

# Judge's open and shut case for female choice

By Michael Pelly, Sydney Morning Herald, August 18, 2005

The High Court judge Michael McHugh has challenged the Federal Government to replace him with a woman when he steps down in November, and says there are at least 10 who are qualified for the job.

Speaking last night at the University of Newcastle, Justice McHugh went beyond previous comments in which he pushed for women to fill some of the vacancies that will occur before 2009.

"There are at least 10 women judges serving on supreme courts of the states and the Federal Court who would make first class High Court justices," he said.

"I think there is an overpowering case to appoint a woman as my successor and some, at least, to the other three vacancies that will occur over the next 3½ years."

The Chief Justice, Murray Gleeson, and Justices Michael Kirby and Ian Callinan must all leave the bench by March 2009, having reached the compulsory retirement age of 70.

Justice McHugh said one compelling reason for the appointment of a woman was the need to maintain confidence in the judiciary. He said men and women should be equally represented. "In many cases, women lawyers will bring a different approach to legal problems."

Justice McHugh also said the greatest issue facing the law was the cost of justice. And he said time-charging by lawyers was the main culprit. "It has got to the point where only the very poor or the very wealthy can afford litigation these days," he said.

In his speech, titled Working as a High Court Judge, Justice McHugh also spoke about the workload on judges and how judgements were written.

He said the workload "borders on oppressive" and that he would leave the court with 18 months of untaken leave.

He said 60 per cent of all special leave cases centred on migration matters and 88 per cent of those involved unrepresented litigants.

After each case, judges would hold a conference and those who had strongly held opinions would be invited to write a draft judgement.

Justice McHugh said he liked to involve his associates - often university medallists - in the process. "Sometimes I have to remind the associates it was I who was appointed to the High Court."

He also drew laughter speaking about exchanges in the court, especially one involving the former Chief Justice Sir Anthony Mason.

"He [the lawyer] said: 'Your Honour has got me on the ropes'. Sir Anthony replied: 'On the canvas'."

And he said microphones often caught participants unaware. On being told their case was "not a suitable vehicle for special leave", the client turned to their lawyer and said, "Next time I will bring a Cadillac".



*Parting challenge ...Justice Michael McHugh believes more women should be appointed to the High Court.*