



Court Historical Society NEWSLETTER *Eastern District of Tennessee*



March 2018



*AN EXCLUSIVE INTERVIEW—Labor leader **John L. Lewis**, in the foreground, his hat resting on a table, is sitting with prominent Knoxville attorney **Russell R. Kramer** in a meeting room at the Andrew Johnson Hotel during an exclusive interview in 1961 with then Knoxville News Sentinel reporter **Don K. Ferguson**, sitting to the right just out of view, who today is the Court Historical Society Newsletter editor. The entire staff of the Kramer firm—lawyers and secretaries—came to the interview and stood along the walls of the room to see and hear this famous man.*

Photo courtesy of News Sentinel

He Dominated the Courtroom

By Don K. Ferguson

Coal ash is the subject of much litigation today, but in the late 1950s and on up through the early 1980s, it was the coal companies themselves that generated a lot of litigation in the Eastern District of Tennessee courts and in other courts in surrounding states.

One of those cases brought a famous labor leader to Knoxville in 1961 to testify in behalf of a key party in those cases, the United Mine Workers Welfare and Retirement Fund.

He was **John L. Lewis**, then 82, who at that time was the retired president of the United Mine Workers Union. He is described by historians as one of the most powerful men in the United States in the 1930s and 1940s and one of the most important labor leaders in this country's history.

E.H. Rayson, the Knoxville lawyer who, along with Knoxville

attorney **Russell R. Kramer**, defended the union in most of that litigation, said of Lewis, "He was, undoubtedly, the most famous person I ever dealt with."

U.S. District Judge Robert L. Taylor, who tried the 1961 case, readily told associates that Lewis was the most famous person ever to testify in his court.

The trial involved charges by a small Scott County coal operator, Phillips Brothers Coal Co., that the union and its welfare fund conspired with large coal mining companies to monopolize the coal industry and drive the small operators out of business. If the small companies failed to pay a per-ton royalty specified under a master contract to support the welfare fund, the fund sued them for the money, often bankrupting the small operators. After it was sued, Phillips Brothers Coal Co. countersued the union and the welfare fund.

Rayson said the powerful labor leader was brought in from Washington to testify because, at that time, the UMW "was the wealthiest union in the country and its treasury was on the line." U.S. News and World Report said, "The financial empire that John L. Lewis built is now going on trial in Knoxville."

[EDITOR'S NOTE—I was a Knoxville News Sentinel reporter in those days and covered the trial. The following paragraphs are a portion of what I wrote then about Lewis's day in court.]

All eyes were on the towering, bushy-browed Lewis when he entered the packed, quiet courtroom to take the witness stand. Before sitting down, he took a long, stern look around the room, taking in the judge, the lawyers, the jury and 150 or so spectators, most of whom had come just to see Lewis. Then he slightly dropped his head in a quick, courteous bow, and sat down.

Lewis, often testifying in eloquent, poetic terms, said the union would never do anything to harm the miners. "We owe allegiance to none other than our employers [the miners], whose bread I eat, whose song I sing.

The misery and human agony the miners suffer is greater than exists in any industry in

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the civilized world. More valuable than silver and gold or pearls of great price is the progress that has been made in the medical treatment of mine workers. It has made for fewer widows and orphans since coal was first discovered in the 10th century.

Lewis dominated the courtroom by his presence. He testified for five hours.

Rayson said that despite Lewis's age, "when he got on the witness stand, he was a very powerful, colorful figure. Judge Taylor let him speak on; in fact, I think there was an objection or two and Judge Taylor said, 'This man can take care of himself,'" Rayson recalled.

"But while he did a very good job," Rayson said, "the jury didn't agree with him and they found in favor of the plaintiff in the full amount requested." [This was \$90,000, which, under antitrust law, was tripled to \$270,000.—EDITOR.]

The UMW appealed, but the verdict was affirmed. The case went on to the Supreme Court, which remanded it to Judge Taylor, ruling that he failed to instruct the jury on one point. The coal company's lawyers, **John Rowntree** and **Jerome Templeton** decided to try it this time before the judge without a jury. The judge ruled that there was no conspiracy. The case went the full appeal route again and was affirmed.

How Do We Cross-Examine Lewis?

In his oral history with the Court Historical Society in 1993, **Templeton** told of his and **Rowntree's** discussions prior to the union leader's testimony about how they should deal with him on the witness stand.

"I told John in conversations shortly before the other side turned Lewis over for cross-examination, 'Now, John, John L. Lewis has got more sense than you and me put together. He didn't come down here to help us. You be careful, because you've got this case in pretty good shape, but he can sure harpoon us. I wouldn't fool with him too long; just ask him a few routine things he can't hurt you with and turn him loose.' So that's what we did."

The Way It Began

Phillips Brothers Coal Co. was one of more than a dozen coal operators who had been sued by the union. Looking for legal help, they came to **Templeton**, who had Jellico roots and was

known by coal operators. One of them said they would like for him to associate prominent Knoxville lawyer **Harley Fowler** in defending the cases.

Templeton did so, and it was then that Fowler associate **John Rowntree** was brought into the case, because he had been working on a conspiracy theory in an antitrust case. "Harley said, 'Let's get John into this thing and see if this conspiracy theory of his will help us out,'" Templeton recalled.

Rowntree Becomes Successful

After the Knoxville trial, **Rowntree** handled several other similar cases for coal operators throughout the region over the next few years. He developed a reputation as an expert in antitrust law and ultimately became a financial success.

Templeton said that following the successful jury trial—the first trial—"the next morning and for several days after, my telephone was ringing off the wall with lawyers all over this section wanting to associate me in cases they had. I had to tell them, 'You've got the wrong man. John Rowntree is the fellow you need to talk to.'"

EDITOR'S NOTES

The judge and all the lawyers mentioned in this article are deceased.

The Phillips brothers were uncles of **Senior U.S. District Judge Thomas W. Phillips** of this court.

New Book

Court Historical Society member **Jerry H. Summers**, a Chattanooga attorney, has a new book, *Schoolfield: Out of the Ashes 1958-1982*. It covers the life of impeached Hamilton County Criminal Court **Judge Raulston Schoolfield** from the date of his impeachment to his death. It is available from Summers for \$34.99 plus tax and postage at jsummers@summersfirm.com.

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