

Smedley D. Butler and Prohibition Enforcement in Philadelphia, 1924-1925

ALL OBSERVERS agreed that Philadelphia was among the wettest of many cities remaining ostentatiously wet after the passage of the Volstead Act. In appealing for federal aid during the fall of 1923, the governor of Pennsylvania, Gifford Pinchot, wrote that more than thirteen hundred saloons were doing business more or less openly. Not to be outdone, Philadelphia police insisted that they had records of eight thousand places selling illegal liquor and speculated that there might be as many more. A New York newsman investigating these reports found that rents for promising corners had quadrupled, and that instead of gulping their liquor furtively according to approved prohibition etiquette, Philadelphians were having drinks mixed at their tables as in pre-Volstead days.¹ Attempts to dry up the City of Brotherly Love had failed, and advocates of reform blamed a tight control of the police by the city ward leaders.² Opponents of prohibition, however, argued that the most efficient police could not prevent the demand indicated by even thirteen hundred saloons from being supplied, and that the demand was not likely to cease in a traditionally wet city of two millions.

In that same fall of 1923, Philadelphians elected a new mayor, W. Freeland Kendrick. He had been in politics since he was old enough to vote and had twice been city receiver of taxes. A tall man, seldom seen in public without a grin, he liked to slap his friends on the back and hear them call him "Bill" or "Freel." He possessed a sensitivity to public demands which included the political intuition that the public might prefer to get slightly less than it demanded. He owed his career to this astuteness and to the backing of Congress-

¹ "How Wet Is Pennsylvania?" *Literary Digest*, LXXIX (Nov. 10, 1923), 38-44.

² Editorial, *Evening Public Ledger* (Phila.), Dec. 5, 1923.

man William S. Vare, whose grip on the Philadelphia Republican organization was hardly loosened by his exclusion from the United States Senate on charges of corrupt practices in the primary elections of 1926. A conservative Republican, Kendrick had promised an administration of sound business principles, emphasizing that the first of these were law and order. He announced that he would seek a military man, who would not be subject to local political pressures, for the crucial cabinet position of Director of Public Safety, which included the administration of the police and fire departments. He selected a Marine brigadier general, Smedley Darlington Butler, the son of Thomas Butler, at that time Republican Congressman from the Delaware-Chester counties district.

The Mayor could hardly have made a more colorful choice. General Butler was slight, wiry, and erect, with eyes that commanded attention. At forty-two, he was a veteran of fourteen campaigns and expeditions in more than twenty-four years of active duty. Of Quaker parents, he had lied about his age to enlist for service in the Spanish-American War. He had seen his first real action in the pacification of the Philippines, and had been wounded in the expedition for the relief of Peking during the Boxer Rebellion. On one of his several Latin American campaigns, he had acquired the nickname "Old Gimlet Eye," added to "Hell's Devil Butler" and "The Fighting Quaker." In World War I his men had dubbed him "Old Duck Boards" for his disregard of official channels in commandeering boardwalks to fight French mud and for his example in carrying them himself. He was one of the few men to hold two Congressional Medals of Honor and a Distinguished Service Cross.³ He brought to Philadelphia a reputation for total honesty, insistence on discipline, and the ability to capture the imagination and loyalty of his men. He also brought a habit of blunt and hasty speech, an impatience with routine procedure, and a disposition to expect in others the dedication and sacrifice he himself was willing to make.

³ General Butler's Marine career is recounted in a biography by Lowell Thomas, *Old Gimlet Eye* (New York, 1933). For the above, see pp. 7-9, 34-36, 61-66, 157-158, 249-254.

The widow of Gen. Smedley D. Butler, Mrs. Ethel Peters Butler, and a son, Mr. Thomas R. Butler, both of Newtown Square, Pa., were gracious enough to permit the use of General Butler's scrapbooks of newspaper clippings for this paper and to answer questions relating to his work as Director of Public Safety in Philadelphia. No restrictions were placed on the use of this material.

Granted a one-year leave of absence from the Marines, Butler accepted the Philadelphia post on the conditions that he was to have a completely free hand in the organization of the police, including appointments, and that he was to be free to resign at any time. Although he did not oppose liquor in principle, he insisted that the issue at stake was enforcement of the law:

Kendrick has his neck in a noose with me. If I fall or I am run out, he is going to go down also. If he reverses me just once I'll quit, and the resignation will be in the form of a telephone call telling him I am on my way back to Quantico, and that the keys to my office are on my desk. I do not care whether the state laws or city ordinances are right or wrong. From January 7 they are going to be enforced. . . . It is perfectly silly to say that any law cannot be enforced, and we cops are going to enforce the law.⁴

The Mayor had already promised Butler "absolute control over the department without interference from any source whatsoever."⁵ Highly optimistic, Butler said: "People don't seem to understand that it is possible to divorce the police force from politics. It is possible, and I think I am going to do it or I'll break my neck trying."⁶ Philadelphians, reading favorable editorial comment even in the *Record*, the city's only Democratic newspaper, settled back to see what the General meant.

The answer came on Monday, January 7, 1924, when the Mayor swore Butler in as Director of Public Safety. He took the oath in his Marine uniform, but reappeared a half-hour later in a uniform he himself had designed—blue with gold trim, its cape, taken from his Marine mess jacket, revealing a flaring red lining. He called the police inspectors to his office and told them that the lieutenants in forty-two districts were to "clean up in forty-eight hours or face immediate demotion."⁷ Addressing the entire force in shifts on successive days, he acknowledged reports of graft, but said: "What happened before noon today in your lives doesn't matter to us. Tell that to anyone who tries to blackmail or silence you."⁸ He added, ". . . if you men, as policemen, get the respect of the public and equal the record of my Marine Corps I have just left, I will stay with you

⁴ *The North American* (Phila.), Dec. 16, 1923.

⁵ *The Philadelphia Record*, Dec. 14, 1923.

⁶ *Public Ledger* (Phila.), Dec. 16, 1923.

⁷ *Record*, Jan. 8, 1924.

⁸ *The Philadelphia Inquirer*, Jan. 8, 1924.

forever.”⁹ Finally, he ordered beds for himself and his police superintendent moved into City Hall and began to direct his first blitzkrieg on vice, aimed at the most obvious law violators, bootleggers and operators of speakeasies.

The pattern of the next few days was to become familiar to Philadelphians. In former administrations, the mayor had been notified of plans for raids, but Butler followed what he called a “pounce policy”—raiding suddenly and repeatedly if necessary.¹⁰ After a tour made without warning but with fanfare in the Tenderloin, where long tradition linked vice with police connivance, he expressed pleasure at finding only two districts openly violating the law. The first forty-eight-hour drive ended on Wednesday, but the next day Butler sent newsmen rushing to telephones by announcing the suspension of four lieutenants and four acting lieutenants, who were given five days to answer charges of incompetence and neglect of duty. Describing the first drive as seventy-five per cent successful, he said that nine hundred and seventy-three of an estimated thirteen hundred saloons had closed their doors.¹¹ These establishments had a legal right to operate so long as they sold only food and soft drinks, but apparently they had decided that their customers would not settle for near-beer, with its alcoholic content under the legal one-half of one per cent.

If this was the sweep of a new broom, observers agreed that it was raising more dust than had been expected. The number of restaurants and soft drink parlors closing down continued to rise, if only temporarily. Fearing new raids, bootleggers were reported to be unloading their stocks at cut prices. Police in New York and Baltimore were put on special duty to watch for undesirables migrating from Philadelphia.¹²

Even so, one hundred and eighty-one persons found enough to drink to become sufficiently intoxicated for arrest on Saturday night, although this compared favorably with the three hundred and twenty arrested the previous week.¹³ Other signs indicated that the drying-up process was not quite complete. The Venice Café, which

⁹ *Record*, Jan. 9, 1924.

¹⁰ *Inquirer*, Jan. 8, 1924.

¹¹ *Ibid.*, Jan. 12, 1924.

¹² *The Evening Bulletin* (Phila.), Jan. 9, 1924; *Evening Public Ledger*, Jan. 12, 1924.

¹³ *North American*, Jan. 14, 1924.

had been raided five times during the first forty-eight-hour drive and was to be visited twice more before the week was out, was still open; the bartender told a reporter, "Sure, we got beer."¹⁴ Other investigators found that strangers entering the slowly reopening saloons were met with silence in sharp contrast to open sales of the recent past, but that trusted customers could expect something stronger than near-beer. Butler was showing fatigue from long and irregular hours. "Sherman was right about war," he said, "but he was never head of the police in Philadelphia."¹⁵

A more ominous cloud was appearing on the horizon, though it yet seemed only the size of a man's hand. On January 12, a police magistrate expressed sympathy with Butler's aims, but discharged an alleged bootlegger who had been arrested without a warrant. Two days later, Magistrate Edward P. Carney refused to issue a warrant for the search of a private home on the strength of a policeman's affidavit that he had repeatedly seen intoxicated men come out of the house. Pennsylvania law, patterned on the Volstead Act, made simple possession of liquor a crime, but forbade search of private dwellings unless used for sale of liquor.¹⁶

In an attempt to settle this question of evidence, the Mayor, Butler, and City Solicitor Joseph P. Gaffney met with the twenty-eight magistrates. Carney, a steady opponent of Mayor Kendrick who was to hold varying attitudes toward Butler, at this time spoke for the majority of the magistrates: "But let's get this straight first. Do you advise us if people come out of a house drunk, to issue a warrant? They may be guests or relatives, how do we know?" Advised to issue the warrant, he continued, "Suppose the policeman gets the warrant and the liquor, 'do you mean he doesn't have to prove a sale?" Gaffney explained that a magistrate's responsibility would be met when the policeman had sworn to his reasons for suspecting a sale. If liquor was found, it would be *prima facie* evidence of an intent to violate the law. "If that's so we're all breaking the law from the Mayor on down," said Carney. "I know I've got liquor in my house and heaven help the cop who tries to get it!"¹⁷

¹⁴ *Evening Public Ledger*, Jan. 11, 1924.

¹⁵ *Ibid.*, Jan. 14, 1924.

¹⁶ *Laws of the General Assembly of the Commonwealth of Pennsylvania Passed at the Session of 1923*, No. 25, Secs. 3, 4, and 8 (Harrisburg, 1923), 35, 37-38.

¹⁷ *Public Ledger*, Jan. 18, 1924.

Before the month was out, the magistrates in secret session voted to reject Gaffney's interpretation of this rule of evidence and to refuse to issue blank "John Doe" warrants when the officer requesting the warrant did not know the name of the suspect.¹⁸ Both decisions could be regarded as reasonable precautions against invasion of privacy, but they meant that the four hundred thousand private dwellings of Philadelphia were to be virtually immune from search.

These legal reverses caused Butler to warn his officers against search of private homes without concrete evidence of sale of liquor, seizure of stills without a warrant, destruction of furniture and fixtures on raids (in early enthusiasm, some had used axes freely), search of vehicles without reasonable grounds, and demands for closure of establishments which could legally sell nonintoxicating beverages.¹⁹ Three weeks later he added: "Guard against anything that will embarrass Mayor Kendrick's administration. Keep away from the hippodrome stuff. I must admit that I have sinned in this latter respect more than any of you, and the only excuse I have to offer is that I was unduly excited and enthusiastic."²⁰

Butler began at once, however, to consolidate his position by a series of reforms in the police force. Even before taking office, he had advocated and secured the abolition of six captaincies with fixed areas of authority, replacing them with four inspectors who were assigned administrative duties at the discretion of the Director. This left one less rank on which political pressure could be brought conveniently to bear. Toward the same end, he ordered that all transfers of lieutenants be reported to him in order to prevent exile to a distant post of a politically obstinate officer.²¹ He also announced that as many as possible of about six hundred policemen with clerical jobs would be put on the streets, their work to be done by civilians, and that Philadelphia's sixteen hundred firemen would be armed and trained as auxiliary police officers.²²

As the first month neared its end, he startled Philadelphians by shifting the entire contingents of four central districts "to break up combinations," in the process suspending nine sergeants and twenty-

¹⁸ *Evening Public Ledger*, Jan. 26, 1924; *Record*, Jan. 27, 1924.

¹⁹ *Ibid.*, Jan. 15, 1924.

²⁰ *North American*, Feb. 8, 1924.

²¹ *Public Ledger*, Jan. 17, 1924.

²² *Evening Bulletin*, Jan. 16, 1924.

seven patrolmen.²³ As an expression of confidence in his work, on January 30 the Philadelphia Civil Service Commission gave Butler complete control of all demotions, fines, and penalties in his department, retaining only cases of dismissal.²⁴ Along more technical lines, Butler began tests of high-speed cars for capturing armed robbers and developed plans for placing sentries at strategic entries to the city, linked by a chain of telephone and radio contact. Later, he was to experiment with radios in police cars; with radio still requiring earphones, the idea was daring.²⁵

Meanwhile, although Butler soon abandoned the policy of forty-eight-hour drives, the raids continued, and the persistent problems of prohibition enforcement began to appear. Some were relatively minor, signifying only the ingenuity of the opponents of the law. Police arrested two men described as "walking speakeasies" who were dispensing whiskey contained in hollow copper vests. The American Express reported detection of a quantity of liquor marked "Condensed Milk." Police noticed a fourteen-year-old boy in a Scout uniform staggering under the weight of his knapsack, which proved to be laden with whiskey.

Measures against manufacture of illegal beer involved a strange conflict of jurisdiction with federal authorities, who seemed to regard breweries as their special province. On one occasion, a city detective charged that a federal marshal had prevented him from entering a padlocked brewery discovered to be producing beer and smuggling it out through an adjacent service station garage.²⁶ Critics of the Commissioner of Internal Revenue, David H. Blair, charged that he hedged his own agents with unreasonable restrictions:

Under the rules drafted by Blair, breweries are permitted to make and store any quantities of intoxicating beer without federal interference or supervision, the understanding being that before the stuff is shipped out of the plant its alcoholic strength will be reduced so as to conform to the provisions of the Volstead Act. But the Blair regulations do not permit an enforcement agent to check up on the reduction process; he must wait until the beer has been shipped, then take samples from a truckload in transit

²³ *Record*, Jan. 26, 1924.

²⁴ *Inquirer*, Jan. 31, 1924.

²⁵ *New York Times*, Mar. 21, 1924.

²⁶ *Evening Public Ledger*, Apr. 30, 1924.

and have an analysis made, so that by the time he has the evidence the consignment has been marketed.²⁷

Philadelphia newspapers periodically reported scandals involving federal personnel, resulting in bursts of activity followed by long periods of quiet. Not until late April, 1924, did Butler get a favorable ruling from the United States Prohibition Commissioner on the right of city police to inspect breweries.

Most serious of all was the problem of controlling the distribution of the 428,700 gallons of alcohol legally released in Philadelphia every month. This went to holders of federal permits who were ostensibly involved in the manufacture of such products as perfumes, medicines, and barbering supplies. Police estimated that perhaps forty of the approximately five hundred legal recipients were bona fide manufacturers and observed that the vast majority of the permit applications had been made rather recently. They also considered excessive such quantities of alcohol as eleven thousand gallons monthly for a single beauty shop.²⁸ In the absence of increased federal control, Butler realized that he had no way to stop this flow of alcohol at its source. The situation was the more heartbreaking for a conscientious officer because much of this alcohol was poisonous isopropyl alcohol, merely diluted with water, colored, and flavored with burnt sugar to pass as whiskey. A Philadelphia coroner said that ten to twelve deaths from bad liquor came to his attention daily, while sympathetic family physicians concealed many more.²⁹

Bootleggers at least were open opponents, but the men upon whom Butler soon blamed the worst of his problems were an ill-defined group known as "the politicians." Most often this term referred to the organizational leaders for the Republican Party in Philadelphia's wards, but sometimes it meant police magistrates, or Congressman Vare; it came to include Mayor Kendrick. The ward leaders reciprocated Butler's feeling for them. In March, 1924, City Treasurer Thomas J. Watson was quoted as telling diners at the Twenty-fourth Ward Republican Club, "This country, as well as the Republican organization, would be a hell of a sight better off without

²⁷ Editorial, *North American*, Mar. 5, 1924.

²⁸ *Record*, Feb. 28, 1924; *North American*, Feb. 28, 1924.

²⁹ *Evening Bulletin*, Feb. 9, 1925; *Inquirer*, Feb. 10, 1925.

Butler.”³⁰ Almost immediately, however, Philadelphians, led by church and civic groups, expressed themselves overwhelmingly in favor of Butler’s work, and the Mayor repeated his wholehearted support of his Director.³¹ In April, Butler charged that he had been “double-crossed” by about half of his lieutenants, who at the behest of the politicians had permitted saloons to operate with their tacit consent.³² In the summer of 1924, he launched a campaign against political control of the police that was to test to the limit the strength of his own position.

Butler saw the chief hindrance to honest police work in the fact that Philadelphia’s forty-eight voting wards were virtually coextensive with her forty-two police districts. He decided to relocate the districts completely, reducing the total to twenty-two. Each district would lie athwart at least two wards, and each would have at least two lieutenants in order to make intimidation or bribery twice as difficult. (Later he was to restore the rank of captain to prevent rivalry between the lieutenants.) In early July, he took the first step by eliminating three station houses. To critics who complained that the new stations would be too far apart, Butler replied that he was actually freeing more patrolmen for street duty and emphasized that his increased use of patrol cars had given the police a greater mobility than ever before. He also insisted that halving the number of stations would save taxpayers several hundred thousand dollars annually.³³

The relation of the redistricting plan to Butler’s open rift with Mayor Kendrick during the next few months is uncertain. Butler felt that Kendrick was being urged by the ward leaders to force his resignation and that he was saved only by an aroused citizenry.³⁴ This was not improbable, but Butler also laid himself open to criticism by indiscreet accusations. The significance of the incident was that it revealed support in Philadelphia for efficient law enforcement, if not necessarily for prohibition.

Rumors began to fly on July 14 when the newspapers somehow learned that Butler had written to his Marine Corps superior, asking

³⁰ *North American*, Mar. 5, 1924.

³¹ *Public Ledger*, Mar. 15, 1924.

³² *Evening Bulletin*, Apr. 9, 1924.

³³ *Public Ledger*, July 12, 1924; Thomas, 267–268.

³⁴ *Ibid.*, 269–270.

for instructions in case he were not retained in Philadelphia at the end of the year. Kendrick would not comment, saying he did not wish to talk to Butler "through the newspapers."³⁵ His silence continued throughout the summer. But Butler had made himself a symbol of law enforcement by his almost daily speeches and by the very flamboyance of his methods. Churches, women's clubs, civic groups, business organizations, and individuals passed resolutions and wrote letters to the Mayor in Butler's support. In late September, Kendrick said his lack of rapport with Butler was "intolerable," and told the public, "If I can't have a man who will cooperate with me, I'll put in another. . . ."³⁶

Kendrick's statement brought public excitement to its highest pitch, climaxing in a mass meeting with attendance estimated at from thirty-four hundred to four thousand persons, who passed a resolution which read in part: "Since General Butler has been in command here more has been accomplished for the suppression of vice and crime than in any period of like duration in this city."³⁷ Almost at once, friends of Butler and Kendrick effected a public reconciliation. Butler apologized for his failure to confer with the Mayor in almost three months by expressing regret that his "life training, which taught me that a senior always sent for a subordinate, had kept me away from your office, thereby giving you, unacquainted with that practice, a false impression of my attitude."³⁸

The incident was not quite closed. Butler's leave of absence had been good for one year only, and Kendrick requested President Coolidge that it be extended for an additional three years, the length of the Mayor's term of office. The files of the Secretary of the Navy contain approximately fifty letters which arrived in the first week of December from Philadelphians, all asking that Butler's leave be extended. The reasons advanced, however, usually had nothing to do with prohibition. The president of the Oak Lane Park Improvement Association, described as representing more than three hundred homes "in one of the best residential sections of the city," praised

³⁵ *North American*, July 14, 1924; *Evening Bulletin*, July 14, 1924.

³⁶ *Evening Public Ledger*, Sept. 24, 1924.

³⁷ *Inquirer*, Sept. 30, 1924.

³⁸ *North American*, Oct. 2, 1924.

Butler's work in protecting property from professional thieves.³⁹ The Chestnut Street Association, representing merchants and bankers, forwarded a resolution noting the suppression of crime in general.⁴⁰ For the women of the Ku Klux Klan, the Major Kleagle of Pennsylvania wrote that Butler had "made it possible for the women to go out at night in safety on the streets of Philadelphia."⁴¹ It seemed clear that the respectable elements in Philadelphia were solidly behind their Director of Public Safety, but except for the Anti-Saloon League, were scarcely fanatical about prohibition enforcement.

On December 9, the President extended Butler's leave for one year, but made it plain that he would disapprove of similar requests in the future. After stating that the federal government could not be responsible for solutions to local problems, he wrote:

The practice of detailing officers of the United States military forces to serve in civil capacities in the different states on leaves of absence is of doubtful propriety and should be employed only in cases of emergency . . . it does not seem reasonable to suppose that an emergency exists in your city which would be of a duration of over two years . . . local self-government cannot be furnished from the outside.⁴²

By this time, editorial opinion was divided. The *Inquirer* and the *Record* expressed pleasure at the President's decision, only regretting that the leave was not to be for three years, but the *Public Ledger* and *Evening Public Ledger* urged the Mayor to find a successor for Butler promptly. The *North American* was content to praise Coolidge's characteristic statement that "local self-government cannot be furnished from the outside."

Although Philadelphia could not be called dry at the end of Butler's first year, the record showed some progress. A reporter commented on the unwonted quiet of New Year's Eve celebrations, and theater managers noted with delight a rise in attendance, attributed to frustrated celebrants. During 1924 police had closed 2,566 speakeasies, compared with two hundred and twenty in the

³⁹ Edwin M. Abbott to President Coolidge, Dec. 4, 1924. This and the two following letters are to be found in the Records of the Secretary of the Navy, Record Group 80, File 15673-5605, National Archives, Washington, D. C.

⁴⁰ George Albert Drovyn, secretary, copies to President Coolidge and Curtis D. Wilbur, Secretary of the Navy, Dec. 4, 1924.

⁴¹ Mrs. Mary I. Goodwin to President Coolidge, Dec. 6, 1924.

⁴² President Coolidge to W. Freeland Kendrick, reprinted in the *Record*, Dec. 10, 1924.

preceding year, had seized more than a thousand stills, and had tested more than 103,000 confiscated liquor samples.⁴³ Butler's redistricting plans were well under way; by February he would have reduced the number of police districts to twenty-six. Philadelphians in general were probably most pleased with a sharp drop in crimes of violence.

The new year of 1925 opened with a legal victory for Butler when the Pennsylvania Supreme Court upheld the padlocking of a café by the grant of a temporary injunction against its opening until the case could be tried on its merits in the Court of Common Pleas. The padlock would have been an almost useless weapon if the defendant were allowed to do business while his case ran the gamut of trial and appeals in crowded court dockets. Butler was especially jubilant because the Philadelphia police magistrates had four times dismissed charges against this particular café, patronized by minor City Hall appointees. Philadelphia newspapers, which ignored nearly all trials for liquor violations, reported that at one of the hearings in this case the magistrate brushed aside carefully documented police testimony, while the café owner appeared so confident that he attended without a lawyer.⁴⁴

The whole problem of securing convictions for alleged liquor law violations was proving insoluble and was to give Butler a clearer impression of the opposition to prohibition. In 1923, the year before Butler's arrival, 1,413 persons were arrested on charges of conducting speakeasies. Butler's men arrested about four times as many on the same charge in his first year, and almost twice again as many in 1925.⁴⁵ But in 1923, police magistrates had held seventy-eight per cent of those arrested for grand juries, while in each of Butler's years they held slightly less than sixty per cent. The rest were either discharged or punished by a fine that seldom reached the legal maximum of one hundred dollars permitted a magistrate. During 1923 and 1924, grand juries kept up with their duties, but in 1925 they found time to investigate less than half of the cases handed them.

⁴³ W. Freeland Kendrick, *Co-operation and Action, 1924-1925* (Philadelphia, Jan. 10, 1925), 30; *Record*, Jan. 4, 1925.

⁴⁴ *North American*, Aug. 31, 1924; *Evening Public Ledger*, Jan. 7, 1925; *North American*, Jan. 8, 1925.

⁴⁵ *1925 Report of W. Freeland Kendrick, Mayor, City of Philadelphia, Sesqui-Centennial Edition, 1926* (Philadelphia), 33. This report is the basis for other figures in this paragraph.

In both 1923 and 1924, they indicted more than nine out of ten of the cases investigated, and seven out of ten in 1925. Trial courts, faced with a flood of liquor cases on top of their other work, also fell behind. Moreover, verdicts of guilty returned by trial juries slipped from sixty-six per cent in 1923 to sixty-two per cent in 1924, plummeting to twenty per cent in 1925. The result was that of 10,381 persons arrested in 1925 on charges of conducting speakeasies, only four hundred and one, or less than four per cent, were punished during the year by anything more than a light fine, considered a routine business expense. Others might be convicted as the courts got around to them, but by that time the backlog of cases pending would have piled still higher.

Butler at first tended to blame the police magistrates and other members of the lower judiciary for the worst of this record. There was no doubt that the party organizations picked the magistrates, most of whom had little schooling and no legal training.⁴⁶ They often came up with some strained legal interpretations, such as the ruling that a man carrying a hip flask was not a "thing" within the meaning of the statute empowering an officer to search any "place or thing whatever."⁴⁷ A municipal court judge checked Butler's first attempt to end the sale of liquor in hotels by charging a jury to acquit a Bellevue-Stratford bellboy on the grounds that the detective purchasing liquor from him had been guilty of barratry, a term normally used in civil law to mean the habitual stirring up of quarrels and suits.⁴⁸ If generally accepted as law, this decision would have created a dilemma for officers required to make purchases of liquor to secure admissible evidence of sale. After a day in court, the vice-president of the Philadelphia Law Enforcement League, William B. Abbey, told reporters: "I am much interested in the law enforcement fight, but attendance in court is not an encouraging experience. The whole thing was a travesty. Case after case has been let off with light fines or reprimands, or the testimony of police officers and detectives was discounted."⁴⁹ Although many acquittals doubtless resulted from police carelessness in securing evidence, no one seems to have revived

⁴⁶ Spencer Ervin, *The Magistrates' Courts of Philadelphia* (Philadelphia, 1931), 104-105; David H. Kurtzman, *Methods of Controlling Votes in Philadelphia* (Philadelphia, 1935), 83-101.

⁴⁷ *Inquirer*, May 9, 1924.

⁴⁸ *Public Ledger*, May 1, 1924.

⁴⁹ *Ibid.*

the charge of overenthusiasm after Butler's first six weeks in office. Butler was becoming anything but enthusiastic. Comparing his job to Chinese water torture, he said, "Drops of water have been dripping on my head since I have been here."⁵⁰

Trial juries began in 1925 to acquit a large and constantly growing percentage of defendants charged with conducting speakeasies. The courts seemed to be reducing the backlog of cases in the quickest way possible.⁵¹ By September, Butler's suspicion had matured that a wider circle of Philadelphians than twenty-eight magistrates and a few score politicians shared the responsibility for his troubles.

Either I am unpopular, or the enforcement of the liquor laws is unpopular in this city. Law enforcement on an absolutely even basis has not had the support of the people of Philadelphia and does not have it now. When the people of Philadelphia or any other city stop playing the game of "Enforce the law against others but not against me," they will begin to win the fight against lawlessness.⁵²

Philadelphia is in the position of a very rich man who wants a physician to fix up his liver trouble so he can go at it again.⁵³

It was damaged health and the feeling that he was fighting alone that gave rise a month before his departure to a bitter outburst that made sad reading to the many Philadelphians who had come to feel affection for the entrenched Marine. The occasion was a luncheon in his honor by the women of the New Century Club. After listening impatiently to a full hour of eulogies, Butler rose and shouted:

Go on, you people, step down from the bleachers and get into the procession. Do something about law enforcement. Why, not one of you women here could get up and say that you have never violated a law in some way. . . . I have learned a lot in my two years in public office. I have learned to believe nothing that anybody says about me and to say nothing that I mean. . . . You have taken me and kicked me and dragged me to death.⁵⁴

With Butler at last convinced that the opposition to prohibition was broadly based, an incident followed which made the point plain. For some time, Butler had been chafing under charges that police were raiding small speakeasies and winking at violations in large

⁵⁰ *Evening Bulletin*, Apr. 21, 1925.

⁵¹ Kendrick, *1925 Report*, 33.

⁵² *Evening Bulletin*, Sept. 12, 1925.

⁵³ *Record*, Sept. 12, 1925.

⁵⁴ *Inquirer*, Nov. 22, 1925.

hotels, and he had consistently urged officers to seek evidence against the most powerful law violators. Finally, Magistrate Carney, accompanied by two clerks, had braved the stares of four hundred guests and raided a formal ball at the Ritz-Carlton Hotel. The officers seized several bottles of wine and champagne, which police chemists dutifully showed to have an alcoholic content of greater than one-half of one per cent. Butler on December 3 ordered his special counsel to request the Mayor to bring padlock proceedings against the Ritz-Carlton: “. . . and I mean the whole hotel. Something must be done to teach these big fellows that they must obey the law as well as the little fellows.”⁵⁵ Two days later he said he would organize a “soup and fish squad” of the youngest and best-looking policemen for duty on formal occasions.⁵⁶

In dismay, hotel managers argued that they had ordered their employees not to serve liquor, but could not prevent their guests from bringing it on the premises. Butler then charged that “young girls, some of them only sixteen and seventeen, have been given cocktails and other drinks.” This at least could be refuted. The mother of two debutantes who attended the ball at the Ritz-Carlton replied: “The conduct of the girls at this affair was in conformity with their behavior at all other functions my daughters have attended this season. Three dinners were given last week for my younger daughter, and at each of them the girls declined both champagne and cocktails.”⁵⁷

The newspapers for once seemed at a loss for comment. Next year Philadelphia would celebrate the sesquicentennial of American independence with an international exposition, and she would need her hotels. Butler was unanswerably right in principle, but the thought of padlocking the Ritz-Carlton, or revoking the dance license of the Bellevue-Stratford, as he asked, staggered the respectable imagination. One could hardly say that the rich should have champagne if the poor were to be denied beer, but all sensed this to be in the order of things, perhaps even the poor, who had their own less spectacular ways of evading the law. Mayor Kendrick, whose role was to instruct City Solicitor Gaffney to draw up charges, said he would hold the

⁵⁵ *Evening Bulletin*, Dec. 3, 1925.

⁵⁶ *Inquirer*, Dec. 5, 1925.

⁵⁷ *Evening Bulletin*, Dec. 5, 1925.

evidence until after the manager of the Ritz-Carlton appeared at a hearing before a magistrate. After a first hearing on December 11, a further hearing was scheduled for December 18, then indefinitely postponed. In two weeks, General Butler would be on his way to the West Coast.

As early as October, Mayor Kendrick had requested President Coolidge to extend Butler's leave once more. Repeating his stand of the year before, the President had refused. At Butler's request, Kendrick had agreed to appoint Butler's assistant, George W. Elliott, as Director of Public Safety, and the decision had been made public. Unexpectedly, early in the morning of December 22, Butler told a reporter that he had resolved to leave the Marines to stay in Philadelphia. The story appeared in the morning papers. That afternoon the Mayor requested Butler's resignation. When Butler refused, he was dismissed.

Butler, whose decision to leave his beloved Marines had come after a difficult struggle, felt betrayed, and charged that Kendrick was bowing to pressure from the large hotel interests:

Last week I decided that it was in keeping with my promise to the police of Philadelphia that if they stood up with me I would do everything in my power to remain in Philadelphia. . . . I am being dismissed from public service because I am making the greatest sacrifice any Marine can make, and I should, without any other ties, be of more service to the City of Philadelphia than I was before.⁵⁸

Kendrick replied by pointing to his attempts to get Butler's leave extended. Adding that he had already named Elliott to the post of Director, he said that Butler's announcement of resignation without consulting him had left no choice but to dismiss him:

I sent for Director Butler immediately upon reading the headlines in the morning paper and frankly told him that I did not think he was treating me with the proper respect as the Mayor of Philadelphia, and I should have been consulted before an action of that kind took place, and that as a resigned officer I did not want him as Director. I felt that any other action on my part might be misunderstood by the President, and this I would not permit under any circumstances. . . . The police department will continue to be divorced from crime and politics, and I will continue to give my best efforts to the interest and for the welfare of the people of Philadelphia.⁵⁹

⁵⁸ *Public Ledger*, Dec. 23, 1925.

⁵⁹ *Record*, Dec. 23, 1925.

Though none denied the general excellence of Butler's record, no newspaper defended his last surprise action. The *Record*, always ready to prod a Republican administration, admitted that the Mayor had indeed consistently supported Butler throughout his two years, but added in reference to the hotel controversy: "He [*Butler*] was honest; that was taken for granted or he would not have been appointed. But he was 100 per cent honest. We think we are doing the Mayor no injustice in expressing the belief that this was a little more than he had counted on."⁶⁰ It would be doing Philadelphians no injustice to say that this was a little more than anyone had counted on.

Butler's Marine superior obligingly ignored his resignation. Before leaving to take command of the Marine barracks at the San Diego Naval Operating Base, Butler and his family withdrew from Philadelphia to his old home in West Chester for a "quiet, old-fashioned, jolly Christmas." Though the General had gone, the monotonous war against liquor dragged on in the city. The new Director of Public Safety directed twenty raids on Christmas Day, seizing liquor at twelve places.

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⁶⁰ *Ibid.*, Dec. 24, 1925.