

# Vanderbilt Law Review

---

Volume 48  
Issue 3 *Issue 3 - April 1995*

Article 3

---

4-1995

## John W. Wade

John P. Frank

Follow this and additional works at: <https://scholarship.law.vanderbilt.edu/vlr>



Part of the [Legal Education Commons](#)

---

### Recommended Citation

John P. Frank, John W. Wade, 48 *Vanderbilt Law Review* 591 (1995)  
Available at: <https://scholarship.law.vanderbilt.edu/vlr/vol48/iss3/3>

This Symposium is brought to you for free and open access by Scholarship@Vanderbilt Law. It has been accepted for inclusion in *Vanderbilt Law Review* by an authorized editor of Scholarship@Vanderbilt Law. For more information, please contact [mark.j.williams@vanderbilt.edu](mailto:mark.j.williams@vanderbilt.edu).

# John W. Wade

*John P. Frank\**

John Wade's most distinguishing quality was his capacity for friendship. He was a great scholar; his bibliography runs for pages. He was a great teacher and law school administrator; he took over the Vanderbilt Law School when it had a hundred students and no physical home of its own and built it into a great regional institution with an admirable building. He was a great reporter for the American Law Institute. He was a war hero.

But memory dwells especially on that capacity for friendship.

I have read some of the memorial letters: Our colleague, Lawrence Walsh, in a handwritten letter to Mary Moody, spoke of John "as a lawyer, teacher, an exemplary gentleman, and a friend." "He was a friend to everyone he met," says someone else. A distinguished alumnus thought of him as "our professional father. He intimidated us first, inspired us next, and won our everlasting affection finally."

It is a long and awkward business to get from Phoenix, Arizona, to Nashville. For three years I served on the visitors committee for the Vanderbilt Law School and made that trip, spending a couple of days on the campus. I have no connection with Vanderbilt other than this. I regarded it as an annual tour to be in the company of John Wade and to have dinner in his gracious home with him and his wife, Mary Moody Wade, whose companionship and high humor made every moment with her a joy. Two other members of the ALI council were on that same committee, Judge Charles Wyzanski and Dean Erwin Griswold; and I always assumed that, like me, they made the trip to share time with John.

John Wade was born in Little Rock, Arkansas, in 1911, where his father was a trial judge. His family had roots in Mississippi, where John went to college and law school; he worked his way

---

\* Partner, Lewis and Roca, Phoenix, Arizona; B.A., University of Wisconsin, 1938; M.A., LL.B., University of Wisconsin, 1940; J.S.D., Yale University, 1947. Member, Council, American Law Institute. This memorial was originally prepared as a "Minute in Memory of John W. Wade" for the October 20-21, 1994, Meeting of the American Law Institute Council in Philadelphia, and was published in the Fall 1994 issue of The ALI Reporter.

through law school teaching history in the college. On graduation at Mississippi in 1934, he went to Harvard, obtaining a Master's Degree in 1935 and later an S.J.D. in 1942. It was a diverse life with teaching at the core of it. He married Mary Moody in 1946. They have four children, one a corporate lawyer with a specialty in hospital administration, one a geologist, and two daughters who are primary school teachers in Atlanta and Richmond. There are seven grandchildren and it is a solid family. He taught at Mississippi from 1936 to 1947, at Vanderbilt from 1947 to 1981, and was dean at Vanderbilt from 1952 to 1972. He was a teaching dean, and he was a teaching professor, after he left the deanship at Vanderbilt, until 1981. As a visiting professor, he taught at several great national law schools, but he had a particular affection for Pepperdine in California where he had a happy time in his emeritus years.

Wade was not only a regional giant, but a national figure. He was uniform law commissioner from Tennessee for more than twenty years, an official of the National Conference of Commissioners on Uniform State Laws, and an endlessly prominent figure in other national legal activities. He was prominent as well in the national Presbyterian Church. He served from 1969 to 1980 as a member of the United States Secretary of State's Advisory Committee on private international law.

Beneath the shyness and the modesty which constituted his outward persona was one tough customer. Wade was with the Marines at Kwajalein, Saipan, Tinian, and Iwo Jima. His commanding general reported fifty years ago that when Lieutenant Wade was in the intelligence on those most hazardous battlefields of the Pacific war, he "made daily visits to the front lines, remained in exposed positions and was subjected all the while to enemy mortar and small arms fire." His reports were of inestimable value to the commanding general and his staff in the prosecution of a bitter struggle against the enemy. He returned to Mississippi with a Bronze Star, two unit citations, and three stars for Pacific campaigns. The marines who served with him said that they never saw him frightened. Wade put it differently, "I was plenty scared—all the time."

There was nothing timid about John Wade, either administratively or intellectually; he was a breakthrough man. As dean at Vanderbilt, he hired the first woman law professor, Martha Craig Daughtrey, who later served on the Tennessee Supreme Court and who last year went to the Sixth Circuit Court of Appeals. He integrated Vanderbilt Law School in the 1950s, the first private law school in the South to do so. An appreciative letter from the father of

one black student hopes that his son's record proved to be "a justification of your pioneering." Wade took great pains in helping the black students, and the same appreciative letter contains this gentle whimsy: "Frederick tells of your attending an inter-departmental basketball game in which he participated. I have the feeling that your attendance was not entirely due to your love of basketball."

Wade's largest work was in torts. The casebook, co-edited with his friend Bill Prosser, is the most used book in field.<sup>1</sup> He was Reporter on the Restatement (Second) of Torts for the Institute from 1970 to 1982, completing the work begun as Reporter by Prosser. That was a subject familiar to most members of the ALI, and a great number of them had points of view; it was not an easy Restatement. His comprehensive knowledge and personal skill in dealing with people brought that giant work safely to completion.

There are reporters and reporters, and they have different styles. There are the snowplow reporters, like James Casner and Louis Loss, who simply overwhelm the ALI by the force of the personalities. There are the cool reporters like Ben Kaplan, Charles Alan Wright, or Geoffrey Hazard, who carry the day with smooth and total knowledge. There are reporters who shall remain nameless who arouse combat or who can't quite get the job done. But within my thirty or more years with the ALI, we have had only one "pillow Reporter." John Wade had the quality of a down pillow; push here and it will give in but come out somewhere else. He succeeded William Prosser, who put down the reportership in something of a spirit of indignation because of resistance from the floor. His good friend, Wade, was the perfect successor. In the spirit of a teacher who never heard a "wrong" answer and of a congenial Southern gentleman, Wade responded to every question or critical comment with a "Well, you may be right about that. I must think about it. Perhaps the solution is . . ." and then, with his overwhelming knowledge, he embraced the question or comment into some little variant of his text which reconciled the doubter, comforted the critic, and, in fact, made very little difference. He simply absorbed the sometimes turbulent membership.

Let me give but one example of Wade's approach, Chapter 48 on injunctions. The concept that an injunction shall not be given where there is "an adequate remedy at law" is an obsolescence from

---

1. John W. Wade, Victor E. Schwartz, Kathryn Kelly, and David F. Partlett, *Prosser, Wade and Schwartz's Cases and Materials on Torts* (Foundation, 9th ed. 1994).

the seventeenth century, for since the union of law and equity there is really no reason but encrusted jurisdictionalism that the unified court system should not give the best remedy for the case at hand. Yet the old rubric is writ large in the cases and encrusted in a tradition which, at the time of Torts (Second), may have been dying but was not yet dead. With abundant attention to the cases—this topic was researched with rare thoroughness—Wade produced a solution providing that to deny the equitable relief, the legal remedy must not be merely “adequate” but truly equal to equity. The standard thus created pushes this jurisdictional antique as close to its ultimate grave as it will reach until the ALI finally undertakes its long delayed Restatement of Remedies.

John Wade served on the council of the ALI from 1960 until 1970, gave up that post while he was a Reporter for Torts, and came back again in 1982 until he went emeritus in 1993. In consequence, we know and cherish his memory but he was by no means a prophet without honor in his own country. The editorial outpouring in Tennessee for this 83-year-old man who was no longer active was comprehensive and warm. The Nashville Banner saluted as a part of his “rich legacy” the “national reputation as a top-notch institution” which the Vanderbilt Law School earned under his leadership.<sup>2</sup> The Tennessean editorialized on the “dearly beloved and highly respected man” to which the community was so “greatly indebted.”<sup>3</sup> The Tennessean chose the adverb which epitomizes our friend. It wrote of him as the “dean who lovingly nurtured Vanderbilt’s Law School from being a small, provincial school to an institution of national prominence.”<sup>4</sup>

We mourn the loss of our friend and colleague.

---

2. *Dean John Wade*, The Nashville Banner B7 (Aug. 25, 1994).

3. *Dean John Wade*, The Tennessean 8A (Aug. 26, 1994).

4. *Id.*