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# Remarks: The Distinguished Life & Work of the Honorable John E. Simonett

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## **REMARKS: THE DISTINGUISHED LIFE & WORK OF THE HONORABLE JOHN E. SIMONETT**

Governor Al Quie<sup>†</sup>

I must begin by saying how much I appreciated Judge Ross's presentation. I learned many things about Justice Simonett that I never knew before, but I also recognized many things about the justice that led me to appoint him to the supreme court. I especially enjoyed it when Judge Ross explained Justice Simonett's approach to the art of writing—the justice gave a similar explanation to me in 1980.

In 1980, I looked at a number of district judges and lawyers when I made my two appointments to the supreme court. At that time, I picked two individuals—Doug Amdahl and John Simonett. Let me give you a little picture of why I picked these two individuals because for a long time I had some deep feelings about this process. When I ran for governor, I never gave much thought to the job of appointing judges. In 1979, when I took office, I learned that over 90% of the sitting judges had been appointed rather than elected, and so I soon came to appreciate the big task that was ahead of me.

In order to find fair and impartial judges, I started by writing down three words—three words that defined the qualities I would look for in an applicant. First, was competence; the second was respect, meaning respect for the law and respect for the litigants; and the third word was integrity. Those three words expressed the three basic qualities I looked for, and then I would flesh it out from there. These words describe John Simonett. He fit all three words almost perfectly—he was very competent, respectful, and he had extraordinary integrity. That said, I have got to say that I may well have picked him for another reason—it was because I was so

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<sup>†</sup> Governor Al Quie served as Minnesota's thirty-fifth governor from 1979–1983. These are edited remarks that Governor Quie made at a daylong continuing legal education seminar at William Mitchell College of Law on March 23, 2012, honoring the legal career of the Honorable John E. Simonett.

impressed by his wife, Doris, as well. I mean, now there's an outstanding person! [LAUGHING]

I need to tell you the source for the three qualities I looked for. For some reason or other I have always been interested in scripture. I was particularly intrigued by the Book of Exodus and the criteria Moses used in selecting judges. Moses's father-in-law, Jethro, visited Moses and watched him decide disputes. After his "performance evaluation" of Moses, he told Moses that he was doing a good job, but he was wearing himself out. Jethro then said Moses ought to appoint some other judges who are capable, fear God, and do not take dishonest gain. So now you can see how Jethro's advice fits the words that I have told you—competence, respect, and integrity. We need to evaluate attorneys who want to be judges, to find out their competence. Second, we need to find out whether they really respect the law and the Constitution, and whether they will respect all litigants. Finally—and this is the top one for me—the applicant must have integrity. I saw all of these qualities in John Simonett.

Some people might question Jethro's statement about fearing God. "Where does that fit in?" It means, to respect all litigants is really following the law. Moreover, a person who fears God most likely will treat his fellow human beings well while following the law.

The problem of selecting judges when I was governor was at least twofold. One of the problems has been solved, but neither of those two problems was solved when I first took office as governor. I very quickly took steps to solve one of the problems.

When I was governor, we established by executive order a merit-selection commission because I wanted capable people to advise me and to nominate qualified candidates. But I want to share with you one thing that is different from the merit-selection commission I created and the one we have now. The present law gives the governor the power to appoint seven at-large appointments to the Commission on Judicial Selection, and the supreme court gets to appoint two. The way I designed the executive order, I only appointed half of the commission members. All my advisors and staff members said, "No, you need to appoint at least one more than half, so you have control." My view was, if the people I appointed to the commission could not find candidates that the other commission members could support, how could people believe it was a fair and impartial process? I think in public

service, that is what is necessary for us to do.

In 2006, I became involved in a process to solve the second problem. That was when Justice Barry Anderson came to me and suggested that we ought to do something about, or at least to take a look at, the expensive competitive judicial campaigns that were developing across the country—and that was before the current situation in Wisconsin. We established a citizens’ commission, and we were all over the place. When we started, there was disagreement because we picked such a diverse group of citizens for the commission. To give you an idea about the diverse membership, there was Brian Melendez, who was then chair of the DFL party; and we had Annette Meeks, who became Tom Emmer’s running mate in the 2010 governor’s election. We also had labor and corporate representatives, both trial and defense attorneys, and judges from all three levels. Some of the people who served on that commission are here in this room listening to me today.

But we ultimately came together with some degree of unity. We agreed that people ought to know how judges were performing before they went to the polls to vote for or against a judge. Now, people generally have no clue when they go to the polls to vote for judges. Public performance evaluation is necessary and should be instituted. The evaluation must be done by a group of people whose evaluations are respected. So that is what our commission proposed—public performance evaluation. We also made another recommendation for change: Minnesota should go to retention elections. Presently, 93% of the judges were initially appointed by a governor. When judges seek reelection, 90% do not draw an opponent. Then all a voter can do is vote “yes.” As an alternative, we recommended a move to retention elections where voters can vote either “yes” or “no.”

We have worked on these recommendations for several years, but change has not occurred. Now here’s the reason why: some legislators just don’t like change. Also, there are some people who want to force all judges to face an opponent, and they have convinced some legislators to introduce legislation to accomplish this. I particularly want to address this effort because it is my own political party that is behind it. Their proposal would deny a governor’s appointee the right to run for that office at the next election. To me, taking away the freedom to run for an office, when you are qualified for that office, is unconscionable. That aspect alone is enough to turn me against the proposal. Another

part of their proposal would prohibit a judge who reached the mandatory retirement age of seventy from retiring 'til the end of that judge's term. This would prevent a governor's appointment and force a contested election. If the judge did not comply, he would have 25% of his pension taken away from him. Now, if anybody in this room is not upset about that, I really wonder what you are thinking about. [AUDIENCE LAUGHTER]

We need to make some changes in the way we retain judges. We need the kind of judges who we know are, and continue to be, competent; respect the law, the Constitution, and each litigant; and are persons of integrity. I also know that when someone appears before a judge and is treated with respect, that person generally knows that the judge has made a wise decision. I know this to be true because I go into our prisons on a regular basis. I have done this for many years. Every prisoner I meet who felt the sentencing judge did not respect him is angry. And every prisoner who felt the judge respected him accepts his punishment. This is both a fascinating and revealing observation for me.

Before I end, I want to share with you why I asked every applicant for a judgeship the question about the difference between love and justice. You may know that I am opposed to determinative sentencing. I like our sentencing guidelines in Minnesota because a judge can deviate either up or down. I believe a judge should be able to look at the law, the facts, the individual, and the Constitution, and then do what is best for the victim, the community, and the person who is the offender. Someday, most offenders will go back into the community again. When they do go back into the community, we want to maximize the chance that they will succeed. When a judge understands the meaning of both justice and love, that judge will be a much better judge.

Finally, when I look out at the group of people we have here today, I want you to know my admiration for you is great. I know you are absolutely essential in order that we may have justice in our state and country. Therefore, I want to end by urging you to keep up the good work. Thank you for all you do to make our legal system better.