



John B. McPherson

Born: November 5, 1846, in Harrisburg, Pennsylvania.

Died: January 20, 1919, in Philadelphia, Pennsylvania.

Federal Judicial Service:

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

Nominated by William McKinley on February 28, 1899, to a seat vacated by William Butler.

Confirmed by the Senate on March 2, 1899, and received commission on March 2, 1899.

Service terminated on April 8, 1912, due to appointment to another judicial position.

Judge, U.S. Court of Appeals for the Third Circuit.

Nominated by William H. Taft on March 16, 1912, to a seat vacated by William Mershon

Lanning. Confirmed by the Senate on April 3, 1912, and received commission on April 3, 1912.

Service terminated on January 20, 1919, due to death.

Education:

College of New Jersey (now Princeton University), A.B., 1866

College of New Jersey (now Princeton University), A.M., 1869

Read law, 1870

Professional Career:

Private Practice, Harrisburg, Pennsylvania : 1870 -

District Attorney, Dauphin County, Pennsylvania: 1874-1877

Judge, Court of Common Pleas of Dauphin County, Pennsylvania: 1882-1899

Instructor, University of Pennsylvania: 1890 -

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Judicial Biography

*After Judge William Butler's retirement, President William McKinley chose John Bayard McPherson as the ninth judge of the Court. McPherson was born in Harrisburg in 1846. He was graduated from the College of New Jersey (now Princeton University) in 1866 and then read law. He served as District Attorney of Dauphin County from 1874 to 1877. Thereafter, he sat as a judge of the Court of Common Pleas of Dauphin and Lebanon Counties until his appointment to fill Judge Butler's vacancy. Following his move to Philadelphia to undertake his duties on the federal bench, the University of Pennsylvania Law School engaged him as part-time lecturer on the subject of evidence. Both Penn and Princeton later awarded him an honorary LL.D. In 1912, President William Howard Taft tapped him for the Circuit Court of Appeals where he remained until his death in January 1919 after a long illness. McPherson was a Presbyterian and a member of a scholarly group known as the Shakespeare Society.

In 1901, shortly after McPherson became a District Judge, Congress carved the Middle District of Pennsylvania out of portions of the Eastern and Western Districts. By this time, the population of Philadelphia had grown to almost 1,300,000 and that of Pennsylvania to over 6,300,000. The Eastern District, which had heretofore encompassed the eastern half of the Commonwealth, was now reduced in area to include only ten counties of Southeastern Pennsylvania: Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia and Schuylkill. While the geographic size of the Eastern District decreased, its complement of judges was soon to increase. In 1904, Congress added a second judgeship.

By the early 1900's, the Court was seeing more and more cases arising under recently enacted federal legislation. In addition to the Pendleton Act and the Sherman Act, Congress had passed the Chinese Exclusion Act in 1882, as a result of the hundreds of thousands of Chinese laborers who had emigrated to the West Coast, primarily to help construct the railroads and to find employment as gold miners, farm laborers, and small businessmen. The act was renewed in 1892 and again in 1902. Xenophobia was not confined to the West. Judge McPherson had before him in 1909 an indictment of the master of a British steamship for landing or permitting the landing at the Port of Philadelphia of the vessel's Chinese Chief Cook. The judge ruled that under the statute the defendant could only be found guilty if he knowingly attempted or knowingly permitted the Chief Cook to land. Since the indictment was deficient in this regard, it was dismissed.

Federal courts in the Progressive Era of the early twentieth century, were also dealing for the first time with health and safety laws enacted by Congress. In a proceeding initiated by the government, Judge McPherson condemned a shipment of decomposed black olives from Greece under the Food and Drug Act of 1906.

* 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.

McPherson also had on his docket an action by the Government to condemn certain bottles of gin for being mislabeled “London Dry Gin” when the gin had not been distilled in London but rather in the United States. The jury found in answer to special interrogatories that no mislabeling had occurred since London Dry Gin was a “distinct kind of gin,” its place of production or manufacture was irrelevant, and the maker had no intent to deceive or mislead. In reversing that verdict, the Court of Appeals held that the intent of the maker was not pertinent and ordered a new trial.

Judge McPherson was appointed a judge of the Third Circuit Court of Appeals in 1912. He passed away on January 20, 1919 in Philadelphia.