American judges share with their colleagues throughout the world—at least in theory—the traditional judicial function: the impartial examination and determination of causes after a fair opportunity to all parties to be heard and to present their evidence.

But in our system, judges perform another rather special function. Long ago Juvenal asked "Who shall guard the guardians?" The question has at least two aspects: How shall we ensure that those to whom we entrust power are faithful to their trust? And the question also recognizes that no matter how elaborate the system, ultimately we must trust someone.

In this country the judges are expected to play a large part in answering Juvenal's question. The doctrine of judicial review gives our judges—and preeminently our federal judges—a special role in the system of checks and balances, the primary American device for guarding our guardians. And the doctrine of the independence of the judiciary carries as a necessary corollary that judges must simply be trusted to exercise their functions faithfully, with very little in the way of external controls.

The appointment of Louis H. Pollak as a federal judge is a singularly happy choice to fulfill these responsibilities.

I first met Judge Pollak when he was a boy of ten and I was a young law clerk working for Louis Pollak's father, Walter H. Pollak, himself a noted appellate and constitutional lawyer, with a great interest in civil liberties. Walter Pollak argued in the Supreme Court cases which have become milestones in the development of the Bill of Rights—notably Gitlow v. New York,\(^1\) establishing the doctrine that the fourteenth amendment extends the protections of the first amendment—free speech and press—against actions by states; and the Scottsboro cases\(^2\) establishing that states must afford meaningful assistance of counsel in capital cases, and that Negroes may not be systematically excluded from juries.

After service in the army during World War I, Private First Class Louis Pollak attended Yale Law School. He then came to work for the New York law firm now known as Paul, Weiss, Rifkind,\(^8\) Adapted from remarks delivered at Judge Pollak's induction ceremony.

\(\dagger\) Associate Justice, New York State Supreme Court, Appellate Division.

\(^1\) 268 U.S. 652 (1925).

Wharton & Garrison in which I was then a junior partner. Like all of us, he came under the influence of Louis S. Weiss, the spiritual head of the firm and really the creator of the modern firm (as well as the father of the now Mrs. Pollak).

Louis Pollak left that firm to become a law clerk to Mr. Justice Wiley Rutledge of the Supreme Court, and then later an assistant to Ambassador (and Hague Court Judge) Philip Jessup.

Then came his career as teacher and law school dean, first at Yale and then the University of Pennsylvania, and as an eclectic appellate lawyer participating in many of the great cases which have elaborated and enforced the constitutional prohibition against racial discrimination.

In his important legal work he has been associated with some of the leading legal scholars, judges and lawyers of our time (or at least his and mine).

But of course one of the characteristics of judicial office is that none of his great associates—not even the living ones—can share the judge's responsibility. There is a story attributed to Senator George Norris. He is supposed to have said that sometimes, faced with a difficult, apparently insoluble dilemma, where he just did not know what to do, he would ask himself "What would Lincoln do if he were here?" But he knew the answer: "Lincoln would be just like me. He wouldn't know what the hell to do." And there can be few lonelier responsibilities than those of a trial judge sitting alone.

Fortunately Judge Pollak is extraordinarily well suited for judicial responsibilities. He has the usual attributes that we have the right to expect in a judge—integrity and a sense of fairness and justice. To an unusual degree, he has that quality—so important for a federal judge who is said to be a king in his courtroom—an innate courtesy and kindliness, extended to all, but particularly to those least in a position to demand them of him. He has also that indispensable tool of the judging trade—willingness and desire to listen patiently to the parties before him, to try to understand what is bothering them and what they are trying to tell him. This is obviously not the same as suffering fools gladly, although it involves assuming the risk of suffering them patiently. He has also technical qualifications, important though not indispensable to a new judge, of profound knowledge of the law, particularly those parts of it which are the special province of the federal courts, a life of scholarship, and a more than adequate allotment of gray matter.

When therefore a representative of the F.B.I.—in discharge of what must seem to many to be the naive assignment to them of a
role in guarding the guardians—asked for my comments on Louis Pollak’s qualifications to be a federal judge, I could say in complete sincerity that if I were President of the United States, one of the first persons I would appoint as a federal judge would be Louis H. Pollak. Fortunately his appointment has not had to await that remote contingency.

All who know Louis H. Pollak know that he will contribute his share to the constitutional objective of establishing justice, and to the lustrous tradition and reputation of the federal courts, to the benefit of the public, the delight of the lawyers who will practice in his court, and the surprise of no one.