

McHugh's angels: 10 women fit for High Court, says top judge

By Michael Pelly Legal Reporter SMH August 19, 2005

Justice Michael McHugh has sealed his status as poster boy for women lawyers with his claim that there are 10 females who would make "first-class" High Court judges.

One of them, Susan Kiefel, of the Federal Court in Queensland, has emerged as favourite to replace Justice McHugh when he retires in November after 17 years.

In a speech at the University of Newcastle on Wednesday night he praised the only female judge in the High Court's history, Mary Gaudron, and said he wanted a woman to succeed him.

Justice Kiefel, 55, is believed to have missed out by only a handful of votes in cabinet when the Howard Government appointed Dyson Heydon upon Ms Gaudron's retirement in 2003.

She left school at 15, worked as a law firm receptionist, was Queensland's first female silk and has been a Federal Court judge since 1994. She is considered a conservative "black letter" lawyer in the mould of Justice Heydon.

The other leading female candidate would be Christine Wheeler, from the Supreme Court of Western Australia.

Justice McHugh has previously pressed for a woman to be considered for vacancies that occur before March 2009, but his Newcastle lecture was an open challenge to the Government.

"I think there is an overpowering case for appointing a woman as my successor and to some at least of the other three vacancies that occur in the next 3½ years on the High Court," he said.

The Federal Court's Susan Kenny, Susan Crennan, Catherine Branson and Annabelle Bennett would have claims to be in Justice McHugh's top 10, with Carmel McLure (Western Australia), Ruth McColl (NSW), Margaret Beazley (NSW), and Marilyn Warren, the Chief Justice of Victoria.

If the Government does not opt for a woman to replace Justice McHugh it will be two years until the next opportunity.

Ian Callinan reaches the retirement age of 70 in September 2007, followed by the Chief Justice, Murray Gleeson (August 2008) and Michael Kirby (March 2009). An announcement on Justice McHugh's successor is expected by mid-October, and the Prime Minister will have a big say.

Justice McHugh said "the need to maintain confidence in the legitimacy and impartiality of the justice system is, to me, an unanswerable argument for having a judiciary in which men and women are equally represented". In his speech, which was a revealing and humorous insight into the the High Court, he cited Ms Gaudron in pressing his case.

"There is nothing in the work of a High Court justice that cannot be done by a first-class woman lawyer who has the energy to cope with the workload. Mary Gaudron proved that beyond a doubt."

He said that despite "his [Chief Justice's Gleeson's] icy presence it is a warm and friendly court" but lawyers should not expect "the equivalent of a Woodstock or Nimbin love-in".

He also dismissed the notion that judges were "divorced from the real world".

"You would not have to be on the High Court for very long before you conclude that the only limit to human evil, depravity, and dishonesty is physical impossibility. Nor will you have to be there very long before you concluded there is no limit to human gullibility."