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## In Memoriam - Austin L. Staley

Joseph F. Weis Jr.

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## Austin L. Staley

*The Honorable Joseph F. Weis, Jr.\**

When Austin L. Staley went on the bench in 1950, he became a member of a great court. Merely to recite the names of his colleagues at that time is enough. Chief Judge Biggs and Judges Maris, Goodrich, McLaughlin, Kalodner and Hastie represented a truly unusual array of judicial and legal talent. Judge Staley contributed his share of the work of the court in the twenty eight years he served as an active and Senior Judge. He wrote 353 majority opinions, seventeen dissents, and four concurrences. His first opinion, a diversity malicious prosecution case, appears in 185 F.2d 982,<sup>1</sup> and his last one, involving a freight damage claim written last year, may be found at 562 F.2d 269.<sup>2</sup>

Judge Staley served as Chief Judge of this court from 1966 to 1967. He relinquished his duties as Chief Judge and took senior status at the age of sixty five, although he could have continued as Chief Judge until he reached seventy. It is the measure of the man that he did so, both to allow the appointment of another active judge to the court, and also to allow Judge Hastie, who was about the same age, to have the opportunity to act as Chief Judge. On that occasion, Judge Hastie commented: "On both counts his motivation was selfless concern for the administration of justice coupled with fraternal regard for all of his colleagues, and particularly his administrative successor."

That self-effacing action was consistent with his conduct on the bench during his long tenure. The small numbers of concurrences and dissents reflect his philosophy of searching for judicial consensus. Judge Staley was not a man who lacked firm convictions or hesitated to express them in forceful terms. But in conference he sought to persuade, rather than to overwhelm. He was always willing to listen carefully to the views of his colleagues, rather than to reject outright a position contrary to his own.

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\* Circuit Judge, United States Court of Appeals for the Third Circuit. These remarks were delivered at the September 18, 1978, Memorial Session for Judge Staley held by the United States Court of Appeals for the Third Circuit in Pittsburgh, Pennsylvania.

1. *Biggans v. Hajoca Corp.*, 185 F.2d 982 (3d Cir. 1950).

2. *Perini-North River Associates v. Chesapeake & Ohio Ry. Co.*, 562 F.2d 269 (3d Cir. 1977).

His opinions were marked by their clarity, brevity and decisiveness, characteristics which are greatly cherished by the bar. After reading one of his opinions, one knew exactly what the holding was and what had been decided. The opinions ranged over a broad expanse of the law. Federal employer liability cases were a significant part of the court's work during his early years on the bench, and one can feel the ease with which he wrote on day-to-day railroading activities. That was not unnatural since as part of his varied experience in early life he had worked for a railroad as a fireman. In his later years on the bench, he wrestled with such difficult problems as those engendered by administrative action labeling certain substances carcinogenic on the basis of scientific findings which were far from conclusive.

He remained an avid cigarette smoker, although he wrote the opinion in *Pritchard v. Liggett & Meyers*,<sup>3</sup> holding that a cigarette manufacturer might be held liable for lung cancer of a customer who relied on deceptive advertising. In *Greco v. Bucciconi Engineering Co.*,<sup>4</sup> he wrote one of the leading cases on products liability, one which is frequently cited today.

One of the more interesting cases in which he participated was that growing out of the nationwide steel strike in 1959. Judge Sorg of the District Court in Pittsburgh granted an injunction on October 21 under the Taft-Hartley law to end the strike. Literally within minutes thereafter, Judge Staley ascended the bench, heard argument, and granted a stay. A panel of the court held argument on the following day, and filed an opinion within five days. The Supreme Court was equally expeditious, hearing the case within the following week, and deciding the matter on November 3.

But his opinions do not tell all of the story of the man. His trips to the Virgin Islands on sittings for the court instilled a love for that tropic area, and for many years he spent much of his time there. Among his papers found after his death was a description of a day he spent fishing at Magens Bay at St. Thomas. In describing that beautiful body of water, he wrote: "On most days she is troubled by winds that sweep in from the north and she snarls and spits, but is still beautiful. She caresses and refreshes you one day and drowns you the next."

His love of nature was also evident in the joy he took in gardening

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3. *Pritchard v. Liggett & Meyers*, 295 F.2d 292 (3d Cir. 1961).

4. *Greco v. Bucciconi Engineering Co.*, 407 F.2d 87 (3d Cir. 1969).

about his home, and the pride he had in the flowers he grew. He was a faithful churchgoer, and always enjoyed a party. He was devoted to his wife, known affectionately to all of us as "Polly," his daughter, Mary Jane Feeney, and doted on his grandchildren. We, his colleagues, knew him as a man with a hearty laugh and a keen sense of humor. We learned to look for the twinkle in his eyes as he told some outrageous stories with a straight face, because unless one were alert, he would find that "Aut" was pulling his leg.

His was a full life—and he performed all of his roles well: as a husband, father, judge, fisherman, gardner, friend, colleague, and lover of life. We can join in the poet's farewell:

For thee, O now a silent soul, my brother,  
Take at my hands this garland, and farewell.  
Thin is the leaf, and chill the wintry smell,  
And chill the solemn earth, a fatal mother,  
With sadder than the Niobeian womb,  
And in the hollow of her breasts a tomb.  
Content thee, howsoe'er, whose days are done;  
There lies not any troublous thing before,  
Nor sight nor sound to war against thee more,  
For whom all winds are quiet as the sun,  
All waters as the shore.

