



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 70 | Number 6

Article 1

9-1-1992

In Appreciation: Daniel Hubbard Pollitt

Joseph L. Rauh Jr.

Eugene Gressman

Judith W. Wegner

Kelvin L. Newsome

Follow this and additional works at: <http://scholarship.law.unc.edu/nclr>



Part of the [Law Commons](#)

Recommended Citation

Joseph L. Rauh Jr., Eugene Gressman, Judith W. Wegner & Kelvin L. Newsome, *In Appreciation: Daniel Hubbard Pollitt*, 70 N.C. L. REV. 1683 (1992).

Available at: <http://scholarship.law.unc.edu/nclr/vol70/iss6/1>

This Comments is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Law Review by an authorized administrator of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

IN APPRECIATION: DANIEL HUBBARD POLLITT

JOSEPH L. RAUH, JR.*

Dan Pollitt, beloved teacher of many thousands of aspiring young lawyers at the University of North Carolina for the last thirty-five years, comes by his public-interest life in the law with a certain inevitability. His father was a law professor, his mother practiced law into her eighties, he married the lawyer-daughter of a distinguished Supreme Court Justice, and two of their three children, as well as Dan's brother, made their careers in the law. Their interests ranged from liberal leftwards, with a dominant theme of reverence for the Bill of Rights. Small wonder then that Dan's whole life has been a model for defenders of the historic covenants of civil freedom contained in that document.

Dan's love for teaching is everywhere evident. He has taught from one coast to the other—at Georgetown, American, and Duke universities, and the universities of North Carolina, Arkansas, Oregon, and Virginia. He left Arkansas for North Carolina after just two years in protest against Arkansas's insistence that he sign a "loyalty oath." It was hardly befitting either the academic freedom Dan always championed or his own Marine Corps service in World War II that he should be required to swear that he was free of subversive connections or convictions. Now, thirty-five years later, he still wants to teach, but this time at a new law school he is trying to bring into being to train public interest lawyers.¹

Dan's new law school would be as innovative as the man himself. The school would run year round, with the first year's curriculum devoted to traditional studies, the second year spent in Washington as an intern in congressional or executive offices (with some evening classes), and the third year spent back on campus with both studies and practice as an "outtern" in a clinic, with a judge or public body, in a law firm, or in a public law center. The school would seek a wide mix of students and faculty members who had won their spurs in the arena of social concerns. Sadly, thus far Dan has found neither the place nor the financing for his concept of what a law school should be. But he continues to work on his project and his incredible perseverance may yet produce a law school, and with it a teaching revolution, that trains lawyers for something

* The author is a civil rights attorney in private practice in Washington, D.C.

1. See Daniel H. Pollitt, *A Law School With A Bent For Public Service*, 10 NOVA L. REV. 779, 787-92 (1986).

greater than merely enriching the corporate world and defending the status quo.

Dan's intense belief in the need for this new type of law school flows from his intense belief that

the law often fails to provide justice for the unpopular defendant. To put it bluntly, the legal profession is sometimes reluctant to protect this defendant's rights by giving him adequate counsel. It makes little difference whether he is an accused Communist, an integrationist, a John Bircher or a political assassin.²

In his brilliant article in a 1964 issue of *Harper's*, Dan collected such a plethora of cases in which unpopular clients were unable to obtain proper, or indeed any, legal representation as to make the word "sometimes" seem an understatement and to make lawyers ashamed of their profession. As Dan pointed out,

the oath recommended by the American Bar Association and adopted by a number of states requires a lawyer seeking admission to the Bar to swear that he 'will never reject from any consideration personal to [himself or herself] the cause of the defenseless or oppressed.' But the practice falls far short of the ideal. Local and national bar associations sometimes make it as difficult as possible for the individual lawyer to match the words of the oaths with deeds."³

Dan tells horror stories of southern white lawyers regularly refusing to represent civil rights activists or Blacks,⁴ and of white lawyers in various parts of the country refusing "loyalty" and "security" cases of all kinds. I believe that Dan's seminal article more than a quarter century ago pushed the legal profession in the right direction, but we are still a long way from the British position that a barrister is like a "cabman on the rank," available to one and all.

It was my good fortune to work with Dan in our office in the early 1950s shortly after he graduated from Cornell Law School. Those were the days when Joe McCarthy and the House UnAmerican Activities Committee (HUAC) were riding high, issuing almost daily charges of communism, mostly unsubstantiated or outdated. Dan's study of congressional investigating committees⁵ remains a valuable antidote to the

2. Daniel H. Pollitt, *Timid Lawyers and Neglected Clients*, HARPER'S, August 1964, at 81.

3. *Id.*

4. One black lawyer was swamped with more than two thousand cases. *Id.* at 83.

5. See Daniel H. Pollitt, *The Fifth Amendment Plea Before Congressional Committees Investigating Subversion: Motives and Justifiable Presumptions—A Survey of 120 Witnesses*, 106 U. PA. L. REV. 1117 (1958).

McCarthyism of those days.

One case in particular I remember working on with Dan in those days was that of playwright Lillian Hellman. She walked into our office one day in 1952, showed us her subpoena from HUAC, and asked us to represent her before the Committee. She told us that she was quite willing to tell the Committee of her own political affiliations and activities, but she would never “name names” of others with whom she had been associated. She also announced that she was not the type of person who could survive jail and, to complicate the situation even further, she said she did not want to invoke her Fifth Amendment privilege against self-incrimination, the surest way to avoid criminal proceedings.

Ms. Hellman hardly had left the office when Dan appeared with a memorandum on waiver of constitutional rights which made clear that if she told the Committee about her own actions and affiliations she would waive her Fifth Amendment privilege and could not avoid “naming names.” Nevertheless, several Pollitt-memo’s later we were able to devise a workable strategy. Ms. Hellman sent a letter to HUAC agreeing to tell all about herself if the Committee would agree not to demand answers about others. (This is the letter with Ms. Hellman’s famous sentence: “I cannot and will not cut my conscience to this year’s fashions”) The Committee refused. So off we went to the hearing, Dan carrying lots of copies of the Hellman letter and the Committee’s response. Ms. Hellman denied under oath that she was or had been a Communist for the previous few years. She then refused to answer further, referring to her letter to the Committee. Meanwhile, Dan handed copies of the letter to the press while Committee members and counsel screamed their heads off. The screaming was in vain; the legal and public relations battles had been won. A little more than an hour after the hearing commenced it was over and the Committee dismissed Ms. Hellman.

I took over the job of explaining the legal ramifications to the press and Dan went off to a bar with Ms. Hellman to celebrate. I gather it was quite a happy hour until Dan reached into his pocket to discover that he had no money, and neither did Ms. Hellman. Legend has it that either Averill Harriman or John Melby, close friends of Hellman, came along and paid the check, but I’m afraid there is no such romantic end to the story. I finally joined them and paid the check myself.

Dan left our office in 1955 to begin his incredible teaching career, but many summers since then he has worked in our office. His talents are immense. One summer he ghosted a *Virginia Law Review* article for Walter Reuther, president of the United Automobile Workers (UAW); Dan caught the spirit of that great labor leader in these concluding words:

[P]erhaps most important, we have striven from the beginning to make our union a broad social movement. We have sought to become, not a narrow pressure group, but an integral part of our society—a movement that knows it can make progress only as the whole community progresses. If we can but maintain our traditions, we have nothing to fear from the future.⁶

Another summer he wrote an article on representation before congressional committees which appeared in the *Minnesota Law Review*.⁷ Only Dan could have rationalized that irrational subject; generously, he put my name on his piece. Still another summer he prepared a trial memorandum when the UAW was indicted for allegedly making illegal political contributions. Every possible point was fully briefed and a jury acquittal promptly ensued. Yet another year he worked on the petition for certiorari in the Abscam case of Congressman John Jenrette.⁸ Dan always fit into our summer work, found something to challenge his interest, and carried it out with brilliance.

If Dan has a fault as a lawyer, it is his inability to believe ill of people who are his friends or who assert principles in which he believes. As a result, he cannot bring himself to limit the statement of facts in a brief to the bare bones reflected in the record; he always must find ways to empathize with those he believes are the victims of injustice, his clients. When he truly loved his client, as in the Abscam case of Congressman Frank Thompson,⁹ mere acquittal would not have satisfied Dan; only the Nobel Peace Prize could have made amends for what Dan considered a miscarriage of justice in the accusations against Thompson. And in Jenrette's case—in which the trial judge called the procedure "incredible," "a test of the integrity and moral fiber of a member of Congress" devised "to determine whether an elected government official would be induced to commit a crime by a convicted professional con man"¹⁰—we practically screamed to the Supreme Court for certiorari:

Before the nation . . . charts a new course for government away from our historic separation of powers, the Court entrusted by the Constitution with its final interpretation should give full consideration to those dangers [the executive branch

6. See Walter P. Reuther, *The United Automobile Workers: Past, Present, and Future*, 50 VA. L. REV. 58, 103 (1964).

7. See Joseph L. Rauh, Jr. & Daniel H. Pollitt, *Right to and Nature of Representation Before Congressional Committees*, 45 MINN. L. REV. 853 (1961).

8. See *United States v. Jenrette*, 594 F. Supp. 769 (D.D.C. 1983), *aff'd*, 744 F.2d 817 (D.C. Cir. 1984), *cert. denied*, 471 U.S. 1099 (1985).

9. See *United States v. Thompson*, 710 F.2d 915 (2d Cir.), *cert. denied*, 464 U.S. 1039 (1983).

10. *Jenrette*, 594 F. Supp. at 788.

framing congresspersons]. As lawyers who have long labored in the constitutional fields of civil freedom, we believe it is our duty to call those dangers to this Court's attention with the most urgent plea that this case be reviewed.¹¹

Dan's article in the *North Carolina Law Review* earlier this year evidences a reverence for the Bill of Rights which most people reserve for the Bible. Our Constitution, he wrote, "was ratified with the understanding that the first Congress would give us a bill of rights, would guarantee free speech, a free press, a free pulpit, and other blessings of liberty. We should hesitate to invade this historical inheritance."¹² Arguing "that we would have neither nation nor flag without the First Amendment," Dan pays eloquent tribute to the flag burning cases and their precedents, and to those in Congress who only recently blocked a constitutional amendment that might have begun unraveling the Bill of Rights. Dan quoted proudly from the Senate speech of Terry Sanford of North Carolina in denouncing the proposed amendment:

"[T]he risk of political suicide is not too big a price to pay to defend America's Bill of Rights." We have risked our lives before for the Bill of Rights.

I will not vote—not ever—to alter the Bill of Rights.¹³

Dan's basic commitment to constitutional liberty reflects an even more basic humanitarianism. Nowhere is this better revealed than in the way he humanizes legal issues. Whether in a legal conversation or a lecture, when others identify a Supreme Court ruling by name or holding, Dan is likely to say, "Oh, yes, that 1912 case involved a Spanish-speaking Texan, a woman's liberationist who inherited the such-and-such nail and hardware business after nearly dying of yellow fever. Ultimately she became mayor of Wombat, Arkansas, after losing her Supreme Court challenge to the notary oath. Or maybe she won." Civil liberties were never abstractions for Dan.

Yet what makes Dan Pollitt one of the twentieth century's greatest civil libertarians is his activism in the field: his ability to go beyond lecturing and writing about the great civil freedoms issues of the day and to teach by example—to participate in resolving these most important problems of human liberty and dignity. Justice and equality are his guid-

11. Petition for Certiorari of Defendant at 19, *Jenrette v. United States*, 471 U.S. 1099 (1985) (No. 84-1171) (denying certiorari).

12. See Daniel H. Pollitt, *The Flag Burning Controversy: A Chronology*, 70 N.C. L. REV. 553, 567 (1992).

13. *Id.* at 573 (quoting 135 CONG. REC. S9057 (daily ed. July 31, 1989) (statement of Sen. Terry Sanford)).

ing lights: no right is too petty for his attention, no liberty expendable while he stands guard.

It is impossible to collect here all of Dan's activities throughout the years, but we can at least list a few. A 1963 law banned Communists from speaking on university campuses; Dan helped found the North Carolina affiliate of the American Civil Liberties Union to fight that law. Dan represented "Catfish" Cole, a North Carolina Klan leader in a cross-burning case. He supported the free speech right of the John Birch Society. He found begging in the New York subways a form of free speech, bringing Charles Lamb into the fray on his side and challenging speech advocate Floyd Abrams, who represented the Transit Authority seeking to prevent begging on its premises. He headed a citizens' public inquiry into a bitter strike at the Brookside mine in Kentucky. He fought for academic freedom as a leader of the American Association of University Professors. He worked for the Rural Advancement Fund International helping small farmers keep their land. He picketed the theatre that refused to let black students into a showing of *Porgy and Bess*. He lobbied for an amendment to the National Labor Relations Act to cover hospital cooks and housekeepers. His pro-labor articles are among the best in the field. He went all the way to the United States Supreme Court to defend his friend Wilbur Hobby against fraud charges which Dan thought were brought against Hobby simply because Hobby was labor's foremost champion in the state.¹⁴ He organized a seminar on prisoners' rights to respond to real complaints from real prisoners. He helped found North Carolinians Against the Death Penalty and Southerners for Economic Justice. He somehow found time to serve on the Southern Regional Council, the National Sharecroppers Fund, and the North Carolina AFL-CIO Labor Law Center. And on and on.

The University of North Carolina as a whole is hardly in the vanguard of American liberalism. Yet this dedicated liberal, with his unflinching liberal record, was elected chairman of UNC's faculty by his peers, many of whom disagreed with much of Dan's actions and writings. This selection was a tribute not only to the faculty's great sense of purpose instilled by its longtime leader, Frank Porter Graham, but to the infectious integrity and warmth of Dan's whole life.

On December 8, 1974 the North Carolina Civil Liberties Union bestowed on Dan its Frank Porter Graham Award for "persistently shunn[ing] the ivory tower to combine teaching with deep involvement in the realities of human struggle." I could not attend the award ceremony, but wrote Dan a note of congratulations:

14. See *Hobby v. United States*, 468 U.S. 339, 340 (1984).

You will never win a spelling bee and I am sure the *Law Review* will never let you check its citations, but in my book you are exactly what a lawyer ought to be—compassionate, courageous, considerate, and energetic. North Carolina and the ACLU are fortunate to have you fight their battles.

And the students and faculty of UNC are fortunate to have Dan as their teacher, colleague, and role model. The Nation is the better for his defense of the rights of us all.

A decade ago Dan drew his own self-portrait while eulogizing a colleague in this review: "His life's performance was an affirmation of positive values. He was not sugary sweet; he was the salt of the earth."¹⁵

EUGENE GRESSMAN**

We the People, the friends and associates of Daniel Hubbard Pollitt, come not to bury but to praise and honor him. For it is written that he has reached that age when the shadows of forced retirement do descend upon him.

Though we are saddened by a great university's policy of self-immolation, we have no cause to grieve. Daniel Pollitt's Excellent Adventure is not yet ended. He is one of those fortunate academics whose coming of retirement age marks the end of but one of the many chapters in an amazing adventure.¹⁶

Yes, Daniel Pollitt was and is a gentle and effective teacher of constitutional law, labor law, and civil rights, much loved by his students. Perhaps he may pursue those talents at some other law school, as he has at Georgetown for lo these many summers past. Or perhaps he may finally achieve his long-held dream of establishing his own public service-oriented law school, the Big Rock Candy Mountain School of Law, replete with retired professors and near indigent students. Or perhaps he might be induced to continue his friendly and exciting seminars at his home in Chapel Hill.

15. Daniel H. Pollitt, *Morris Reed Gelblum, A Personal Reminiscence*, 60 N.C. L. REV. 451, 453 (1982).

** William Rand Kenan, Jr. Professor of Law Emeritus, University of North Carolina at Chapel Hill; Distinguished Visiting Professor of Law, Seton Hall University.

16. Indeed we take great pride, and some consolation, in knowing that because of Dan's tireless efforts, the fate of forced retirement will befall no more professors at the University of North Carolina.

But now we do well to reflect upon the many other ongoing adventures of Daniel Pollitt. In his quiet and unassuming manner Dan has done as much as anyone to make the Bill of Rights effective in North Carolina and in many other parts of the nation. Yet there is much still to be done. Does anyone think that Dan's retirement from full-time teaching will dampen his willingness to fight for the rights of minorities and the less fortunate in life? Will it quiet his passionate advocacy of the rights of migrant workers and other laborers? Will it force him to abandon picketing to protest the inhumanities of the death penalty, or any perpetuation of the segregation virus, in Chapel Hill or elsewhere? Will Dan withdraw from representing the indigent, forlorn prisoners in their court battles? In short, will retirement cause Dan to become a respectable southern "potted plant"?

No, Dan's Excellent Adventure is far, very far, from ended. By all accounts he has a happy and friendly and quiet exterior. But that exterior cannot mask a deeply felt empathy for the common persons, for those who are less fortunate. In some degree, this social concern may be due to his family heritage. The grandnephew of the gentle writer Elbert Hubbard, Dan was born into a family of Washington, D.C. lawyers. Both his grandfathers were preachers, and both his parents were Unitarians and members of the American Civil Liberties Union. His liberal political tradition was stirred during his early years in Washington when his parents entertained their New Deal lawyer friends, who enthusiastically supported Franklin D. Roosevelt's view on the role of government.

Dan's liberalism continued after his graduation from Cornell Law School. His first job was that of Law Clerk to the Honorable Henry W. Edgerton, a great liberal judge of the United States Court of Appeals for the District of Columbia Circuit. Then followed an apprenticeship as an associate in the law office of Joseph L. Rauh, Jr., during the McCarthy period of communist-hunting and loyalty-security bloodbaths. Much did Dan learn during this time. And from thence did Dan enter the teaching profession, beginning at the law school of the University of Arkansas. In the midst of these liberal experiences, Dan married Jean Ann Rutledge, a lawyer in her own right and the daughter of Justice Wiley B. Rutledge of the Supreme Court of the United States. Inheriting much of her father's judicial and personal liberalism, Jean Ann added greatly to the dimension and intensity of Dan's commitment to constitutional rights and civil liberties.

But a toughness of spirit, a heart of steel, lies beneath Dan's outward gentility. During the war years of the 1940s, Dan belonged to the United States Marines, rising from boot camp to the rank of first lieutenant. All of his foreign service was in the Pacific theatre of operations. It

culminated in 1945, when he led his troops into what was left of Nagasaki, one week after it was devastated by the atomic bomb. His mission: to destroy what remained of Japan's war capacity in that area, and to deploy Japanese translators among the remaining populace. What makes Dan's war experience even more searing is the fact that he received two Purple Hearts, one for injuries received in hand-to-hand combat.

Despite this war background, or more likely because of it, Dan has become an intense pacifist, a peaceful and gentle crusader. But a crusader who, although plain-spoken, speaks with an internal core of war-born toughness, ready to fight for other persons' constitutional rights no matter how great or futile the odds.

In a sense, Dan Pollitt is a study in contradictions. His outward appearances do not reveal his internal strengths. Yet he is modest and self-effacing to the extreme. While he will fight for the rights and privileges of others, he will not exploit or utilize many of his own. Who has not witnessed Dan's dislike of lavish expenditures, credit cards, expensive restaurants, new automobiles, computers and word processors, extended vacations (other than at his Holden Beach home), and many other middle class amenities?

In 1982, when Dan was chairman of the faculty of the University of North Carolina, he received the University's Thomas Jefferson Award. That award is given to the member of the university community "who, through personal influence and performance of duty in teaching, writing, and scholarship has best exemplified the ideals and objectives of Thomas Jefferson." His citation accompanying that award stated:

Whether in his office, in the classroom or in any forum, Daniel H. Pollitt is a person of deep convictions concerning human rights. He is always pleasant but equally persistent while translating his convictions into reality. He has a remarkable record of teaching, scholarship, and public service to the nation, to the state and to the University.

What was said in 1982 is even more true in 1992. And what we can truly say in 1992 bodes well for what we will be able to say about the forthcoming years of Daniel Pollitt's Excellent Adventure.

JUDITH W. WEGNER***

It is a privilege to join with such luminous colleagues in offering tribute to Dan Pollitt on the occasion of his retirement from full-time law teaching. The dean's job is challenging in many respects, but few challenges rise to the level of this one, as I try to speak on behalf of the law school faculty and staff, university colleagues, hundreds of current students, and thousands of alumni who have known Dan during his thirty-five-year teaching career here at Carolina. I have puzzled long and hard over the question how best to craft a verbal bouquet that captures the deep feelings of so many hearts. On behalf of our whole community, I offer these modest thoughts in remembrance and appreciation of a wonderful teacher, lawyer, community activist, and human being—Graham Kenan Professor Daniel Hubbard Pollitt.

Dan is a teacher in the best of senses—he is an exemplar who leaves no one who meets him untouched or unmoved. He does not draw his power from the podium, but from his sense of humor and perspective, his fundamental philosophy, and his commitment to moving below the surface to what really matters to those with whom he works. In a recent oral history interview, Dan offered his version of how he began teaching, while still in Washington, D.C. He had just finished representing a black mail messenger in the State Department who had been fired for being a Communist. In Dan's words:

I had my picture in the paper and so on. It was "Pollitt testifies" about something or other. Then I got a phone call from the Dean at American University who asked me if I would like to teach a course in securities starting in a couple of weeks. He was short-handed. I thought this came about from the picture in the paper and he was talking about the loyalty security programs and I thought, "Yes, I think I could work something up." You know. So I started to compile all the cases on loyalty security programs and the Coast Guard and the Maritime and so on. Then we had lunch and he said, "I brought you the book." It was *Sales and Secured Transactions* or something which I had not taken in law school. It was miserable. . . .

I taught the class and it was sort of fun because we met on Friday night for two hours or three hours and there were fifteen in the class and they all worked in the daytime. . . . I had the chief salesman from Uncle Joe Churner's Used Cars and he was our saviour. "What the hell is this? A bill of lading with freight bill attached." Only they were never attached. They'd

*** Dean and Professor of Law, University of North Carolina at Chapel Hill.

always gotten lost. He would explain and he'd bring in the illustrations and we'd discuss these things. We became close and we'd all go out to a nearby place and have a sandwich and a beer and go to the bus stop and go home. But I enjoyed it ultimately. I did so well at it that they asked me to teach the next semester a course in bills and notes

Dan has not changed all that much since those early days. He still tells stories. He still believes, in his words, that "the best education you can get is a student at one end of the log and [a good teacher sitting] at the other." He still has numerous students who wish to learn all he has to teach—constitutional law, labor law, employment discrimination, civil rights, the importance of heeding one's conscience and one's common sense. He still captures the hearts of alumni at continuing legal education programs by talking about flag burning and Barbara Frietchie.¹⁷ Happily for all of us Dan hopes to return, after a stint working in Washington, D.C., to teach from time to time, and to continue to inspire our numerous generations.

Dan also is a talented, creative, pathbreaking lawyer. I cannot even count the pro bono cases he has taken in the eleven years I have known him, battling out arguments on his manual typewriter under trying circumstances. I remember a cold Christmas when he sought an order to get someone out of jail on bail for the holiday; and the dramatic tale of the injustice his client had suffered—one that deeply impressed me, if not the judge! I remember, too, his struggles to complete a brief, again on his manual typewriter, with a deadline breathing down his neck—but this time with his broken arm in a plaster cast.

I remember Dan in Washington, before Congress, at least if his stories are to be believed: the tales of surviving the HUAC hearings—Dan, with handkerchiefs over his and his client's face in order to keep the client's daughter from seeing her father on television on the night of her high school prom. And could I forget Dan before the United States Supreme Court, arguing brilliantly about the composition of grand juries, the role of jury forepersons (who possess pragmatic power that only Justice Marshall could comprehend), and the meaning of the Sixth and Fourteenth Amendments—Dan, in mocassins, since he had not remembered to bring along his good shoes?

As all who know him can testify, Dan is a citizen activist and community organizer without peer. His credits, as a member of the national board of the American Civil Liberties Union, supporter of labor,

17. See John Greenleaf Whittier, *Barbara Frietchie*, reprinted in *Texas v. Johnson*, 491 U.S. 397, 424 (1989).

farmworkers, poor people, and dissidents, would fill this issue, if not this volume. Dan has been a mainstay of the civil rights movement in and around Chapel Hill. Many, like Esphur Foster, remember Dan going to jail with their brothers, friends, children, mothers. He has earned an enduring place in the hearts of University folk of all backgrounds, as a result of his work on behalf of cafeteria workers, his representation of unpopular faculty members, his efforts to organize buses for Vietnam-era trips to Washington, D.C., his unflappable advocacy for unpopular causes. Dan, as leader of the local chapter of the Association of American University Professors. Dan, as Chairman of the Faculty Council. Dan, with a collection of political lapel pins that would be the envy of any collector.

Three stories, two old, one new, bring this facet of his character to life. At a retirement party for Dan earlier this spring, UNC basketball coach Dean Smith reminisced about his work with Dan to integrate the athletic program here at UNC, as well as about their joint efforts to develop a hot breakfast program for poor minority children. Dan, in his recent oral history interviews, elaborated.

Dan described early, unsuccessful, efforts to recruit Kareem Abdul-Jabbar (then Lew Alcindor) during Frank McGuire's tenure as UNC basketball coach, and subsequent, successful steps to lure Donny Walsh onto the football team (and later to law school). Then came efforts, together with Coach Smith, to recruit Charlie Scott, one of the great stories in UNC's athletic history. Davidson College had made an abortive effort to sign Scott while he was at Laurinburg Academy, but when it became clear that restaurants around Davidson remained segregated, Scott's interest turned to UNC. Dean Smith, Dan, and UNC's one black medical student paid a call on Scott at Laurinburg. After a basketball game (in which, Dan attests, he had failed to identify which player was Scott) and a dinner at the headmaster's, the trio returned to Chapel Hill along with Scott to attend church at Binkley Baptist and to tour the medical school. Dan later offered to rent Scott his basement apartment, and attempted (unsuccessfully) to lure him to law school.

A short time later Dan put his advocate's skill to work once more on behalf of Coach Smith and the team. He told the story of taking the mother and father of a prospective black basketball player to lunch at the Carolina Inn to explain why Carolina was a better choice than Princeton (where Bill Bradley then played). Dan said:

Well, it's a segregated society down here and [your son] can't get his hair cut downtown. But we've got a very active movement and this is a place where you can holler if you want to and make a difference and protest. . . . Now if he goes to Princeton,

he'll be able to get a haircut probably, but they're going to be racist same as we are here, but it will be subtle and here it's out in the open. It's easier to do something about the open stuff than the other.

Dean Smith called him a week later to report that the student's mother "urged him to come here because [Dan] was the only one who had told her the truth in all their going around."

And again, just months ago, I had the pleasure of walking to downtown Chapel Hill with Dan, for lunch at the Ratskeller. Dan told me of the previous Friday's events. In the aftermath of the Los Angeles riots, law students had called him at 9:30 at night, to request that he join them in a modest campus protest march the next day. Dan enthusiastically agreed, and the next day was bucking up the spirits of the small group of marchers by reassuring them that even though they were barely a dozen, they could stand vigil at Silent Sam, and sing hymns. Along the way, with a few well-placed phone calls, Dan passed the word to Chancellor Hardin (who returned from the airport to join the group), journalism professor Chuck Stone (who helped lead the singing), the local press, and a group of many other undergraduate students who were, unbeknownst to the law group, gathering at the Pit. The demonstration was a peaceful one, with fervent discussion of the importance of the legal system and civil rights. Just another day in the life of Dan Pollitt.

Last, but certainly not least, Dan is a beloved and unforgettable human being. Colleagues comment: "Dan, no one could be your enemy." "When I think of Dan, I think of the saying he used to have posted in his office . . . 'Always do good; it will gratify your friends and confound your enemies.'" Dan, who can afflict the comfortable, also comforts the afflicted. (This is true even with deans: "Let everyone debate. It will go on for hours, and then the vote will be 25 to 5 in your favor.") Dan, a man of courage, compassion, perseverance, and resilience. Dan, who despite years of trying to perfect an imperfect law school, university, and larger society, remains unembittered, overflowing with human kindness, and unbowed.

Dan, we'll miss you. We're glad that you'll be returning soon. Chapel Hill could never be Chapel Hill without you.

KELVIN L. NEWSOME****

As a first-year law student, upperclass students often gave me conflicting advice about which professors to take as my legal education advanced. One exception to this deluge of varied opinions, however, was remarkable: the numerous accounts detailing Professor Dan Pollitt's kindness, sincerity, and commitment to preserving civil liberties. During the past two years I have had the honor of working with Professor Pollitt and experiencing his vitality firsthand, and I am saddened to know that his retirement from full-time teaching will deprive future law students of this most wonderful academic and human experience.

In a country where civil liberties lie under constant seige, Professor Pollitt is a hero. He selflessly protects the rights of those in need. To his teaching he brings not only his knowledge of facts and holdings, but also the life experience he gained from having dined with Dr. Martin Luther King, Jr. and being a mainstay in the American Civil Liberties Union. He has not won every legal battle. But he has never given up the fight, and he has maintained his sense of humor. As with so many students before me, Professor Pollitt's perseverance and passion for justice have inspired me to wage my own battle to preserve individual liberties. His unwavering sense of human dignity and his loving kindness have inspired generations of students and, I believe, have brought closer the day when justice and peace shall reign in America.

I will always remember Professor Pollitt, and particularly his civil rights seminar, for the sense of perspective he brought to legal education: Professor Pollitt de-emphasized academic formality and always focused on what makes a difference in the world. The seminar met at his home in Chapel Hill and we simply discussed civil liberties issues. That was it, but that was everything. Although Professor Pollitt did not hide his liberal political beliefs, he encouraged everyone to participate, regardless of political persuasion. We also learned from guest speakers who then were working in the legal trenches, most of whom were alumni of the seminar. Professor Pollitt clearly has influenced the lives of his students; many of them have chosen to champion the same noble causes for which he has worked so hard his entire professional life.

The civil rights seminar also was practical; students fulfilled their academic requirements by providing legal assistance to lawyers and organizations concerned with protecting individual freedom. We worked, for example, for voters' rights, prisoners' rights, and to ease the plight of the

**** J.D. 1992, University of North Carolina at Chapel Hill; Law Clerk to The Honorable Burley B. Mitchell, Supreme Court of North Carolina.

black farmer. We fought against illegal searches and seizures, and for the right to keep one's HIV status private. Professor Pollitt helped us realize that the law does not exist solely, or even primarily, in the ivory towers of legal theory, but in the streets, the tenements, the shacks, the factories, the jails, and the hearts and souls of America.

As I embark on my career in the law I too have set lofty goals for myself. I know in particular that my career will not be complete if I do not fight for at least one cause that would make me worthy of an invitation to speak before Professor Pollitt's seminar. Perhaps I will draft the legislation that overturns the Supreme Court's decision in *NLRB v. Mackay Radio & Telegraph Co.*¹⁸ and make Professor Pollitt proud. I know I write on behalf of thousands of Dan Pollitt's students when I say that because of him we are at once grateful for the past, saddened in the present, and hopeful for the future. For though our friend and teacher leaves Van Hecke-Wettach Hall, his teachings and his dreams will live on in us all for years to come.

18. 304 U.S. 333 (1938).

