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# Theodore A. Smedley and the *Race Relations Law Reporter*

Paul H. Sanders\*

Beginning in 1959, Ted Smedley served with personal distinction and national recognition as Director of the *Race Relations Law Reporter* and as Director and Editor of the successor publications, the *Race Relations Law Survey* and the *Race Relations Law Index*. Professor Smedley, who joined the Board of Editors of the *Race Relations Law Reporter* in the fall of 1957 as one of three Associate Directors, engaged in editorial activities in this dynamic and sensitive area over a seventeen-year period, an era marked by tremendous ferment and revolutionary change. The quality of his work is evident in the words published within the scope of his responsibilities. These brief comments will focus primarily on the period prior to his directorship.

As far as I am aware, Professor Smedley had neither written about nor taught race relations or civil rights before he came to Nashville from Lexington, Virginia. His general editorial expertise, however, was widely recognized. While in law school at Northwestern he had served as Case Note Editor on the *Law Review*. In addition, Professor Smedley was an active Faculty Editor of the *Washington and Lee Law Review* for many years and chaired the Southern Law Review Conference in 1949. Although his reputation as an excellent law teacher also was well established, it is fair to say that, at the time of his initial appointment, his expected work on the *Race Relations Law Reporter* was the dominant factor leading to the establishment of his relationship with the Vanderbilt Law School. He more than justified our confidence in this respect and rapidly became expert in the subject matter to which his editorial talents were directed.

As an Associate Director in 1957, Professor Smedley was particularly concerned with the "background studies" that had been carried in the *Race Relations Law Reporter* from its inception in the "Reference Section." The *Reporter* was established in 1955, and six issues per year were scheduled. Volume 1, Number 1, which was published in February 1956, contained an article entitled *Separate-But-Equal: A Study of the Career of a Constitutional Concept*.<sup>1</sup> This first issue also contained the promise that the *Reporter* would con-

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1. 1 RACE REL. L. REP. 283 (1956).

tinue to carry "similar studies dealing with important legal problems, both substantive and procedural, associated with the various aspects of race relations law."<sup>2</sup> Professor Smedley's position on the Board of Editors made him directly responsible for fulfilling this promise.

Prior to the time that Professor Smedley joined the staff, the *Reporter* had published articles on such topics as the enforcement of court orders and state action. The first two articles produced under his direct supervision, which appeared in December 1957 under the general heading *Federal Judicial Power, A Study of Limitations—III*, were entitled *Exhaustion of State Judicial Remedies*<sup>3</sup> and *The Doctrine of Equitable Abstention*.<sup>4</sup> Seven additional studies appeared in the six issues of the *Race Relations Law Reporter* published in 1958 prior to Professor Smedley's appointment as Director in 1959. These included two frequently utilized and cited articles on *Substantive Civil Rights Under Federal Legislation*<sup>5</sup> and *Voting Rights*.<sup>6</sup> After the death of Associate Director James B. Earle in 1958, Professor Smedley took over additional editorial duties relating to the preparation of Case Summaries and other Reference Materials.

One must bear in mind in connection with Professor Smedley's increasing responsibilities that the *Race Relations Law Reporter* was primarily a reporter of the actual text of legal materials, including court orders and full decisions, emanating from all levels of government. Moreover, he assumed these duties at a time when there were no commercial reporting services for this field. The expressed purpose of the *Reporter* was "to report the materials in all fields where the issue of race or color is presented as having legal consequence."<sup>7</sup> Coverage was to include "decisions of the United States Supreme Court, the lower federal courts, and the various state courts; legislation enacted or officially proposed; rulings and orders of administrative agencies, boards and commissions; and opinions of state attorneys-general. Unreported decisions of lower courts will be printed whenever obtainable and representative municipal ordinances will be included in the legislative section."<sup>8</sup> Finally, the *Reporter* affirmed its commitment to present "accurate and complete information" in a professional manner, "objective and impartial in all respects."

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2. Wade, *By Way of Introduction*, *id.* at 1.

3. 2 *id.* at 1215 (1957).

4. *Id.* at 1222.

5. 3 *id.* at 133 (1958).

6. *Id.* at 371.

7. Wade, *supra* note 2, at 1.

8. *Id.*

An elaboration of the editorial demands raised by these goals is not necessary—the stresses and strains generated by and otherwise involved in the editorial environment of such a publication in the 1950's were significant. For instance, the substance of a Case Summary could be not only debatable but even highly controversial. The preparation of a typical Summary could well require the examination, proper utilization, and citation of numerous items relating to the case that had been published previously in the *Reporter*. Furthermore, the background articles not only had to be thorough and informative, but had to be presented in such a manner as to be of practical use and benefit to nonlawyers as well as to lawyers. Distortion, significant omission, or mere advocacy would have destroyed the effectiveness of the publication. Suffice it to say that Professor Smedley met and overcame the continuing challenges involved in securing and presenting to subscribers of widely divergent interests a product of the scope and quality that they originally had been promised.

The recognition that has been accorded Professor Smedley's work on the *Race Relations Law Reporter* and its successors was best evidenced by the continuing roster of subscribers. Analyses of that roster in geographical, institutional, governmental, associational, vocational, and professional relationship terms surely would speak volumes in tribute to him. Unfortunately, the raw material in the subscription lists, as well as virtually everything else that would reflect the reality and vitality of his total editorial experience, no longer exists. On the other hand, constitutional law casebooks and other books and articles, both legal and nonlegal, contain tangible monuments to the background articles produced under Professor Smedley's supervision. The first report of the United States Commission on Civil Rights, published in 1959, lists the *Reporter* in its Selected Bibliography. More specifically, it cites the *Reporter* time after time as authority for a textual statement or as *the only source* for a cited court decision. The Commission, created by the Civil Rights Act of 1957, relied in a major fashion on the Vanderbilt publication both as the basis for vital information and as a guide for its internal operations.

You will not find Professor Smedley's name listed as an author in *The Index to Legal Periodicals* for any of the anonymous "background studies" that he wrote or supervised for the Board of Editors. Although this type of recognition is missing, he can and should be credited with having made a major contribution to the development of the law in a most important area during a crucial period.

