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Justice Butler



THE APPOINTMENT of the Honorable Pierce Butler of St. Paul as an Associate Justice of the United States Supreme Court brings to that body at once its youngest member and a man who has never before held a judicial office; but who, in a long and brilliant career at the bar, amply displayed judicial aptitude.

Born near Northfield, Minnesota, March 17, 1866, Pierce Butler received his early training in the district schools, and in 1887 was graduated from Carleton College, Northfield. Immediately on graduation he moved to St. Paul, and began the study of law in the office of John W. Pinch and John Twohy in that city. He did not attend a law school, but, as he is reported later to have said, "learned law by ear." Admitted to the Minnesota Bar in 1889, he became, two years later, assistant county attorney of Ramsey county, and in 1892 became county attorney, a post which he held until

1896. He became well known for his characteristically vigorous and successful prosecution of a number of important cases, among them certain bank robbery cases which involved detective work of a high order, and which were famous in their time.

On leaving the county attorney's office, Mr. Butler entered general practice in St. Paul as a member of the firm of Eller, How, & Butler. He was appointed general attorney at St. Paul for the Chicago, St. Paul, Minneapolis, & Omaha Railroad Company, and served in that capacity for some time, returning to the general practice in St. Paul, after leaving that employment, as a member of the firm of How, Butler, & Mitchell. He remained a member of this firm and its successors until his appointment to the Supreme Court, and during this period was constantly engaged in a general and exceedingly varied practice.

In 1909 and 1910, on behalf of the United States government, Mr. Butler was engaged in the prosecution under the Pure Food and Drugs Act, of the famous "bleached flour" cases. Again, in 1912, Attorney General George Wickersham engaged the services of Mr. Butler as leading counsel for the government, in the criminal prosecution under the Anti-trust Acts of Swift, Armour, and other packers. At about the same time he was employed as one of the leading counsel for the Northern Pacific and Great Northern Railway Companies in the litigation known as the Minnesota Rate Cases (230 U. S. 352). These cases attracted nation-wide interest, and the importance of the conclusions

reached are too well known to the profession to require comment. Some years later, Mr. Butler was again engaged on behalf of certain railroad companies in the proceedings before the Interstate Commerce Commission under the Valuation Act. He retired from that employment some years before his appointment to the bench.

Not the least significant feature of Mr. Butler's experience is the pioneering he has done. He was among the first influentially to urge in Minnesota the adoption of workmen's compensation legislation. Such legislation has been in force since 1913, and has served its purpose well.

More recently, Mr. Butler has been employed as general counsel by various co-operative selling organizations of farmers, milk producers, creameries, and live-stock raisers. The form of organization of such bodies, their powers and obligations under Federal and state statutes and regulations, their liability to taxes, the form of their contracts with their members and their customers, and the validity of certain desired provisions of such contracts—are all questions not only of importance, but, as every lawyer who has struggled with the problem knows, of difficulty. Mr. Butler has contributed greatly, by his services in this connection, to the soundness and success of such organizations, and thus to the economic welfare of the farming, dairying, and stock-raising population generally.

Perhaps the most interesting and important of Mr. Butler's recent professional activities has been that

in connection with the valuation of the Grand Trunk Railway. He represented the Canadian government, and appeared with Canadian counsel for the government before the arbitrators, one of whom as William H. Taft, now Chief Justice of the Supreme Court of the United States. The proceedings before the arbitrators were very complicated, and the ability that Mr. Butler, an American lawyer, long and closely versed in the principles of valuation common in this country, showed in successfully dealing with a great valuation question under another theory of law, evidences a variety of capacity which should not be out of place upon the Supreme Bench. □

The author of this profile was William D. Riter, Assistant Attorney-General of United States. His “appreciative sketches” of Justices George Sutherland and Edward T. Sanford appeared in the same issue of *Case and Comment*.

The following sketch of Justice Butler appeared first on pages 616-617 of the fourth volume of Joseph A. A. Burnquist’s *Minnesota and Its People*, published by S. J. Clarke Publishing Company of Chicago in 1924.

ASSOCIATE JUSTICE PIERCE BUTLER, Sr.

The appointment of Pierce Butler, Sr., as associate justice of the supreme court of the United States by the late President Harding, is one of the greatest honors ever conferred upon a resident of Minnesota. It is a just reward for a lifetime of hard and efficient work and constitutes a pleasing example as well as a justification of the democratic ideals of America, for Justice Butler was born in a log cabin and through the sheer weight of his intellectual attainments and the force of his personality has established a more than national reputation as a corporation lawyer. He has been counsel for the government in a number of important cases and is eminently qualified for this high office.

Minnesota is proud to claim Pierce Butler, Sr., as a native son. He was born on a farm, five miles from Northfield, on March 17, 1866, a son of Patrick and Mary A. Butler, who emigrated from Ireland to the United States. His elementary education was obtained in the public schools of that locality and in 1887 he was graduated from Carleton College of North-field, with the A. B. degree. He then came to St. Paul and read law in the offices of Pinch & Twohy. He was admitted to the bar two years later and supported himself during that period by working in a dairy. He began the practice of law in St. Paul and in 1891 was appointed assistant county attorney of Ramsey county, by Judge T. D. O'Brien, who was then acting as county attorney. From 1892 until 1896 Judge Butler served as county attorney of Ramsey county and from 1899 to 1905

was trial lawyer for the Chicago, St. Paul, Minneapolis & Omaha Railroad. He represented the Hill roads, the Great Northern, Northern Pacific and Burlington, in all of their important litigation for many years and gained a national reputation as a railroad lawyer by his handling of the famous Minnesota railroad rate cases. In 1901, when he appeared as chief counsel for the Northwestern roads to combat the Minnesota rates. The case attracted nation-wide attention, this being the first real test of the question as to whether a state has the right to regulate intrastate rates. The case was won in the lower courts by the railroads, but the United States supreme court reversed the decision. During the valuation hearings before the Interstate Commerce Commission in the proceedings which resulted in fixing the valuation of the roads at about nineteen billion dollars, Judge Butler represented all of the western roads and was one of the leading attorneys before the commission. In recognition of his ability in cases involving the valuation of public utilities, Judge Butler was retained as counsel by the Canadian government in the proceedings to determine the price which the Grand Trunk Pacific Railroad Company should be paid for its properties when they were taken over by the government and he also represented the city of Toronto, Canada, in the case involving the valuation of the traction system, which was recently bought by the city. He has been retained in many of the most important cases before the state and federal courts and in 1910 was appointed special counsel by Attorney-General George W. Wickersham in the prosecution of the Chicago meat packers, under indictment for violation of the

Sherman act. Judge Butler first practiced law in association with the late Stan J. Donnelly and in 1896 joined Homer C. Eller and Jared How in the firm of Eller, How & Butler, which afterward became Butler, How & Mitchell and is now known as Butler, Mitchell & Doherty. For twenty-five years Judge Butler specialized in the practice of corporation law and by many members of his profession he is regarded as the foremost railroad attorney in the country. Following the resignation of Associate Justice W. R. Day, Mr. Butler was appointed to fill the vacancy and has the distinction of being the youngest member of the highest tribunal in the United States, being fifty-six years of age at the time of his appointment. He is the possessor of a fine physique and is a big man, both physically and mentally.

On August 24, 1891, Judge Butler was married to Miss Annie M. Cronin and they have five sons and two daughters living: Pierce, Jr., who is thirty years of age, has become associated with his father in the practice of law; William, aged twenty-nine years, is now engaged in the investment business in California; Leo who is twenty seven, was graduated from the engineering school of the University of Minnesota and is associated with a road-building firm in Iowa; Margaret, the next of the family, has reached the age of twenty-five; Francis, a young man of twenty-three years, has also followed in the professional footsteps of his father, with whom he became associated in practice; the two younger children, Kelvin and Anne, are twins, eighteen years of age. The daughter Margaret was graduated from Bryn Mawr in 1919 and afterward became a

law student at the University of Minnesota. Mary, a third daughter, was in the Army Nurse Corps and died while in the service. Four of the sons also saw service in the World war, enlisting in the army.

Judge Butler is a member of the Catholic church and a democrat In his political views. Although he has held no elective office since he was county attorney, he has served on many of the bodies for the betterment of St. Paul and the state of Minnesota. In 1907 he was appointed a regent of the State University by Governor Johnson and continued to act in that capacity until his elevation to the bench, taking a keen interest in its development. He became a member of the St. Paul charter committee and for nine years served on the St. Paul library board. His well rounded character, strong mentality and legal erudition have won for him a position of distinguished preferment in his profession and he is actuated by a keen desire to discharge his duties with credit to himself and for the highest welfare of the nation. ■



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