

***THE LION IN WINTER:  
ON THE RETIRMENT OF THE HONORABLE PAUL W. TRESSLER***

*by Joseph Hylan, Esquire*

Ernest Hemingway, that quintessential man of action, wrote that *retirement* is the ugliest word in the English language. It is one of the peculiar imbecilities of the Commonwealth of Pennsylvania (and of twenty-seven other states) that a judge, no matter how able he may be, must retire at the age of seventy. The statute is based on the unsupported proposition that upon reaching that age, the judge's abilities to listen carefully, answer wisely, consider soberly, and decide impartially somehow leach away, never to return. It is experience that best informs the judicial process. In 2010, however, the Honorable Paul W. Tressler will retire from the bench that he has served with vigorous distinction for over a quarter century.

The following may say it all about the man.

After serving a clerkship with the Honorable J. William Ditter, Tressler joined the Public Defender's Office as its first full-time assistant public defender. He was assigned to represent a Graterford inmate accused of committing a particularly horrific rape. After reviewing the procedural history of the case and researching the law, Judge Tressler moved to dismiss the charge on the basis that the Commonwealth had violated the defendant's right to a speedy trial. After hearing and argument, the motion was granted whereupon Judge Tressler did two things. First, he wrote a letter to the defendant informing him that the charge had been dismissed. Second, he wrote a letter of resignation to the Public Defender. This incident demonstrated two signal facets of his character: fidelity to the rule of law and fidelity to his own sense of self.

Paul W. Tressler was born on March 29, 1940, in Lancaster, Pennsylvania; he was the eldest son of Paul W. and Mary (Wolpert) Tressler. In 1962, Judge Tressler graduated from Souderton High School where he earned varsity letters in football and track. He attended Susquehanna University from which he graduated *cum laude* in 1966. He matriculated to the prestigious University of Pennsylvania Law School where he studied under the noted Professor Anthony Amsterdam, a gentleman whom Judge Tressler has always believed to be the best lawyer he has ever known.

There may be more competitive men than Judge Tressler---"Stonewall" Jackson comes to mind---but if there are, they don't live in Montgomery County. This sense of competition runs through him like an electric current. While a law student playing touch football for the McKean Law Club, he threw a particularly concussive block whereupon he was admonished to ease up because, after all, it was *only* a touch football game. Any remark, however off-handed or casual, made in his hearing ran the risk of triggering a fiery response. A voracious reader, he can argue, and *has argued*, about subjects ranging from Sheridan's 1864 Valley campaign to baseball's balk rule.

Over the course of his legal career, Judge Tressler worked as an associate at *Haws and Burke* before entering into law partnerships at *Lapp and Tressler* and *Tressler and Wile*. While he enjoyed success, he was, more often than not, uncomfortable with both the courting of clients and the *faux* civility that are endemic to the private practice of law. The clash and clamor of the court room, especially the criminal court room, always provided the environment best suited to his nature.

After being elected to serve as District Justice in Souderton, Judge Tressler declined the position, opting instead to join the District Attorney's Office under Milton O. Moss. The early 1970's witnessed the plague of drug abuse finally spill over from Philadelphia's meanest streets into Montgomery County's verdant suburbs. Judge Tressler believed that familiarity with the body of decisional law then growing around the Fourth Amendment would be absolutely essential in effectively prosecuting drug traffickers. By way of time spent in the law library as well as in the court room, Judge Tressler acquired this familiarity.

Judge Tressler's thinking along these lines was consistent with Moss' as the latter had an uncompromising attitude toward the use and trafficking in illicit drugs. In addition to handling the normal case load of an assistant district attorney, Judge Tressler prosecuted and convicted a number of major traffickers in methamphetamine, including members of the *Breed* and the *Pagans*, two of the most violent motorcycle gangs. Quaintly, when his string of consecutive convictions came to an end, Judge Tressler was troubled enough to disappear from the office and brood for four days. When Moss resigned as District Attorney, Judge Tressler resigned as an assistant district attorney, returning to private practice as William T. Nicholas replaced Moss.

In 1979, when Nicholas resigned to pursue a judgeship, Joseph A. Smyth, the County's First Assistant Solicitor, Alan J. Josel, the County's Chief Public Defender, and Ross Weiss, Nicholas' First Assistant, competed for the Republican Committee's endorsement for District Attorney. After presenting their respective cases to the fourteen area leaders, Smyth garnered the support of seven of them, Josel six, and Weiss one. After that dockside brawl, the November election was anticlimactic as Smyth trounced the Democratic candidate, and assumed office in January 1980.

Just as Josel would have, Smyth asked Judge Tressler to serve as his First Assistant. Judge Tressler agreed to return to the District Attorney's Office and, together with Bert M. Goodman and Bernard J. McNulty, began to re-tool it. Most significantly, Smyth and Tressler established the Narcotics Enforcement Team (NET), a unit staffed by a squad of elite undercover officers, while Goodman was assigned to try high-profile cases such as Commonwealth v Terry which arose out of the bludgeoning murder of a corrections officer at Graterford. Not content to merely administrate, Judge Tressler assigned himself to a number of high-profile prosecutions, including Commonwealth v Solomon which arose out of a series of violent sexual assaults. In addition, he was named a Special Assistant Attorney General in the investigation of the murder of Susan Reinert and her two children, a case that spawned two best-selling books and a television mini-series about the notorious Jay Smith, William Bradfield and others.

In 1982, Judge Tressler assisted the Rockland County (New York) police in their prosecution of Katherine Boudin, a violent radical accused of participation in a conspiracy that resulted in the murder of two police officers and an armored car security guard. Rockland County prosecutors alleged that Boudin had rented one of the get-away vans and petitioned to compel her to provide hand-writing exemplars. Not surprisingly, she refused. Knowing, however, that Boudin had attended Bryn Mawr College and knowing that college applicants in the 1960's had had to submit writing samples along with their applications for admission, Judge Tressler directed the preparation of a search warrant to seize Boudin's writing samples on file at the Main Line campus. During an early morning execution of the search warrant, the police secured the evidence which helped lead to Boudin's eventual conviction. Following a day-long hearing in United States District Court, the Honorable James Giles sustained Tressler's position.

Upon Judge Vincent Cirillo's election to the Superior Court and Judge Mason Avrigian's return to private practice in 1983, Judge Tressler and Albert R. Subers, with the advice and consent of the Pennsylvania Senate, were appointed to the vacancies; they won their respective elections in the fall. Retained in 1993 and 2003, it was on the Bench where Judge Tressler made his most significant contributions to the profession, serving in every division of the Court, including a five-year stint as Administrative Judge of the Juvenile Division. It was as Administrative Judge that he threatened to issue a contempt citation if the Board of Commissioners failed to adequately fund the various rehabilitative programs and placements ordered by Judge Tressler on behalf of the juveniles.

With the possible exception of the litigation that arose out of the Bridgeport fire in 2002, no civil litigation involved more litigants, more damages and more complicated legal issues than the claims and cross-claims arising out of the tragic death of United States Senator John Heinz and others in a fiery mid-air collision over a Lower Merion Township elementary school in 1991. As the assigned judge, Judge Tressler prodded and persuaded the twenty-two parties, many of them represented by the bluest of blue-chip law firms, into a comprehensive, multi-million dollar settlement.

In Juvenile Court, while the hundreds of petitions were promptly adjudicated, it was at the disposition hearings when Judge Tressler demonstrated his singular capacity to discipline, advise, and encourage the youngsters, all at the same time. Judge Tressler addressed each juvenile, explaining in detail the *reasons* underlying the order, whether that order placed the juvenile on probation or lodged him outside the home. More often than not, Judge Tressler reserved his harshest comments for the youngster's parents whose recklessness, indifference, stupidity, or irresponsibility may have contributed to, if not caused, their child's delinquent behavior. Believing that juveniles learned no lesson by parents' paying their court costs, Judge Tressler developed a program where the juveniles could work off the costs by planting, cultivating, and harvesting gardens. The program was a success, with the fruits and vegetables being donated to the needy and the homeless.

When attorneys recommend that their clients waive their entitlement to a jury trial, it is the ultimate compliment to the presiding judge and, over the years, no judge had presided over more bench trials than Judge Tressler. Due to his reputation as a fire-breathing prosecutor, members of the defense bar were, at first, understandably reluctant to waive a jury trial before him when he joined the Court's Criminal Division; however, the late Roger "Bo" Reynolds was the first attorney to "go bench" before Judge Tressler.

Reynold's client was convicted, but, in his inimitably irreverent way, Reynolds reported that Judge Tressler had played very hard but very fair. The faithful adherence to two fundamental principles animated Judge Tressler's approach to the criminal justice system: (1) justice, though due to the accused, is due also to the accuser and to the community; and (2) crime, like virtue, has its degrees. Knowing this, counsel, both prosecution and defense, have been almost blithe in trusting the resolution of their cases to Judge Tressler's discretion.

During his tenure, Judge Tressler presided over more than his share of media-heavy, high-profile murder trials, all of them bristling with complicated legal issues, namely, Commonwealth v Wheale, Commonwealth v Moser, Commonwealth v Czaikowsky, and Commonwealth v Sileo. Authoring the opinions in support of the judgments of sentence, Tressler was affirmed in all of them. Indeed, his decisions, criminal, civil, family, and juvenile, were affirmed 97% of the time. Though he relished the crackling spontaneity of the trial court room, Judge Tressler also enjoyed construing and applying various legal complexities, authoring thoughtful, nuanced opinions on recidivism, the death penalty, mandatory sentences, *Davenport* issues, *Apprendi* issues, the *three-strikes* law and *other crimes* evidence.

Believing that both the assistant district attorney and defense counsel are competent, professional, and prepared in representing the respective interests of their clients, Judge Tressler rarely questioned, much less rejected, plea agreements. Ever a lawyers' judge, while intolerant of discourtesy and incivility, he was exceedingly liberal in granting continuances and extensions of time, knowing from first-hand experience, the pressures, responsibilities, irritations and constraints of practicing law whether on behalf of an individual, a corporation, a political subdivision, or the Commonwealth of Pennsylvania.

In addition to managing a docket that included not only new criminal cases, but also probation violations, filings under the Post-conviction Hearing Act, and pre-trial civil motions, Judge Tressler lectured around the country at programs sponsored by the United States Department of Justice, namely, the *Office of Juvenile Justice and Delinquency Prevention*, the *Federal Law Enforcement Training Center*, and the *National Center for Missing and Exploited Children*.

Over the years Judge Tressler has been well-served by a loyal, hard-working staff: Raylene Serafine, his secretary, Terry Pepper, his court clerk whose efficiency always made order out of the chaos of Judge Tressler's huge docket, and John Stevens, his law clerk whose cogent memoranda always helped clarify what may have been murky. Typical of the man, Judge Tressler took great pains to insure that his staff would remain in the Court's service even after his own departure.

Like Norse sagas, "war stories" grow up around all judges; however, with the possible exception of the incandescent Judge Samuel W. Salus, no judge generated more "war stories" than Judge Tressler. On one occasion, the defendant, seeing his case going south, elected to do likewise and bolted from the court room. Judge Tressler, robes billowing, took off in hot pursuit while the assistant district attorney, hilariously, called to the fleeing defendant that "he was only making it worse on himself." On another occasion, irritated by the sheriffs' apparently indifferent attitude to the prompt transportation of prisoners awaiting sentence, Judge Tressler strode into the detention area where he gathered up eight prisoners and, like the Pied Piper, led them, single file, back to the court room.

During a multiple-defendant armed robbery trial, Judge Tressler recessed the proceedings and directed defense counsel to chambers where he proceeded to excoriate them for playing the race card during closing arguments. However, after the jury returned verdicts of acquittal, Judge Tressler, albeit grudgingly, congratulated defense counsel, conceding that they had beaten him fair and square. A prominent public official once referred to Judge Tressler as *a blankety-blank, blankety-blank, Mennonite blankety-blank*. Judge Tressler's measured response, was that he was a Lutheran.

Judge Tressler will not serve as senior judge. Like Sandy Koufax, he prefers to retire at the top of his game rather than take the mound with a 50 mph fastball. He believes that life is segmented into chapters, and that this chapter is over. He will, however, continue to teach at Gwynedd-Mercy College as well as lecture at government seminars. Recognizing the clutter of conflicting provisions of the law governing constables, he is in the process of drafting a uniform statute on the subject.

Judge Tressler will devote some time to his coin collection and to his impressive collection of baseball trading cards which includes the rare Mickey Mantle rookie card. He may even dabble in that systematized organization of loves and hatreds, prides and passions otherwise known as Montgomery County Republican politics.

Judge Tressler will enjoy watching his daughters, Romy and Brittany, grow and advance in their chosen professions. Mostly, he will be spending more time with Nancy, his stylish, supportive, good-humored wife, traveling and doing all the things that people who are very fond of each other do; she will be adding gold to the sunset.

A man's duty, of course, is to be useful, not according to his appetites, but according to his abilities, and, if discharging a man's duty is man's greatest happiness, then Judge Tressler has been, is, and will continue to be a very happy man.

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