendants in cases involving obscenity and birth control; it anticipated the role of the later Free Speech League.<sup>11</sup>

The government's next assault on free speech followed the September 1901 assassination of President McKinley when the federal government adopted antianarchist legislation while also using the Comstock Act to suppress the literature of anarchists and sex reformers. This renewed government harassment of the radical libertarian fringe prompted members of the Manhattan Liberal Club, a New York freethought group, to form the Free Speech League on May 1, 1902; Chamberlain and Foote became president and treasurer respectively.<sup>12</sup> Some of the most active members of the new organization included high-profile Progressive Era journalists, such as Lincoln Steffens and Hutchins Hapgood, attorney Gilbert E. Roe, an associate of Senator Robert M. LaFollette who handled many of the league's free-speech cases, and journalist Leonard Abbott, who after 1907 served for many years as league president. By far the league's best-known member was Theodore Schroeder, an attorney whose legal writings concerning free speech would influence contemporary and future legal scholars.<sup>13</sup> It was around 1905 that Schroeder became the league's secretary and driving force.

During the next two decades, the league would be involved in many free-speech battles involving both prominent and obscure clients. Among the league's most notable clients were birth-control advocate Margaret Sanger, indicted for distributing material judged obscene under the Comstock Act, journalist Max Eastman, indicted for criminal libel, and writer and socialist Upton Sinclair, arrested for his involvement in a demonstration against Standard Oil Company after the Ludlow massacre.<sup>14</sup> One of the league's most publicized fights occurred in San Diego, where, in 1912, it battled to strike down a city ordinance restricting outdoor speaking. The city clearly directed the measure at the IWW, whose members mounted soap boxes on street corners to agitate on labor issues.

<sup>11</sup> Starr, *Creation of the Media*, 244.

<sup>12</sup> "Free Speech League," in *Emma Goldman, A Documentary History*, 2:557.

<sup>13</sup> Rabban, "First Amendment in Its Forgotten Years," 520n.

<sup>14</sup> Rabban, *Free Speech in Its Forgotten Years*, 67–72. The Ludlow massacre occurred on April 20, 1914, when the Colorado National Guard attacked twelve hundred striking coal miners residing in a tent colony. The massacre left twenty people dead, including eleven children. The largest mining companies involved, like Standard Oil, were owned by the Rockefeller family.

The Free Speech League and Emma Goldman began their long association in 1903 when they formed an alliance to defend British anarchist John Turner, the first person to be charged with violating the new immigration act, known as the Anarchist Exclusion Act, which Congress had enacted earlier that year. The act targeted anarchists and others who advocated the overthrow of the government by force or violence or who called for the assassination of public officials. In the hysteria following the McKinley assassination, the federal government specifically cracked down on anarchists, since the president's assassin, Leon Czolgosz, was a self-proclaimed anarchist. The 1903 immigration act marked a significant turning point; for the first time since 1798, the federal government adopted restrictive legislation that singled out immigrants for their beliefs or for being associated with a group that espoused subversive opinions. The legislation presaged future restrictive measures, such as state syndicalism laws, the Espionage Act of 1917, and the Smith Act of 1940, which the federal government would later use to repress Wobblies, Socialists, and Communists.

Arrested during an American lecture tour and convicted of violating the new immigration act, Turner appealed his conviction to the Supreme Court with the help of the Free Speech League. To help with Turner's defense, the league appointed Goldman as its agent to organize meetings and collect money.<sup>15</sup> Despite the league's best efforts, the high court upheld Turner's conviction, and the 1903 law, in April 1904.<sup>16</sup> Undeterred, Emma Goldman continued her collaboration with the league over the next decade as both an advocate and client. In 1909 and in 1914, the Free Speech League mounted serious legal challenges on Goldman's behalf concerning free speech in Philadelphia. Because police barred Goldman from speaking so many times in 1909 alone, the league, together with Goldman's supporters, formed a Free Speech Committee that year to defend her rights.

That Emma Goldman would play such a pivotal role in early twentieth-century free-speech battles hardly comes as a surprise. During her twenty-five years as a public speaker, she was arrested more than forty times on various charges, though most stemmed from her public speeches. "Some

<sup>15</sup> Memo by E. B. Foote Jr., Mar. 24, 1904, in *Emma Goldman, A Documentary History*, 2:139–40.

<sup>16</sup> Rabban, *Free Speech in Its Forgotten Years*, 64–65; *Turner v. Williams*, 194 U.S. 279 (1904); Robert Justin Goldstein, *Political Repression in Modern America, 1870 to the Present* (New York, 1978), 68–69.

of these arrests,” wrote Theodore Schroeder, “were for speeches actually made, more of them were for merely threatening to make a speech, and sometimes when neither of these facts existed she was arrested simply because she was Emma Goldman and had an undeserved newspaper reputation.”<sup>17</sup> For her many detractors, the force of her words made her the most dangerous woman in America.

In her many run-ins with American police, Goldman and her followers often spoke of the “Russian methods” U.S. authorities used to censor her. The analogy would ring true for Goldman and millions of Russian Jews who had emigrated to America beginning in the 1880s to flee the anti-Semitism and pogroms of eastern Europe. Goldman, herself a Russian Jew, was born on June 27, 1869, in Kovno, Lithuania, then a province of the Russian Empire. In 1885, she emigrated to America with her older sister Helena to escape the czarist Russia of her youth and to flee a contentious relationship with her father. After settling in Rochester, New York, with her sister Lena, who had emigrated earlier, Goldman supported herself as a garment worker, much like many other Russian Jews entering the country at the time. In 1887 she married Jacob Kerschner, a Russian Jewish immigrant living in Rochester who had attained U.S. citizenship. Through her marriage to Kerschner, Goldman became a U.S. citizen, even though she left him after only two years without officially divorcing him.<sup>18</sup> Her union with Kerschner would take on a new relevance during her legal battles in Philadelphia.

Shortly after arriving in Rochester, Goldman began following the news about the 1886 Haymarket incident in Chicago and the antianarchist hysteria that followed. On May 3, Chicago police fired into a crowd of striking workers at the McCormick harvester plant, killing and wounding several men. The next night, during a protest rally organized by leaders of the city’s anarchist movement and attended by some two thousand people (including police) in Haymarket Square, an unidentified person tossed a bomb into the crowd. Police then fired into the crowd. In the end, seven police officers and several workers were killed and dozens of others were injured. Ultimately, eight men—all anarchists—were arrested

<sup>17</sup> Quoted in Rabban, *Free Speech in Its Forgotten Years*, 66.

<sup>18</sup> At the time of Goldman’s marriage, a woman’s citizenship in the United States was determined by the citizenship status of her husband. Goldman did divorce Kerschner in 1888 but remarried him that same year before leaving him for good. Nancy Cott, “Marriage and Women’s Citizenship in the United States, 1830–1934,” *American Historical Review* 103 (1998): 1456–61; *Emma Goldman, A Documentary History*, 1:6, 537; 2:530.

in connection with the bombing and accused of being accessories to a murder and participating in a conspiracy to murder. Authorities were never able to identify or apprehend the actual bomb thrower. During what amounted to a sham trial, prosecutors found it difficult to prove that the eight men had anything to do with the bombing. The crux of the government's case rested on the allegation that the bomb thrower, whoever he was, was persuaded to unleash his deadly weapon by the incendiary writings and speeches of the defendants. Free speech and its limits became part of the subtext of the trial. The jury ultimately found the defendants guilty for their words, if not their deeds.<sup>19</sup> Despite the protests of many who believed the men were not given a fair trial, four of the eight defendants were hanged on November 11, 1887, a date anarchists would commemorate as Black Friday. For Goldman, the death of the four anarchists marked her spiritual awakening. "As to myself," Goldman wrote many years later, "I wish to say that the trial and death of the Chicago Anarchists decided my life and activities. In fact, the Chicago tragedy was the awakening of my social consciousness."<sup>20</sup>

Embracing anarchism, Goldman began to read the anarchist newspaper *Die Freiheit*, and in August 1889, she set out for New York City to seek out the paper's editor, Johann Most, the country's leading anarchist spokesman. Most, a German immigrant who could electrify audiences with his fiery oratory, became Goldman's idol and mentor. Most quickly recognized Goldman's value to the movement and turned her into an effective platform speaker. With a flair for the dramatic, Goldman adopted an aggressive, combative speaking style spiced with ridicule and sarcasm. New York City police soon recognized her gifts of oratory and ability to move an audience when she spoke to more than three thousand people gathered in Union Square on August 21 during the depths of the 1893 depression. After ridiculing labor leaders' and politicians' efforts to bring relief to thousands of unemployed workers, she urged the jobless and destitute to take direct action. "Workmen, you must demand what belongs to you," she said. "Go forth into the streets where the rich dwell, before the palaces of your dominators . . . and make them tremble. Ask for work. If they do not give you work, ask for bread. If they do not give you work or bread, then take bread."

<sup>19</sup> Paul Avrich, *The Haymarket Tragedy* (Princeton, NJ, 1984), 206–8, 272, 275.

<sup>20</sup> Emma Goldman to Samuel Klaus, Feb. 7, 1930, quoted in Avrich, *Haymarket Tragedy*, 433–34.



Shortly after her Union Square speech, Goldman made her first trip to Philadelphia to help organize a union. On August 31, she was to address a rally of the unemployed at Buffalo Hall on Eighth and Callowhill streets in a largely immigrant neighborhood just north of the city's downtown. But just as she was about to speak, police arrested her on a New York warrant on charges stemming from her August 21 Union Square speech. Escorted back to New York, she was tried for telling unemployed workers to take bread from the wealthy. For this, the court convicted her of inciting to riot and sentenced her to a year in Blackwell's Island Penitentiary.<sup>21</sup>

Goldman's prison sentence only enhanced her celebrity. After her release, and for the next twenty-five years, she would earn a living as a popular speaker on the national lecture circuit and as the editor of *Mother Earth*. The journal not only became a leading forum for anarchist thought, but it was also a platform for contributors like Goldman, Theodore Schroeder, and Leonard Abbot to write about the latest outrages committed against free speech.

Her annual lecture tours supported the journal and also helped energize local anarchist communities that anticipated her visits. Philadelphia's small but active anarchist circle was no exception. Perhaps the city's best-known anarchist was Voltairine de Cleyre, a native of rural Michigan who moved to Philadelphia in 1889. Before embracing anarchism, de Cleyre joined the free-thought movement, and in 1892 she founded the Ladies Liberal League, a Philadelphia free-thought group. Like Goldman, she was drawn to anarchism following the events of the Haymarket tragedy. She lectured and wrote extensively on anarchism and free thought while teaching music and English to the city's Jewish population to support herself.<sup>22</sup> In 1901, she founded the Social Science Club, a reading group that met every Sunday evening to discuss anarchist literature. The club also sponsored public lectures. After Goldman, de Cleyre was the most famous female anarchist in the country. Others prominent in the Philadelphia movement included George Brown, a Yorkshire shoemaker who emerged as one of the most popular orators in Philadelphia, and Chaim L. Weinberg, a charismatic Yiddish speaker who organized a Jewish Workers' Cooperative Association. The association founded a

<sup>21</sup> Goldman, *Living My Life*, 123; Alice Wexler, *Emma Goldman: An Intimate Life* (New York, 1984), 75–77; "Emma Goldman Arrested," *Public Ledger*, Sept. 1, 1893.

<sup>22</sup> Paul Avrich, *An American Anarchist: The Life of Voltairine de Cleyre* (Princeton, NJ, 1978), 36–37, 46–49, 70, 74, 83, 97, 129–30.

cooperative shoe store and bakery, distributed literature, and sponsored lectures.<sup>23</sup>

Beginning in the spring of 1901, de Cleyre, George Brown, and fellow anarchists launched a campaign to spread the anarchist message across the city and win new adherents to the movement by staging open-air meetings at various locations, including City Hall Plaza; they also distributed literature door to door.<sup>24</sup> During this period of activism, local anarchists enjoyed a visit from Emma Goldman, who arrived in the city on April 7 to speak in the afternoon to the Workingmen's Cooperative Association about labor organizing and in the evening to the Social Science Club at Industrial Hall on Broad and Vine streets. The afternoon lecture, held at Pennsylvania Hall on Eighth and Christian streets, took place without incident. Agents from the city's Department of Public Safety, who monitored the afternoon lecture, recommended that the evening lecture be suppressed; they complained that Goldman had spiced her earlier lecture with violent sentiments. When Goldman arrived to deliver the evening lecture at Industrial Hall, a police lieutenant, supported by thirty policemen, barred her from speaking. Undeterred and unmoved, Goldman told the officer the day would come when "I shall speak in this city, if not tonight, within the next few days. I do not defy you; I despise you." This short confrontation began Goldman's first major free-speech fight with the city's political establishment fully one year before the founding of the Free Speech League.<sup>25</sup>

In 1901, Philadelphia was gaining a reputation as the most politically corrupt city in the nation. It was a time when the city's Republican organization, controlled by contractor/bosses, ruled absolutely and grew rich by skimming the profits from huge public-works projects. Entrenched city bosses exercised control over figurehead mayors, such as Samuel H. Ashbridge, and had a say in the appointment of public officials, such as Abraham Lincoln English, the head of the Department of Public Safety, a megadepartment that controlled the city's police, firefighters, and all the building inspectors. In 1903, journalist Lincoln Steffens famously described Philadelphia as "corrupt and contented" after investigating the

<sup>23</sup> Ibid., 99, 133.

<sup>24</sup> Ibid., 131.

<sup>25</sup> "Police Bar Emma Goldman's Speech," *North American*, Apr. 8, 1901. The Jewish Workers' Cooperative Association and the Workingmen's Cooperative Association were likely the same organization.

city's contractor/boss rule.<sup>26</sup> Of the city's dozen or so daily newspapers, the *North American* stood out as an outspoken crusader against machine rule. Thomas B. Wanamaker, son of the city's department store tycoon, John Wanamaker, had recently purchased the broadsheet.

Goldman's fight with the city over free speech gave the *North American* another reason to take on Abraham English, the police, and the machine. For days, the newspaper ran front-page articles detailing Goldman's free-speech battles with English, who vowed that Goldman would not speak in Philadelphia. In one front-page spread, the paper featured a political cartoon showing English in a keystone cop costume confronting a statue of Patrick Henry standing on a pedestal bearing the inscription: "Give me liberty or give me death." While holding a billy club, English tells the statue: "It's lucky for you that you don't live in my time!" The cartoon appeared after English stated publicly that not only would he forbid Goldman from speaking, but that he would also forbid anyone else from publicly discussing anarchist doctrines—even for the purpose of refuting them. "No matter what your reason I will not have anarchy publicly discussed in Philadelphia. I will close your meeting the instant you attempt it," English told G. Frank Stephens of the Philadelphia Single Tax Society and founder of the single-tax colony in Arden, Delaware.<sup>27</sup> In a lead editorial, the *North American* stated that it was "perfectly plain that if Director English has the power to suppress free speech he can suppress newspapers. This editorial is as much a violation of English-made law as the discussion of anarchism by the single taxers would be, and neither is a violation of any law other than that evolved from the will of Director English. Director English is a fool."

Despite the public outcry, English remained unmoved. On April 9, a squad of police forcibly prevented Goldman from entering a hall at Fourth and South streets, where she was to address the Shirt Makers'

<sup>26</sup> Lincoln Steffens, "Philadelphia: Corrupt and Contented," in *The Shame of the Cities* (1904; New York, 1957), 134.

<sup>27</sup> "Tyranny of Police Publicly Denounced," *North American*, Apr. 12, 1901, in *Emma Goldman, A Documentary History*, 1:446–48. G. Frank Stephens, a leader of the single-tax movement in the Philadelphia region, was one of a number of single taxers who linked single-tax theory with anarchism. Followers of single-tax doctrine believed private land ownership created social and economic inequities and permitted landlords to accrue most of the wealth at the expense of the productive classes, consisting of workers and capitalists. Single taxers favored a "single tax" on land to end land speculation, and also favored common land ownership. Many single taxers were inspired by the writings of Henry George, a Philadelphia-born newspaper editor and a leading proponent of single-tax doctrine until his death in 1897.

Union. The unfolding Goldman saga seemed to delight the editors of the *North American*, who had her pose for a photograph to accompany a long, sympathetic interview that appeared in the paper's April 11 edition. "I shall speak in Philadelphia," the anarchist told writer Miriam Michelson. "I may have to suffer the consequences, but speak I will."<sup>28</sup> Making good on her prediction, Goldman outwitted police the same day the article appeared and spoke to the Single Tax Society at the Mercantile Library Hall on Tenth Street above Chestnut. The evening meeting concluded before the police even learned it had taken place. In a show of support, the Single Tax Society, the Henry George Club, and labor organizations all adopted resolutions condemning the police and upholding free speech. The labor unions, in particular, feared that if English could arbitrarily decide to silence anarchism, he could also use the police to shut down their meetings on a whim. Then, on the night of April 14, labor union members and single taxers all gathered in Industrial Hall to protest the police and to hear Emma Goldman. They were not disappointed. Perhaps bowing to public pressure, English permitted the meeting to take place without police interference, although plainclothes detectives were present in the hall. The next morning, in a front-page story, the *North American* could proclaim another victory against machine rule, running a story under the headline: "Right of Free Speech Upheld in This City: Director English Backs Down from His Impudently Tyrannical Position."<sup>29</sup>

But the victory for free speech in Philadelphia proved to be fleeting. When President McKinley was assassinated in September 1901, police nationwide arrested prominent anarchists and raided their homes and meeting places searching for incriminating evidence. In Philadelphia, police raided anarchist clubs and broke up meetings. For several years following the assassination, many Americans vilified and persecuted anarchists.<sup>30</sup> This was especially true for Goldman, who was forced off the lecture circuit and into a self-imposed exile even after she was cleared of any involvement in the late president's murder.

<sup>28</sup> "Director English's Powers," *North American*, Apr. 13, 1901; Miriam Michelson, "A Character Study of Emma Goldman," *North American*, Apr. 11, 1901, in *Emma Goldman, A Documentary History*, 1:440. Michelson (1870–1942) went on to become a novelist and playwright.

<sup>29</sup> "Police, By Force, Break up Emma Goldman's Meeting," *North American*, Apr. 10, 1901; "Tyranny of Police Publicly Denounced"; "Right of Free Speech Upheld in This City," *North American*, Apr. 15, 1901.

<sup>30</sup> Avrich, *American Anarchist*, 133–34.

Relations between police and local anarchists in Philadelphia would remain tense for the remainder of the decade. In April 1904, just as Goldman was reemerging from exile, she once again attempted to speak in Philadelphia, only to be met by renewed police harassment. On April 10, 1904, police stopped another Goldman meeting from taking place at the Odd Fellows' Temple. After citizens protested police action, Goldman was permitted to speak at the temple two weeks later.<sup>31</sup>

Local anarchists again clashed with Philadelphia police four years later in a free-speech standoff that came to be known as the "Broad Street Riot." By 1907, another severe depression gripped the country, throwing millions out of work and sparking unemployment demonstrations in the city and nationwide. At one such Philadelphia demonstration, on February 20, 1908, Italian and Jewish immigrant workers and anarchists filled the New Auditorium Hall at Third and Fitzwater streets and demanded jobs for the unemployed. As they listened to the fiery rhetoric of English-, Yiddish-, Italian-, and Russian-speaking radicals, including Voltairine de Cleyre, Chaim L. Weinberg, and George Brown, the crowd grew more volatile. Finally someone yelled, "Let us march on the City Hall." Despite the speakers' pleas to remain seated, demonstrators left the hall and marched along Catherine Street to Broad Street and then north on Broad, the city's main north-south thoroughfare, to City Hall. As they reached Broad and Locust streets, police on horseback began clubbing and arresting them. Police later arrested de Cleyre and Weinberg for inciting to riot. Four Italians were also charged with inciting to riot and assault and battery with intent to kill.<sup>32</sup>

As Emma Goldman was about to arrive in Philadelphia on September 28, 1909, to deliver her scheduled lecture titled "Anarchism: What It Really Means," memories of the Broad Street Riot and its aftermath were still fresh. Several days before Goldman was to appear in the city, Dr. Ben Reitman came to town to assess matters. Reitman, a roguish figure from Chicago with a medical degree, became Goldman's resourceful road manager and lover after 1908. Meeting with the city's radical element a few

<sup>31</sup> "Mayor Denounced by Free Speech Lovers," *Public Ledger*, Apr. 18, 1904; "Emma Goldman Is Allowed to Speak," *Public Ledger*, Apr. 25, 1904.

<sup>32</sup> "Voltairine Denies She Started Riot," *Evening Bulletin*, Feb. 21, 1908; Avrich, *American Anarchist*, 200–3. De Cleyre and Weinberg were tried on June 18, 1908, and found not guilty when a key government witness failed to appear and when the prosecution could produce no other evidence. Meanwhile, a defense committee continued to fight for the release of the four Italians who were tried separately, convicted, and given long prison terms. See Avrich, *American Anarchist*, chap. 8.

days before, Reitman was warned “that all radical gatherings had of late been suppressed in the City of Brotherly Love” in the wake of the Broad Street Riot.<sup>33</sup> Ben Reitman’s stormy meeting with Henry Clay only confirmed this. Clay was the city’s director of public safety in 1909 and a product of the same corrupt political machine that Goldman first confronted in 1901. As a representative of the Free Speech Committee, Reitman wanted assurances that Goldman would “not be molested by the police” as she attempted to speak in the city. Director Clay responded by pulling a rogues’ gallery photograph of Goldman from his desk that confirmed she had a criminal record.<sup>34</sup> Clay told Reitman that Emma Goldman would never be permitted to speak in *his* city.

Despite the rebuff, Goldman came to Philadelphia as scheduled. As it happened, Goldman rode over in the same train from New York City as Philadelphia’s Mayor John E. Reyburn, who observed her during the train ride but at first failed to recognize the famous anarchist. Judging from her entourage, he thought she might be a suffragette or possibly a woman of unsavory character. If the mayor seemed less than impressed, the *Public Ledger* appeared fascinated just by her physical presence, which belied a ferocious reputation. “She is a very little woman to have created such a stir,” the paper observed, “and her face suggests peace and a well ordered life, rather than anarchy and its teachings.” She wore a light yellow skirt, a white shirtwaist, and little jewelry. “This high priestess of the anarchists is almost good-looking. She has light brown hair, which would be very pretty if there were more of it, and a complexion certain women would go far to get. It is a pink, flesh complexion.”<sup>35</sup>

Fully expecting problems with the city’s police as she stepped off the train that day, Goldman told the press that if she were barred from speaking at the Odd Fellows’ Temple that evening, she would consider legal options to defend her right to make a living. Since founding *Mother Earth* in 1906, Goldman embarked on national speaking tours each year to raise funds to support the anarchist journal. She typically sold *Mother Earth* and other anarchist literature at her speaking events. In defense of her right to earn a living as a public speaker, she could ask a judge to issue a warrant for the arrest of the assistant superintendent of police, Tim O’Leary, and also begin an injunction proceeding against Mayor Reyburn

<sup>33</sup> Goldman, *Living My Life*, 456.

<sup>34</sup> “Emma Goldman to Try to Speak Here,” *Public Ledger*, Sept. 25, 1909.

<sup>35</sup> “Police May Turn Hose on Anarchists.”

and Henry Clay. Anticipating a legal fight, Goldman conferred with Henry John Nelson, a Philadelphia lawyer and socialist who represented the city's Free Speech League. That afternoon Clay told Nelson and Reitman that if Goldman submitted a copy of her planned speech to him for prior censorship he would consider letting her speak that evening. "On the day of the meeting hallucinations set in at City Hall. The Director of Public Safety imagined himself the Russian Tsar," Goldman reported in *Mother Earth*. "He despatched [sic] two Cossacks to my hotel, demanding that I submit my manuscript for the consideration and approval of His Majesty. That I refuse to do, of course." When Goldman refused to submit to censorship, Clay barred her from speaking.<sup>36</sup>

The meeting at the Odd Fellows' Temple was scheduled to begin by 8 p.m. By that time, the hall itself was already packed to capacity with anarchists, socialists, and defenders of free speech, and about ten thousand people were massed in front of the building situated at Broad and Cherry streets. To prevent Goldman from entering the building, Director Clay deployed more than two hundred policemen on Broad Street from Arch Street to Cherry Street. A guard detail watched the nearby Little Hotel Wilmot, where Goldman was staying, to track her movements. At about ten minutes past eight, Tim O'Leary learned that Goldman, escorted by her attorney, was on her way to the hall. O'Leary, the assistant police superintendent and Clay's right-hand man, quickly massed twenty-five policemen to block her path. "You can't talk here," O'Leary told her. "Go back to your hotel." As Nelson began to protest the order, he was pushed to the curb. At this point a crowd began to swarm around the policemen, prompting O'Leary to order the police to disperse them. Meanwhile, Nelson and Goldman pushed their way through the melee to get to Nelson's nearby law office as police continued to shadow them. When Reitman learned that Goldman was stopped, he rushed onto the stage of the Odd Fellows' Temple and told the assembled that "the greatest crime of the century has taken place. Miss Goldman has been insulted and held up by a ruffian who rules this city. This meeting is now resolved into a protest meeting and tomorrow we shall seek justice." The meeting then proceeded as planned, but without Emma Goldman.<sup>37</sup>

<sup>36</sup> Emma Goldman, "Adventures in the Desert of American Liberty," *Mother Earth*, Nov. 1909, in *Emma Goldman Papers*, reel 47; "Emma Goldman Not Allowed to Speak," *Public Ledger*, Sept. 29, 1909.

<sup>37</sup> Goldman, *Living My Life*, 457; "Emma Goldman Not Allowed to Speak"; "Emma Goldman

The next day, single taxers and freethinkers showered Goldman with moral and financial support as the anarchist considered her legal options. "Strangely and possibly inconsistent as it may seem to my comrades," Goldman wrote, "I finally consented to appeal to the courts. Not because I believed that justice could possibly prevail; but because I wanted the court itself to substantiate the anarchist contention so powerfully set forth by Ralph Waldo Emerson: 'All governments, in essence, stand for tyranny.'"<sup>38</sup>

On September 29, Goldman's attorney, Henry John Nelson, drafted an injunction to restrain Mayor Reyburn, Director Clay, and Assistant Superintendent O'Leary from interfering with Goldman's right to speak.<sup>39</sup> On September 30, while Nelson awaited a response from the courts, about twelve hundred people once again came to the Odd Fellows' Temple hoping to see Goldman. Instead, they only heard from Reitman, who informed the gathering that Goldman would not attempt to speak in public until she received word about her injunction petition.<sup>40</sup>

On Friday, October 1, Emma Goldman got her day in court. At a hearing before Judges Robert N. Willson and Charles Y. Audenried, Goldman sat just a few feet away from Mayor Reyburn and Director Clay, who were named as defendants in her suit. Called as the first witness, Goldman talked about the meaning of anarchism, a political philosophy widely misunderstood at the time by the general public.<sup>41</sup> In some respects, anarchism itself was on trial. The September 1901 assassination of President McKinley, slain by self-styled anarchist Leon Czolgosz, was still a recent memory. Czolgosz, an American born to Polish immigrant parents, murdered McKinley shortly after attending one of Goldman's lectures in Cleveland. In the aftermath of the assassination, the Chicago police held Goldman for a time on suspicion of complicity in the murder, but they later released her when they determined that Czolgosz had acted alone. After a hurried trial, authorities executed Czolgosz on October 29. While Goldman was absolved of any role in the crime, the McKinley assassination would forever couple anarchism with violence in the public mind. Some days after the hearing, in fact, a *Public Ledger* letter writer

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Is Kept from Hall by Police; 200 on Guard," *North American*, Sept. 29, 1909; Voltairine de Cleyre, "The Free Speech Fight in Philadelphia," *Mother Earth*, Oct. 1909, in *Emma Goldman Papers*, reel 47; Goldman, "Adventures in the Desert of American Liberty."

<sup>38</sup> Goldman, "Adventures in the Desert of American Liberty."

<sup>39</sup> "Emma Goldman Keeps up Battle," *Public Ledger*, Sept. 30, 1909.

<sup>40</sup> "No Speech by Miss Goldman," *Public Ledger*, Oct. 1, 1909.

<sup>41</sup> "Emma Goldman Talks Anarchy before Judges," *Public Ledger*, Oct. 2, 1909, in *Emma Goldman Papers*, reel 47.



assumed Czolgosz swore under oath that he killed the president after hearing the utterances of Emma Goldman. This was reason enough to prevent Goldman from speaking in Philadelphia. In her caustic denunciation of the letter writer, who only signed his name as T. T. H., Goldman wrote, “the ‘assassin’ made no statements, nor could there be found even circumstantial evidence to connect me in any way.”<sup>42</sup>

Goldman’s own views about violence could be confusing. In a January 1901 interview with the *New York Sun*, she insisted that she never advocated violence and would think any man an “utter fool” who disclosed to her that he was planning an assassination. Goldman admitted, however, that she would never condemn those who resorted to violence as a spontaneous response to horrendous conditions. Her conflicting views on the subject were no doubt based on her unyielding loyalty to Alexander Berkman, her old anarchist comrade and onetime lover who, in his youth, had attempted to assassinate industrialist Henry Clay Frick during the 1892 Homestead strike. For this crime, Berkman was incarcerated for fourteen years in Western State Penitentiary near Pittsburgh.<sup>43</sup>

The real core of Goldman’s anarchist politics was opposition to the state and what the state stood for—central authority, interference in the lives of individuals, coercion, and censorship. Even liberal parliamentary democracies imposed the tyrannical will of the majority over powerless minorities. Voting and campaigning for political candidates seemed pointless. Instead of political action, anarchists like Goldman advocated “direct action,” such as militant trade unionism and street demonstrations, to bring equity to the workplace and to oppose an authoritarian state. Like her Marxist and socialist contemporaries, she also opposed capitalism. Yet, unlike socialists, who called for the nationalization of the means of production through a highly centralized state, Goldman advocated that property should be transferred, not to a state, but to individuals.<sup>44</sup>

At the hearing, Judge Willson asked Goldman whether she believed that there should be no government and if all government ought to be destroyed. Goldman replied “that the people, if properly educated and developed, can take care of themselves. They need no government at such a stage of education and development. The government could then be destroyed and—.” “Even by force?” the judge interrupted. “In some future

<sup>42</sup> Emma Goldman, “Emma Goldman and McKinley’s Death,” *Public Ledger*, Oct. 8, 1909, in *Emma Goldman Papers*, reel 47, and *Emma Goldman, A Documentary History*, 2:457–58.

<sup>43</sup> Wexler, *Emma Goldman*, 101.

<sup>44</sup> *Ibid.*, 90–91.

time, yes,” Goldman said, “when the people are able to take care of themselves, government should be destroyed.”<sup>45</sup>

On cross examination, assistant city solicitors James L. Alcorn and Andrew Wright Crawford, who represented the police, quizzed Goldman about her 1893 New York arrest and conviction for inciting to riot. They then read passages from anarchist literature to provide the court with some understanding of anarchism and the potential content of Goldman’s proposed lectures. Finally, Alcorn attempted to revisit the McKinley assassination. He wanted to ask Goldman about Czolgosz’s supposed claim that he murdered the president at Goldman’s suggestion, but Judge Willson barred this line of questioning.<sup>46</sup>

After Goldman’s testimony, the court heard from the two defendants, Mayor Reyburn and Director Clay. Both testified that in light of Goldman’s past police record and the recent anarchist-inspired demonstration in South Philadelphia that ended in a riot on Broad Street, they feared the Goldman lecture could result in another breach of the peace. Attorney Nelson argued that if the police prevailed in this case, the court would be granting the majority in power the right to suppress a minority from speaking. City attorney Alcorn countered that judicial interference with the state’s legally constituted policing powers would be unwise. After taking testimony from both sides, the court adjourned. A decision as to whether to give Goldman injunctive relief was expected in a day or so.<sup>47</sup>

While awaiting the court’s decision, Goldman remained at her 1502 Arch Street headquarters, a boardinghouse situated in the heart of the city’s downtown. Here she received visitors from the city’s radical libertarian element, the free thinkers and single taxers, and from young worshipping admirers, such as university students and several delegations of factory workers. One of the factory delegations included “a dozen pretty girls,” who, according to the *Public Ledger*, “were excellent samples of the factory hands who have almost revered the apostle of anarchy.” The *Ledger* was amazed to hear “these factory girls, who probably never spent two consecutive years in a school room,” quoting from Maeterlink, Ibsen, Thoreau, and Tolstoy.<sup>48</sup>

<sup>45</sup> “Emma Goldman Talks Anarchy before Judges.”

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> “Emma Goldman Expects to Speak,” *Public Ledger*, Oct. 3, 1909, and “Woman Anarchist Ready for a Test,” *Public Ledger*, Oct. 4, 1909, both in *Emma Goldman Papers*, reel 47.

In addition to the admiring visitors, Goldman also received support from several readers of the *Public Ledger*. "If it were not for the small minded men who are in temporary control of our civic affairs," noted Ryerson W. Jennings in a letter to the editor, "Emma Goldman, an insignificant, foolish woman, would have come to Philadelphia, stated her views and departed hence and only a mere handful of men and women would have been cognizant of it. It is not the Emma Goldmans that provoke the people to riotous thoughts one fraction as much as the misgovernment of a community, a disregard of people's rights, a sneering attitude towards those who will not aid in municipal debauchery or condone the pollution of the ballot."<sup>49</sup> The *Ledger* even published a letter from Goldman herself, who used this seemingly unexpected forum to speak directly to the city's middle-class newspaper readers. With her letter, she attempted to change the popular perception of anarchism that associated it with bomb throwing and violence, a view that city attorneys played on during the court injunction hearing against Goldman. Instead she equated anarchism with human justice and liberty. The true anarchists in American history, Henry David Thoreau and Ralph Waldo Emerson and abolitionists Wendell Phillips, William Lloyd Garrison, and John Brown, were men who championed justice and liberty. The true villains in this conflict were the police, who consistently abridged freedom of speech and assembly. "I have been in the lecture field for 18 years; have spoken in innumerable cities, including Philadelphia, and have never had a single disturbance," wrote Goldman. "The only disturbers were the police, when they attempted to stop meetings and suppress free speech." In closing, Goldman told readers: "the club may be a mighty weapon, but it sinks into insignificance before human reason and human integrity. Therefore I shall speak in Philadelphia."<sup>50</sup>

At the behest of the Free Speech Committee, various supporters met with Goldman at her Arch Street boardinghouse to map out plans and set up speaking dates, assuming that the court would grant Goldman's injunction. Should the court rule against Goldman and not grant the injunction, her supporters also developed strategies to force free speech in defiance of the police and Mayor Reyburn. Goldman told the press that

<sup>49</sup> Ryerson W. Jennings, "Seeds of Insurrection Sown Not by Emma Goldmans, but by Friends of Corrupt Government," *Public Ledger*, Sept. 30, 1909.

<sup>50</sup> Emma Goldman, "Emma Goldman Expects to Speak: The Anarchist's Letter," *Public Ledger*, Oct. 3, 1909, in *Emma Goldman Papers*, reel 47, and *Emma Goldman, A Documentary History*, 2:454–56.

she was ready to test the limits of the “authority of the police officials in this city to misinterpret the law.” To step up her campaign, she flooded Philadelphia with anarchist literature and had her supporters canvass the city appealing for financial aid. In the midst of all this planning, her supporters’ greatest difficulty was in securing a place for Goldman to speak. The Odd Fellows’ Temple was no longer available, and police were pressuring owners of other meeting halls not to rent to anarchists.<sup>51</sup> Finally, on Friday, October 8, a week after the injunction hearing, the Free Speech Committee staged a protest meeting at the Labor Lyceum at Sixth and Brown streets. Leonard Abbott, president of the Free Speech League and chairman of the meeting, extended an invitation to Mayor Reyburn to attend and explain why Goldman or anyone else should be prohibited from speaking in the city.<sup>52</sup> Declining the invitation, Mayor Reyburn instead sent Captain Callahan, along with four lieutenants and fifty policemen who took positions at the rear of the meeting hall. Speakers in attendance, including Chairman Abbott, ridiculed the police presence, criticized Henry Clay, and adopted a resolution demanding constitutional rights for Goldman.<sup>53</sup>

Just hours before the scheduled protest meeting, Judges Willson and Audenried called a special supplementary hearing. Goldman had hoped that an injunction would finally be granted, allowing her to speak at the Labor Lyceum that evening. But that was not to be. Instead, the court wanted Goldman to clarify her citizenship status. Was Goldman a naturalized U.S. citizen or not? If Goldman was, in fact, an unnaturalized alien, she might not be entitled to all the rights of U.S. citizenship under state and federal constitutions—including the right to unqualified free speech. The question of Goldman’s U.S. citizenship would dog her for the next decade. Goldman claimed U.S. citizenship through her 1887 marriage to Jacob Kershner. In 1906, however, Congress passed a law that made it possible to cancel one’s American citizenship if it could be shown that it was obtained fraudulently or illegally. On April 8, 1909, federal officials used this law to nullify Goldman’s citizenship. To accomplish this, they harassed Kershner’s friends and family to extract information that would purportedly show that he had not met the five-year residency

<sup>51</sup> Goldman, “Emma Goldman Expects to Speak”; “Woman Anarchist Ready for a Test.”

<sup>52</sup> “Anarchists Plan Rally,” *Evening Bulletin*, Oct. 6, 1909; “Anarchists Invite Mayor,” *Evening Bulletin*, Oct. 7, 1909; Goldman, “Emma Goldman and McKinley’s Death.”

<sup>53</sup> “Goldman Meeting without Goldman,” *Public Ledger*, Oct. 9, 1909, in *Emma Goldman Papers*, reel 47.

requirement when he was granted U.S. citizenship back in 1884. Investigators obtained second- and third-hand information without Kershner's or Goldman's knowledge. Authorities never informed Goldman of their investigation, giving her no opportunity to contest their conclusions. With Goldman's citizenship status now at issue, Henry John Nelson, attorney for the Free Speech League, conceded in an amended petition that Goldman was not a U.S. citizen. Nevertheless, he argued that past legal precedents and relevant clauses in the state and national constitutions granted Goldman the rights of citizenship in regards to speech. After hearing arguments, the court continued the case without rendering a verdict.<sup>54</sup>

The decision on whether to grant the injunction was finally announced on October 15, and the news was not good for Goldman. In the matter of *Goldman v. Reyburn*, Judge Willson ruled that Goldman, as an avowed anarchist and alien, could not claim legal protection for speech that called for the ultimate destruction of government. When confronting advocates of such doctrine, police had ample legal justification for interfering with meetings and lectures that were likely to provoke public disturbances and a breach of the peace.<sup>55</sup>

Although the court found reason enough to reject the petition based on a technical question concerning its wording, the court also rejected it based on larger constitutional arguments. Goldman's attorney maintained in the petition that the plaintiff had a right to deliver public lectures under Pennsylvania's constitution, which states that "every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty." Secondly, under the Fourteenth Amendment to the U.S. Constitution, no state can "deny to any person within its jurisdiction the equal protection of the laws." In dismissing these constitutional arguments, Judge Willson ruled that Goldman was not protected under Pennsylvania's constitution in this specific matter since she was not a citizen of Pennsylvania. She also could not be considered a citizen of the United States since federal officials had rescinded her citizenship under the 1906 immigration act. The court's ruling noted that, "As to the second ground . . . we may say at the outset that it does not appear that the state of Pennsylvania has attempted to discriminate against the plaintiff

<sup>54</sup> "Emma Goldman an Alien," *Evening Bulletin*, Oct. 8, 1909; Wexler, *Emma Goldman*, 178.

<sup>55</sup> *Goldman v. Reyburn et al.*, 36 Pa. C. 581 (Phila. County, 1909); "Court Decides against Anarchist," *Public Ledger*, Oct. 16, 1909.

personally, or as one of a class of persons, and thereby to deny to her or to such class 'the equal protection of the laws.'"<sup>56</sup>

As an additional argument against the petitioner, the court cited the Immigration Act of 1903, which excluded known anarchists from the country who believed in or advocated the overthrow of government by force or who promoted the assassination of public officials. Since Goldman was an admitted anarchist and now an unnaturalized alien, the court ruled that she could also be deported under the act.<sup>57</sup>

The court's outright rejection of Goldman's petition was consistent with other free-speech cases that had been tested in the preceding decades. Courts during these years tended to view the rights of free speech in a rather limited way. The First Amendment to the U.S. Constitution states that Congress shall make no law abridging the freedom of speech, press, and right to peaceably assemble. Courts generally took this to mean that written speech could not be subjected to prior censorship. However, speech could be limited after publication if it was found to have a "bad tendency." Words that caused listeners or readers to commit illegal acts, incite riots, or cause disturbances, for instance, could fall under the bad-tendency rule. Fearing that Goldman's lecture, if permitted to proceed, would cause a disturbance, Judge Willson denied Goldman's injunction by using what appears to be another application of the bad-tendency test.

Courts used similar reasoning to reject the free-speech claims of other radicals and anarchists, such as Goldman's early mentor, Johann Most. In an 1891 case involving Most, New York's highest court affirmed the conviction of the anarchist editor under a statute that prohibited assembling with others and threatening to commit acts causing a breach of the peace. In a speech delivered a day after authorities hanged the Haymarket defendants in Chicago, Most urged his audience to "arm yourself, as the day of revolution is not far off; and when it comes, see that you are ready to resist and kill those hirelings of capitalists," who, in Most's opinion, were responsible for the executions. Eleven years later, the court convicted Most again for republishing a fifty-year-old article the day of McKinley's assassination that argued that all government is founded on murder and that revolutionary forces sometimes have a duty to kill "a professional murderer." In an introductory comment, Most said the article was "true

<sup>56</sup> *Goldman v. Reyburn*.

<sup>57</sup> *Ibid.*

even today,” which the court took to be an endorsement of the sentiments it contained. The court concluded that the article went well beyond legitimate criticism of public affairs and could incite a breach of the peace and encourage others to commit murder.<sup>58</sup>

Interestingly, when Emma Goldman came to Philadelphia in 1909 to deliver a lecture, police never charged her with any crime. Unlike Most and others who were convicted after writing or speaking words that could incite others to commit illegal acts, Goldman was never given the chance to speak. Yet, based on her past reputation, the police and the court had decided that her lecture could potentially cause a public disturbance and barred her from speaking. Philadelphia public safety director Henry Clay told Goldman that he would consider allowing her to speak if she submitted the text of her lecture to him for prior censorship. He would thus deny Goldman the most fundamental protection of speech under the First Amendment as it was understood at the turn of the twentieth century: the prohibition against prior restraint.

Nevertheless, the courts, historically, had assumed that the First Amendment did not apply to the states, and Goldman’s petition, after all, was filed in a state court to redress a grievance with the Philadelphia police. To bring the U.S. Constitution and the First Amendment to bear in this instance, attorney Henry John Nelson cited the equal protection clause of the Fourteenth Amendment, which states that no state can “deny any person within its jurisdiction the equal protection of the laws.” Nelson asserted that free speech, one of the basic liberties guaranteed under the federal Constitution, was protected from state infringement by the Fourteenth Amendment.

Nelson was hardly the first to attempt this strategy. Shortly after the passage of the Fourteenth Amendment in 1868, litigants asserted a possible relationship between the First and Fourteenth Amendments in such cases as *United States v. Hall*, *Spies v. Illinois*, *Cruikshank v. United States*, and *Patterson v. Colorado* with little success.<sup>59</sup> In *Patterson* (1907), the U.S. Supreme Court upheld the contempt conviction of a newspaper publisher who had printed articles and cartoons critical of the Colorado Supreme Court. Using a traditional common-law interpretation of free speech, the high court ruled that if the First Amendment even

<sup>58</sup> Rabban, *Free Speech in Its Forgotten Years*, 132, 143–44.

<sup>59</sup> Rabban, *Free Speech in Its Forgotten Years*, 147–49; *United States v. Hall*, 26 F. Cas. 79 (C.C.S.D. Ala. 1871) (No. 15,282); *United States v. Cruikshank*, 92 U.S. 542 (1875); *Spies v. Illinois*, 123 U.S. 131 (1887).

applied in this case, it only protected the press from prior restraint. Despite a dissenting opinion from Justice John Marshall Harlan that held that the Fourteenth Amendment and its “privileges or immunities” clause applied the First Amendment to the states, the court’s majority left no doubt that states could punish citizens for speech deemed harmful to the public interest.<sup>60</sup>

While the courts of law continued to take a narrow view of speech, the court of public opinion seemed prepared to embrace a more expansive view of speech. For the *Public Ledger*, it became a question of striking the right balance between protecting the public peace and protecting the people’s right to speak. During the days leading up to the injunction petition, the *Ledger* believed that the city’s police force, and not anarchism, was the biggest threat to speech and public order. In a *Ledger* editorial published two days after the decision, the newspaper condemned the police for their “ill-advised attempt to impose a censorship upon public speaking.” “Emma Goldman might have come and gone in Philadelphia without attracting attention beyond a little circle of ill-balanced minds,” the editorial read. “The attempt to suppress her has given her a fictitious notoriety and an artificial association with the idea of ‘free speech’ to which she is neither legally or ethically entitled.” Police should have discretionary authority to act without undue court interference, the editorial continued, but they had to respond sensibly. In this regard, the police misread the seriousness of the threat and overreacted. “Philadelphia is not a breeding place nor a hospitable soil for anarchy, and the Goldmans and their kind ‘may freely speak’ without endangering the structure of society. Very few will listen to them. It is only the attempt to choke them off that directs attention to them. If they do make a disturbance, the police can easily take care of them, but the best way to minimize their effect is to let them alone.”<sup>61</sup>

The police ignored the *Public Ledger*’s advice. Rather than adopt a hands-off policy towards radicals, the police became more aggressive. The recent court decision, which seemingly identified anarchists as a dangerous class, only emboldened the police. It wasn’t just Emma Goldman who posed a threat to the public safety. Anarchists and libertarian thinkers of all stripes were equally dangerous. But the denial of an injunction to stop

<sup>60</sup> Rabban, *Free Speech in Its Forgotten Years*, 132–34, 148–49; *Patterson v. Colorado*, 205 U.S. 454 (1907).

<sup>61</sup> “Anarchy and Free Speech,” *Public Ledger*, Oct. 17, 1909.



police from gagging Goldman did not end the free-speech drama that had dragged out in Philadelphia for several weeks simply because Goldman and her supporters refused to leave the stage. The free-speech advocates had enough fight left to mount a second act. The impetus for the renewed speech campaign in Philadelphia came from an unlikely place a half a world away. As it played out, it would provide anarchism with its newest martyr and create a new cause célèbre.

During the summer of 1909, the Spanish government began drafting soldiers from the general population to maintain its control of Morocco, in North Africa. This move triggered a revolt among workers, who struck in Barcelona factories, and among leftist groups, who opposed the Roman Catholic Church's domination of the government. Opponents torched churches, blew up railroads, and attacked military barracks. The government ultimately put down the revolt in Barcelona, killing more than six hundred workers. Though he unlikely had any involvement in the insurrection, in October 1909 Spanish authorities arrested Francisco Ferrer, an anarchist, libertarian educator, and long-time irritant to the country's entrenched Roman Catholic establishment. After a sham trial, the court found him guilty and sentenced him to death. On October 13, he was executed by firing squad. The execution sparked leftist demonstrations and political unrest throughout much of Europe.<sup>62</sup>

In Philadelphia, meanwhile, leaders of the erstwhile free-speech fight now announced that they would hold a memorial meeting for Ferrer on Sunday evening, October 17, in Industrial Hall at Broad and Wood streets. Organizers had been distributing red cards with a heavy black border to advertise the meeting. According to the announcement, Emma Goldman's sketch of Ferrer's life and work would be read. Speakers were to include Voltairine de Cleyre, single taxer Frank Stephens, and Dr. Ben Reitman. One of the advertising cards fell into the hands of public safety director Henry Clay, who promptly declared that the list of speakers provided clear evidence that the meeting was anarchistic in nature. He ordered that the meeting be canceled. A detail of detectives and patrolmen were to surround the building to carry out the order. Clay said he was empowered to shut down the meeting based on Judge Willson's recent ruling "that anarchists have no standing in this community."<sup>63</sup>

<sup>62</sup> Paul Avrich, *The Modern School Movement: Anarchism and Education in the United States* (1980; Oakland, CA, 2006), 18–19, 24–26, 30, 38.

<sup>63</sup> "Anarchists Not Allowed to Meet," *Public Ledger*, Oct. 17, 1909, in *Emma Goldman Papers*, reel 47.

Goldman was not surprised when she learned of this latest police action. "Judge Willson has now made the police omnipotent," she said. "I shall not now be surprised to see them stop every meeting advertised, whether it concerns astronomy, the drama or the North Pole, if only they can find an anarchistic looking name among the speakers." Goldman then announced that rather than attempt to speak in Philadelphia she would instead go to New York that evening to address a Ferrer memorial meeting there. Reitman, meanwhile, vowed to hold the Philadelphia memorial to Ferrer at Industrial Hall in defiance of the police.<sup>64</sup> To make good on his promise to read Goldman's memorial to Professor Ferrer that evening, Reitman staged a high-stakes game of hide-and-seek with the police. As police remained preoccupied watching Industrial Hall, Reitman, de Cleyre, and followers outwitted Director Clay and held their memorial meeting ahead of schedule at New Royal Hall at Seventh and Morris streets in South Philadelphia. As it happened, the Young Working People's Educational Society was holding an afternoon lecture there on American womanhood. After a bit of arm twisting, Reitman persuaded the group to let him read Goldman's memorial statement to Ferrer and also to permit de Cleyre to speak. When word spread of a clandestine meeting, about three hundred people, many of whom were anarchists, came to the hall at about 5 p.m. De Cleyre spoke first. She began by eulogizing Ferrer and finished with an impassioned defense of free speech. "Europe, monarchical Europe, has the right to despise us, to hold us in scorn," de Cleyre said. "We, whose fathers died for liberty, but for whose shameful indifference liberty is likely to die with us. In Philadelphia American liberty was born. In Philadelphia it has been buried and lies underneath the 'Clay,'" de Cleyre said in a punning reference to public safety director Henry Clay. "When it is reborn it will no longer be as American, but as human liberty."

De Cleyre's words electrified the audience and set the stage for the evening's dramatic climax. Ben Reitman rose to deliver the text of Emma Goldman's memorial to Francisco Ferrer. As Reitman introduced the speech, the owner of the hall grew noticeably nervous. He began whispering to others in the hall. At some point the whispering turned to shouting, attendees overturned benches, and people stood up in alarm. Determined to get through the speech, Reitman spoke over the noisy commotion in the hall until he reached the end of the prepared text.

<sup>64</sup> Ibid.

"Then, as anarchy had held its promised meeting, and Professor Ferrer's martyrdom had been duly celebrated, and also as the owner of the hall was growing exceedingly noisy, Dr. Reitman and his friends withdrew," the *Public Ledger* reported.<sup>65</sup>

Flushed with success after holding a Ferrer memorial in defiance of police, Reitman and company next decided to march as a body to Industrial Hall at Broad and Wood streets to provoke a direct confrontation with police, who were waiting for them. "Then the hearts of the anarchists leaped high at the thought of martyrdom, imprisonment, and other discomforts," the *Ledger* reported. When the Reitman entourage arrived on the scene in front of Industrial Hall, they found about three hundred people holding pleasant conversations about free speech with Captain Hearn and a squad of policemen, who were refusing to allow the assembled gathering to conduct a meeting in the hall. With Reitman now among them, the police dispersed those gathered, pushing them down Broad Street. Undeterred and "highly pleased at this taste of martyrdom," the crowd made its way to the Radical Library at 424 Pine Street.

Founded by anarchists and situated in the heart of the city's Jewish quarter, the Radical Library represented anarchism's safe haven from police, or so the anarchists thought. Anarchists and sympathizers filled the hall to listen to speeches while the ever-present police milled about doorways to monitor the gathering. Despite the provocative police presence, it now appeared the evening would pass without incident. So much for martyrdom. Then the unexpected happened during a routine intermission when Ben Reitman innocently rubbed his right leg with his left foot. The gesture led Sergeant Hogan of the Third and Delancey streets police station to think that Reitman was about to get up to speak. Grabbing Reitman by the shoulders, the sergeant shouted: "You don't speak tonight." Finally, "Dr. Reitman's moment of martyrdom had come," the *Ledger* reported. "You cannot deny me the right to speak," he responded. With that Sergeant Hogan began to shake Reitman violently, which, in turn, triggered the disturbance anarchists had been expecting all evening. With their clubs now drawn, police began beating anarchists, ejecting them from the hall and throwing them to the pavement outside. The brutal thrashing delighted the anarchists and their supporters. The incident was bound to elicit more sympathy to the cause of free speech,

<sup>65</sup> "Police Eject Anarchists and Shake Reitman," *Public Ledger*, Oct. 18, 1909.

Emma Goldman, and anarchism.<sup>66</sup>

A *Ledger* article summed it up: "Now that they felt that they had suffered the indignities of the police they were perfectly happy and went home like ladies and gentlemen. Dr. Reitman, Voltairine de Cleyre and the other leaders of anarchy retired to Miss Goldman's rooms and refreshments were served and the newspapermen entertained with plans of anarchy for the future." As they wrapped up a successful evening, the anarchists expressed only one regret: no one had been arrested.<sup>67</sup>

It would not be long, however, before anarchists and supporters were once again facing down police, who now seemed even more determined to rid the city of Emma Goldman. The anarchist had returned to the city from New York, moving back into her Arch Street boardinghouse. It was here on the evening of October 20 that Goldman attempted to hold a private meeting. More than a dozen free-speech supporters were expected to attend, including Voltairine de Cleyre, Frank Stephens, and Baptist minister Rev. Cooper Ferris. But plainclothes detectives and police, who had been watching Goldman's movements since her return from New York, were determined to prevent the meeting from taking place. At about 7 p.m., Lieutenant Daly approached the boardinghouse's landlady, Mrs. Austin, and requested that she stop any meeting. "There must be no meeting," he told her. "If you permit these people to enter I shall arrest the whole party." Daly then proceeded towards a staircase leading to Goldman's apartment. By this time a crowd of boarders and onlookers had gathered. Goldman had also heard the commotion and confronted Daly. "You're not going to my room," Goldman told Daly. "My room is private, and I fortunately have the privilege of having the choice of my visitors. Would you allow a policeman to enter your room?"

After hearing Goldman's protest, the lieutenant backed away. Still determined to stop the meeting, Daly placed a detective at the entrance to the boardinghouse to turn away Goldman's visitors. One by one, Goldman's guests did an about-face, but several, including de Cleyre, managed to slip past police and enter Goldman's apartment. Goldman told the press that the police were making themselves ridiculous. "This was not a public meeting, nor did the public know what we are to talk about," Goldman said. "We were to consider general plans for a protest against the methods of police interference with the rights of every

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

American citizen to speak and be heard by whom he pleases. I shall remain here indefinitely. And I shall speak and take the consequences." Police finally persuaded the owners of the boardinghouse to evict Goldman and Reitman from the premises. The next day, Goldman found refuge with Voltairine de Cleyre.<sup>68</sup> On October 22, Goldman and Reitman traveled back to New York to meet with the Free Speech Committee to discuss the situation in Philadelphia.

The police siege of the Arch Street boardinghouse turned out to be Goldman's last stand in what she called "the desert of American liberty." "Its barrenness and utter desolation were not new to me," she wrote. "Yet never did that desert seem more real, more deadening than when I reached Philadelphia."<sup>69</sup> By depriving Goldman's followers of the opportunity to hear the basic tenets of anarchism delivered directly from the lips of its high priestess, the city was spared violence, or so city officialdom thought. There would be no new eruptions of civic disorder like the Broad Street Riot of two years before. Of course, by stopping Goldman from speaking, the city provided the anarchist with a wider audience of newspaper readers who followed her clashes with police. They read her well-reasoned comments in newspaper articles and in letters to the editor printed in the *Public Ledger*, which contrasted a libertarian, stateless philosophy with the heavy-handed authoritarianism of the city's police force. Yet, even as newspaper coverage gave the controversy wide exposure, only a relative few were outraged enough to come to her public defense on free-speech grounds. "The disappointing and discouraging feature of the Philadelphia experience is the utter lack of interest in the issue of free speech,—or if not indifference, it is certainly lack of spirit, absolute lack of backbone," Goldman noted in her account that appeared in the November issue of *Mother Earth*. "As to the public at large, no other city represents such a white-livered specimen. To put red blood in its veins it will have to be clubbed still more, and starved and kicked about. And even then it may never give birth to the spirit of revolt."<sup>70</sup>

In a November 6 letter to an associate, Goldman disclosed that the Free Speech Committee was "determined to carry on the fight, if not to absolute victory, at least to the point when it might not be an easy task for

<sup>68</sup> "Police Drive off Goldman Visitors," *Public Ledger*, Oct. 21, 1909; "Emma Goldman Moves," *Public Ledger*, Oct. 22, 1909.

<sup>69</sup> Goldman, "Adventures in the Desert of American Liberty."

<sup>70</sup> *Ibid.*

the police to interfere” with her meetings.<sup>71</sup> After the papers reported that the police hounded Goldman and her followers out of the Arch Street boardinghouse, the generally sympathetic *Public Ledger* published a new batch of favorable letters to the editor, including one from Leonard Abbott, president of the Free Speech League, who used the opportunity to once again condemn the city’s director of public safety. “Director Clay may win an ephemeral victory. His policemen may, for the time being, stab free speech in the heart and outrage the most elementary personal rights without rebuke, but his conduct will be condemned by progressive thinkers in every country. Anarchism has a right to be heard, and it will be heard in Philadelphia.”<sup>72</sup>

As Leonard Abbott had prophesied, anarchism and Emma Goldman would be heard from again. When a reform administration took office after 1911, replacing the Reyburn/Clay regime, Abbott and the Free Speech League renewed their campaign to allow Goldman to speak in Philadelphia. But Rudolph Blankenburg, the new mayor who was elected on a reform ticket, and the city’s new director of public safety, George D. Porter, continued to enforce the anti-Goldman policy of the previous administration. Despite Director Porter’s order forbidding her to speak, Goldman announced that she would appear at the Labor Lyceum at Sixth and Brown streets on January 4, 1914. As about five hundred people gathered in the hall awaiting her arrival, they were greeted by police who told them to disperse. Again, the authorities would not allow Emma Goldman to speak in Philadelphia. As men and women left the hall, however, some got the word that they should regather at the Radical Library at 424 Pine Street. As the library meeting room filled to capacity and the doors closed, Alexander Berkman, Goldman’s longtime associate, lifted a rear window. Goldman had snuck around to the rear of the building to dodge police, and supporters then hoisted her through the window and lifted her onto a platform. To ensure that she would make a speech before police could take her from the stage and arrest her, Berkman chained her to the window jamb. Then she spoke. “I made up my mind that I was going to speak in this city tonight,” she said while pounding her fist on a table, “and I would do it if I had to walk the streets all night, if I had to break into some private house, or if I had to do it from the City Hall plaza.”<sup>73</sup>

<sup>71</sup> Emma Goldman to Max Metzkow, Nov. 6, 1909, in *Emma Goldman Papers*, reel 3.

<sup>72</sup> Leonard D. Abbott, “Principle, Not a Person,” *Public Ledger*, Oct. 25, 1909.

<sup>73</sup> “Emma Goldman Defies Police,” *Public Ledger*, Jan. 5, 1914; “Emma Goldman Makes Speech

In a bit of macabre irony, former mayor and old Goldman adversary John E. Reyburn died suddenly that same day.<sup>74</sup>

Reaction to Goldman's latest run-in with police was swift. In a lead *Public Ledger* editorial, the paper condemned public safety director Porter for overreacting and questioned whether a public official should have the power to decide arbitrarily who may or may not speak in the city. "[Porter's] good intent is not questioned, but it must be plain that if every executive or head of department should exercise that power at will, there would be no real freedom of speech in this country. We have no desire to permit the Goldmans to speak their mischievous nonsense, but free speech is a right resting upon stronger foundation than the permission of any official."<sup>75</sup> Several days after Emma Goldman's clandestine meeting, anarchists formed a Philadelphia Free Speech League chapter to continue to force the issue. Then, on February 4, league secretary Theodore Schroeder, Goldman's legal counsel, met with Porter, who, in an apparent about-face, told Schroeder that he would lift the order that barred Goldman from speaking. For the first time in five years, Emma Goldman would be permitted to speak in Philadelphia. The moment came on the evening of March 9, when she delivered a speech before a standing-room-only audience in the Parkway Building on the subject of "Anarchism and Why It Is Unpopular."<sup>76</sup> "The lecture arranged by the Free Speech League of Philadelphia for March 9 was a tremendous success," Goldman wrote afterwards in *Mother Earth*, "not only because of its size, but because of the complete breakdown of the authorities, which is only another proof that perseverance in behalf of an ideal inevitably leads to recognition. Five years ago Anarchism was silenced in Philadelphia. On March 9, 1914, it rang out its clarion voice more powerful than ever."<sup>77</sup>

If Emma Goldman was looking for vindication and poetic justice in Philadelphia that evening, she may have found both in abundance. As she spoke, her old nemesis from years before, former public safety director

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Police Forbad," *Record*, Jan. 5, 1914; John Davenport, "Gagging Free Speech," *Mother Earth*, Jan. 1914, in *Emma Goldman Papers*, reel 48.

<sup>74</sup> John E. Reyburn (1845–1914), who served as mayor from April 1907 to December 1911, died of a heart-related illness, according to various contemporary obituaries.

<sup>75</sup> "Free Speech and Those Who Abuse It," *Public Ledger*, Jan. 6, 1914.

<sup>76</sup> "Anarchists Form League of Protest," *Public Ledger*, Jan. 9, 1914; "Defines 'Free Speech'" *Public Ledger*, Feb. 5, 1914; "5-Year Fight Won by Emma Goldman," *Public Ledger*, Mar. 10, 1914.

<sup>77</sup> Emma Goldman, "A Review of Our New York Activities," *Mother Earth*, Apr. 1914, in *Emma Goldman Papers*, reel 48.

Henry Clay, was appealing a conviction in Superior Court stemming from his role in a conspiracy to defraud the city of large sums of money for the construction of police stations, bathhouses, and firehouses.<sup>78</sup>

The scenarios that played out in Philadelphia between 1893 and 1914 had become all too familiar to Goldman in her years as a public speaker. As one of Goldman's biographers explained, it mattered little which city or town she happened to be speaking in. All the players involved seemed to follow the same script. Police would censor or attempt to censor her lecture, whereupon the community's outraged radicals, liberals, and even conservatives, who strictly observed the First Amendment, would protest police intervention. On occasion, erstwhile supporters would come together to oppose the police and defend Goldman.<sup>79</sup> The Philadelphia drama played out somewhat differently in that her followers urged her to use the Free Speech League to challenge police action in a Pennsylvania court.

The role of the police in such confrontations also became quite predictable during the Progressive Era. Many of the tactics police used to suppress radicalism were first developed to suppress labor organizing and demonstrations during the Gilded Age. It was, in fact, the Haymarket tragedy—the defining event in Emma Goldman's life—that marked an important milestone in urban policing. After Haymarket, labor organizing became equated with radicalism, violence, and the threat of terroristic attacks with bombs and dynamite. Police forces in large cities sought some legal pretext (illegal trespass, disorderly conduct) and used newly enacted statutes to disrupt otherwise peaceful labor activities. Haymarket also marked the beginnings of a surveillance state. Police began to monitor individuals, such as anarchists, based solely on their ideological beliefs. As police used surveillance and illegal violence to intimidate radicals and curb dissent through the late nineteenth and well into the twentieth century, it was often with the consent of many Americans who feared immigrants and political discussion that smacked of radicalism. Many believed democratic values embodied in the Bill of Rights did not extend to immigrants with “dangerous” political or economic philosophies, women, or

<sup>78</sup> Henry Clay and the principles of the contracting firm were indicted by a grand jury in January 1912 and charged with defrauding the city of two hundred thousand dollars in contracts for bathhouses and police and fire stations. After they were convicted, Superior Court granted them a new trial, held in 1915, which resulted in their acquittal. Afterwards, Clay retired from public life. He died on April 26, 1926, at the age of seventy-six.

<sup>79</sup> Richard Drinnon, *Rebel in Paradise: A Biography of Emma Goldman* (1961; New York, 1976), 121.



minorities—characterizations that could almost certainly apply to Emma Goldman. Police first applied repressive tactics at outdoor demonstrations, mass meetings, rallies, picket lines, and parades. To disburse such gatherings, police used dragnet and pretext arrests, indiscriminate clubbings, and mounted charges. To suppress indoor gatherings, police could selectively enforce fire, health, and building ordinances, or require meeting-hall owners to submit in advance the names of sponsoring organizations and speakers. If this failed, police details could flood the entrances to meeting halls and turn away attendees. When police did allow meetings to take place, plainclothes note takers were present to ensure that a crime, such as “inciting to riot,” was not about to take place. The presence of police note takers, however, was really intended to intimidate speakers and their followers.<sup>80</sup>

While challenges to police authority were sometimes successful, the work of the Free Speech League in Philadelphia and other cities and the defense of free speech in the city’s press puts to rest the notion that civil-liberties cases rarely entered the courts or garnered attention in the public press until World War I and the Red Scare that followed.

Legal scholar David Rabban writes of a long tradition of libertarian radicalism that emerged before the Civil War and produced individual anarchism, radical abolitionism, and the freethought and free-love movements. Adherents to such philosophies were committed to individual autonomy in all its aspects and held a deep belief that unfettered speech was important and needed to be protected from state intrusion. Out of this tradition emerged the Free Speech League, whose members were dedicated to defending the expression of all viewpoints.<sup>81</sup>

It is most ironic that the Free Speech League emerged during the Progressive Era, a time when many progressives approached free speech with ambivalence. For progressives, arguments for individual constitutional rights brought to mind judicial principles such as “liberty of contract” and the sacredness of property rights. All too often, the Supreme Court sided with business and handed down decisions contending that the state could not use its police powers to regulate the length of the workday or to eliminate child labor; it argued that such measures interfered with property rights. The courts remained unsympathetic to protes-

<sup>80</sup> Frank Donner, *Protectors of Privilege: Red Squads and Police Repression in Urban America* (Berkeley, CA, 1990), 2, 20; Paul L. Murphy, *World War I and the Origin of Civil Liberties in the United States* (New York, 1979), 40–45.

<sup>81</sup> Rabban, *Free Speech in Its Forgotten Years*, 2.

tations that state police power should not interfere with personal or civil liberties. In contrast to the judicial conservatism that favored property rights to the detriment of reform legislation, as well as the antistatism of the radical libertarians, progressives touted the social benefits of the benevolent state. According to the progressive view, government intervention through legislation to rein in the worst abuses of capitalism could work in everyone's collective best interests.

It was the experience of World War I and its aftermath, however, that profoundly turned this perspective on its head and converted many progressives into radical libertarians themselves. During World War I, the Wilson administration used the new Espionage Act to arrest critics of its war policies. From this experience, progressives came to realize, as did the framers of the Constitution and the Bill of Rights in the eighteenth century, that government could pose a threat to civil liberties.<sup>82</sup> It was these progressives who founded the Civil Liberties Bureau (which in 1920 became the American Civil Liberties Union) to defend the free-speech rights of conscientious objectors during the war.

During the Red Scare years that followed, the ACLU defended the free-speech claims of Socialists and others who had been jailed for their antiwar activities.<sup>83</sup> The emerging ACLU relied heavily on the knowledge and expertise of the Free Speech League, but unlike the league, the ACLU, in its early days, adopted a narrower definition of protected speech, initially defending only political speech. By contrast, the Free Speech League, reflecting its libertarian underpinnings, believed the First Amendment protected virtually all forms of expression, which could include literature and the arts. It would be many years before the ACLU would come to a similar position.<sup>84</sup> It would also be many years before the Supreme Court would support the free-speech claims of plaintiffs under the First Amendment. In 1919, the high court first began to acknowledge free-speech defenses only in famous dissenting opinions. In the 1925 *Gitlow* case, the Court finally used the Fourteenth Amendment to apply the First Amendment's free-speech provisions to the states. But it was not

<sup>82</sup> Rabban, *Free Speech in Its Forgotten Years*, 3–4; Starr, *Creation of the Media*, 270.

<sup>83</sup> In Philadelphia, attorney Henry John Nelson, who represented Emma Goldman in 1909, became an associate of the ACLU and defended Socialists arrested during the war years. He was one of the attorneys who represented plaintiffs in the landmark *Schenck v. United States* case and two other Espionage Act–related cases, which the Supreme Court used to define the modern First Amendment.

<sup>84</sup> Rabban, *Free Speech in Its Forgotten Years*, 76.

until 1927 that Supreme Court majorities began enforcing free-speech rights guaranteed by the First Amendment for the first time.<sup>85</sup>

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For much of its existence, the Free Speech League defended Emma Goldman, whose own kind of libertarian radicalism was far too radical for its time. After leaving Philadelphia in 1909, Goldman spent the next decade defending free speech, attacking traditional marriage as an oppressive institution (particularly for women), championing birth control and the dissemination of contraceptive information, sympathizing with the plight of prostitutes and prison inmates, and, on the eve of America's entry into World War I, challenging the government's right to conscript men into the army. Authorities arrested her many times for these views. Philadelphia police, in fact, threatened to arrest Goldman as she attempted to organize a local branch of the No-Conscription League.<sup>86</sup> For her opposition to conscription in 1917, the federal government tried and convicted Goldman and her longtime associate Alexander Berkman and sentenced them to two years in federal prison. Stripped of her citizenship in 1909, when the federal government used every means in its power to denaturalize her former husband, Jacob Kerschner, Goldman had few legal options remaining in 1919 when the government ordered that she be deported along with Berkman. Her deportation was the culmination of a two-decades-long campaign to rid the country of anarchists, including Emma Goldman, simply on the basis of what they believed. It began with the Anarchist Exclusion Act of 1903 and continued with the Immigration Act of 1918, which threatened to deport aliens who advocated the violent overthrow of the government. Goldman's days as an outspoken anarchist, editor, and social critic in her adopted land ended on December 21, 1919, a bitterly cold Sunday morning, when Goldman, Berkman, and 247 other alien radicals boarded a barely seaworthy transport, the *Buford*, anchored in New York harbor. The ship was bound for Russia, Goldman's birthplace.<sup>87</sup>

<sup>85</sup> See *Gitlow v. New York*, 268 U.S. 652 (1925); *Fiske v. Kansas*, 274 U.S. 380 (1927); *Stromberg v. California*, 283 U.S. 359 (1931); and *Near v. Minnesota*, 283 U.S. 697 (1931).

<sup>86</sup> On May 31, 1917, Goldman told those gathered at Royal Hall on Seventh and Morris streets in South Philadelphia to oppose conscription just weeks after Congress adopted the Selective Draft Act. The timing of Goldman's antidraft speech was particularly irritating to local authorities since June 5 was set as national registration day.

<sup>87</sup> Goldman, *Living My Life*, 723; Drinnon, *Rebel in Paradise*, 221.

It is said that federal officialdom banished Goldman from these shores to protect the country from a dangerous anarchist. Or perhaps it was because the country was not ready to accept the full implications of free speech in a democracy. As Oliver Wendell Holmes famously wrote, the Constitution must protect “the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate.”<sup>88</sup> It is most ironic that a Russian immigrant who favored a stateless society would challenge Americans to stand up for the democratic values they supposedly cherished. This challenge may be her greatest legacy and greatest gift to the country that rejected her.

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<sup>88</sup> *United States v. Schwimmer*, 279 U.S. 644 (1929).