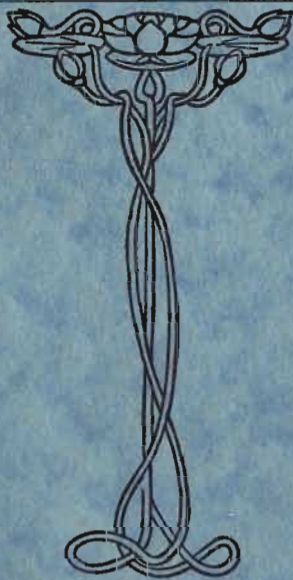


Proceedings *of the*
Bar Association
of Tennessee



1925

PROCEEDINGS

of the

Forty-Fourth Annual Session

of the

BAR ASSOCIATION
OF TENNESSEE



HELD AT
MEMPHIS COUNTRY CLUB

MEMPHIS, TENNESSEE

June 26 and 27, 1925

Association of Memphis. I take it that the same thing is true in regard to the counties contiguous to Hamilton County, to Knox County and to Davidson County. I would like to bring that matter before this Association tomorrow—so that the members here may have an opportunity to think about it—in the miscellaneous business of tomorrow.

The President:

I am going to make this suggestion, Mr. Brown. When we reach "New Business," it will be proper to present that to the Association. However, the report read by Mr. Hicks, in connection with the resolution which was offered by Mr. Armstrong and adopted, deals very fully with the proposed confederation of the lawyers in the smaller places with the Associations in the larger cities.

Hon. Giles L. Evans:

I have a resolution in regard to the celebrated Scopes trial I would like to file, and tomorrow I will move its adoption. I would like to file it with the Secretary, and ask that it be read.

The President:

Mr. Giles L. Evans offers the following resolution and requests that it be read and filed, and announces his intention to bring it up tomorrow for discussion. I will ask the Secretary to read the resolution.

The Secretary (reading):

"Regardless of the merits of the case and of the truth or falsity of the theory of evolution, and without expressing any opinion thereon, either as to the constitutionality of the statute involved, or otherwise, be it and it is resolved by the Bar Association of Tennessee, in annual convention assembled, that we deplore and protest against the making or using of a criminal or other trial before any Court of our State as an advertising medium, as is now being done in the Scopes trial at Dayton, Tennessee, and most especially do we deplore and protest against the action of any Court in encouraging or fostering or participating in any such advertisement or publicity scheme."

The President:

The resolution will be filed, subject to being called up by Mr. Evans on tomorrow.

Is there any further business?

A Member:

I move we adjourn.

The President:

If not, the Association will recess until 7:30 this evening.

in Arkansas publishes the decisions of the Supreme Court of that State in a weekly pamphlet which is sent to subscribers. Such a plan might be worked out in this State.

Respectfully submitted,

CHAS. S. COFFEY,
GEORGE ARMISTEAD, JR.,
LEE WINCHESTER.

The President:

Is there any discussion of this report desired? If not, without objection, it will be ordered filed.

Ladies and Gentlemen, Mr. Robert S. Keebler, of Memphis, is now going to discuss briefly what is properly known as the "Anti-Evolution" act of Tennessee. The validity and application of this act, according to present advertisements, will be acutely litigated in the near future, probably in the baseball park at Dayton.

I do not know whether Mr. Keebler is going to contend that the act is constitutional or unconstitutional, or neither. We have with us today the entire Supreme Court of the State of Tennessee, who will hear this argument. Some question has been raised as to the propriety of an argument being made in regard to this law in the presence of the Court to which eventually this litigation, which will occupy the attention of Dayton and the world in the next few weeks, will reach. Not knowing what Mr. Keebler's attitude is, I want to be unofficially enrolled representing the other side, and ask that the Court withhold its final judgment until my associates can be heard (laughter). Assuming to represent the Court, and certainly acting as President of the Association, the time is limited to thirty minutes on the side.

I take pleasure in presenting Mr. Keebler.

Mr. Robert S. Keebler:

Mr. President and Gentlemen of the State Bar Association:

I am aware that we started late this morning and it is now time for other orders of business, and I would like to know to what extent the Association desires to hear me, because I can speak in extenso, and probably I can speak more briefly. I should like to know, Mr. President, precisely how much time I may have in order that I may not crowd the other orders of business.

A Member:

I move that he be given thirty minutes.

The President:

Thirty minutes.

Mr. T. K. Riddick:

Go ahead.

Mr. Keebler:

Now, ladies and gentlemen, I am as keenly conscious as any one concerning the controversial aspects of this case. I am also as sensible as anyone of the fact that the Judges before whom this Act must ultimately come are honored guests in our midst. A stilted propriety might suggest the withholding of any remarks on this case, but I have sufficient respect and admiration for the learning and ability of our distinguished Judges, and I have so keen an appreciation of my own fallibility and of my own limitation to believe that the Court will hear me and accord my reasoning only such weight as it is worth. I think that since a case as important as this has arisen in our midst and is being debated throughout the world, if we should be so timid and cautious as not to mention it at all, our timidity would be misconstrued and our silence would speak for us.

(Mr. Keebler here began the reading of his address and continued for thirty minutes, when the President informed him that the thirty minutes had expired, whereupon the following occurred):

Mr. A. D. Waldauer:

I move that the time be extended so that the gentlemen may finish.

A Member:

I second the motion.

The President:

Gentlemen, you have heard the motion to extend the time of Mr. Keebler so that he may conclude the reading of his paper. How long will it take you?

Mr. Keebler:

About ten minutes.

Mr. T. K. Riddick:

Give him ten minutes.

(Cries of "Question.")

The President:

Gentlemen, you have heard the motion to extend the time of Mr. Keebler ten minutes. Those in favor of it signify it by saying aye; opposed, no. The motion is carried and the time is accordingly extended.

Col. T. B. Edgington:

I wish to introduce this resolution—

The President:

That is out of order, Colonel. You cannot introduce it during the time allotted to Mr. Keebler.

Mr. Edgington (reading):

"Resolved, That it is the sense of this Association that the Act prohibiting the teaching of the science of evolution in the Schools of Tennessee be repealed."

A Member:

I second the motion.

The President:

The Chair will rule that out of order. It properly comes under the head of new or miscellaneous business. (Applause.)

(Mr. Keebler proceeds with the reading of his address until the ten minutes allowed him have expired.) (Applause.)

The President:

I will state to the Association that Mr. Keebler's entire address will be printed in the proceedings of the Association. (Applause.)

Mr. H. D. Minor:

Mr. Chairman, it may be that what I shall say will not meet with the approval of all the members of this Association, but I am unwilling for this assault upon the statute to go without an answer in these proceedings. I wish to speak very briefly. I shall not bother with the technicalities of the statute. I confess it is somewhat crudely drawn in the hurry of a legislative session, and not drawn with that care and refinement which—

Mr. Gates:

Will the gentleman yield to a question?

Mr. Minor:

Yes, sir.

Mr. Gates:

I think that is the same matter, and if I understood the Chair right, this whole subject was open to discussion under the head of new business.

The President:

I was just in consultation with the Secretary.

Mr. Minor:

You said each side should have thirty minutes.

The President:

That was a jocular remark of mine.

Mr. Minor:

I ask unanimous consent to be heard.

Mr. Gates:

I do not oppose your being heard. I was simply asking the question as to whether or not this was to be discussed later, briefly of course. I would like the ruling of the chair on that question. Will you yield?

Mr. Minor:

I would like to be heard now.

Mr. Gates:

Would you give me an answer to that question?

The President:

If I may have the floor just a moment. I will deliver an opinion.

(Cries of "Ruling of the Chair.")

The President:

If the Chair may have the floor a moment, I will rule. Mr. Keebler was invited to deliver an address before the Association, as was Mr. Garrett, who addressed the Association on yesterday. It has not been the custom, and I do not think it is proper, for members of the Association to immediately follow the addresses, such as have been delivered by Mr. Keebler and Mr. Garrett, by replying thereto, thereby precipitating possibly a protracted debate. Therefore, I rule that Mr. Minor is out of order at this time, but it will be entirely in order when new business is reached for Mr. Minor or any other member of the Association, to offer a resolution commending or condemning this act and speaking in support of such resolution as he may offer. That is my ruling. (Applause.)

Col. W. A. Collier:

I move that the time be extended to Mr. Keebler to finish his paper.

A Member:

I second the motion.

Mr. H. E. Colton:

Mr. Chairman, I move that motion be tabled. I am strongly in favor of it, but you have got to limit the anti-evolution side as well as the evolution. I wish to hear Mr. Minor, and I move that motion be tabled to extend any further time to the reading of the paper.

A Member:

I second the motion.

The President:

Was the motion to table seconded?

A Member:

I seconded it.

The President:

Those in favor of tabling the motion of Col. Collier will indicate it by saying aye; those opposed by saying no. The ayes have it.

Mr. Colton:

I ask the unanimous consent in behalf of Mr. Minor for five minutes to reply—ten minutes. (Cries of "no, no, no.")

Judge Senter:

Mr. Chairman, in lieu of that, in view of the address just delivered by Mr. Keebler, I move you now, sir, that the regular order be suspended, that Judge Minor may be heard in reply at this time. (Cries of "no, no, no.")

Mr. T. K. Riddick:

What time are we going to eat lunch?

The President:

It is now two minutes of one o'clock. We have two very brief reports of committees, and then we will reach the desired goal in the business. In addition, I think we will probably have a most interesting session.

Mr. Mitchell Long:

Mr. President, I think it is now about one o'clock, and in order that everybody will get properly keyed up, I move we recess for a little lunch, then come back and hear all these speeches.

The President:

Gentlemen, I want to make this suggestion—

Mr. Giles Evans:

Before we adjourn, without any offense to the very able paper that has been presented here, I move that the paper be expunged from our record, and all further resolutions pertaining thereto.

A Member:

I move to table that motion.

Mr. Long:

I move we adjourn for lunch.

A Member:

I second the motion.

The President:

The next order of business is the report of the Committee on American Citizenship, by Hon. Robert F. Jackson, of Nashville.

Mr. Long:

Mr. President, I insist upon my motion to recess for lunch.

Mr. President, I move you, sir, that we now stand recessed until two o'clock.

Mr. T. K. Riddick:

I second the motion.

The President:

All in favor of the motion signify it by saying aye; all opposed no. The ayes have it and we will recess until two o'clock.

(Recess until two p. m.)