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ANNUAL SURVEY OF TENNESSEE LAW

FOREWORD

JOHN W. WADE*

The idea of an annual survey of the law of a particular jurisdiction is not a new one, either in this country or abroad. During a period of at least 25 years an increasing number of publications have undertaken to present such a survey. The task is a delicate one, and performances have been somewhat uneven. A mere digest of appellate opinions or a scissors-and-paste collection of expressed rules of law serves some useful purpose but scarcely justifies separate existence. On the other hand an exhaustive discussion of most of the individual decisions prevents a view of the forest for the trees. The true field of the survey should lie between these extremes. A competent survey should collect the cases, organize them and discuss them critically, referring to practically all of the cases but using discrimination in determining which of them warrant individualized treatment. The significance of these cases should be shown, including their relationship to the body of law already existing in the jurisdiction and their implications for the future; on suitable occasion comparison should be made with the state of the law in other jurisdictions and the views of text writers. The annual developments in each field of the law will thus be presented in unified perspective. Experience has shown that, for the lawyers of the jurisdiction involved, a carefully prepared survey of this sort has proved very valuable.

The Vanderbilt Law School has consistently drawn students from a large geographic area and now has alumni practicing in almost every state of the Union. A substantial proportion of the graduates, however, have always come from Tennessee, and the relationship of the School with the legal profession of the State has always been a close one. Similarly, the *Vanderbilt Law Review* has, during the six years of its existence, developed a national following and a reputation of prominence throughout the country, but it has from the beginning carried occasional leading articles and more frequent student notes and recent case comments concerned primarily with problems of Tennessee law.

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Both the School and the *Review* have wanted to render an additional service of unique value to the Bar of the State of Tennessee, and an annual survey of Tennessee law provides this opportunity. This Survey will not supplant any present feature of the *Review* but will be added as a new (fifth) issue to be published as the last issue of each volume and to appear in late summer.

This is the first Survey issue. It was prepared on this occasion by members of the Vanderbilt faculty, both full-time and part-time. The topics under which the cases are arranged will vary from year to year, being determined by the case output of the year in question. It is expected that in succeeding years a number of changes and improvements can be made, and suggestions which will make the Survey of greater usefulness to the lawyers of Tennessee are earnestly solicited.

Much difficulty has been experienced in determining the dates for the Survey period. Terms of the Tennessee Supreme Court and the sections of the Tennessee Court of Appeals overlap. The wide variances between the times when an opinion is rendered and when it is published (particularly with opinions of the Court of Appeals, which normally wait for denial of certiorari by the Supreme Court before being published) make it not feasible to group the cases according to the date when they were decided. The ultimate decision has been to rely upon the time of publication and to set June 1 as the separation date. This Survey therefore covers the period from June 1, 1952, to June 1, 1953, and includes the cases which were reported in the South Western Reporter, Second Series, from volume 248 through the first portion of volume 257 and the contemporaneously published federal cases arising in Tennessee.