

RAMSEY COUNTY  
**History**  
*A Publication of the Ramsey County Historical Society*

*Labor Found a Friend*

W.W. Erwin for  
the Defense

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Winter 2008

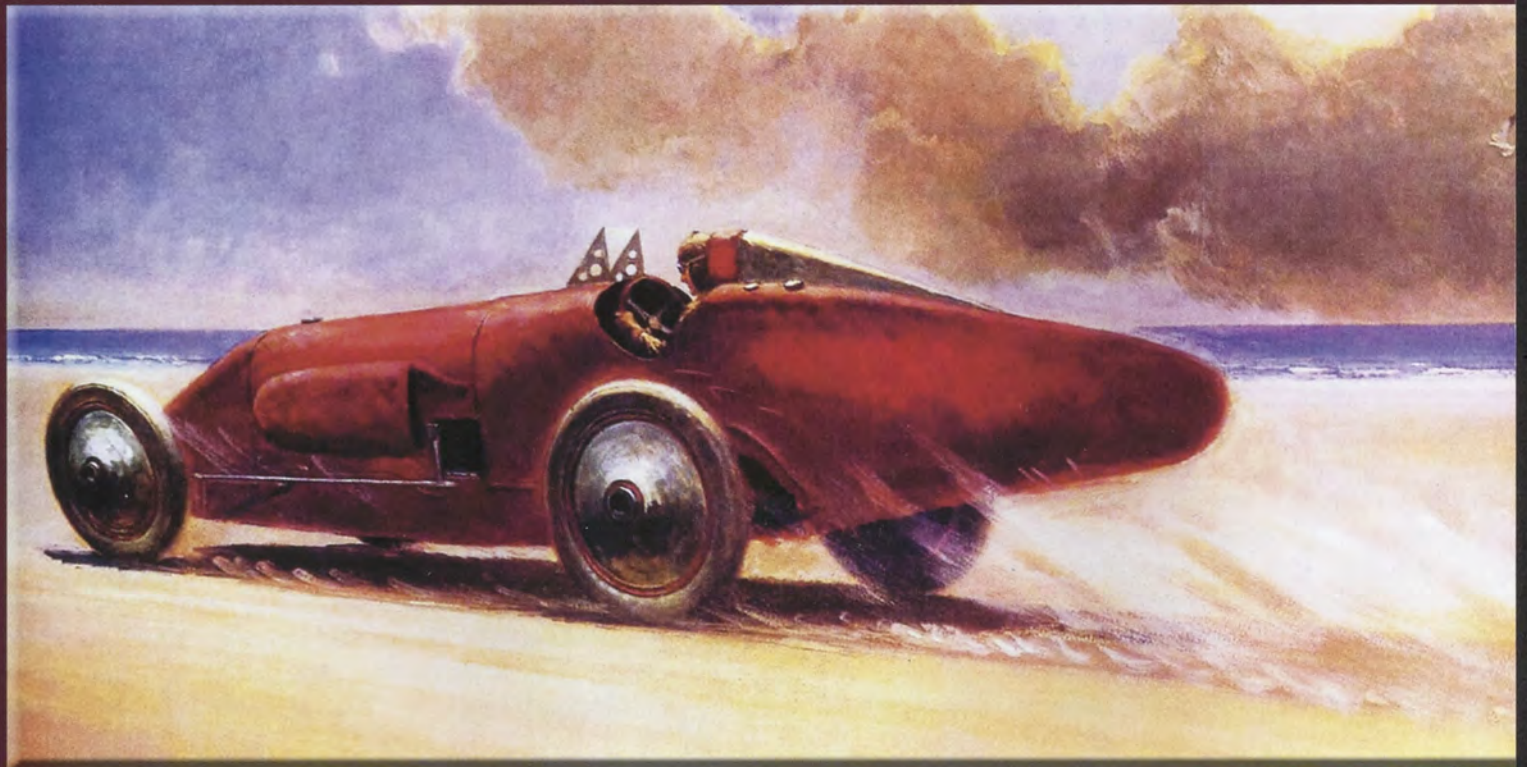
Volume 42, Number 4

*Tommy Milton*

The Story of “St. Paul’s Speed King”

*Steven C. Trimble*

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*Tommy Milton and his Duesenberg racing across Daytona Beach on the way to a new world speed record in 1920. This portrayal is by Peter Helck, a very successful magazine and advertising artist. Helck's realistic and highly detailed works often captured the drama and speed of racing. Sometimes called the "Dean of American Motoring Artists," Helck (1893–1988) produced hundreds of sketches, drawings, and paintings during his career as well as writing two illustrated histories of racing. Painting courtesy of Automobile Quarterly.*



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# RAMSEY COUNTY History

Volume 42, Number 4

Winter 2008

THE MISSION STATEMENT OF THE RAMSEY COUNTY HISTORICAL SOCIETY  
ADOPTED BY THE BOARD OF DIRECTORS ON DECEMBER 20, 2007:

The Ramsey County Historical Society inspires current and future generations  
to learn from and value their history by engaging in a diverse program  
of presenting, publishing and preserving.

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and by a contribution from the late Reuel D. Harmon

### A Message from the Editorial Board

Every locale has its cultural heroes—and this issue showcases two men who filled that role for many in Ramsey County before they took to the national stage. Tommy Milton first wowed crowds driving his Duesenberg at the Twin Cities Speedway, and twice won the Indianapolis 500, in 1921 and 1923. His cool demeanor and consummate skill impressed fans, and his career reflected the excitement surrounding the new, automobile-focused culture. W.W. Erwin was a folk hero of another sort to labor sympathizers. A prominent St. Paul attorney and impassioned orator, he served as lead defense counsel in the trial of labor leader Eugene Debs for his role in the 1894 Pullman railroad strike. He also successfully defended participants in the strike against the Pittsburgh Carnegie steel works. We have been lucky to have two members of our editorial board, Steve Trimble and David Riehle, compile the stories of these fascinating characters. A grace note is the review of Georgia Ray's book on Grace Flandrau, a noted St. Paul author whose keen observations also extended her influence beyond local boundaries. As winter turns to spring, enjoy a good read with us.

*Anne Cowie,*  
Chair, Editorial Board



## Labor Found a Friend

### W.W. Erwin for the Defense

David Riehle

**I**n the legal profession, Labor found a friend,  
A lawyer on whom the toilers could depend.  
A fearless advocate of truth and right,  
And foe to every wrong upheld by might.  
This man was Erwin, dauntless, bold and free,  
Whose name shall live in glorious memory.  
Whenever workingmen, who toil for bread,  
Remember July 6th at brave Homestead.

—Anonymous, *St. Paul Trades and Labor Bulletin*, 7 (July 1893):1

St. Paul attorney William Wallis Erwin appeared for the defense in more than 100 homicide cases. He was, the *St. Paul Dispatch* wrote on the occasion of his death, “the greatest criminal lawyer the Northwest\* ever knew. Secondly, he was an orator equaled by none, perhaps, except Ignatius Donnelly . . . he was in some respects the greatest intellect that ever shed its luster upon a Minnesota community.”<sup>1</sup> Erwin was born in the state of New York in 1842, served in the Civil War, and came to St. Paul from Platts-mouth, Nebraska, in 1870.<sup>2</sup> He was, said former Governor and Senator Cushman K. Davis, “the one man of positive genius I have met.”<sup>3</sup>

Shortly after Erwin came to St. Paul in May 1870, he ran a spectacularly successful campaign for Ramsey County Attorney and served one term, from 1872–74, the only elected public office he held in his nearly three decades in the city.<sup>4</sup>

Journalist Larry Hodgson remembered, “There was a splendid Paganism of audacity in him, and he never rested a case upon the mere technicalities. A case to him was not a diplomatic test, a balancing and counter-balancing of niceties—it was a fight, and he scorned to come out

of it giving less than all he had. . . . His reputation was that of a clever and scheming defender whose chief delight lay in thwarting the law,” but to Hodgson, “He was a very great man.”<sup>5</sup>

In 1921 the presumably pseudonymous columnist Benjamin Backnumber recalled Erwin in the *St. Paul Daily News* as a “six-foot frame of sinew, tireless strength and panther suppleness. You hardly need to be reminded,” BB continued, “that William W. Erwin was the biggest proposition in the shape of a criminal lawyer that the Northwest has yet brought forth. . . .”<sup>6</sup> Another St. Paul resident noted in his diary attendance at a trial in which Erwin participated. “. . . Remained (in District Court) a few minutes listening to Erwin. He is certainly a wonderful criminal lawyer and made a magnificent effort to save the neck of his worthless client.”<sup>7</sup> A review of Erwin’s criminal cases is beyond the scope of this article. Three of them are discussed, two at chapter length, in Walter Trenergy’s *Murder in Minnesota*.<sup>8</sup>

At the peak of his powers and success, Erwin embraced the labor movement that erupted in the last two decades of the nineteenth century. Perhaps because his legal career had been devoted to defense of the underdog, he offered his forensic talents freely to insurgent workers brought before the courts. The renowned

labor leader Eugene V. Debs, visiting the Twin Cities in early 1895 prior to reporting to serve a six-month sentence imposed as a result of his participation in the Pullman railroad strike six months earlier, was joined on the platform by Erwin at large and tumultuous meetings in St. Paul and Minneapolis. Erwin had served as a lead defense counsel in the trial of Debs and other strike leaders. Minneapolis’ Lyceum Theater was filled to capacity an hour before the meeting was to commence with additional numbers standing in the aisles. He was there, Erwin said, to hear the foremost man of the age. He urged his listeners to hear the truth of the great struggle in which Debs had been engaged, and to emulate his example—that each should work for the benefit of the whole, a plea which was “brought . . . home in a very forcible manner.”

#### Erwin and Labor’s Struggle

As he often did in his addresses to union men and women, Erwin placed the struggle of labor in a continuum of human social evolution. After uncounted generations in darkness, man discovered fire, and “had to be lifted up to the degree of intelligence which he now held. The early laws that were made for the good government of men had to be changed as they advanced with the ages.”<sup>9</sup>

Although Pullman is probably the best-known labor battle in American history, and the indelible memory of Eugene Debs persists into the twenty-first century, Erwin’s defense of the strike leaders is forgotten, along with the man, although both were celebrated at the time. If anything about the attorneys for Debs’s American Railway Union (ARU) is remembered today, it is the participation of Clarence Darrow, who gave up his position as general counsel for the Chicago and

\*The term “northwest,” is derived from this area’s inclusion in the old Northwest Territories and refers to what today we would call the “Upper Midwest.”



North Western Railroad to appear in court of behalf of Debs and his colleagues. Even Darrow, writing some thirty-five years later could only recollect the participation of a "Mr. William Erwin, a well-known lawyer from Minneapolis."<sup>10</sup> Erwin, in fact, was the outstanding defense attorney for participants in two of the three biggest labor battles of the nineteenth century, the Pullman strike and boycott of 1894 and the strike against Andrew Carnegie's Steel Works at Homestead, Pennsylvania, in 1892.<sup>11</sup> Surprisingly, several generations of historians who have written voluminously and continuously about Pullman and Homestead have failed to connect the dots on Erwin's St. Paul, Chicago, and Pittsburgh axis, a compelling personal story interwoven with great and explosive events.<sup>12</sup>

*Peace sitting under her olive, and slurring the days gone by,  
When the poor are hovell'd and hustled together, each sex, like swine,  
When only the ledger lives, and when only not all men lie;  
Peace in her vineyard—yes!—but a company forges the wine.*

—Erwin, quoting poet Alfred, Lord Tennyson, in Erwin's "Wildwood Park Speech," in 1893\*

A favored speaker of almost iconic stature at labor events, Erwin's discourses were often lengthy, but demonstrably held the attention of his working class auditors for spans of time that are almost unbelievable from a twenty-first-century perspective.

"A preeminent master of the music of a golden tongue spoke to the assembled multitude of workers at Wildwood," the *St. Paul Globe* reported following Labor Day, 1893. Some 8,000 had traveled via the North St. Paul Railway Co. to the White Bear Lake amusement park.<sup>13</sup> Workers, friends and families were joined by city politicians and others associated with labor. (Ramsey County Attorney and future Supreme Court justice) "Pierce Butler and (Register of Deeds) Charley Haas broke a lance or two at repartee with Mrs.

\*Alfred, Lord Tennyson (1809–1892), *Maud and Other Poems* (1855), part I.



This undated photo of W.W. Erwin probably dates from the 1880s or '90s. It is reproduced from Myron Stowell's "Fort Frick," or the Siege of Homestead, which was published in 1893.

Erwin but the lady was more than a match for both." The newspaper continued by reporting that "W.W. Erwin, though he possesses the unique distinction of having secured the acquittal by juries of more men accused of crime than any other single advocate, never addressed a more interested audience than he faced yesterday. The prattling babe was there because its mother was determined to hear Erwin on a burning public question. Men of prominence and national reputation traveled to the picnic ground to enjoy in a critical mood a taste of the tested and approved mettle of the 'Tall Pine,' and his eloquence and logic well repaid the trouble."

Young Joseph Black, the president of the St. Paul Trades and Labor Assembly, enthusiastically introduced Erwin to the waiting audience. Black, a West Publishing Company pressman, noted the association of the nearby lake with the legend of Hiawatha, and presented to his fellow workers "the Hiawatha of the toilers, a man whose name is inseparably linked with Homestead, our brother, Honorable W.W. Erwin."

The *Globe* reprinted in its entirety Erwin's appraisal of the course of human events as expressed in the evolution of free labor, political economy and personal liberty from feudalism to the democratic republic, tracing the doctrines of the canonists, the social contract of the French physiocrats and the labor theory of value

of Adam Smith. "The avarice and cupidity of the favored classes," he said, "have instituted a code of selfishness and greed which is known in the commercial world under the name of business," which was being answered by "the solemn march by the toiling masses towards . . . a fraternal system of economy which . . . shall now give to labor its own reward." Erwin had probably come to this view of the human condition through his wide reading, particularly Karl Marx's analysis of capitalist political economy in the first volume of *Das Kapital*, which had been popularized in the United States by Laurence Gronlund's *Cooperative Commonwealth*.<sup>14</sup> On the other hand, a central tenet in Erwin's argument that he consistently presented was the contrast between "the resounding shout of the Nazarene, 'Ye are the salt of the earth, the light of the world,'" and the Mosaic dogma, "Servants, obey your masters."

"Wages," Erwin said, "(are) determined by the 'struggle' between the opposite interests of the employer and the workmen," the minimum rate fixed, he said, only by what is necessary to sustain the life of the worker and reproduce the next generation of labor. Nonetheless, for Erwin, the fulcrum of social justice rested ultimately not on the class struggle but the morality of Jesus, an outlook more akin to the Christian Socialism of the Rev. Charles Kingsley than a perspective of Marxist revolution. Urging that "the collective energies of all God's poor," should be summoned to "peacefully organize . . . *en masse* to secure the freedom of labor," Erwin ended his peroration, "Oh laborers, you are the living lion . . . under God's providence. . . . Walk on! He gives you life and strength and victory." A third of the audience "stood patiently," due to a shortage of chairs, for the duration of the speech." As the *Globe* reporter observed, "A speaker could hardly be more flattered."

Erwin delivered this speech *al fresco*, with the enticements of Wildwood's recreations all about. "Father and brothers, sweethearts and wives, the apprentice and the journeyman of experience, the skilled mechanic and the street shoveler, all these were massed in and about the pavilion in an uncomfortable crush. Yet everyone sat through the hour and more



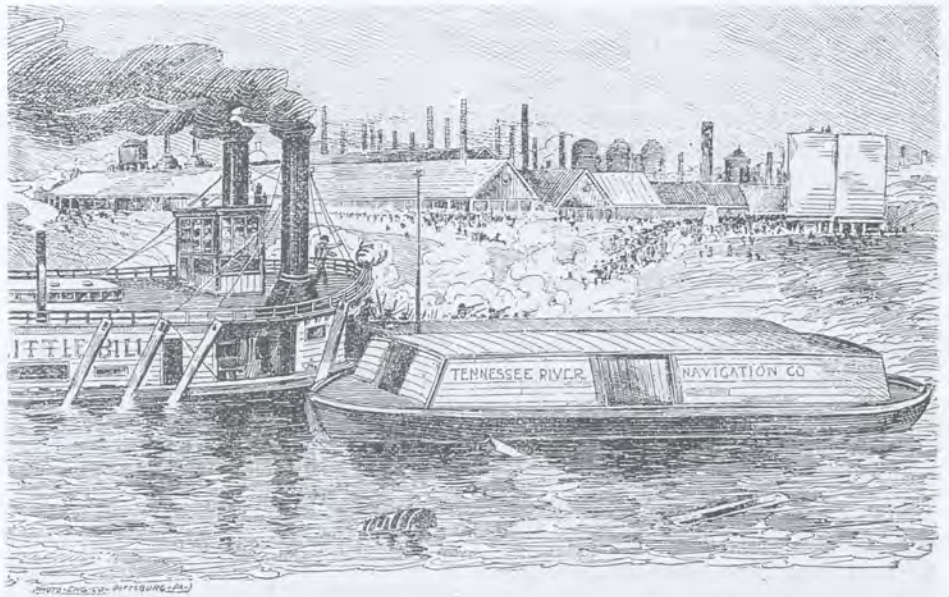
occupied in deliverance of the speech, with flattering patience."<sup>15</sup>

(Erwin's learned oration on the progress of human society before an audience of manual laborers, most of whom possessed only rudimentary educational attainments, may seem somewhat comic and bizarre to a present-day reader, as though Erwin was endeavoring to instruct dairy cows in calculus, perhaps. Such a reaction would, however, be a product of the error of projecting the present back onto the past. The labor movement of the 1880s was brand new, overwhelmingly young, on fire for change, and hungry for knowledge. Samuel Gompers himself, while serving as president of the American Federation of Labor was still working at his bench in his late thirties as a cigarmaker, a trade that he had entered at the age of ten. Any survey of labor journals of the time shows that its editors and contributors, many of whom were well-read journeymen printers, were more than capable of fluid and articulate writing, and impressively well informed on literature, history, society, and economics. My great-grandmother, Jennie Jones, was one of them.)<sup>\*</sup>

### Erwin Goes to Pittsburgh

Black's allusion to Erwin's role in the previous year's Homestead steel strike brought forth immediate recognition and prolonged applause. The strike, one of the "bloodiest clashes between capital and labor in American history," had evoked widespread solidarity from organized workers. On July 6, 1892, an armed force of about 300 men from the Pinkerton Detective Agency that industrialist Andrew Carnegie had procured battled over 1,000 striking steel workers, family members, and supporters who had massed on the banks of the Allegheny River to confront Carnegie's men. The violence that followed left nine workers and three Pinkertons dead. Mass protest meetings, sponsored by city central bodies of the American Federation of Labor (AFL), were held all across the country in support of the steel workers.<sup>16</sup>

<sup>\*</sup>Jennie Jones (1840-1882), was the founder and editor of the *Bloomer Workman*, a newspaper published weekly in the village of Bloomer, Wis. in support of the Greenback Labor Party.



Myron Stowell's "Fort Frick," or the Siege of Homestead (1893) includes this engraving that shows the barges that carried about 300 armed Pinkertons to the steel plant at Homestead where they encountered strikers, family members, and supporters.

*'Twas a Pennsylvania town, not very long ago.*

*Men struck against reduction of their pay;  
God help them to-night in their hour of affliction,*

*Praying for him whom they'll ne'er see again.*

*Hear the poor orphans tell their sad story:  
"Father was killed by the Pinkerton men!"*

—"Willie Wildwave" (William Delaney) 1892<sup>17</sup>

Charges of murder, riot, conspiracy, and even treason were brought against the strike leaders, members of the Amalgamated Association of Iron and Steel Workers of America (AAI&SWA). So far, this is all well known. The little-known tale embedded in this larger narrative is the remarkable initiative St. Paul unions took in procuring the services of Erwin to serve as lead counsel for the defendants. Correspondence by Samuel Gompers, president of the American Federation of Labor, suggests that the labor central body in St. Paul combined efforts with those in Minneapolis and Sioux City, Iowa, to bring top-notch legal aid to the defendants. George Argo, Erwin's associate in the Pittsburgh trials, was a Sioux City attorney. In 1893 Gompers wrote to AAI&SWA president Mahlon Barnes

and told him that he had "just received a letter from Mr. Frank Valesh of St. Paul, Minn. And when I saw him at the [1892 AFL] convention at Philadelphia he repeated in substance what he had written me . . . that Messrs Ergo [sic] and Irwin [sic] volunteered their services and that the money paid them by the unions of the Northwest was merely for expenses in preparation, traveling &c. . . . I am led to believe that both these gentlemen aided materially in . . . securing the acquittal of Critchlow [one of the strikers] and if it meets with your views and those of the men, I will communicate with [Erwin and Argo] direct, or through the organizations of Sioux City and St. Paul asking them whether they will continue their services and efforts in behalf of the men under indictment and the AF of L to pay their expenses."<sup>18</sup>

Decades later, a Minnesota labor publication stated that the "conduct of the Pinkerton detectives aroused the anger of the nation, and it was the St. Paul Trades and Labor Assembly that started a movement for raising money to defend the arrested men." This 1915 account of the case went on to add that "Living in Minnesota at the time was W.W. Erwin, one of the greatest criminal lawyers of his day. The St. Paul Trades and Labor Assembly



engaged Mr. Erwin, furnished him with money and sent him to Pittsburgh.”<sup>19</sup>

In the immediate aftermath of the violence and jailing of the Homestead strikers, Joe Black’s immediate predecessor as Assembly president, C.J. “Honest Charlie” Schott of St. Paul Typographical Union Local 30, had sent a “Memorial” to Samuel Gompers, on behalf of the St. Paul unions proposing the establishment “of a legal bureau to defend labor in all courts of justice.”<sup>20</sup> Erwin agreed to go to Pittsburgh, providing his expenses were paid, and committees from the St. Paul and Minneapolis assemblies quickly raised the necessary funds. Schott went out night after night for almost two months, speaking before almost every labor organization, and much of the money raised was due to his efforts. “Mr. Erwin went to Pittsburgh and did what no other living man could do. It was not so much the trying and securing of the acquittal of Creitchlow [sic], Clifford and O’Donnell, as it was in winning over to his way of thinking the attorneys who were engaged with him in their defense and persisted in making the defense of proving an alibi, but Mr. Erwin would not listen to this for a moment, his theory being justification.”<sup>21</sup>

### The Trial of the Homestead Strikers

Arriving in Pittsburgh with his wife, Erwin met with Gompers on January 22, 1893. Gompers agreed to recommend to the AFL Executive Council that Erwin be advanced \$2,000 toward defraying his expenses. (Erwin did not ask for payment for his services.) The Council approved Gompers’s recommendation on January 27 and Gompers wrote Erwin on January 30, enclosing a check for \$2,000. “We are fully aware that services such as yours”—those of an “enthusiastic volunteer” Gompers said—“cannot be paid for with money.”<sup>22</sup>

Erwin and Argo undertook the defense of several strike leaders charged with murder. First to be tried was Sylvester Critchlow, charged with the murder of Pinkerton centurion T.J. Connors. Critchlow’s defense was opened by Erwin’s associate, George Argo of Sioux City, Iowa. According to the *New York*

*Times*, Argo opened the defense by telling the court that “We say this was an invasion by a foreign armed force. . . . We say that all persons on the banks of the river when this armed body attempted to land had a right there; that each had a right to defend himself and others there; that all had a right to use deadly weapons when attacked by such weapons as these people on shore were attacked; that they had a right to defend themselves and each other; that Critchlow had nothing to do with the death of Connors.”<sup>23</sup>

Erwin, who had come to be known among the Pittsburgh bar as the “Northwest Whirlwind,”<sup>24</sup> had apparently been assigned the clean-up position and came in swinging, declaring to the jury, “The great question you must ask yourselves is, was the battle at Homestead a riot or an authorized invasion?” If you answer that it was an invasion, Erwin said, that is the end of it, for the people have never delegated away their rights to resist an armed invasion.<sup>25</sup> If it was an invasion, Erwin said in a much quoted declaration, “*The people should not only have shot down the Pinkertons on the shore; they should have followed them on the boats, to their hearthstone, before the altar, and if it were possible, to cross the line that divides the living from the dead, they should have passed over and shot them on the burning bosom of the Prince of Hell.*” (Italics added)

“Mr. Erwin was,” the *Pittsburgh Times* wrote, “a northwest whirlwind from the start. He was then a surprise, and next he was a revelation. His wonderful facial expressions were as eloquent as his silvery voice, which flowed like a meadow brook at times and again like Niagara’s roaring cataract, as if in his own home he had trained it to drown the roar of the Falls of St. Anthony.”<sup>26</sup> Erwin’s summation in the Critchlow trial, printed contemporaneously in an 1893 history of the strike written by journalist Myron Stowell, is the only stenographic record of an Erwin courtroom speech that I have found. Running through it is Erwin’s assertion of the right to resistance on the part of those whose customary and historic rights have been abridged by the development of industrial society. As he would do again in the Pullman trial,



Sylvester Critchlow, a member of the Amalgamated Association of Iron and Steel Workers of America and one of the leaders of the Homestead strike in Pittsburgh, was the first steelworker that W.W. Erwin defended against the charges of murder, riot, conspiracy, and treason. This photo is also reproduced from Myron Stowell’s “Fort Frick,” or the Siege of Homestead (1893).

Erwin contended that an inherent right to self-preservation and self-defense was prior to and superior to any social construct.

“You do know,” Erwin said to the jury, “that your own people were shot down and killed. . . . The moment you know who fired the shot, and that there was no conspiracy among the people at the plank, the right of those on shore continued. . . . The only reason why the Pinkertons did not wallow in the blood of the people was because of the magnificent resistance. There were only eight rifles behind the barricade and three hundred in the boat. Think of the absolute cowardice of men with three hundred rifles against eight!” (Erwin then reminded the jury that according to District Attorney Burleigh, the lead attorney for the prosecution, “The barges were there lawfully and for a peaceable purpose.”)

“Counsel on the other side stand here and say, ‘Why didn’t Critchlow say on the stand that he did not carry a gun?’ Why didn’t you ask him? He was there to answer.” (Here for the second time the stenographer records “Laughter” at one of Erwin’s sallies during this highly charged summation.) “(The prosecution) didn’t



dare. His honest Roman face shows what he is. We have had enough of your windy sophistry." Erwin's practiced mixture of sarcasm and humor "set the court-room in a roar, even the tipstaves (i.e. bailiffs) being so amused that they forgot to cry *order* until Judge Kennedy aroused them."<sup>27</sup>

The jury acquitted Critchlow after less than three hours deliberation. Critchlow, who is depicted in a photograph in Stowell's book, appears to be a mild-visaged man with a handlebar mustache perhaps in his mid-thirties. What would distinguish this face from others by its Roman honesty is not immediately apparent. But Erwin's frame of reference for social evolution and history, which he would present on Labor Day, 1893, in his Wildwood speech, was always rooted in the classical era.

### **Erwin Speaks at Stillwater Prison**

Erwin did not hesitate to unfold his philosophy before any audience, no matter how humble, even the convicts at Stillwater State Prison, to whom he delivered a 4th of July address in 1893, where "he spoke on historical facts of centuries past, and finished by touching on the present social conditions." He informed the prisoners that "three thousand years ago honor and glory hovered over the shores of the Mediterranean, the Euxine (i.e. Black Sea) and the Aegean; that Athens was the school of the world, that back in the dim years there was a gleam of civil freedom over the island of Crete; that the Macedonian, the Spartan, the Athenian and the Roman rejoiced in the light of liberty which for weary centuries has not cast a glimmer on their shores." But now, "the sun of a new liberty is dawning on the world. It is the liberty of labor. . . . The God-made man is the exegesis of our republican genius. The man-made man is dying. . . . What is this change? It is the . . . change from paternal government in all forms to the fraternal processes whose principals were first taught men by the divine Son of God." "Fraternity," he said, "is divine."<sup>28</sup>

How Erwin's erudite discourse registered on his auditors is perhaps beyond the limits of speculation. Although Erwin was a spectacularly successful criminal lawyer, he was not infallible, and it is prob-

able that among his listeners on this occasion were former clients. To some, at least, his remarks were clear and eloquent. The inmates' weekly newspaper, the *Prison Mirror*, printed an extended and cogent summary for its readers, reporting that at the conclusion there was great applause. Whether this was out of appreciation or relief is unrecorded. After the "Star Spangled Banner" was sung the inmates marched out to a welcome hour of relaxation in Liberty Park, constructed and landscaped by prison labor.<sup>29</sup> In any case Erwin's life and career is ample testimony that he knew his audiences. The preponderance of his orations were delivered before juries composed for the most part of ordinary men, not much different from his listeners at labor assemblies, or, as in this case, men confined for offenses against the state.

Erwin returned to Pittsburgh in February 1893 to defend Homestead striker Jack Clifford, who was, like Critchlow, quickly acquitted. After yet another decisive victory by the defense team, the prosecution of the remaining workers was abandoned. Not a single worker was found guilty. Erwin's strategy of "justification" had carried the day, but only after overcoming the reluctance of the Pittsburgh lawyers who had originally been retained for the defense. Erwin's formidable powers of persuasion had harder work with the local counsel than with the juries.

"It is no secret that when the labor unions of the northwest sent W.W. Erwin of St. Paul and George W Argo of Sioux City to Pittsburgh to assist in the defense of the Homestead men, that they were not received with the warmth that might have been expected," one Pittsburgh newspaper reported. "They came here, introduced themselves, and then buttoned up their coats to prevent an attack of pneumonia. That night both sat in the Monongahela House looking homesick. . . . However, they had faced too many blizzards in the northwest to turn tail before a cool breeze."<sup>30</sup>

"I found upon my arrival [in Pittsburgh]," Erwin wrote to the St. Paul and Minneapolis labor federations, ". . . that local counsel were acquiescing and intending to surrender the defense of justification." He went on to add, "I am sorry to report to you that every one (of the local counsel) who was at that meeting

was of the opinion that no defense could be made in justification, and that we must depend entirely on an alibi. . . . I was alone in denying this, and the result was that I was authorized to organize, present to court and defend by argument any justifying theory which I thought proper, while the other counsel could prepare and present the alibi defense."

### **The Justification Defense**

Erwin's theory of "justification" is essentially another term for jury nullification, in which a jury returns a verdict of "Not Guilty" despite its belief that the defendant is guilty of the violation charged. The jury in effect nullifies a law that it believes is either immoral or wrongly applied to the defendant whose fate they are charged with deciding. "Nullification" is inherently within the power of a jury in a criminal case, and did not begin to fall into judicial ill-repute until the 1890s.

When the trial of Sylvester Critchlow was called, Erwin and Argo were on hand. They took seats in the courtroom away from counsel, because no seats at the table had been prepared for them. "They were not discouraged, but entered into the case as though they had been earnestly solicited by the other attorneys instead of merely being tolerated by them."<sup>31</sup>

"Will that opening of Mr. Erwin's ever be forgotten in Pittsburgh?" the *Pittsburgh Times* reporter asked. "How he did take everyone's breath away! He arose to speak unknown in Allegheny County and sat down famous. He owned the lobby, caught the jury, and frightened his colleagues. They thought then that the opening that he had made could never be closed, but before the round up it had grown on them and they rather liked it. So he was put down for another speech and it was there that he introduced his famous doctrine that backed by man's inherent right of self defense and to resist a foreign invasion, the Homesteaders were justified. . . ."

"I presented to the court the defense of justification," Erwin's letter to the Twin Cities continued. "This the judge constantly ruled out [the judge had previously held that any reference to the strike was not germane and out of order], but I carried it down to the jury box, insisting . . . that the ruling . . . precluded [the



defendant] from having a fair trial, a matter which they must discuss and if satisfied as to the correctness must acquit." And of course, that is what the jury did.

Erwin assured his friends in St. Paul that, "There is nothing pleasant in my appearance here, except a sort of consciousness that if I were not here the battle would be fought with the flag at half mast instead of the defiance under which we have carried . . . these cases."<sup>32</sup>

Two days after Erwin's address to the Stillwater inmates, Twin Cities unions met on the first anniversary of the strike on July 6, 1893, and presented Erwin with a gold-headed cane as "a token of his valuable services." When the presentation was made by H.B. Martin of the Minneapolis Trades and Labor Assembly, "the audience actually went wild in testifying its appreciation of the event."

Erwin, of course, was called upon to respond. Protesting he had received entirely too much praise for his role in the Homestead affair, he predicted, "The time will surely come when . . . righteousness and justice will run in the blood of men . . . and everything will be governed by the divine teachings of fraternity."<sup>33</sup>

### Erwin Defends Debs

*Pullman, both the man and the town, is an ulcer on the body politic. He owns the houses, the schoolhouse, and the churches of God in the town he gave his once humble name. And, thus, the merry war—the dance of skeletons bathed in human tears—goes on; and it will go on, brothers, forever unless you, the American Railway Union, stop it; end it; crush it out.*

—Jennie Curtis, president of ARU Local 269, the "Girls" Local Union, in her address to the 1894 Convention of the American Railway Union

Once again responding to a call for help from beleaguered strikers, attorney Erwin spent several months in Chicago in 1894 as lead defense counsel for Eugene V. Debs and other officers of the American Railway Union who led the historic Pullman railroad boycott in the summer of that year. Just two months earlier the ARU, organized only in 1893, had carried out a successful strike against James J. Hill's Great Northern



*Eugene V. Debs (1855–1926) in 1894. This illustration is from Harper's Weekly (July 14, 1894). Photo courtesy of the Library of Congress.*

Railroad. The ARU's boycott, in support of some 2,000 striking workers at George Pullman's sleeping car factory near Chicago, began on June 26, 1894. As the railroads began firing employees who refused to handle Pullman cars, it quickly became a strike by 150,000 workers. By July 2, the nation's railroads were shut down. This was the first truly nationwide strike. St. Paul, a major railroad terminal heavily affected by the strike, was a crucial link in the chain, particularly as the eastern terminus of the Northern Pacific Railroad.<sup>34</sup>

The Minnesota Transfer Railroad, located midway between Minneapolis and St. Paul, handled traffic between nine different railroads. All freight through the Twin Cities was interchanged at this point. Several hundred workers at the Transfer yard implemented "the most complete and effectual tie-up in the strike district," one of the switchmen wrote later. The Omaha railroad yards in East St. Paul were shut down, and the Chicago & Great Western's West Side operation was closed.<sup>35</sup> St. Paul police worked 1,852 days of extra duty during the strike.<sup>36</sup>

Walter Post, a Northern Pacific railroad clerk employed in the NP's St. Paul office, reported to his father on July 3 that "Half of our department was laid off until

the strike is over." On July 11 he wrote: "Strike situation seems better. We are still off from the office. Saturday the NP sent out a through train guarded by Deputy Marshals and two companies of regular U.S. troops from Fort Snelling."

"The strike has even extended to the newsboys," Post wrote, "and they are boycotting the Dispatch because they were going to distribute several thousand papers this noon free and the boys object, so they will not sell any more papers or allow any other boys to sell them. They were swarming around the Dispatch office today each one armed with a club and hollering so that it seemed like an immense hive of bees."<sup>37</sup>

The *Dispatch* had distributed free copies to delegates to a Republican convention in St. Paul. It sold additional papers to the newsboys, who were "stuck" with them. The outraged young vendors then imposed their own boycott, "pound(ing) the reluctant in seventeen different languages." In an overripe exercise in class condescension, one of the rank and file was "quoted" as saying, "Yer see, de papers done us dirt. We ain't the kind wot puts up wid it. We's in dis t'ing fur de blud, an' we's goin' to win, see?"<sup>38</sup>

### The Pullman Trial

Erwin's courtroom forensics in defense of the ARU leaders was followed with great interest and admiration, and not just by the labor press. The *New York Times*, reporting on the arrest and arraignment of the leaders in U.S. District Court, noted that Debs entered into the courtroom "accompanied by WW Erwin of St. Paul, special counsel for the union, who figured conspicuously in the defense of the Homestead rioters [sic] at Pittsburgh two years ago."<sup>39</sup> (italics added)

Debs and his colleagues were initially charged with contempt of court, based on a contention that they had violated the provisions of an injunction against strike activity. The injunction, the most sweeping ever issued by a federal court up to that time, was based in part on a novel interpretation of the Sherman Anti-Trust Act of 1890 and an assertion that the strike was illegally interfering with the U.S. mail carried by rail. Chicago federal district court judges Peter Grosscup and



William Woods in consultation with government special counsel Edwin Walker, a veteran railroad attorney, and guided by U.S. Attorney General Richard Olney, a director and former general counsel for the Chicago, Burlington & Quincy Railroad, handed down the order on July 2.<sup>40</sup> Walker had been recommended by the railroads' General Managers Association and remained on the payroll of the carriers throughout the strike.

Addressed to Debs, certain other ARU leaders, and "all persons combining or conspiring with them, and all persons whosoever," the injunction prohibited interference with the movement of trains and forbade all attempts by any means whatever to persuade or prevent railroad employees from carrying out their duties, or dissuading others from entering the service of the railroads, i.e. strikebreakers. "Any act whatever" that furthered "any conspiracy or combination to restrain" the operation of the mails, carrying mail, or interstate commerce was forbidden.<sup>41</sup> (italics added) The ARU was willing to let U.S. mail proceed, but the railroads insisted on attaching mail cars to trains carrying other freight or passengers.

Today, injunctions in labor disputes are taken for granted, but in 1894 use of the injunction in a labor conflict was still an emerging, and disputed innovation. American courts of equity did not issue labor injunctions until 1888 and the first federal injunction was only issued in 1891. Failure to comply with an injunction constituted contempt of court. No statute sets a penalty for contempt, or limits the power of a judge in imposing a punishment of fine, imprisonment, or both. "In proceedings for contempt, the judge is the lawmaker, the injured party, the prosecutor and judge, and the jury. It is not surprising that uniting in himself all these characters he is commonly able to obtain a conviction," one dissenting Federal appeals court judge said.<sup>42</sup>

The intent of the injunction was to outlaw the strike *de facto*, if not *de jure*. Federal troops under the command of former Indian fighter General Nelson A. Miles were quickly mobilized to enforce the no-strike provisions with maximum force, supplementing state militias and



This 1893 photo shows W.W. Erwin (front row, center) with the committee of steelworkers that hired him to defend the men who were charged at Homestead. The dress of the labor leaders, the formality of the setting, and the portrait's elaborate background convey an attitude of seriousness that characterized those who were responsible for organizing the defense. Photo reproduced from the Yearbook of the Minnesota State Federation of Labor, 1915.

local police. Olney, who viewed Miles as an inveterate publicity hound, was impatient with the general's delays. "If Miles would do less talking to newspapers and more shooting strikers, he'd come nearer fulfilling his mission on earth and earning his pay," he told a reporter. Newspapers, economists, clergymen, and other shapers of public opinion joined in a hue and cry for the use of force and violence against the strikers. Reverend Herrick Johnson, a professor at Presbyterian Theological Seminary in Chicago said, "There must be some shooting. Men must be killed. . . . The soldiers must use their guns. They must shoot to kill."<sup>43</sup> On July 9 the *Stillwater Daily Gazette* editorialized, "The killing and wounding of forty odd strikers and sympathizers at Chicago Saturday afternoon was a necessity and is the only means by which the crazy strikers can be brought to a realizing sense of the true condition of affairs." The artist Frederick Remington, who wrote and illustrated a story for *Harper's Weekly* entitled "Chicago Under the Mob," contrasted the Federal troops—"tall, bronzed young athletes"—with their unarmed targets from the city slums—"a malodorous crowd of anarchistic foreign trash."<sup>44</sup>

No reputable historian today believes that the destruction of railroad property

following the arrival of the troops in Chicago was the work of the strikers in any significant measure. It is generally conceded that most of the acts against property were committed by criminal elements and provocateurs hired by the railroads. The ARU leaders exerted every effort to keep the strike free of violence. "Most of it . . . was the work of lawless elements over which the union could exercise no control," one historian of Pullman writes.<sup>45</sup> Newspaper reporters who covered the events in Chicago and mingled with the strikers were almost unanimous in their opinion that the strikers had very little part in the disturbances. But twenty-five strike supporters were killed and sixty badly injured when police and state militia opened fire in Chicago. And on July 8, Federal troops in nearby Hammond, Indiana, fired indiscriminately killing six members of a "mob," including a young woman visiting friends in Hammond and a carpenter looking for a lost son. None were members of the ARU.<sup>46</sup>

### Erwin's Oratory Is Not Enough

A grand jury meeting in Chicago on July 10 issued indictments for conspiracy to obstruct the mail against Debs and three others, including ARU Secretary Sylvester Keliher, 31, a Minneapolis



railroad worker who had only recently moved to Chicago to take up official responsibilities after his election.<sup>47</sup> The men were quickly arrested, brought into court and, after a few hours detention released on bail. On July 17 they were rearrested. In the meantime, the ARU's national headquarters in Chicago was raided and ransacked, all contact with the local organizations cut off, and confusion and demoralization spread rapidly among the strikers, as they confronted 12,000 federal troops as well as state militias, while throughout the country grand juries empaneled by the government indicted hundreds of strikers and local leaders for conspiracy.<sup>48</sup>

The hearing for contempt before Judges Grosscup and Woods began Monday, July 23 in spite of the objections of Edwin Walker, who had asked for an immediate hearing so that he could get away for his summer vacation. Walker complained that "the heat was really stifling and the crowd of strikers present at the hearing made the air of the room intolerable."<sup>49</sup> Erwin's co-counsel for the defense, Stephen S. Gregory, asked for dismissal of the contempt charges on the grounds that a trial both for contempt and conspiracy constituted double jeopardy. If this was denied, Gregory argued, a jury trial at least should be granted. Both requests were denied.<sup>50</sup>

Attorneys Erwin, Gregory, and Darrow filed a lengthy brief on behalf of their clients, the core of which was to challenge the right of the court to issue injunctions as proscriptive as those of Grosscup and Woods, and then imprison those enjoined if the order was violated. Such exercise of arbitrary authority was, they contended, a usurpation of power not granted to the federal judiciary by either the Constitution or the law.<sup>51</sup>

Two days later, "Attorney WW Erwin . . . afforded a sensation . . . by violently assailing the government officers" and indirectly attacking the court. Under the heading "The Tall Pine is Agitated—Erwin Creates a Breeze in a Chicago Court," the *Pioneer Press* reported that Judge Woods "although retaining control of his anger, showed his suppressed excitement by his trembling hands and agitated expression." In cases of injustice,

Erwin said, the people "are sovereign and had a right to resist the conspiracy of the railroads to sustain Pullman "in his inhumanity and illegal acts."<sup>52</sup>

"Bill Irwin's Oratory," the *New York Sun* reported, "is the wonder of the bar and the admiration of the Northwest. . . . His voice now cracks into ice, now boils into geysers, is now thrown at the jury like a hammer . . . now leaps like thunder . . . now stops with the guttural protest of a Third avenue cable car kicking against the brake. The plaster drops, the nails are drawn out, the ceiling topples, the floor sags, even the janitor trembles in his slippers."<sup>53</sup>

"Such papers as the (Chicago) *Tribune* and the *Evening Journal* sized upon the very first utterance of Mr. Debs' counsel as an opportunity for insidious effort to prejudice the court and the people against the cause of the labor leaders . . . pronounc(ing) the opening pleas of . . . Mr. Erwin, in effect an assertion of the gospel of anarchy," one striker wrote later.<sup>54</sup>

Prosecutor Edwin Walker reported in sick, requiring a postponement until September, conveniently reinstating his summer vacation plans. Although the strike had been crushed by federal troops, state militia, local police, and injunctions over a month before, on September 5 the contempt hearing resumed in federal court in Chicago. "What have they proved these men did?" Erwin asked in his celebrated closing speech. "Have they proved that they set fire to any cars? . . . Done any of these cheap, oh so cheap, acts of violence—cheap, cheap acts of violence! No one killed except by the troops. . . . Not a man killed, not a particle of the natural disorder of the mob—the artificial disorder of burning cars and burning switches and burning signal towers."

In the absence of a jury, and knowing the futility of seeking to move those who had issued the original injunction and were now sitting in judgment on those accused of violating it, Erwin's oratory was in essence a cry for justice launched from the courtroom to the broad masses. Erwin appealed to the people as a court of last resort as he had done throughout his legal career.

"This abrasion between corporate

greed and the people," Erwin began," is working out by its own evolution the question of economics and freedom; and where the cause is so justifiable as this was, and where there are no overt acts traced to any one of these defendants, it would be like the crucifixion of the cause of labor against capital, rather than of one who was a malefactor in that cause, to press the proceeding to a judgment." Then the St. Paul attorney added, "Not upon the narrow lines of technical breach of contempt can this case possibly be decided."<sup>55</sup> Finally he closed by pointing out, "My colleague, Mr. Gregory, struck the keynote of this matter when he said the act of a strike was one consistent with civil and religious liberty. . . . What could they do?" Declare war? No. Break the public peace? No. Then what might they do? Anything that the God-given conscience prompted them to do. That is the liberty of this flag."

Walker, having returned apparently refreshed from his summer at the seashore, countered, "We do not call the action of these respondents in tying up the railroads of the country a strike; we call it an unlawful conspiracy in restraint of trade." Not only had Debs and the ARU "obstruct(ed) the passage of trains and the business of railroads," Walker declared, but "Mrs. Leland Stanford could not move on her journey until the gracious permission of this man Debs was obtained."<sup>56</sup>

On December 14, Judge Woods sustained the charge of contempt. Debs was sentenced to six months in prison. The other defendants were given three. An appeal to the U.S. Supreme Court by Darrow and Gregory was denied.<sup>57</sup>

Erwin remained a hero of the labor movement, speaking frequently at union-sponsored events and marching in Labor Day parades. He was made an honorary member of several unions, including the ARU and the St. Paul barbers' and bookbinders' locals and continued to quote Tennyson's *Maud* in his speeches. He was a leading speaker and participant, along with Ignatius Donnelly, in the Populist movement in Minnesota. Erwin moved to Miami about 1900 and reportedly did work for a southern railroad. He died in Miami in 1908.<sup>58</sup>



Larry Hodgson, who knew Erwin well as a young reporter, remembered him as "a fighter among concessionists, a primal among formalities, an original among conservatives, a dreamer among doubters and a doubter among dreamers. . . . He was not in any sense a warmly human

man. Men loved him, but never in a close intimate way. He was always more or less in isolation, by nature and by choice. . . . It was always as if he had two Erwins with him, one for himself and a somewhat lesser one to substitute for him among people."<sup>59</sup>

Like his namesake, William Wallis Erwin chose to stand at the bridge and fight.

*David Riehle is a member of the Society's Editorial Board.*

## Endnotes

1. *St. Paul Dispatch*, September 14, 1908.
2. For the only comprehensive biography of Erwin, see Christopher C. Andrews, *History of St. Paul, Minnesota with Illustrations and Biographical Sketches of Some of Its Prominent Men and Pioneers* (Syracuse, N.Y.: D. Mason & Co., 1890), 101-06.
3. *Minneapolis Journal*, September 15, 1908.
4. Anne Cowie, "The Frailties of Human Nature: The Ramsey County Attorney's Office and Its Colorful 150-Year History," *Ramsey County History*, 35:3 (Fall 2000): 6.
5. Larry (Larry Ho) Hodgson, "The Tall Pine of Minnesota, A Reminiscence and A Ruminantion," *St. Paul Sunday Dispatch*, September 20, 1908. Hodgson's lengthy reminiscence of Erwin as he remembered him is the only extended treatment of his life other than the formal biographical sketch in *History of St. Paul, Minnesota*.
6. "St. Paul Before This," *St. Paul Daily News*, August 21, 1921.
7. Charles B. Elliott Papers, *Diary*, January 3, 1888, MHS, quoted in *Minnesota History*, 18:124-25.
8. Walter N. Trenery, *Murder in Minnesota: A Collection of True Cases* (St. Paul: Minnesota Historical Society Press, 1962, 1985), Chapter 10, "Two Affronted Ladies," 121-34; Chapter 11, "High Stakes and Green Goods," 135-55; Appendix, 221 (Peter Barrett) and 223 (Harry T. Hayward).
9. "Debs and Erwin," January 6, 1896, unidentified clipping, in the Debs Papers, University of Indiana, Terre Haute, Indiana.
10. Clarence Darrow, *The Story of My Life* (New York: Charles Scribner's Sons, 1932; with a new introduction, De Capo Press, 1996), 61.
11. The unprecedented upheaval of a nationwide railroad insurrection in 1877 is the third.
12. Philip S. Foner, *History of the Labor Movement in the United States*, 2d ed., vol. 2 *From the Founding of the American Federation of Labor to the Emergence of American Imperialism* (New York: International Publishers, 1980), 269. Even Foner's encyclopedic work on American labor fails to notice the participation of Erwin in the contempt trial (note, 275).
13. *St. Paul Daily Globe*, September 5, 1893, 1-2; 6.
14. Laurence Gronlund, *The Cooperative Commonwealth in Its Outlines: An Exposition of Modern Socialism* (Boston: Lee and Shepard; New York: C.T. Dillingham, 1884).
15. *St. Paul Daily Globe*.
16. Foner, 2: 206.
17. Archie Green, *Wobblies, Pile Butts, and Other Heroes: Laborlore Explorations* (Urbana and Chicago: University of Illinois Press, 1993), 239-40.
18. Gompers to Mahlon Garland, January 13, [1893], *The Samuel Gompers Papers*, edited by Stuart B. Kaufman and Peter J. Albert, vol. 3, *Unrest and Depression, 1891-94*, (Urbana and Chicago: University of Illinois Press, 1989), 265-66. Frank Valesh (1862-1916), who was elected the first president of the Minnesota State Federation of Labor in 1890, was a member of Gompers's Cigarmakers Union. He and his wife, labor journalist Eva McDonald Valesh (1866-1956), were longtime friends of Gompers. See Elizabeth Faue, *Writing the Wrongs: Eva Valesh and the Rise of Labor Journalism*, (Ithaca, N.Y.: Cornell University Press, 2002). For information on Critchlow, see "Critchlow's Defense," *New York Times*, November 22, 1892.
19. *Yearbook of the Minnesota State Federation of Labor, 1915*, 51-55 (University of Minn. Libraries).
20. *St. Paul Trades and Labor Bulletin*, April 1893, no. 4:5 at the Minnesota History Center, St. Paul, Minn.
21. *St. Paul Trades and Labor Bulletin*, July 1893, no. 7:1.
22. AFL Records, "Gompers Era" reel 2, Executive Council Minutes: Samuel Gompers Letterbooks, vol. 8, no. 350, George Meany Memorial Archives, Silver Spring, Md.
23. "Critchlow's Defense," *New York Times*, November 22, 1892.
24. Arthur Gordon Burgoyne, *Homestead. A Complete History of the Struggle of July, 1892*, . . . (Pittsburgh: Rawsthorne Printing Co., 1893) reprinted as *The Homestead Strike of 1892*, with an afterword by David P. Demarest Jr. (Pittsburgh: University of Pittsburgh Press, 1979), 252.
25. Myron R. Stowell, "Fort Frick," or the Siege of Homestead (Pittsburgh: Pittsburg Printing Co., 1893).
26. *Pittsburgh Times*, n.d., quoted in Stowell, "Fort Frick," 291.
27. Burgoyne, 256.
28. *St. Paul Trades and Labor Bulletin*, 7:4 (July 1893).
29. *Prison Mirror*, July 6, 1893.
30. *Pittsburgh Times*, February 9, 1893.
31. *Ibid.*
32. *MSFL Yearbook*, 53-54.
33. *Ibid.* July 1893 No. 7:1.
34. See, for example, Gregory T. Proferl, "The 1894 Pullman Strike in St. Paul and the Death of Switchman Charles Luth," *Ramsey County History*, 41:3 (Fall 2006): 14-23.
35. William F. Burns, *The Pullman Boycott, A Complete History of the Great R.R. Strike* (St. Paul: McGill Printing Co., 1894), 43-44. There was no boycott on the Great Northern Railroad because the road did not use Pullman sleeping cars.
36. *Annual Report of the Chief of Police, St. Paul, Minn. for the year 1894* (St. Paul, MN: Pioneer Press Co. 1895), Minnesota History Center, St. Paul, Minn.
37. Walter Post Papers, Minnesota History Center, St. Paul, Minn.
38. *Stillwater Gazette*, July 1, 1894.
39. *New York Times*, July 18, 1894, 1-5.
40. Interestingly, in a St. Paul streetcar strike a few years earlier, Olney had instructed the U. S. marshal to break the strike on the premise that the movement of U.S. mail between Minneapolis and St. Paul was obstructed. See *New York Times*, January 15, 1895.
41. Gerald G. Eggert, *Richard Olney: Evolution of a Statesman* (University Park, Pa.: Pennsylvania State University Press, 1974), 139.
42. John P. Frey, *The Labor Injunction* (ca. 1925): 74-77. Frey, a vice president of the AFL, was born in Mankato, Minn. in 1871.
43. Almont Lindsey, *The Pullman Strike: The Story of a Unique Experiment and of a Great Labor Upheaval* (Chicago: University of Chicago Press, 1942), 275; *New York Times*, July 9, 1894. Although he "sympathize(d) with the Pullman employees, Chicago was able to take care of its Anarchists and the time has come for it to take care of its rioting strikers with a stern hand," Reverend Johnson told a reporter.
44. Louise Carroll Wade, "Hell Hath No Fury like a General Scorned: Nelson Miles, the Pullman Strike, and the Beef Scandal of 1898," *Illinois Historical Journal*, 79:3 (Autumn 1986): 169-70.
45. Lindsey, 275.
46. John Swinton, *Striking for Life: Labor's Side of the Labor Question: The Right of the Workingman to a Fair Living* (Chicago: American Manufacturing and Publishing Co., 1894; reprint edition, Westport, Conn.: Greenwood Press, 1970), 120-26.
47. *Minneapolis Tribune*, April 2, 1893. Keliher, like Debs, had emerged from a traditional craft union, serving as Grand Secretary of the Railway Carmen of America prior to his election at the ARU's founding in 1893. The ARU's plan of incorporating all railroad workers into one union, Keliher said, was "modeled after the idea pursued by the railways themselves," which were centrally organized.
48. Foner, 2:270.
49. Lindsey, 284.
50. *Ibid.*, 283.
51. *St. Paul Pioneer Press*, July 24, 1894, p. 2.
52. *St. Paul Pioneer Press*, July 26, 1894.
53. Quoted in *The Anoka County Union*, August 8, 1894.
54. Burns, *Pullman Boycott*, 159-61 quoting the *Chicago Times* n.d.
55. *Journal of the Knights of Labor*, October 25, 1894, p. 1. "Sustained by Conscience—Dramatic Speech by Chief Counsel of ARU. Wm. Wallace [sic] Erwin For Defense."
56. *New York Times*, September 29, 1894. Leland Stanford was one of the "Big Four" railroad executives who organized the Southern Pacific Railroad.
57. Stephen Gregory, later president of the American Bar Association, championed labor throughout his long career. Regrettably, Gregory undertook in this capacity to defend the ABA's 1912 decision to bar William Lewis, an African American, who was the U.S. assistant attorney general, from membership on grounds of race. See *New York Times*, August 25, 1912 and May 12, 1915.
58. See obituaries in *St. Paul Dispatch*, September 14, 1908; *The Minneapolis Journal*, September 15, 1908; *St. Paul Pioneer Press*, September 15, 1908.
59. *St. Paul Sunday Dispatch*, September 20, 1908.





*Tommy Milton in the Frontenac he drove to victory in the 1921 Indianapolis 500. This is #27 in a series of trading cards showing great moments in racing history. It was produced as a marketing promotion in 1994 by the Valvoline division of Ashland, Inc. and is reprinted with their permission. The back of the card explains that Milton was a replacement driver that day, using the car in which Gaston Chevrolet had died. It also recounts how Tommy dealt with a main bearing leak by slipping the clutch on turns, using friction to burn off the dripping oil. See Steve Trimble's article on page 3.*

**R.C.H.S.**  
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