



William Butler

Born: December 2, 1822, in Chester County, Pennsylvania.

Died: November 2, 1909, in Chester County, Pennsylvania.

Federal Judicial Service:

Judge, U.S. District Court for the District of Pennsylvania

Nominated by Rutherford B. Hayes on February 12, 1879, to a seat vacated by John Cadwalader.

Confirmed by the Senate on February 19, 1879, and received commission on February 19, 1879.

Service terminated on January 31, 1899, due to retirement.

Education:

Read law, 1845

Professional Career:

Private Practice, West Chester, Pennsylvania

District Attorney, Harrisburg, Pennsylvania: 1856-1859

President Judge, Court of Common Pleas of Dauphin County, Pennsylvania: 1861-1879

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Judicial Biography

*In February 1879, as the ninetieth anniversary of the establishment of the federal courts was approaching, President Rutherford B. Hayes chose William Butler to succeed Judge Cadwalader as the District's eighth judge and the first who was not a resident of Philadelphia County at the time of his appointment.

Butler was born in 1822 into an old Chester County family which had been in Pennsylvania since the seventeenth century. One of his ancestors on his mother's side had been a member of the Province's first Assembly established by William Penn. His brother was the State Treasurer in the early 1880's. After initially working as a printer's apprentice and newspaper publisher, Butler shifted careers and read law. Admitted to the Chester County Bar in 1845, he thereafter served as the County's District Attorney from 1856 through 1859. In 1861 he was elected to the Court of Common Pleas and was in his second term when named to the federal bench. In 1873, he was the favorite son from the eastern part of the Commonwealth for a seat on the Pennsylvania Supreme Court but lost out for the nomination at the Republican state convention.

The Philadelphia Inquirer reported on his induction as a federal judge, which was attended by United States Supreme Court Justice William Strong. The article described Butler in glowing terms:

Judge Butler is not only a learned, experienced jurist, but his whole social and judicial life has been so pure and elevated as to render his transfer to the presidency of our District Court a matter of common congratulation. There is nothing so desirable in government as a wise and pure judge, and nothing so much to be deplored as an unwise or impure one. Judge Butler's promotion to the bench of the United States District Court is an assurance that the law there will be well and justly administered.

When Butler was sworn into office, the Court was continuing to sit in the Library Street Courthouse built during the Civil War. Within a few years, however, the Court would have yet another new home. In 1872, the University of Pennsylvania vacated its property a few blocks away on the west side of Ninth Street between Market and Chestnut Streets and moved to its more spacious campus in West Philadelphia. The Government, having purchased the property, constructed a large five-story granite Courthouse and Post Office on the site with the main post office on the first floor and the Court on the second. It was designed in the French Second Empire style and was completed in 1884. On the cornice high above the entrance on Ninth Street stood a large allegorical sculpture in marble entitled "Law, Prosperity, and Power" by Daniel Chester French. He later sculpted the widely acclaimed statue of Abraham Lincoln at the Lincoln Memorial in Washington, D.C.

* The following material is excerpted from JUDGE HARVEY BARTLE, III, MORTALS WITH TREMENDOUS RESPONSIBILITIES, A HISTORY OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 3-12 (Saint Joseph's University Press, 2011). Reproduced with the permission of the author, Judge Harvey Bartle, III, and the publisher, Saint Joseph's University Press.

The new edifice exhibited a far grander appearance than its more modest predecessor and evidenced the wider role that the federal courts were destined to play in American life. Nonetheless, the building would be dwarfed by Philadelphia's new City Hall which was being erected in the same architectural style at Broad and Market Streets. This elegant structure with its tower topped with Alexander Calder's statue of William Penn would occupy an entire block and contain not only a number of large courtrooms for the various state trial courts serving Philadelphia County but also a courtroom to accommodate the Supreme Court of Pennsylvania. Butler's judicial responsibilities after the move into the new courthouse extended for a time beyond the boundaries of the Eastern District of Pennsylvania. In the 1880's, the New Jersey District Judge, John T. Nixon, was unable to fulfill his duties because of age and failing health. Third Circuit Judge William McKennan named Butler along with District Judge Leonard Wales of Delaware to travel into their neighboring district to assist with its workload. Butler and Wales did so from 1886 to 1889. This was to be the first of many future temporary assignments of Eastern District judges to other venues.

Due to the increased volume of litigation, Congress in 1891 created a separate Circuit Court of Appeals for each circuit. Appeals in the first instance from the federal trial courts would now be heard by these new tribunals. Each Circuit Court of Appeals was initially authorized two Circuit Judges to sit in panels of three with either a District Judge or a Supreme Court Justice. Since 1866, the Third Circuit has included Pennsylvania, New Jersey, and Delaware. The old circuit trial courts created in 1789 languished until 1911 when Congress finally abolished them. From that point on, the District Court was the place where federal trials would be held.

Congress was also active in other spheres. In 1890 it passed the Sherman Act which would significantly add to the judicial workload in the years ahead. This landmark legislation was enacted in order to rein in America's powerful monopolies and business trusts. It declared illegal "every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several states, or with foreign nations." Congress enacted the law pursuant to its power under Article I, § 8 of the Constitution "To regulate Commerce . . . among the several States, . . ." The most well-known case over which Judge Butler presided while on the federal bench was *United States v. E.C. Knight Co.*, an antitrust action under the Sherman Act that ended up in the Supreme Court.

The Government filed this equitable action in the Eastern District against five sugar refining companies. It sought the cancellation of certain contracts the defendant American Sugar Company had signed with the other four corporate defendants, all of which were based in Philadelphia. The Government contended that the contracts violated the Sherman Act in that they were the result of a conspiracy or combination to monopolize or restrain interstate commerce. The evidence established that the four Philadelphia companies produced 33% of the refined sugar in the United States in 1892 and that the American Sugar Company had purchased the stock of each of those companies, although apparently without any concert of action among the four. Nonetheless, as a result of these contracts, American Sugar now controlled virtually all of the refining and sale of sugar in the United States.

Judge Butler conceded that the conduct of American Sugar “tends” to the result of a commercial monopoly but found that no monopoly had been established. He concluded that for purposes of the Constitution and the Sherman Act, manufacturing was distinct from commerce and that nothing American Sugar had done in buying its competitors constituted interstate commerce. As he explained, “The contracts and acts of the defendants related exclusively to the acquisition of sugar refineries and the business of sugar refining, in Pennsylvania. They have no reference and bear no relation to commerce between the states or with foreign nations.” Judge Butler further noted that simply because a contract may “incidentally affect” interstate commerce was not enough to allow Congress to regulate it.

The newly created Court of Appeals affirmed as did the Supreme Court in an opinion by Chief Justice Melville Fuller. The High Court took the same narrow view of the Commerce Clause of the Constitution and the Sherman Act as had Judge Butler and the Court of Appeals. Correctly foreseeing the future decisions of the Supreme Court, Justice John Marshall Harlan dissented. In the early Twentieth Century, the Supreme Court overturned *Knight* and adopted a more expansive understanding of what constitutes interstate commerce.

The issue of interstate commerce appeared in another context before Judge Butler. This time it involved the telegraph which by the 1880’s had become a widely used means of communication throughout the country. The City of Philadelphia had imposed on Western Union Telegraph Company what the City characterized as a license fee to defray the cost of inspecting Western Union’s telegraph poles and wires. The fee amounted to \$16,000 per year. When the company refused to pay, the City sued it in the Court of Common Pleas. Western Union removed the case to the federal court because of the parties’ diversity of citizenship and argued that the amount being extracted was tantamount to an unconstitutional tax. While the City won before the jury, Judge Butler entered judgment for Western Union. He found that it was only necessary for the City to expend up to \$3,500 for its supervisory activities to ensure public safety. The exorbitant fee charged by the City, Judge Butler held, was in reality a tax which affected telegraphic communications across state lines in violation of the Commerce Clause of the Constitution.

The assassination of President James A. Garfield by Charles Guiteau, a disappointed office seeker, in 1881 provided the impetus for the passage of the Pendleton Civil Service Act of 1883, after years of failed efforts. Up to that time, patronage was the path to government employment. By the mid-1890’s, some 86,000 federal jobs were covered by the merit system administered by the Civil Service Commission.

Perhaps inevitably, with written applications and qualifying examinations, cheating would sometimes occur and with cheating would come criminal indictments in the District Court. Judge Butler presided over such a case. A person named Henry Bunting applied for a government clerkship, completed a sworn application, and was notified in due course to present himself for an examination. Instead of doing so, an impersonator, John Delany, appeared in his place and answered written questions about Bunting and signed Bunting’s name. Delany was recognized, and he and Bunting were arrested. Both pleaded guilty after being indicted for defrauding the United States. Bunting was sentenced to three months in the Philadelphia County Prison and Delany to two months.

Judge Butler, as had all his predecessors, continued to deal with admiralty cases, including those involving ship collisions, maritime insurance disputes, deductions from seamen's pay, and the disciplining of seamen.

In 1899, after two decades on the bench, Butler retired and lived for another ten years. He passed away on November 2, 1909 in Chester County, Pennsylvania. Except for Judge Lewis who had resigned in 1792, all his predecessors on the District Court had died in office. Butler took advantage of legislation approved by Congress in 1869 which for the first time allowed any federal judge who had attained the age of seventy and had at least ten years of service to retire and received for the rest of his life the same salary he was receiving at the time of his retirement.