

This article is based on presentation made at the October 10, 2018 meeting of the BAHR at Brookside Museum by Sam McKenzie, John Cromie and Charles Hogan on precedent-setting legal cases originating in Saratoga County.

Great Hook Headed Spike Case (Sam McKenzie) The issue was whether a patent for machinery to make hook-headed railroad spikes had been infringed. Two neighboring manufacturers of Troy, NY struggled to win in proceedings which lasted three decades from 1841 to 1872. Henry Burden owned the patent. Erastus Corning and John F. Winslow were the chief defendants. Two trials in the Federal Circuit Court were held in the 1840's and an adverse decision in the second trial was appealed by Burden to the US Supreme Court. In 1853 the decision of the court below was reversed. At no point in any of the trials did Judge or Jury dispute that Burden's patent was valid. The new damages due to Burden were to be calculated by Reuben H. Walworth, former Chancellor of New York, who held evidentiary hearings at his home on Broadway in Saratoga Springs, NY. Hearings commenced in 1854 and continued, much to the consternation of the litigants, the Court and the newspapers of the day, until 1864. Newspapers started calling the case "America's Jarndyce vs Jarndyce" after the long-running case ridiculed in Dicken's novel "Bleak House", which was published in 1852.

In 1866 Reuben Walworth came to the remarkable conclusion that the defendants had incurred a loss of \$34,000 in manufacturing spikes using Burden's machine. Under the rules of that day Burden was therefore due zero damages. Equally remarkably, Walworth presented a bill for \$92,000 to cover his fees as well as rent for use of his office as hearing room. Walworth's findings and fees were appealed to the Circuit Court. By 1872, the Court had decreed that Burden was owed damages of \$21,000 as well as his costs, and established a compromise amount for Walworth's fees, believed to be around \$45,000. It transpired that the defendants had secretly paid Walworth \$34,000 prior to his reaching the "zero damages" conclusion. It is unknown what funds changed hands after this "resolution" of the case. The main protagonists were dead by then, Walworth in 1867, Burden in 1871 and Corning in 1872. The last whimper of the great case seems to have occurred in 1881 when Reuben Walworth's estate sought to compel payment of \$17,000 in fees to his heirs. Nothing further was heard of this last attempt to milk the venerable cash cow. The Great Hook-Headed Spike case was clearly a travesty of some kind and a lot of it happened right here in Saratoga Springs.

Whalen v. Union Bag Company (1913) – (Charles Hogan) At the turn of the 20th century the Kayaderosseras Creek was one of the most polluted waterways in New York State. Governor Theodore Roosevelt attempted to force the major polluters of the creek to cease their pollution by Executive Order in 1899, but he lacked the legal authority to enforce the order. His successor Governor Charles Evans Hughes chaired an Investigative Commission on Kayaderosseras pollution in 1908, focused on the pollution caused by the Glen Sulphite Company, part of the eight-mill complex called the Union Bag Company.

Farmer Robert Whalen, who lived down stream from the major polluters of the Creek, experienced the death of some of his cows, which he attributed to the visible pollution coming from the Glen Sulphite Mill. In 1910 he sued the Union Bag Company, asking for compensation

and requesting that the court issue an injunction shutting down the Glen Sulphite Mill, which was the paper pulp mill for the paper Bag Company. The trial court granted him a \$1,500 judgement and issued the requested injunction. The case was appealed to the 2nd District Appeals Court. That court, on a split decision, overturned the injunction and lowered the cash judgement to \$500. The court said that the Union Bag Company was worth over \$1 million dollars and it employed over 450 workers. In comparison, Whalen's losses were "trivial". They also said that the bag company was only partly responsible for polluting the Creek. The New York Court of Appeals, overturned the decision of the District Appeals Court in 1913. The Court reinstated the full damages awarded by the trial court and the injunction. It ruled that denying a poorer defendant's claims against a richer defendant, based on a simple monetary calculation, would deny justice to the poor.

This case became a much-cited precedent used to defend the power of courts to issue injunctions in environmental cases.

Two years after the final closure of the entire Union Bag mill complex, a large die-off of cows occurred on the downstream banks of the Kayaderosseras. For the first time, an autopsy was performed on a dead cow. The results of the autopsy was death by anthrax poisoning. In the case of *Driscoll v. American Hyde and Leather Company* (1918), the American Hyde and Leather Company, the second largest industrial company in Ballston Spa and the second largest polluter of the Kayaderosseras Creek, was held responsible for the cow deaths. The Court awarded damages to the plaintiff, but declined the plaintiff's request to issue an injunction. Neither party appealed the decision. The American Hyde and Leather Company continued in business until 1960, when it closed for business reasons.