

The Kansas City Labor History Tour
Frank P. Walsh - Labor's Tribune
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Frank Walsh was an exceptional man. He was also an exceptional lawyer, but he always kept the law in perspective. At age forty, after a decade of practice, he said, "What we need more than lawmakers and law governors is agitators. An agitator is a man who won't stand for lies [just] because they are told." The law was never an end in itself, but a means to achieve a just society. He said, "The modern rights of man are the right to eat, the right to live decently, the right to work." Whether he was defending workers and their unions, agitating for honest government or investigating the abuses of giant corporations, Walsh's vision of an industrial and economic democracy gave direction to his work.

Wealth, he believed, should be shared. During the Great Depression he said,

"The two greatest gifts that I have received are early poverty and the fact that I am a spendthrift. I will not hoard. Men grow mean, women stunted, the whole world sick with money hoarding. Money is good only to use. Possession of it is sweetened a hundred fold by sharing some of it upon impulse to help another less happily found."

Walsh was revered by workers in Kansas City and throughout the nation. Samuel Gompers called him "Labor's Tribune". Even the radical Industrial Workers of the World put Walsh's picture on the cover of their newspaper, *Solidarity*. Walsh believed in the people, dedicated himself to defending their rights and showed a spirit of generosity which made him the most respected labor lawyer of his time. As a lawyer, he was a skilled litigator, and as a public servant, his ideas, anticipated the reforms in labor law, social welfare and government regulation of the New Deal. As a political activist and Progressive, Walsh fought for clean government and helped build the democratic coalition which was to bring Franklin Roosevelt to power in 1932.

Francis Patrick Walsh was born in St. Louis in 1864, the 3rd of 6 children of Irish descent. The family moved to Kansas City three years later. Walsh's father was a wholesale dealer in hay and grain, but he died when Frank was 7. From ages five to ten, Walsh attended St. Patrick's Christian Brothers Academy in St. Louis. While he always characterized his background as rough, commenting once that few of the boys he knew in St. Louis grew to "useful and normal manhood," a priest who knew the family said Walsh came from "good stock" and needed to tone down his claims as a self-made man.

At 10 Walsh left school to help support the family, and during the rest of his childhood in Kansas City, St. Louis and across the West he worked as a Western Union messenger, factory hand, newspaper salesboy, and railway accountant. He learned shorthand at night and became a court reporter. Finally, he studied law in the Kansas City office of Gardner Lathrop and passed the Missouri Bar in 1889. Two years later he married Katherine M. O'Flaherty, and they began a family which was to produce 9 children.

Over the next thirty years of practice in Kansas City, Walsh had a number of famous clients. Among them were Jesse James Jr. who in 1898 was indicted for a railway robbery. Walsh not only got James off, but influenced him to become a lawyer and active political reformer.

In 1910 Walsh defended Dr. Bennett Clarke Hyde, accused of poisoning real estate developer and philanthropist Col. Thomas Swope, Hyde's uncle by marriage. The prosecution, led by James A. Reed, alleged that Hyde murdered Swope and plotted the murders of others in the family to enlarge his wife's share of the \$4 million inheritance. This became one of Walsh's most famous courtroom battles with Reed, a former mayor of Kansas City and future U.S. Senator. Hyde was convicted, but the Missouri Supreme Court reversed the conviction saying there was no evidence a murder had been committed and that the jury verdict was based on inference piled upon inference. After nine years and three trials, the State finally dismissed the case. Walsh had established the legal principle that for evidence to be relevant a series of alleged acts must be related to the crime charged rather than merely of a similar nature.

Walsh was a friend and lawyer to William Rockhill Nelson, owner of *The Kansas City Star*. In one incident a Pendergast judge cited Nelson for contempt for an editorial he'd written that was critical of Pendergast. Knowing the judge wanted to throw Nelson in jail, Walsh lined up a judge from a higher court and had him waiting to issue a writ of habeus corpus as soon as the Pendergast judge ruled. Nelson never set foot in jail.

As a labor lawyer, Walsh represented a number of unions in Kansas City, and by 1918 his practice had become national. He represented Chicago stockyards workers in an arbitration hearing in February and March 1918 before Judge Samuel B. Altschuler. The case drew nationwide attention as a test of wartime no-strike pledges by unions. The packinghouse unions were demanding a living wage, the 8 hour day and the right to union membership.¹ Altschuler's award granted practically all the workers' demands. Walsh's final summation was an 8 hour discussion of the wage and hour dispute. During it he lost his voice but continued by whispering in the Judge's ear. After their victory, the union assessed each member \$1 to pay Walsh, but he refused the money.

During World War I, because of labor shortages, women were hired for jobs previously denied them. In Cleveland, women were hired as conductresses on the street cars. When the male-only union demanded they be fired, the women organized their own union and protested to the National War Labor Board over the firing of some of them. As the case awaited hearing before the War Labor Board the war ended, and the union struck demanding the women's dismissal. The women hired Frank Walsh to argue the case. This case was a test of whether a union could demand the firing of women simply because of their gender and whether an employer could fire them. Walsh and the conductresses won the case, but the union and company refused to abide by the decision and it was never enforced.

Walsh's labor practice also included testimony before the U.S. Senate in 1921 on behalf of miners

¹ The workers' plight is dramatized in the PBS film *The Killing Floor*.

involved in the Mingo Coal Strike.² In 1921 and 1922, he represented the Railway Employees Dept of the AFL before the US Railroad Labor Board against blatant union busting by the railways. His inability to win a favorable settlement directly led to the 1922 nationwide railway shopman's strike. As General Counsel for the International Association of Bridge and Structural Iron Workers Walsh engaged in a 10- year legal battle against the associated steel fabricating and erecting companies who were trying to use injunctions to cripple the union. In the first test of the Norris LaGuardia Act, the courts not only upheld the act but also finally overruled the Danbury Hatters and Bedford Stone cases on secondary boycotts. Walsh also served as general counsel to the ILGWU (International Ladies Garment Workers Union) and in another injunction case represented the Electrical Workers.

Walsh's support for unions and worker's rights went far beyond what most union attorneys did then or now. He also defended the radicals, those on the left-wing of the labor movement whose causes were not popular with the government or the AFL.

The U.S. labor movement split over World War I. A number of labor leaders who opposed the war went to prison. Then right after the war, in reaction to the Bolshevik revolution, antiwar sentiment, and postwar strikes, the Wilson administration conducted the Palmer raids. Attorney General A. Mitchell Palmer rounded up anarchists, socialists and radical unionists, held them without charges, and deported anyone who was alleged to be a foreigner. Walsh vocally opposed the Raids, even though he had been an ardent supporter of Woodrow Wilson and World War I. At the espionage trial of Victor Berger, former socialist mayor of Milwaukee, Walsh testified for Berger. He was also an outspoken advocate of amnesty for Eugene Debs, former railway union leader and head of the Socialist Party, in jail for opposing the War.

From 1918 to 1939, Walsh served as chief counsel to Tom Mooney without pay and paying his own expenses. Mooney, a militant San Francisco union organizer, had been convicted and sentenced to life in prison in 1916 on perjured testimony of a bombing at a Preparedness Day event. The case became a cause celebre of the labor movement and civil libertarians. After repeated attempts to get a new trial and much evidence of injustice, Mooney finally was pardoned by the Governor of California in January, 1939, just four months before Walsh's death.

Even communists and anarchists tried in violation of their constitutional rights got the benefit of Walsh's courtroom skills. In 1923 he was chief counsel for William Z. Foster, leader of the Great Steel Strike of 1919, who with other communists was tried on criminal syndicalist charges in Michigan after a raid on a meeting. Walsh sought to uncover provocateur activities of private detective agencies and in his plea to the jury emphasized the right of free speech. The trial ended with a hung jury, and the case was eventually dropped. Walsh also participated in the final attempt to save the lives of the Italian anarchists Sacco and Vanzetti who were executed after a blatantly unfair trial amidst government and business-induced hysteria. As a progressive lawyer, Walsh helped to found and served as first president of the National Lawyer's Guild which opposed reactionary influences in the national and state bar associations, but he resigned in 1939 along with

² See the film *Matewan* for background on that strike.

many others because of alleged communist influence in the Guild.

Also in the mid-1930s, Walsh argued before the U.S. Senate in the impeachment trial of Federal Judge Halsted L. Ritter of the Southern District of Florida. Ritter was acquitted by separate ballot on six counts of high crime and misdemeanor, but was then convicted by the exact two-thirds majority necessary on the seventh count of having brought his court "into scandal and disrepute" by the actions complained of in the previous six charges!

Perhaps it was his Irish ancestry, perhaps his love of civil liberties which led Frank Walsh to the cause of Irish independence. From World War I on, he became its chief supporter in the U.S. and even represented Eamon De Valera's Sinn Fein at the Versailles Peace Conference in 1919. He investigated prison conditions for Irish revolutionaries and wrote a White Paper called "English Atrocities in Ireland" which was printed in American newspapers and the *London Times*. In the 1920s he was chair of the American Commission for Irish Independence and served as American counsel for the Irish Republic. According to family lore, Walsh's home in New York City provided frequent shelter to Irish revolutionaries and gun runners.

From his early days in Kansas City, Walsh was interested in political reform and the role of government in promoting public welfare. At the turn of the century Alderman Jim Pendergast, Tom's older brother, began building the machine which would rule the city for 40 years. The Democratic Party was divided into two factions: the Pendergast "Goats" and the (Joe) Shannon "Rabbits." Walsh was a "Rabbit", and it was here in early political rivalries that his lifelong antagonism to James A. Reed, a "Goat", began. In 1901 and 1902, Walsh led a campaign against corrupt business influence in the Missouri Democratic Party machine. His efforts led to the election of reformer Joseph Folk as governor. Walsh then worked on passing progressive legislation. In 1902 at the Missouri Democratic State Convention, Walsh sponsored a platform plank denouncing corporate contributions to campaign funds. Party regulars begged him to aim it only at Republicans, but Walsh rented a hall and tore into the bosses and moneyed masters of all political stripes. The Machine Democrats reversed themselves and passed the plank.

In Kansas City, Walsh's concern for public welfare led to a variety of activities including serving as leader in 1904 of the People's Lobby which aimed at offsetting the lobbying influence of railways, utilities and other special interests. The People's Lobby was a coalition of church, professional, labor and business interests which held weekly forums to promote reforms like the establishment of a Public Service Commission which finally occurred in 1913. From 1906-08 Walsh served on the City Tenement Commission; in 1908 he helped create the Kansas City Board of Public Welfare; and from 1911-13 he served as president of the Board of Civil Service.

Soon he was involved in national politics as a staunch supporter of Woodrow Wilson. In 1912 Walsh organized the Bureau of Social Service under the Democratic National Committee to support social and economic reform legislation. He campaigned widely for Wilson that year especially to win labor's support.

The new President wanted to set up a Commission on Industrial Relations to discover through

research and public hearings the underlying causes of industrial strife. In 1913 Wilson appointed Walsh as chair and one of three neutrals on the Commission which also included three representatives each from management and labor.

Over the next three years the Commission held hearings on ten instances of industrial warfare including the Patterson Silk Strike, the Ludlow Massacre, California migrant labor & the Wheatland Riot, the Los Angeles Labor Movement and LA Times bombing and even landlord-tenant issues in the Southwest. They questioned over 700 witnesses, collecting 60 million words of testimony. Witnesses included John D. Rockefeller, Sr. and Jr., JP Morgan, Andrew Carnegie, Samuel Gompers, Big Bill Haywood, Louis Brandeis, Clarence Darrow, and hundreds of workers.

The most famous and controversial hearing was the one investigating the Ludlow Massacre in which women and children burned to death in a tent set on fire by government troops, and countless other men, women and children were shot to death. The massacre occurred in April 1914 in the Ludlow Colorado tent colony of miners on strike since the previous September against Colorado Fuel and Iron Company. CFI was the largest coal company in the state with 300,000 acres in southern Colorado. It forced thousands of miners into industrial peonage. CFI imposed company stores and paid workers in scrip good only in the stores or to pay rents for the hovels CFI provided as housing. Workers were controlled with armed guards, massive vote fraud, and company supervised religious worship and reading material. The mines were death traps.

When the United Mineworkers led 10,000 miners out on strike, the company refused to negotiate and concentrated on badgering the governor into calling out the militia and, once called, getting their help to import scabs. As the winter dragged on the National Guard filled with untrained thugs, exconvicts and company goons. The strikers, an international community of English, Italian, Slavs, Austrians, Mexicans, and Greeks, moved out of the company houses into tent colonies and dug pits under the tents for protection from the frequent shootings by the company deputies and the militia. The union was arming them.

When Mother Jones tried to reach them and give support she was turned back three times. Once she was sent back to Denver, once she was pulled off a train and held in a hospital for 9 weeks, and finally she was arrested and kept in a rat-infested cell for 26 days. A warrant was never issued for her arrest. By April the Guard was routinely breaking the law, looting and stealing.

The Ludlow tent colony was shelter to 900-1200 strikers. On April 20th, the Greeks among them were celebrating Orthodox Easter. The Guard attacked, and the battle raged 12 hours across the community. The Guard shot at women with Red Cross insignia on and at fleeing children. They intentionally torched the tents, and two women and 11 children died in the fire. Soldiers rampaged, looting whatever they could.

After the massacre, civil war broke out all over the coal country. For ten days, there followed many deaths and much destruction. Colorado Governor Ammons asked President Wilson to call out the U.S. Army, and on April 28th several regiments of federal troops came in to pacify the region.

Much of this information came out in the investigation of the Commission on Industrial Relations, but the most dramatic aspect of the hearings was the examination of John D. Rockefeller, Jr. by Frank Walsh. The Rockefeller family owned 40% of Colorado Fuel and Iron. In his first interview, Rockefeller maintained that he knew nothing of the company's handling of the strike, was a mere outside director, and could not be blamed for the tragedy. He said he didn't know if 12 hour days for miners were bad for the health or which counties his mines were in. He said he supported unions' right to collective bargaining to improve wages & working conditions. He said he realized something was fundamentally wrong and that his views on a directors' moral duties had changed as a result of the massacre.

The audience, many of whom were radicals, applauded. Rockefeller was a smash hit. He even had a chat with Mother Jones who offered to take him on a tour of conditions in Colorado but refused an invitation to lunch. Rockefeller promised to tour. Jones concluded, "We have been misrepresenting him terribly, and I as much as anybody else."

Frank Walsh, however, was not charmed. He had Rockefeller's correspondence subpoenaed. On April 23, 1915 he held a press conference in his Kansas City office and read letters and memoranda to newsmen revealing Rockefeller as a committed anti-unionist, ready to fight collective bargaining with every weapon, who backed up CFI management in every action.

Walsh called another hearing for Washington DC. May 19, 1915. There he examined Rockefeller for 3 days. He quoted a letter from CFI management to Rockefeller at the beginning of the strike saying they would refuse to recognize the UMW and would stick by it. Rockefeller responded, "We feel that what you have done is right and fair and that the position you have taken in regard to the unionizing of the mines is in the interest of the employees of the company. Whatever the outcome may be, we will stand by you to the end" Walsh demonstrated Rockefeller's extensive influence over the Colorado coal business. He showed that Rockefeller knew CFI was mobilizing bankers, Chambers of Commerce, the real estate exchange and 14 editors to intimidate "our little cowboy governor" to withdraw an order to the militia not to aid scabs. In one letter Rockefeller expressed his and his father's delight with CFI's progress in the strike. Rockefeller had a telegram sent to Secretary of Labor William B. Wilson saying he supported CFI's refusal to even one meeting with the UMWA. As the strike progressed, Rockefeller used personal funds to hire a public relations expert for a pro-management publicity campaign, and he collaborated with the PR man to write a letter sent by Governor Ammons to Woodrow Wilson damning the strikers.

Despite mounting criticism from the press and the management members of the Commission, Walsh inquired into Rockefeller family wealth and influence in a way that would be unequalled for sixty years. He showed Rockefeller Foundation contributions to universities and causes in Colorado clearly aimed at buying intellectuals to propound anti-union views. While, of course, it was too much to expect that Walsh's exposure would lead to any sanctions against Rockefeller, it did much to change public opinion of the wealthy titan and forced him to at last visit his coal fields, meet with miners and make some improvements. It did not, however, lead to recognition of the UMWA, instead CFI established a company union which only gave way to the United Mineworkers in the 1930s.

The hearings were front page news even on the day of the outbreak of World War I in Europe. The press coverage was not flattering to Walsh. The *Washington Post* said, "Mr. Walsh feeds solely upon rancor and hate," and *The New York Herald* editorialized: "We hope Mr. Wilson will undo the great mistake he made in letting this man loose upon the country." *The Kansas City Star*, Walsh's client, had a contrary view: "America needed more men like Walsh whom even the wealth and power of a Rockefeller could not awe."

Walsh became a national idol to radicals and union officials alike. AFL President Gompers wrote an article entitled "Walsh a Great Tribune", and *Solidarity*, the paper of the Industrial Workers of the World put Walsh's picture on the front page and published an article by him. *The Christian Socialist* published an entire Walsh issue.

There was a good deal of pressure on President Wilson to dismiss Walsh, but labor bombarded Wilson with pro-commission letters. Walsh himself welcomed all the controversy saying,

"I am sure you will not think it boastful when I say that I turned the young man [Rockefeller] inside out and left him without a single justification for anything that took place in Colorado. Of course to get at the truth, I had to get a little rough at times, which I did not hesitate to do, and I notice that all the comments of a critical nature against me, up to this time has been that I did so handle him."

He concluded by observing that "judicial poise is a commodity I consider as a great bar to human progress."

Walsh never lost sight of the purpose of the Ludlow hearings and the other Commission investigations. "It is the system that is under investigation. John D. Rockefeller and Ludlow symbolize one of the major ills of America: too much private economic power in too few hands."

Unfortunately, not all the members of the US Commission on Industrial Relations agreed, and there was not a unanimous final report. The staff report, however, written by Walsh and signed by the three labor members, contained recommendations which Walsh as co-chair of the War Labor Board a few years later was to implement. Most significant was the right to organize and bargain collectively which the War Labor Board insisted on for war industries. Such recommendations, however, were not to find permanence in law until the 1930s after a good deal more industrial warfare and tragedy.

The staff report anchored the causes of industrial violence firmly in unjust distribution of wealth in the United States. American labor, it said, had not received its fair share of the nation's wealth. Many lived in dire poverty. The impersonal gulf between workers and owners made unionization imperative. The report called for equalization through a stiffly graded inheritance tax with \$1 million maximum going to an heir.

Another cause of industrial violence, equal to the unjust distribution of wealth, was unemployment and the denial of an opportunity to earn a living. This was the result of the monopoly of land and

resources which could only be rectified by prosecuting monopolists, revising land laws and taxing owners of nonproductive land.

Workers, the report found, universally believed that they were denied justice. They needed reforms to strengthen the Bill of Rights, to prohibit courts from invalidating laws, to restrict detectives, and to safeguard trial by jury. The report condemned the open shop and called for laws and a constitutional amendment to guarantee the right to organize and bargain collectively with prosecution of unfair labor practices.

Although its recommendations were mostly ignored by lawmakers, the final report of the US Commission on Industrial Relations had a good deal of influence. 100,000 copies were distributed. The People's College in Kansas issued a Vest Pocket Edition, and the socialist paper, *Appeal to Reason*, published in Girard, Kansas, with a huge circulation published a summary. Suddenly industrial relations became a campaign issue. Employers began blaming Walsh for strikes, and arbitrators quoted him in their decisions. A direct result in legislation were laws aimed at curbing child labor and the Adamson Act, requiring an eight-hour day on the railways.

Historian Graham Adams summed up the Commission's influence, "The Commission performed a valuable agitational service. Organized labor was publicly disliked during much of this era" and it gained the chance "to tell its own story in its own way at its own length with the whole country for an audience." This, he points out, was a first in American history. Walsh summed up his activities by saying, "For the past two years I have been merely a lawyer, with a struggling democracy for a client."

As the U.S. was entering World War I the Progressive Era of reform came to a halt. Walsh, however, got the opportunity, at least for the duration of the war, to implement many of his ideas through the National War Labor Board. Woodrow Wilson, ignoring the many criticisms of Walsh's record with the Commission on Industrial Relations, appointed Walsh and former President William Howard Taft to co-chair the Board in 1918. Taft thought Walsh was a radical and said he would have been happier with someone else. But it was Taft who was liberalized by the experience.

War Labor Board rulings enacted many of the principles in Final Report: union representation and collective bargaining, the 8-hour day, equal pay for women, and recognition of the right to a living wage. It settled disputes involving 1,100 companies assuring that there were no major strikes in basic industry. The outstanding settlements included Worthington Pump & Machinery, Bethlehem Steel, General Electric, Smith & Wesson Arms, NY Harbor Marine Workers and munitions manufacturers of Bridgeport. In 1919, Walsh moved from Kansas City to New York City and established his law practice there. He was quickly drawn into building the coalition which would eventually elect Franklin Roosevelt President and bring to power people with similar ideas to Walsh.

Walsh's midwestern roots and his view of himself as a self-made man led him to look for solutions to society's problems among the people. He had an inherent faith and belief in their judgment. Echoing radical thinking that workers needed bread, but they needed roses, too, Walsh said,

"Pleasures and privileges must be shared equitably. There is neither sense nor justice in the calm assumption that the refinements and beauties of life only are capable of being enjoyed by a certain upper class, and the mass of people have no higher aspirations than a full belly, a warm back and a sheltered head."

He had a strong belief in democracy:

"Well we can't amend the constitution, but we can put men in the courts who will be for the rights of men rather than for the wrongs of property. We can put a progressive sentiment behind the laws so strong that the judges, from the lowest to the highest courts, will be afraid to overthrow the people's will."

Political democracy, however, was insufficient to win economic justice. Walsh, like so many New Dealers after him believed that the basis of real democracy was a just distribution of wealth. He said,

"The prosperity of every country, including our own United States, depends in its final analysis upon a home market, a population capable of producing wealth and using it primarily for the happiness and advancement of its own people."

At the time he was investigating Rockefeller and his ilk, Walsh sounded quite radical: "The people must own the trusts in order to prevent the trusts from owning them. It is ridiculous to talk of regulating or destroying them by legislation." The answer, he believed, was not greater political democracy. The major question of the age was "the material one, the economic one."

While it appears that in later years, Walsh did not push for public ownership of trusts, his hope was that enlightened government and progressive taxation along with New Deal reforms in labor law would give the people the power to protect themselves.

While pursuing a law practice in New York for unions and persecuted radicals of the 1920s, Walsh continued involvement in politics. In 1924, when Al Smith failed to get the Democratic nomination, Walsh became a member of the executive committee of The Progressive National Committee and supported the candidacy of Robert. M. LaFollette. LaFollette charged that there was a huge slush fund accumulated to assure Calvin Coolidge's election, and Walsh acted as LaFollette's counsel at the hearing before the Senate Campaign Investigation Committee. Harking back to efforts to reform Missouri politics, Walsh suggested a new corrupt practices act which subsequently passed.

By 1928 Walsh was back in the Democratic Party heading the Progressive League to support Smith's again unsuccessful bid for President. When Franklin Roosevelt became Governor of New York, Walsh became a close advisor on power and utility matters and in 1929 was appointed as one of the governor's three representatives on the nine-member Commission on the Revision of the Public Service Commission's Law. Walsh filed a minority report recommending rate control and public power. In 1931 FDR appointed him as trustee of the Power Authority of New York. Later he became its chairman. Walsh also worked with the federal government to get a treaty with Canada to tap the hydroelectric potential of the St. Lawrence River. Walsh also influenced FDR on the establishment of the Tennessee Valley Authority.

In 1932, the Democrats again had a chance at the Presidency, and Walsh played a leading part in organizing the national Progressive League to support FDR. He was an important force in both the '32 and '36 elections as well as in Fiorello LaGuardia's 1937 bid for New York Mayor.

As if his life had come full-circle, in 1937 and in March and April of 1939, Walsh returned to Kansas City to try a case for the International Ladies Garment Workers Union. Co-counsel was his son Jerome, who practiced in Kansas City and his partner Clifton Langsdale. In the federal courthouse Walsh again squared off against his old antagonist James A. Reed. The case was covered extensively in the *Star* and *Journal Post*.

Walsh and Reed had started up the political ladder as friends and fellow reformers at the turn of the century, but they parted early in factional and philosophical debates. They clashed on party platforms, in conventions, in public print and in court. Reed was a star "Goat" in the Pendergast Machine. Walsh, the "Rabbit" backed Pendergast's rival Joe Shannon. In 1904 when Walsh supported Folk for Governor, Folk's opponent was Reed, then Mayor of Kansas City. Reed lost for a variety of reasons, and democratic splits in Kansas City led to the election of a Republican mayor too. A few years later, in 1910, Reed was elected to the Senate.

In 1932 Pendergast tried to get Reed the Democratic nomination for President. The enmity between FDR and Pendergast resulted in fewer New Deal projects in Kansas City. By 1937 Walsh had had many famous bouts in the courtroom against Reed, but they hadn't spoken to each other personally in years.

The case involved the Nell Donnelly company, at the time the world's largest dress factory under one roof. In 1937 it had 1300 employees in Kansas City. Owner Nell Donnelly was already a kind of Kansas City legend. She started the company in 1916 in her house. Her success was built on stylish low-cost housedresses sold under the Nelly Don label. She and her chauffeur were kidnapped and held hostage in 1931. The case was front-page news, and Nell's husband Paul Donnelly asked former Senator Reed, a neighbor, to handle negotiations with the kidnapers. The victims were released after 34 hours with no ransom payment. Reed handled the prosecution. Nell got a divorce, and the next year not only supported him at the Democratic convention but also married him.

Donnelly was a pioneer in union avoidance, providing workers with some benefits, educational opportunities, a company clubhouse, and heavy doses of her personal charm aimed at instilling loyalty. She was ardently anti-union. Despite this, some of her workers chartered a local of the ILGWU in 1934 and began secretly organizing. The company spy system, however, ferreted many out, and they were fired.

On May 10, 1937, the ILGWU, at its international convention, appropriated \$100,000 to organize the Donnelly Company. In his speech supporting the appropriation, ILG President David Dubinsky complained that James A. Reed had been traveling the country during the 1936 Presidential campaign attacking FDR's social legislation and singling out the ILG. He said he wanted to teach James A. Reed a lesson in "true Americanism" by organizing his wife's company.

Donnelly had already formed a company union and signed a contract with it on May 28th. She refused to talk to the ILG. After extensive picketing, leafleting and a secondary boycott, Donnelly filed for an injunction in federal court on July 5th alleging that the ILG was committing violence and fraud against her company and its workers in its picketing and boycott.

On July 10th, Frank Walsh appeared in the court of federal Judge Merrill E. Otis on the temporary restraining order Otis had granted the company. Reed's partner defended, and Reed was there as an observer. Referring to charges in the company brief of "hoodlumism" on the part of David Dubinsky, the ILG, and its members, Walsh said while glaring at Reed,

"...for honesty, courage, culture and good citizenship [Dubinsky] is the peer of any man in the courtroom. As a gentleman, he is the superior of the man who penned it [the petition] and who conceived these charges."

So it began, a case which was to last into the 1940s, well after Frank Walsh's death. The papers were always on the lookout for tiffs between Walsh and Reed. At one point during the trial in 1939, Reed turned angrily to Walsh when he interrupted a witness and Walsh retorted dryly, "Thank you for speaking to me." Reed glowered and explained that the exchange was purely involuntary on his part.

At that hearing in July of 1937, the defense argued that Donnelly's request for an injunction should be dismissed because such proceedings were a violation of the Norris LaGuardia Act which forbade federal injunctions in cases of labor disputes. Walsh said, "The fact that they seek a remedy against us is proof there is a labor dispute. . .The Norris LaGuardia Act is an effort to match the united strength of employers on the part of labor and equalize the power. It is destined to help the workers, not the employers..."

The judge refused to dismiss.

This case was to keep Frank Walsh in Kansas City on and off for the next two years. Apparently that was no hardship. He told the *Star*:

"I have lived in New York twenty years or more and still do not feel at home. I walk from my hotel in the morning and along Broadway seldom, almost never, meet a person I know. In Kansas City, I walk from the Hotel Muehlebach and speak to a hundred persons I know. It makes one feel so different, the friendliness of the place. Guess I never was cut out for a New Yorker."

After appearances in August and issuance of a temporary injunction by a three-judge court in December, the case went to the Supreme Court in May, 1938 which vacated the injunction for lack of jurisdiction. That July the restraining order was reinstated by the District Court, and after a few more ins-and-outs went to trial in Kansas City on April 19, 1939. This was to be Walsh's last trial. It took six weeks.

The trial took place in the midst of the downfall of Tom Pendergast, his trial, and subsequent imprisonment. Reed had already broken with Pendergast, and, in an ironic twist, argued that the Kansas City police department was either unwilling or unable to enforce the law to protect Donnelly workers from union harassment. Judge Andrew Miller, delivered his decision extemporaneously immediately after cutting short closing arguments. He granted Reed and Donnelly their injunction, said Norris-LaGuardia was irrelevant to the case, and went on to excoriate the Pendergast machine, quoting the Missouri Governor's charges that the Kansas City police were "so corrupt that they have long since ceased to represent the law-abiding people and owe their only allegiance to the politicians and to the law breakers." He then cited evidence of police inability to control ILG "disturbances" during strikes in 1937 at Gernes-Gordon and Missouri Garment companies, cases which had nothing to do with the Donnelly case! He concluded by saying that he was sure the ILGWU had done some good things, but "They were caught here in doing unlawful things, and for that they are being dealt with as lawbreakers."

Walsh refused to say whether he'd appeal and left to return to New York. He must have been discouraged by the political nature of the judge's ruling after so much time and effort already on the case. In 1941, the injunction was again vacated by the Circuit Court but it allowed Donnelly to proceed solely against Dubinsky. Finally in 1944, after another trial, that injunction was also denied. By then the union had spent \$103,000 in legal fees.³ But Walsh did not finish the case. On May 2, 1939, he died of a heart attack on his way from his New York office to meet a friend at the courthouse. He was 75.

The obituary that day in *The Kansas City Star* called Walsh "a brilliant court strategist, a combative man but with a lovable personality." Ralph Sucher wrote a biographical sketch of Walsh at his request and approval in 1937. In the following he sums up Walsh's philosophy,

"Mr. Walsh's life epitomizes. . .the growing social consciousness of his time, the increasing recognition that private initiative and private property are not rights to be enjoyed at the expense of the general welfare but must be utilized to serve the broad purposes of social security, the dawning understanding that political

³ In its attempts to organize the Donnelly Company, the ILGWU also filed numerous unfair labor practices charges. The NLRB found the company guilty and ordered the disbanding of the company union in 1940. Donnelly appealed repeatedly, and the company union was finally extinguished in 1948. The company was ordered to refund dues back to 1937 (Clif Langsdale estimated they would equal \$100,000).

Donnelly formed a new company union, but there was little enthusiasm. She began to match ILG wages and benefits and continued to attack the union. The union reported that Donnelly used anti-Semitism extensively in her remarks to employees about the union. In 1951, an organizer named Eva Chambers reported a conversation with Nell as she confronted the owner on the way to her car: "I'll have you know this young lady. I set out to prove that a woman can create and successfully run a business in this world, without aid or hindrance from anyone, and also to consider the welfare of my employees. All this I have done without any ideas of David Dubinsky. All the benefits I have given my people are from my own desire to do so. All of these things are my own ideas and I have never copied a thing from David Dubinsky. I don't need any of his ideas, and my employees do not either."

So much for the law! The company was not organized by the ILG until 1967, several years after Nell had sold out. It shut its doors in 1978 along with the rest of the Kansas City garment industry.

democracy is insecure unless associated with economic democracy, the conception of liberty in terms of the right to seek by all lawful means the establishment of this economic democracy. His position has always been that of a militant progressive Democrat closely associated with the labor movement but refusing to share the prejudice of its reactionary elements against more radical groups. . .After 40 years of public effort, he has lived to see many of the principles for which he was among the earliest protagonists embodied in state or federal law, or sustained by the courts."

Today, as those gains are fast eroding, Walsh's life and accomplishments serve as an inspiration to those of us who share his vision and his militancy. His life also should give us some perspective that we must build our victories step-by-step. On that we'll give Frank Walsh the last word:

"A man's life, his career if he have one, has to be made a step at a time. A great many lives have gone dwarf, been maimed, have collapsed, through trying to take too many steps at one time. We can get so disastrously impatient with ourselves for going ahead a foot at a time instead of a mile."

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