Interview with Pierce Butler III

Interviewed by Robert Goff and Lila Johnson, Minnesota Historical Society
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LJ: Who were the first of the family to come to America and Minnesota?

PB: Like most of the American Irish who came in the nineteenth century, my great-grandfather emigrated because he was a victim of the potato famine which started in 1846 and continued into 1848, as a result of which roughly a million people died either of starvation, cholera, or some related calamity. The effect of the potato famine was to reduce the population of Ireland over a period of a generation or two from something of the order of eight or nine million down to its present population of three and one half million. The first great wave of emigration, much of which was directed toward the United States, started in 1846 and 1847.

My great-grandfather, whose name was Patrick Butler, arrived in New York I think about 1847 with two first cousins.

RG: Where was he from?

PB: He was from County Waterford, I think. Butlers are a numerous large old Irish family and, with the Fitzgeralds, were the two leading families of the island for centuries. They were engaged for many centuries in struggles with the Fitzgeralds, which is not unlike the better known disputes between the Campbells and the Stewarts of Scotland. The Fitzgeralds were known for their warlike behavior and the Butlers for policy. The matter is discussed at length in articles in the Encyclopedia Britannica and many books have been written about it.

I don't know much about the history of my great-grandfather's early days in America. I think he taught school. He had gone to, but I do not think was a graduate of, Trinity College, which then as now I think was a very small college, but at that time the only higher educational institution in Ireland. He had some foreign languages and a background in surveying and mathematics so he never had any trouble obtaining employment. He kept a saloon for a period in Galena, Illinois, on the river, and it was from there probably that he came up the river to St. Paul at a time when there was no rail access from any point in the East.

RG: Was he married when he came here?

PB: He was married in Galena and his wife lived on the prairie while my great-grandfather worked on the railway, building the railroad west from St. Paul. He was paid, my
grandmother told me once, partly in whiskey, partly in money. He eventually homesteaded in Waterford township in southern Dakota County, about four or five miles north of Northfield. The house is still there that he built and I think that the date of the land office entry is 1854, at any rate that's close enough, a few years before the Rebellion.

Most of my grandfather's siblings and my grandfather himself were born there. Grandfather was the next to the youngest, if I'm not mistaken, of a number of brothers. Walter was the eldest, William, John, Cooley, and then I think Grandfather, and then Emmett was the youngest. Grandfather may have been older then Cooley, I'm not sure.

**RG:** Was your great-grandmother from Ireland?

**PB:** My great-grandmother was also from Ireland. Her name was Byrne and came I think from Wicklow. There were a great many Byrnes in that part of Ireland. There are a number of her relatives in and around this part of the world. They occasionally turn up.

My grandfather had a sister named Kate, who ultimately married a Civil War veteran named Bowe, who was a Dakota county farmer. There are Bowes still in southern Dakota County. He had another sister named Isabelle, commonly referred to as Belle, who married another Dakota County farmer named John Pennington. Both of these women lived on into the ’50s and I knew them very well. I remember talking with my aunt Belle Pennington on her birthday about twelve or thirteen years ago and she described life on the Dakota County homestead as a pioneer farmer. The priest would come through, she said, on horseback maybe once every six weeks to say Mass to those who were interested, baptized babies, and ride on. There were no other neighbors in the vicinity and when they began to come in they were generally no Irish, although even today there are substantially numbers of Irish farmers in central Dakota County, around Rosemount.

The thing that struck me about Belle’s recollections was her statement that they were all aware that they were pioneers, that they expected a great community to grow in the wilderness that was so thinly populated by European settlers, and they knew that they were beginning what would eventually be a great and very prosperous community. There was no doubt in anybody's mind about that. They understood perfectly well their special pioneering role. It was perhaps a consciousness of this fact, in a sense, that they were a community waiting to be developed, that gave the various brothers of my grandfather a hope of success when they left Waterford township as boys to come to the city. I was struck by the way this process worked one time in the middle ’30s when I was in college. I went down in a car with Grandfather and Uncle Emmett to see if we could find the old family place and eventually, after much driving around on township roads, we located it. Emmett asked Grandfather how old he was when he left and Grandfather reminded him that he had been sent by his brothers to college in Northfield and asked Emmett how old he was. Emmett shook his head and smiled and said he was sixteen and he was glad that he'd never gone back. The point, of course, was that farm life was hard. Emmett, like his older brothers, was perfectly capable
of earning a living in the city. In St. Paul at that time probably there was a minority of members of the laboring class who could speak English and as an Irish boy brought up in a reasonably well-educated household, probably enjoyed a remarkable chance of success. The boys, in fact, did start out as teamsters and ended up in the construction business and were very early engaged in construction of buildings in downtown St. Paul.

**LJ:** This was all of the boys?

**PB:** All of them except my grandfather. The first one to go into the contracting business in St. Paul was Walter, who was the eldest and probably would have reached St. Paul by 1875. For a time he had a partnership with a man named Ryan in the construction business but the going got a little bit rough and Mr. Ryan dropped out. The biggest contract they got in St. Paul was the construction of the state Capitol around 1900. The Capitol job was evidently a profitable one because following the completion of that job, Butler Brothers was able to move much of its operations and personnel to the Iron Range and begin stripping ore on contract in the area near Nashwauk and Cooley, which is named for Cooley Butler who for many years lived on the Range.

**RG:** Just as an aside before we leave this, I imagine it would be unusual in those days if a job of this kind were just let to a firm accidentally. Were the brothers Butler engaged in politics even at that early time?

**PB:** I assume that on the part of the Irish there is some skill in politics. The descendants of Walter Butler are still engaged in politics. Precisely what the role of political connections was in getting jobs, I don't know. It may have been significant and it may not have been. I suspect that the Capitol job, which was obviously an issued of public attention, would have been let on competitive bids. Most of the jobs that I know about that they had were private jobs which may or may not have been let on competitive bids.

I was told by my father that James J. Hill in 1908 or '10 decided to give the city the Hill Reference Library and simply telephoned my uncle William and asked him to build it and send him the statement when he was finished and that Uncle Bill did this, which sounds characteristic of both people. I never knew Bill because he died in about 1917, but I've heard him spoken of by his brothers and by others who knew him including my uncles, who were his nephews.

I knew Emmett and Cooley well and my grandfather well. There is no question that Emmett was one of the great innovators on the Iron Range. He, or at least he and his brothers, were the first to use standard gauge railway equipment in the mines and were the first to use really large shovels and drag lines and were the first to construct a beneficiating plant, so-called, for the washing of lean ores. They were also the first to use diesel automotive equipment in the mines. Butler Brothers was the first company to make a contract with the United Steel Workers.
RG: Did they remain together, the five brothers?

PB: They had a falling out in approximately 1923. It is inaccurate to call it a falling out. Uncle Walter, who is the oldest of the brothers and the head of the contracting and mining operation (by the '20s it was almost exclusively a mining operation), as he grew old, apparently became somewhat senile. He was the victim of, I believe, diabetes. At any rate, he did quarrel with his brothers and sued all of them and also many of his nephews and I believe some of his nieces.

RG: That's a trait that has continued.

PB: His descendants continued to sue each other and third parties to this day and are noted for their lack of family solidarity. This trait apparently also held Uncle Walter in thrall and, as a consequence, he was in his declining years very much disliked by everybody in the family except, perhaps, although I'm not even certain about that, his own descendants.

RG: Does this account, in your judgment, for the apparent drifting apart of the various wings of the family?

PB: This is the reason for it. Walter violated the rule which is simply the primary principle of the Irish family system which is that family solidarity has to be preserved about all else. Ireland is a country, of course, that has never been, and is not today, unified politically and the Irish are capable of no political system more organized or larger than the family. However, the family is taken very seriously and the member of the family who fails to maintain family solidarity almost invariably falls into disrepute with the rest of the family. This is what happened essentially, I think, with my grandfather's brother Walter, who, when he quarreled with his brothers, was actually regarded as an outcast who had failed to observe the principle that had been primary.

RG: Approximately when was this?

PB: In the '20s, middle '20s. The same lack of family cohesiveness has characterized Walter's descendants. I'm not really in a position to comment on it because I have paid so little attention to it, but at any rate, it's not a matter that has changed in any way. Naturally there's a certain distraint.

RG: Did he go his own way then with his company?

PB: He died within a relatively short time. I think he died about 1930. His sons and daughter quarreled with each other during their otherwise uneventful lives and his grandson and granddaughters are quarreling with each other to this day.
RG: Maybe we could talk about Walter just a little bit, the first Walter Butler.

PB: All I know is essentially what I've said. I never knew my uncle Walter, I don't recall ever having met him. I met his son Bob on possible three occasions and I don't believe I've ever met any of his other children.

RG: How many others did he have?

PB: He had a daughter name Effie O'Connor. She lives, I think, on the West Coast, and another son named Walter Butler, who lived in St. Paul for many years and then later lived in Paynesville, Minnesota, but I never met him.

RG: He was the bachelor, wasn't he?

PB: No, he was married. I do know something about my second cousin Walter Butler, who is the grandson of my uncle Walter Butler, and I was surprised to find that he had never met his uncle, this Paynesville Walter Butler, until fairly shortly before he died. It struck me as symptomatic of this lack of intra-family solidarity that seems to have characterized this section of my family.

RG: Isn't there a famous law suit relating to Walter Butler Jr.?

PB: Yes. This is a matter of public record and anybody that reads the newspapers can read about it. There's no point in discussing it in an oral history, I suppose. There was a claimant who claimed to be a legitimatized bastard and very possible was, I don't know. The record of the law suit speaks for itself. The matter was disposed of by a rather small settlement in 1966, I think. But in any event this is easily available in the records of the district court of Stearns County.

RG: One more character in that branch of the family that deserves some comment or attention would be your cousin Robert Butler.

PB: Well, I know nothing about Robert Butler. I understand that he was an earnest Democrat all of his life and I can't really comment on him intelligently because I didn't know him. In fact, I don't know anybody who did except his son, whom I don't know very well.

LJ: This is Robert, the son of Walter Sr.?

PB: Yes. I just haven't really met members of that part of the family. They appear to enjoy plenty of publicity in the newspapers and I have, on that ground, avoided them and most, in fact I think all, members of my family and the other Butlers around town have, too.
After all, I have something like perhaps sixteen first cousins and a tremendous number of second cousins and uncles and aunts in my own immediate branch of the family. This branch is much more interesting to me simply because it includes people of highly original minds and of extraordinary intellectual gifts. Apparently this is inherited from my grandfather, who evidently impressed his brothers sufficiently as a youngster because they decided to send him to college. The older brothers by the time they reached college age were making a little money in St. Paul and could afford to do so. Grandfather accordingly was encouraged by them to go to Carleton College in Northfield, which had then been in existence for perhaps twenty years (we're speaking now of the early '80s). Grandfather rode a horse every day from the farm to the school and graduated I believe about 1884.

**RG:** Did he take a baccalaureate degree there?

**PB:** He took a bachelor's degree and the transcript of this record is available to you if you call up the college registrar. This is a matter that has been adequately discussed in [David J.] Danielski's account of Grandfather's appointment [A Supreme Court Justice is Appointed], giving a brief account of his youth and early life. He was unquestionably a very gifted man with an extraordinary combination of intellectual skills: scientific and mathematical, and literary. It was his feeling, indeed, that the best preparation for law was chemistry, physics, mathematics, some exact science, and he had a good deal of exposure to the exact sciences at Carleton as an undergraduate. The course at that time was pretty rigid. The elective system that Charles Eliot had been initiating at Harvard had not yet reached the hinterland. Grandfather acquired either there or possibly at home an extraordinary interest in English literature. He was profoundly informed about Shakespeare and as far as I was able to determine knew by heart four or five of the major tragedies including Macbeth and Hamlet and he was also seriously interested in the history of the English-speaking people. He had in his house [Sir Henry] Maine and [Frederic W.] Maitland and was something of an expert on the history of the Revolution and the Civil War, all of which, of course, provided a useful base for judicial work dealing with the constitutional issues.

Grandfather, according to his wife, my grandmother, had not been brought up as a Catholic, probably because there was no priest or church on the prairie, but probably also because of the indifference to the religion of his father who was from Trinity College, which is, of course, a Protestant institution, but upon his graduation from Carleton (again, according to my grandmother, I can't vouch for her accuracy although she probably is accurate), Grandfather took instruction and became a Catholic and was for the rest of his life a very devout and regular Catholic. Although most of his children were brought up as Catholics, none of them to my knowledge have been practitioners except possible his youngest daughter, Ann. In any event, there's a rather strong strain in the family of not so much agnosticism as of critical inquiry.

Grandfather, after leaving Carleton, went to St. Paul and read law. I don't know in what office. This was, of course, before the days of law schools. He was admitted to the bar about
1888 or '89 and started practice as attorney for the Omaha Railroad doing the usual railroad defense work which railroad lawyers do to this day.

RG: Was he married by this time?

PB: Yes, he got married about 1891 or so. My grandmother's name was Cronin and she came from the upper peninsula of Michigan where her father, who was also an immigrant from Ireland, was the manager of Louis Agassiz's copper mine, at least this is what she told me. Her father was apparently a man of education and of a considerable background in literature because fragments of his library are still around and include such things as Gibbon's Rome and Metamorphoses of Ovid in Latin and other rather erudite works. Grandmother, although she'd not gone to college, I think probably had a normal school training. She did teach school for a while. I was looking at a number of books that belonged to her earlier this month in the house where she last lived in Maryland and observed that a substantial number of them were in French and they were usually works of rather complex intellectual nature, not novels, rather, philosophical works. She was unquestionably a very intelligent and remarkably well educated woman considering her family must have been one of the first to settle on the upper peninsula.

My grandfather and grandmother had eight children, of whom three survive: Francis, who is a partner of mine; Leo Butler, who has been in the contracting business all his life and lives in Howard County, Maryland; and their sister, Ann Butler Dunn, who lives in Baltimore. The other children included my father and two other brothers, who are now dead, and two girls, who are now dead. All of these children were exceptionally intelligent. Three or possible four were Phi Beta Kappa in college and those who survived were generally speaking enormously successful in life. The thing that always struck me about all of them is a great sense of the importance of their own family, a feeling that can only be explained by family tradition, which apparently is not limited to this American Mid-Western part of the Butler family and would make the subject of an interesting inquiry, which I'm not going to do.

LJ: Did the older ones remain in St. Paul?

PB: Very few of the Butlers live in St. Paul today, or in Minnesota. Francis Butler does and I do and my cousin Walter does, and Pat Butler does, Emmett's son. I think this is all. Emmett had one daughter and four sons but only one son lives in St. Paul at present, the others live in various parts of the country.

RG: Your grandfather's early career was as a railroad lawyer?

PB: My grandfather was a railroad lawyer and then after 1900 some time he joined the office of which I am a part now in St. Paul and practiced in that office until 1923 when he was appointed to the Supreme Court of the United States by Harding. An elaborate account
of that is the above cited Danielski book. The only lawyers, however, in my family have been my grandfather, my father, his brother Francis, myself, and Francis' son David, who is a partner in Holland and Hart in Denver. So far as I know no one else of any of the descendants of Patrick Butler, my great-grandfather, have become lawyers. The rest of the men have almost invariably been in the contracting business.

RG: There are some unusual and interesting men in the firm besides your grandfather.

PB: Yes, this has always been a very remarkable firm. Grandfather's partners were William D. Mitchell, who became Attorney General in Hoover's cabinet, and Michael J. Doherty and Wilfrid E. Rumble, who are still in this firm, both of them well over seventy. I think that the firm was originally started by Judge Flandrau in the '60s, although I've never made any attempt to trace its history in detail.

RG: Was your father senior partner in this firm?

PB: No, father was never the senior partner. Michael J. Doherty and Bill Rumble always were senior to him. I think that the fact that is most interesting about this firm is that it has always been highly individualistic. There's never been any single political position which has characterized the firm. Grandfather, for example, was appointed to the Supreme Court, although he was a Democrat, by Harding. There has never been any particular commitment to any kind of legal work or any particular group of clients. The activity of the firm has always been very multiplex and it has always operated on the principle that a primary purpose of the practice of law is public benefit. This doesn't mean, of course, that you don't charge clients a fee but an amazing amount of non-paying business is done and traditionally done by the office at all times simply for public good. The lack of association with any particular political faction, which hasn't excluded participation in political matters, I think has been one of the things that has contributed to the success of the firm over the years. The most important aspect of the firm's activity, however, was, I'm sure, the period in the early part of this century when my grandfather was representing the Canadian government in the condemnation of the lines which were assembled to make up the Canadian National Railway, which gave the firm national prominence although at that time it was very small compared to its present size.

LJ: What kind of a man was your grandfather? Was he a very serious man?

PB: No, he was a very amusing man and was regarded, I'm sure, as not only serious but an extraordinary stuffed shirt by many of the people who were critical of the Supreme Court in the '30s. I remember Grandfather very well, knew him very well because I was the oldest grandchild and was, I think, 21 when he died and saw a great deal of him during his last five or six years of life. I saw him every few months, in fact, while I was in college. My recollection is of a man with an extraordinary wit, capable of great charm, capable of being terribly amusing with almost any kind of companion and someone who had absolutely no
tolerance of stuffiness or sententiousness or conventionality. For a person who was reputed to be conservative, he certainly was unconventional enough privately. He had an extraordinary capacity to be critical of people who disagreed with him and when I knew him a good many people did. I knew him best, of course, at the end of his life.

**RG:** Did he die on the bench?

**PB:** He died on the bench in 1939, yes. I remember asking him, having heard him list a lot of people and things he didn't like at breakfast one morning in 1939, whom he did like. He said, "I like people who agree with me."

**RG:** He knew and was part of the Washington scene, part of government during an era when some extraordinary men were on the scene. What were some of his attitudes toward some of the people such as Roosevelt, Taft, Hughes, the people he knew well?

**PB:** He was very fond of William Howard Taft, very fond of him personally and I think admired him. He felt that Taft had not been much of a president but thought he was a great Chief Justice. I think he was probably critical of Taft as a president because Taft had been a Republican and was, of course, a conservative. Grandfather did not regard himself as a conservative and I don't think in any real sense was. He certainly was very much aware of needs of certain kinds of social and economic legislation although he certainly didn't feel that this was the job of the federal government. He supported very actively workmen's compensation as a president of the Bar Association in Minnesota before he was on the bench, and I heard him observe to me one day that he saw no reason why unduly large corporations—the Steel Corporation was the one he cited as an example—shouldn't simply be broken up. He was sure that they were not efficient and also certain that they were oppressive. This does not mean, however, that he agreed with Mr. Justice Brandeis on everything, or indeed on anything much. He became somewhat resentful, as I recall, when Mr. Justice Brandeis was getting old and would like to have Grandfather help him up and down steps.

**RG:** They must have been nearly the same age, weren't they?

**PB:** No, Brandeis was quite a lot older and Grandfather felt that a person who had his views should be able to take care of himself.

**RG:** How about Hughes, another giant on the Court in those days?

**PB:** Grandfather felt that Hughes was essential to the maintenance of the integrity of the Court at a time when serious strains were affecting the country. In fact, he was instrumental in getting Hughes appointed Chief Justice. Taft had died, Hoover had the appointment. Grandfather and I think Van Devanter went up to New York to see Hughes in his office there to see if he would be available and came back and reported to Hoover that he was
available and recommended his appointment on the ground that (I think this was in 1930 or '31) they needed a man who was well known and highly respected as Chief Justice. This is not known and I don't want it talked about. This story has never been published before but I think it's worth making some sort of a record of it. I don't want either of you to talk about it because the Court is, of course, removed from politics at all times. It should be. However, there has been some serious discussion by qualified political scientists like Danielski of what is involved in the appointment of a Justice of the Supreme Court and this is a little sidelong on Hughes' appointment which someday should be known.

Grandfather also found Oliver Wendell Holmes, his colleague, a highly academic and impractical man.

RG: Who were his friends?

PB: Grandfather liked Van Devanter. He found McReynolds unnecessarily conservative and difficult but liked him. He was very fond of Sanford.

RG: Did you meet Van Devanter?

PB: Yes, many times.

RG: Was he the rough hewn frontier lawyer that he was pictured to be?

PB: No, he was extremely cultivated.

RG: Wasn't he from Wyoming?

PB: Wyoming, I believe, but he was an immensely cultivated and charming person, a man of tremendously precise mind and he had extraordinary personal sensitivity with charming manners. Very considerate of other people, in marked contrast to Grandfather, I would think. Grandfather was a person who could be completely charming but because of an extraordinary will and dominating personality was often, I think, quite inconsiderate of other people and members of his family, who would find it difficult to be with him for any length of time simply because of the manner in which he dominated any situation.

RG: There were a couple of incidents, Pierce, that occurred during this period of time and I don't know if your grandfather was on the bench at the time of the Black appointment and all of the upheaval about that, was that after his tenure?

PB: He was on the bench when Black was appointed, yes. He was nice to Black, was kind to him, which the other justices some of them were not. Members of the Court regarded Black as a cracker politician and Grandfather was polite and kind to him and my grandfather told me with some amusement that the Blacks were pathetically grateful for this
kindness.

**RG:** As I recall the story, he had joined the Ku Klux Klan and then apparently had lied about it or something.

**PB:** No, Black did not lie about it and Black had joined the Klan. However, most Southern politicians at the time also had done so. I don't intend in any way to defend Mr. Justice Black or condone his performance in the Senate, which I disapprove of, and I think that with the exception of Joe McCarthy and a couple of others he was one of the worst senators we've ever had for about the same reason Joe McCarthy was, but Black was completely truthful as far as I can recall about the Klan episode and didn't deny it when he was confronted with it, when the New York Herald Tribune published his card.

**RG:** I believe he was in Europe at that time on vacation.

**PB:** I don't remember all of the details.

**RG:** As I recall, there was a stir and it caused a flap about the judiciary in general.

**PB:** It served to confirm the feeling of those critics of Roosevelt's attitude toward the Court who felt that Roosevelt's chief purpose was to degrade the Court. He tried and failed to pack it because the Congress would not go along with him and when his first appointment became available he appointed someone who was pretty plainly not the sort of person you want on the Court.

**RG:** He led the fight as I recall on the Court packing plan.

**PB:** The court packing plan by that time was defeated. Van Devanter retired at the crucial moment. Van Devanter's timing on retirement was perfect because it, of course, put the clincher into the arguments of the opponents of the Court packing plan which were that Roosevelt would get an appointment anyway pretty soon, that there was no need to pack the Court at this point. Probably the critics of the plan had the powers to defeat him in the Congress but the issue became academic when Van Devanter retired giving Roosevelt an opportunity to make an appointment and he hurriedly appointed Black as a political reward for Black's performance.

**RG:** After the death of Robinson.

**PB:** Yes, he would have appointed Robinson but Robinson died. Robinson might have been a good appointment, I don't know.

**RG:** There was one incident where it seems clear that at least some of the justices did involve themselves in a little bit of politicking and this was over the issue of the court
packing. The record, I think, on Chief Justice Hughes is rather clear.

**PB:** To what extent the justices involved themselves in politics I don't know. Certainly Hughes was called upon to testify to, I think, the Senate Judiciary Committee on the question of whether the calendar was so far behind as to require the appointment of additional justices and Hughes pointed out that it was not behind at all. Obviously testimony of this kind, solicited by the Senate committee in question, is not engaging in politics. However, I am sure that many of the members of Congress who were concerned about the plan were in communication with and solicited the opinion of various members of the Court about it.

**RG:** Did you ever have any indication from your grandfather that he did?

**PB:** No, but I remember that during the height of it I was down there at Easter vacation and one day old Hatton Sumners of Texas came for lunch and he was the chairman of the House Judiciary Committee and I assume that he wouldn't have been invited for lunch if he had been in favor of the Court packing plan. It was an ordinary sort of a friendly small luncheon of fifteen or twenty men and women who were simply friends of my family's, but it wasn't a lunch designed for smoking cigars and talking politics at all. I'm sure that there was a very little direct politicking at the time on the part of any member of the Court. I'm sure also that there were members of the Court whose opinion was solicited by members of the Congress and felt free to give it.

**RG:** During all of this your grandfather must have developed some pretty strong attitudes, being the type of man he was, about President Roosevelt.

**PB:** He didn't like Roosevelt. I can remember reading in The Atlantic Monthly or the New York Times in the period that it was doubtful that there were 1,000 people of college education in the United States that did. I think that this was probably true about 1938 or '39. Roosevelt was highly disliked by a great many very reasonable people and now that we get the Roosevelt performance in a little perspective, it's pretty evident that Roosevelt was an ingenuous when it came to his foreign relations, particularly his relations with the Russians. I'm not suggesting at all that Roosevelt was pro-communist, but I just am suggesting that he didn't have Churchill's understanding either of geography or of history.

**RG:** That's probably more a reflection on the American people than on any individual American president.

**PB:** Yes, maybe that, and I think it's hard for people today to understand the extent to which the New Deal involved major legislative innovation. It cut out an entirely new role for the federal government aligned to the American community. This naturally was opposed by many and there didn't seem to be at that time many good reasons why much of the social legislation couldn't be handled by the states. This still hasn't been accepted on the part of
some of the very impoverished states like possibly Arkansas and this was one of the fundamental issues. It wasn't, for somebody like Grandfather or other members of my family a problem of the propriety and the desirability of the social legislation, it was a question rather of who should do it. My grandfather's father was a refugee from British colonialism and the dangers of centralized and remote power were very real. This is the reason, of course, that the Irish in America until the present have been mostly Democrats, afraid of strong central government. The Democratic party rather than the Republican party was opposed to that until Franklin Roosevelt came along and this resulted in a certain switching of the roles of the two parties. This was by no means clear in the second half of the '30s. Roosevelt was regarded by many Democrats as an unfortunate excrescence.

**LJ:** Did Mr. Butler like Mr. Hoover?

**PB:** He disliked him I think at least as much as Roosevelt for exactly the same reasons—centralizer—and, in addition, felt he was a full time, practicing stuffed shirt. This is the kind of attitude and mentality that typified the things that Grandfather didn't like about the Republicans.

**LJ:** How about Roosevelt's personality? Did he comment on that?

**PB:** I don't remember any particular comment on Roosevelt's personality. Obviously Grandfather didn't regard him of as much of a stuffed shirt as Hoover but perhaps just sort of as a damned fool.

I can remember seeing Grandfather handle Harry Hopkins on a trip to Europe with him about 1934. My father and grandfather and Harry Hopkins and myself were all traveling on an American ship, I can't remember its name, a United States line ship, from New York to Plymouth, England. Harry Hopkins was a very solemn, humorless man and was the butt of dead pan tongue-in-cheek kidding every morning for several hours on the deck of the ship. The observation that Grandfather made was that it wasn't so much the New Deal he objected to, it was the people that they had, the New Dealers, and he wondered if it was hard to find people like that because he'd never met anybody of this sort before.

Everybody was, of course, aware that some sort of a major national and international crisis was afoot but there were all sorts of doubts as how it ought to be handled. Grandfather didn't survive the war. It started just about the month he died.

**RG:** Did he die suddenly?

**PB:** Yes, very suddenly.

**RG:** Heart?
PB: No, it was acute leukemia.

RG: He was aware that he had this?

PB: Yes, but all of a sudden it became acute. He had leukemia for many years and all of a sudden it became acute and killed him. But it was probably connected with over work. In the last year or two on the Court he had the burden of carrying many of the dissents after Van Devanter retired and leaving him in the dissenting minority. Eventually Grandfather and McReynolds and one other justice (who would that have been?), at any rate he had a great deal of work to do in the last couple of years and it was a very serious strain.

Grandfather's typical day at that time, the middle and late '30s, was he'd get up in the morning about 8:30, read the New York Times, the New York Herald Tribune, and the Washington Post, and them immediately go to his chambers, which were in his house at that time (this was before the Supreme Court building had been completed) and worked on opinions until the court went into session at 11:00 if it was meeting that day, and then go down to Court. After the Court recessed he'd come home and do the same thing, and unless something was afoot in the evening, to work after supper, which came at about 8:00 in the evening. The very long hours and continuous work—he had much longer hours than most practicing lawyers put in.

RG: Did he have a clerk at that time?

PB: Two clerks and a messenger. Irving Clark in this office was one of his clerks. He used to have at least one clerk who was from Minnesota.

RG: To feed back to the firm?

PB: It wasn't that. I think he was just interested in Minnesota boys and so if some Minnesota boy came up out of Harvard Law School he'd often have him.

RG: Your father all during this period was back here practicing law?

PB: Practicing law, so was Francis. They were all in very close communication with each other. Grandfather was in closer communication with, I think, Father and Francis than of any of his other children simply because they were lawyers and were in Washington a lot. During the New Deal period it was necessary for local lawyers to get down to Washington a great deal of the time on clients' business because people had been suddenly found to have government in their affairs and so from 1934 or so down to 1943 or '44 there was rarely a moment when at least one member of this office wasn't in Washington. There was almost always somebody down there then and often people would be down there for months at a time in the '30s.
RG: Where did he live?

PB: At 1229 19th Street in a house that is now the office of Arnold Fortas and Porter (unclear), which is a nice old house.

RG: One of those brownstones?

PB: It was a very elegant town house that belonged to Chauncey Depew at one time. It was about one hundred years old in the late '30s and a very pleasant, gracious place. Of course, most of those members of the family that were younger if they were in Washington would stay there whenever they visited. Many of us would go down and visit and hang around for a week or two at a time if we were East at school, for example, and had nothing else to do. I usually spent my Easter vacations, for example, in Washington.

RG: You got along rather well with your grandfather?

PB: Yes, we got along very well with him and all of his grandchildren were very fond of him. Most of the grandchildren didn't know him very well because they weren't old enough. My sister Maeve and I knew him well and some of Francis' children knew him very well, but Maeve and I were the only ones who knew him as relative grown-ups because I was through college when he died and Maeve was practically through so we knew him better than any of the other grandchildren.

RG: He was the autocrat of the breakfast table, though?

PB: Well, at a typical breakfast with him, he was reading. He was tremendously preoccupied with public business during at least the later '30s. The Supreme Court, of course, took, and does still take, long summer recesses which begin in June and end in October. During those periods the judges would work on opinions that had been left for the summer but it also left some time to travel and for trips to bar association conventions and activities of that sort. I went abroad with Grandfather one summer in 1934 and spent a good deal of time with him in '38 and all through '39.

I think the thing that perhaps is most important for me to say about Grandfather is that he is known to the public, of course, mostly through writings of observers who didn't know him, some of whom would be very hostile (Drew Pearson, for example), or even dishonest (Drew Pearson, again, is a good example of this), and some very friendly, like Danielski, but who didn't know him at all personally. He made every effort to preserve himself and his family from newspaper publicity, which is entirely proper for anybody. He had, however, large numbers of very close friends, many of whom were lawyers, some of whom were diplomats, in Washington. After he'd been there for a few years Grandfather found that he enjoyed very much and got a lot out of the social life of the community and so Grandfather had many friends in the Congress and also in the diplomatic community and in the various
departments of government, among the Cabinet and so on. He and my grandmother were constantly in demand at social activities and one thing and another and were themselves constantly visited and the subject of considerable attention on the part of people who enjoyed their company. Grandfather and Grandmother were both amused and rather surprised, for example, when Henry Wallace began coming around a great deal in the '30s apparently because he liked talking to my grandmother, and Grandfather had, I'm sure, very few doubts about Wallace's judgment, i.e., its deficiencies, although I never heard him express himself. He was normally pretty careful not to express himself even among the family too critically of people he didn't approve of, but I can't imagine that he or any other right thinking person would approve of Henry Wallace.

RG: Who were some of his particularly close friends?

PB: He was very fond of Sir Esme Howard, who was the British ambassador in the late '20s and early '30s, and visited England, and he also was extremely fond of a number of distinguished [Catholic] prelates, who are always available in the Washington community, and saw a good deal socially of various people on the Court like the Van Devanters and the Tafts. Grandmother came to see a lot of both Mrs. Coolidge and Mrs. Hoover, particularly Mrs. Coolidge, whom she was very fond of.

Grandfather always made a point of being available to anybody that came down to Washington from Minnesota, whether they just wanted to visit, or they wanted to have advice on a political or lobbying problem and they thought that Grandfather might be able to give advice on. I don't think he did give advice on political problems. I think he was very careful to steer clear of that sort of thing. He felt very strongly that judges should be judges and should be above and aloof from politics.

LJ: Did he have any strong views on what was going on politically in Minnesota at that time?

RG: He would have known some of the Farmer-Laborites, wouldn't he?

PB: No, I don't think he knew them. He probably knew some of the Nonpartisan Leaguers who preceded the Farmer-Laborites and he certainly knew the older generation of Minnesota radicals. They knew him and he knew them and they often got along pretty well together, although they disagreed on things. I remember Meridel LeSueur's father, who was one of the famous early commies, he came out of the I.W.W. movement, I think, and he was very fond of Grandfather and liked him personally and Grandfather probably made a point of getting along with him and being nice to him, but probably completely disapproved of him.

RG: Was your grandfather an active Democrat?
**PB:** Oh, yes. He ran for the legislature as a Democrat and was defeated by a rich Republican, but that was the only time he ever ran for elective office.

**RG:** I assume he was a supporter of and knew John Johnson.

**PB:** Yes, he would have known all of the governors in either party. He was the type of person that simply did not permit his own personal attitudes on an issue affect his feelings toward an individual so all sorts of people that he disapproved of heartily regarded him as a friend and he was extremely nice to people usually, although he was occasionally very tough with people. Most of the time he was extremely considerate and gentle with anybody that he met as the result of practice of law or participation in public life. This is why it always amused him that Henry Wallace, who would make a point of coming around for tea very Tuesday and sitting around for hours talking on philosophical and religious subjects with my grandmother, because Grandfather came from a Midwestern farm background and knew something about farming and had, I'm sure, views quite different from those of Secretary Wallace as to how the various woes of the farmers should be taken care of. I'm sure Grandfather also had very definite views on that. In fact, he was very early involved in the cooperative movement in the state, not as a farmer but as a lawyer. He set up the Twin City Milk Producing Association, for example, at their request. This, however, was simply work for a client and it didn't involve either approval or disapproval. He didn't necessarily condone the cooperative movement, although I'm sure he thought that the cooperative movement was a good idea. But at the same time, I'm sure he also didn't feel that it was the exclusive panacea to farm problems.

**LJ:** How about John Ireland? He was a contemporary to a certain extent of his.

**PB:** Yes, Archbishop Ireland was older and Grandfather knew him and admired him greatly because he'd done a tremendous amount for the hierarchy and for the Church in this country and had asserted—I didn't know this aspect of Ireland's history until recently—he asserted in the face of violent opposition at the first Vatican Council in 1871 that there was nothing inconsistent between being a supporter of the American Republic and a good Catholic. Many European continental Catholics who associated republicanism with anti-clericalism were unable to accept this position and I think this is the reason that Ireland was never made a Cardinal. I'm sure that Grandfather understood and knew all about the history of this particular dispute and highly approved of Ireland's position.

**RG:** He didn't belong to any of the Hibernian temperance leagues that the Archbishop set up, did he?

**PB:** I would imagine that he would have belonged to the Friendly Sons of St. Patrick's and probably the Ancient and Honorable Order of Hibernians and maybe not the Knights of Columbus. I don't know, although he was not the type of person that was described usually as a joiner.
**RG:** He was proud of his Irishness?

**PB:** He was very pleased that he was Irish and sort of outgrew it after a while. After he got down to Washington he began to realize that an atavistic fear and dislike of England no longer made much sense. Grandfather never exactly became pro-English. I'm sure he felt when he died that there was no need for us to get involved in a war that would probably have something to do with saving the British Empire, but I think that if he had survived to see the fall of France and of the Low Countries that he probably would have supported American intervention. At least my father was one of the two or three chief leaders of the interventionist movement in the early ’40s here in Minnesota at a time when this was regarded as very dangerous and radical and wholly unnecessary. This community, of course, was strongly isolationist.

**RG:** Some of the Minnesota characters were closing out their lives when your grandfather was a young man—Ignatius Donnelly, for instance.

**PB:** I suppose Grandfather knew Ignatius Donnelly, but I don't know anything about it. If you want to know how he felt about some of these older figures in Minnesota history, I think the thing to do would be to talk to Francis about that because Francis, of course, is much older than I am.

Grandfather, although he was a Democrat, never permitted this to stand in the way of close friendship with Republicans and collaboration with Republicans on any public matters. He was remarkably above petty controversy. The extraordinary thing to me is that he was regarded as so terribly conservative, although I can understand it. This is because people didn't know him and because at the time that the issues came up was a very critical one. The cleavages between political factions were very marked and deep. Grandfather always was critical of anyone who described him as either a conservative or a liberal. Neither term, of course, means much of anything and, after all, he regarded himself as a judge whose job is to declare what the law is and the law is neither conservative or liberal, it's the law. He did believe in the omni-presence theory of law, the natural law notion, of course, and was an adherent of the Thomistic and Aristotelian doctrine. He accepted it completely. I would think that most lawyers would not accept it today if they have any jurisprudence.

**RG:** Lawyers have succeeded in putting most of the natural law into statutes, haven't they?

**PB:** This is an interesting aspect of the '30s. People were for the first time questioning notions that had been taken for granted for generations and one of those notions was that liberalism supported small government and that local self-government was perhaps the essence of democratic and liberal behavior.

**RG:** Do you think that the pendulum is perhaps swinging back in that direction again now?
PB: Of course it is, yes. The Irish background in Grandfather's case, of course, associated home rule, local self-government with freedom, with democracy. I'm sure this feeling permeated his thinking and he was profoundly suspicious, for example, of the police and the policeman. J. Edgar Hoover, who is still head of the FBI, was the head of the FBI at that time. In the summer of 1934 I think I said we went to Europe. We were at a fishing hotel at County Donegal in northern Ireland and along in the hotel with us were Mr. Justice Fitzgibbons and Mr. Justice Murnahan of the three-man Irish Supreme Court who had suggested to my grandfather that he and my father and I go up there and go salmon fishing with them. The news came in the Irish Times of Dillinger's killing in Chicago as he emerged from a movie theater. Dillinger, of course, was killed by the FBI and one of the Irish judges (of course, both of them had recently been involved in the revolution against the Crown) asked if it was proper for policemen in America to shoot suspects and Grandfather said that it not only wasn't but that if he had been the county attorney of Cook County that he would have indicted them for murder—very serious, not being funny at all—and then spoke for fifteen minutes very critically of J. Edgar Hoover who had been told by Roosevelt to go off and do something about the kidnappers and interstate bank robbers like Dillinger, and using what Grandfather regarded as very dangerous and violent and illegal methods to accomplish control of this type of crime.

RG: He would probably be considered in the liberal block in that.

PB: That's right, and in the perspective of the years it's much easier to understand why he didn't consider himself a conservative.

RG: That's a very interesting point and an aspect of him I don't think many people are aware of at all.

PB: Anyone in my family is aware of it, of course. This is part of the family attitude toward somebody like Franklin Roosevelt who associated governmental power with liberalism.