

A NOTE ON JUDICIAL SELECTION *

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The investiture of a federal judge is a familiar ceremony, a ceremony from which familiarity cannot detract the awesomeness of enrobing a man with the powers of a United States District Court, binding him upon his solemn affirmation to exercise those powers faithfully under the Constitution.

There are other courts of ultimate recourse, but this court is the cornerstone upon which the whole federal system of justice is laid. It is a forum for the ultimate test of constitutionality of state and federal statutes and procedures, the complex litigation arising out of government regulation and standard setting, the wracking disputes over liability for death and bodily harm, the sensitive, sometimes monumental, conflicts over individual rights within our constitutional system, and the arcane traditions of admiralty and the law of the seas.

For nearly a quarter of a century, the Standing Committee on the Federal Judiciary of the American Bar Association has had a part in the judicial selection process, in investigating and advising the Department of Justice on the qualifications of prospective appointees to all of the federal courts. Each judicial circuit has a representative on the Committee with one member-at-large who serves as chairman; and recently the two largest circuits, the Fifth and the Ninth have been given two representatives to share in this work. The men and women who serve on this committee are seasoned trial lawyers, experienced in the federal courts, and knowledgeable of the circuits in which they work. The committee is a discriminating conduit of the informed consensus of community opinion, tested by standards developed over the years, on those ineffable qualities of character, competence, humanity, and wisdom that have the best potential for perfectibility in a judge. This is hardly an exact science, for good judges are rarely born and seldom made; they grow in their capacity as they work at the craft.

It is not a casual undertaking, nor a ritual endorsement of members of an old-school-tie fraternity. It involves extensive interviews with judges, lawyers, law school deans, teachers, community leaders of all creeds and ethnic backgrounds who are widely repre-

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sentative of the bar, the bench and the community which these judges must serve, to explore every aspect of their qualifications of professional competence, character, and integrity and judicial temperament.

When the record is completed, it is submitted to a vote of all the committee members. Each prospect is seen in this national perspective and judged by standards of excellence that have been tested over the years, that are constantly re-examined, and that are flexible enough to accommodate the wide range of talent, experience, and individuality that can be marshaled to serve our courts, taking account of the need for broader representation on the bench of women and racial minority persons.

The task is humbling and demanding. But occasionally there comes someone whose preeminence in the law, whose service to the public and the profession, whose probity and character are so widely known and acclaimed that a judgment by this committee seems almost gratuitous. Such a man is Louis H. Pollak.

A constitutional scholar and law teacher of international renown, his interests and energy have carried him widely about the country and the world into the councils and conferences where things that matter to the law are often discussed and sometimes decided. As a man of impartiality, he has presided over important public employee fact-finding tribunals. And as an accomplished advocate who has argued some of the great civil rights cases in the Supreme Court, he has gone near and far to serve his vision of justice, to the federal courts of Alabama and to a South African magistrate's tribunal in the memorable Biko inquest.

Service as a District Judge is the fulfillment for Lou Pollak of a life given to the law, in teaching, in practice, in government service, in administration, and now the culmination of all this, at the height of his powers, in the beginning of a judicial career. A modest man who wears his learning as easily as he turns his elegant phrases, a public man who has taken to the barricades when great moral and social issues were at risk, a private man who, in the thoughtful solitude of his chambers, makes up his mind with reason and deliberation and acts decisively, secure in loyal friendships, but beyond the reach of partisan appeal or personal influence.

As Holmes used to say, he has shared in the action and passion of our times. In his moral universe, no problem is rightly settled unless it is settled in a constitutional way. Louis H. Pollak brings to this great court an open mind, a vigorous intellect, a relentless sense of duty infused with wisdom and compassion, and an abiding commitment to our constitutional system of justice.