Wiley Rutledge is one of Louis Pollak’s heroes. The parallel elements in their lives are obvious. Both were professors, deans, and judges. Like Mr. Justice Rutledge, Judge Pollak is warm-hearted, thoughtful, independent, and stubborn.

Beyond these secondary characteristics, however, there is a genuine likeness between the two men. Justice Rutledge’s term on the Supreme Court was short. But his opinions, few as they are, shine with a special quality. They are ordered by a sure feel for the judicial function in constitutional cases. And they reflect a determined effort to give full weight to all the values, all the policies, and all the principles necessarily at stake in a given controversy. Rutledge could not share Justice Black’s quest for absolutes, his willingness to simplify in the naive hope that simple rules would fetter future judges. Nor could Rutledge accept Justice Frankfurter’s equally naive thesis that if the judges should refuse to meet their constitutional responsibility, they would thereby inspire Congress and the President to do their own constitutional duties.

Neither fundamentalist nor fainéant, Rutledge’s view of the constitutional system is truer to history. So is Pollak’s. Both men see the Constitution as a whole and as a system, a living organism animated by the shared values and aspirations that make us a nation. And they see the judicial function as integral to the dynamics of the Constitution, legitimate, democratic, and, within its proper limits, essential to the health of the constitutional process.

To Rutledge and Pollak, America is not a geographical expression but a moral idea. They believe that it is the duty of each participant in the constitutional endeavor—citizen and public official alike—to do the task which falls to his hand with all his might. Equally, they see it as his duty to carry out his effort with full respect for the nature of the Constitution as a shaping and directive principle, a process of tension without end dominated by the goal of personal liberty.

Rutledge and Pollak are adherents to the legal philosophy without a name—the school which has prevailed in American law at least since Marshall’s time, so familiar that it is rarely described or reduced to formal statements. For long periods, it has functioned almost inarticulately, through the conditioned reflexes of priests and parishioners alike. At other times, monks and bishops have a-

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tempted to account for it, usually in terms that fail to explain its most striking and important features. But the pattern survives, stronger than ever, gaining in acceptance through all the ups and downs of its history.

I look forward to Judge Pollak's work, confident that it will be wise, cogent, and influential. There can never be too many good judges. And there are never enough great ones. Judge Pollak will surely be a good judge, in the line of professorial judges like Swan, Charles Clark, Goodrich, Magruder, Hays, and Arant. We can hope that he will be a great judge. Whatever the outcome of his encounter with Fate in these terms, Judge Pollak will provide us, as Rutledge did, with serious and fully considered opinions that will earn the sustained attention of our best students. He may never be stylish or fashionable. He will not be the white haired judge either of the National Review or the New York Review of Books. But his opinions will reflect a powerful and realistic constitutional philosophy; reverence for what has been accomplished already in the name of the Constitution; and a determination to leave the Constitution a little stronger and a little better when he does retire in the fullness of time.

As he starts on what we hope will be a long and fruitful phase of a distinguished career, we salute him.