



# DANIEL WEBSTER'S LAST CASE & FRANK WALSH

*Jacob A. Stein*

**T**HIS IS BEING WRITTEN with Daniel Webster (1782-1852) at my side. Or better put, I am sitting on the marble base of Daniel Webster's statue near Scott Circle at 16th and Massachusetts Avenue. The bronze statue is more than life-size. Webster stands erect like the great orator he was. He has a book in his right hand. He is holding his flowing cape in his left hand. The statue occupies a small park of its own. Unfortunately, there are no park benches there.

Webster's biographer, Robert E. Remini, opens with this description of Webster (picking up bits and pieces from another biography and Steven Vincent Benét's *The Devil and Daniel Webster*):

That voice. It mesmerized. It dazzled. And it rang out like a trumpet. Never shrill, never unpleasantly loud, but deep, dark, with a roll of thunder in it, tempered by a richness of tone and powered by a massive chest that sent it hurtling great distances, even in the open air, it turned "on the harps of the blessed" and shook "the earth underground." Under perfect control, it never broke however high it was driven to convey an emotion or emphasize a point. For a typical three-, four-, or even five-hour oration it usually needed

---

*Jake Stein is a partner in the Washington, DC firm of Stein, Mitchell & Muse LLP.*

## Jacob A. Stein

some form of lubrication to be fired up and ready to perform. But once it started to function, it sang out like music in clear and sonorous cadences and swelled and diminished on command. Nobody who heard it ever forgot it. One carried the sound of it to the grave.

And that look. It hypnotized. It riveted. It could wither miscreants with a single glance. Large, deep-socketed black eyes peered out from a “precipice of brows” and glowed like coals in a furnace waiting for the annoyance or offense that would bring them to full heat.

Webster, after graduation from Dartmouth College, obtained admission to the bar by working in a law office. He set up a local solo practice in New Hampshire where he developed a thriving clientele. In time he moved to Boston and entered politics, siding with the Whigs. He was elected to the United States House of Representatives, and then the Senate, where he became its leader and, in the opinion of his contemporaries, its most impressive orator:

He usually began his speeches slowly and quietly, sometimes with long introductions to prepare the ground and capture the undivided attention of his audience. He knew of course that his appearance – bushy eyebrows, deep-set eyes, dark complexion – and most especially his magnificent voice could produce within the first half hour a hypnotic effect on his listeners. But once he entered the main theme of his address, “all his faculties expand or take on a new character. His large black eye dilates and kindles ... his voice ranges through all its powerful notes ... and his gestures, frequent and sometimes violent, are accompanied with a forward fling of his body, which is more emphatic than graceful.” His words then reveal a “lethal intent.” His scorn, his retort, his recrimination “are hurled upon their object with a deadly skill and unsparingness almost fiendish.” His smile during an oration could be “angelical,” his sneer “diabolical.” *New York Mirror*, October 1, 1831.

He made three efforts to get his party’s Presidential nomination. He lost his party’s favor by voting in favor of fugitive slave legislation. He also had a reputation for favoring the big business interests.

## *Daniel Webster & Frank Walsh*

His efforts to reconcile the North and the South, to avoid a secession, proved futile.

In 1840 President Harrison nominated him as Secretary of State. In 1850 President Millard Fillmore re-appointed him Secretary of State.

In 1852, Mr. Goodyear of the Goodyear Rubber Company retained Webster to plead a Goodyear patent case before the Supreme Court. Webster got \$10,000 up front, and \$5,000 more if he won, and he did win. No man, while still holding the position of Secretary of State, had ever before taken a fee and argued a client's case before the Supreme Court. Webster was aware that this was a somewhat controversial matter but he said to his friends he needed the money.



Now we turn our attention to a spring morning in 1960 and to Frank Walsh. Frank was an elegant gentleman, with a Princeton/Harvard background. He tired of the 15th Street civil practice where the well known firms were located.

He liked the criminal practice around the Courthouse on 5th Street. It was where one met (as he put it) the big parade, the bondsmen, the detectives, the prosecutors, the has-beens who never were, and many good lawyers. There was (and is) a plaque on the front of a small office building at 5th and D Streets, N.W. identifying it as the place where Daniel Webster had his office. Frank Walsh had his office in that building.

On that 1960 spring morning Frank was getting ready to walk across 5th Street to police court when a man walked into the building and saw Frank in the hallway with his briefcase.

From now on I shall tell the story as Frank told it, many times.

This man walks in, sees me, and asks if Daniel Webster is in.

I gave him an ambiguous response. I then asked him what I could do for him. He said he had been arrested for driving while drunk. I asked him if he had any priors. Had he ever been arrested before for drunk driving? He said no.

*Jacob A. Stein*

I asked him if anybody got hurt and he said no. I then knew I could get the DUI knocked down to excessive speed.

He asked what it would cost. I said three hundred dollars. He took out a small checkbook and started writing a check to Daniel Webster. I said Daniel Webster likes cash up front. He counted out the three hundred dollars. I took it and walked across the street to the Police Court and worked things out.

Now this fellow Daniel Webster, I understand he was a pretty good lawyer in the Supreme Court. We all know that. Big cases, the *Dartmouth College* case and *McCulloch v. Maryland*.

And I am happy to report that he was also pretty good in his last appearance, which just happened to be in the Police Court.

