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A terrible way to appoint new judges

Sean Rice and Rep. Fred Norton, outgoing speaker of the Minnesota House, may make fine judges — Rice on the Hennepin County bench, Norton on the Minnesota Appeals Court. They may have been the best-qualified judicial candidates available. But neither point is self-evident — because neither man endured the scrutiny and competition of a nonpolitical, merit-based selection process. Minnesotans have good reason to cynically characterize the appointments as Gov. Rudy Perpich taking care of his friends. And most worrisome of all, Perpich doesn't seem to care. His imperial, political approach to judicial selections has been criticized regularly, but he refuses to reform it.

In Norton's case, there was no screening process at all. A bill creating a 13th spot on the appeals court cleared the 1987 Legislature in its last days. A week later, Perpich hastily convened an evening press conference and announced that Norton was his choice. It matters little whether Norton's appointment was a political payoff arranged in advance or, as seems more likely, an example of Perpich's impulsiveness. No one was given formal opportunity to apply for the job, and Norton's qualifications were apparently evaluated only by Perpich and Chief Appeals Court Judge Peter Popovich. It's difficult to imagine a process more likely to undermine public confidence in the state judiciary.

Sean Rice did endure a selection process — but one thoroughly tainted by politics. When Perpich

took office in 1983, he dismantled former Gov. Al Quie's exemplary, nonpolitical merit-selection process and put in its place a committee that he alone appoints and that is dominated by DFL loyalists. Public cynicism is inevitable when such a committee favors the 35-year-old son of Rep. Jim Rice, former chairman of the House Appropriations Committee and one of Perpich's closest political allies.

A word about Sean Rice's mental-health problems. They shouldn't disqualify him from holding a seat on the county bench. Indeed, they give him a painfully earned perspective on the human condition that could make him a better judge. But the affliction makes rigorous merit-selection even more important. Mental-health authorities and Sean Rice's psychiatrist say he can function well if he faithfully remains on medication. Given the looseness and politics that dominate Perpich's selection process, Minnesotans have reason to worry that cronyism played a larger role than professional medical opinion in allaying concerns about Rice's health.

Whatever the appointment process, no one can accurately predict how any new judge will perform. But a rigorous and apolitical screening offers assurance that new appointees are the best persons available. In the cases of Norton and Rice, such confidence is impossible. They may be able men, but their abilities have been eclipsed by flaws in the processes that brought them their jobs.