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TOAL'S GOAL: BECOMING 1ST FEMALE CHIEF JUSTICE

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Jean Toal wants to become the next state Supreme Court chief justice, but if her last judicial election is any indication, it won't be easy.

Still, Toal, who would be the first female chief justice in state history, said Tuesday she doesn't expect to have the problems she experienced with the Legislature in 1996. State lawmakers interviewed Tuesday foresee smoother sailing for Toal.

Toal told The State newspaper that to her knowledge, she is the only current Supreme Court justice interested in succeeding Chief Justice Ernest Finney, who announced Tuesday he will retire. Toal, 55, is the senior associate justice; traditionally, that person has been chosen for the chief justice job.

"I've been a member of this court for 11 years, and I feel I've made good, strong contributions," Toal said. "I feel I can make a good, strong contribution as the system's leader."

The other three associate justices - E.C. Burnett III, John Waller and James Moore - told The State they will not oppose Toal. She said she has the support of her colleagues on both the Supreme Court and Court of Appeals.

Toal, a Columbia resident who served as a Democratic state representative from 1975-88, was first elected to the Supreme Court in 1988. But in 1996, she became the first justice to face opposition since 1893.

During hearings for Toal's nomination, conservative organizations, particularly taxpayer groups, tried to paint her as a liberal activist. In addition, several court employees accused her of being too harsh with them.

Her opponent in the election, Circuit Judge Tom Ervin, who had the support of Republicans, bowed out less than two hours after legislators were allowed to commit their votes. Toal was elected to a full 10-year term.

Toal on Tuesday didn't want to discuss specifics of that election.

"I think that was a confluence of a lot of things that didn't simply involve my candidacy," she said. "I think that era is over in South Carolina."

Sen. Glenn McConnell, R-Charleston, chairman of the Judicial Merit Selection Commission, said the 1996 election is "water underneath the bridge."

"Justice Toal has been under the microscope probably as much as anybody could, and she's just come out with high-flying colors," McConnell said Tuesday.

Rep. Greg Delleney, D-Chester, vice-chairman of the Judicial Merit Selection Commission, said he doesn't expect Toal's bid for the chief justice seat to bog down in the Legislature.

"I think she's eminently qualified," he said. "In the past, it's been the most senior justice, and she's the most senior justice."

Delleney and McConnell said they know of no other candidates interested in Finney's job.

Applications are due by March 24, Delleney said. Public hearings will be held in May, with the Legislature to elect a successor in June.

McConnell said the June election will give lawmakers plenty of time to fill Toal's seat if she were elected chief justice.

The state Constitution requires that a Supreme Court justice be a U.S. citizen, at least 32, a licensed attorney for at least eight years, and a state resident for at least five years before the judicial election.

Delleney said the Judicial Merit Selection Commission looks at additional areas, including knowledge of the law for the position sought, moral character and reputation in the community. After public hearings, the commission will nominate the top three candidates - if there are that many - for the position.

Toal declined to discuss specific goals she would have if elected chief justice. But she added she "would hope that I would very much be in the mold of Chief Justice Finney."

"I would hope to build on his leadership," she said.

Toal said she hasn't given much thought yet to what her most significant opinions have been, though she acknowledged she likely will be asked that by the Judicial Merit Selection Commission.

Despite her liberal-activist label in the 1996 election, Toal has issued a number of conservative opinions, including upholding most death sentences, said Eldon Wedlock, a University of South Carolina Law School professor.

Toal wrote the dissent in a split court decision last fall upholding the constitutionality of video poker gaming. In 1997, she wrote an opinion that said a viable fetus can be considered a person under state law.

Yet on the more liberal side, Toal has been a supporter in her opinions of government intervention in child abuse and neglect cases, Wedlock said. "I think she's an excellent justice," he said.

Colleagues and others said they believe Toal is well-qualified for the chief justice job.

"Of course, she's good to make a good one," Waller said. "I think anybody on the court whom I've worked with would make a good chief justice."

"She is without doubt the possessor of one of the best legal minds that has ever been in our profession," said Columbia attorney I.S. Leevy Johnson, whose law partner, William Toal, is Toal's husband. "Because of her service as a legislator, she will enjoy good rapport with the General Assembly."

Johnson said what impresses him most about Toal and the retiring Finney is their devotion to their families. He noted that Toal's oldest daughter, Jean Toal Eisen, 27, works for U.S. Sen. Fritz Hollings, and that her youngest daughter, Lilla Toal, 18, is a National Merit Scholar at Dreher High School.

"Each of them (Toal and Finney) has raised children who have excelled," Johnson said.

Toal should not have a difficult time persuading lawmakers to appoint her chief justice, said **Jack Swerling**, a well-known Columbia criminal-defense lawyer. He said the political situation has changed since her bitterly contested 1996 election.

Jean Hofer Toal

* Personal: Born in Columbia. Age 55. Lives on Wheat Street. Member, St. Joseph's Catholic Church. Married to William Thomas Toal, also a lawyer. They have two daughters.

* Education: Graduate of Dreher High School, Agnes Scott College and University of South Carolina Law School. Toal and her husband were the only couple to simultaneously serve as managing editor and editor of the South Carolina Law Review.

* Legal career: Associate, Greenville law firm, 1968-1970, and associate and partner, Columbia law firm, 1970-1988. First elected to the court in 1988. She is the first woman, first Roman Catholic and first Columbia native to serve on the court.

* Political: Served in state House, 1975-1988. Parliamentarian for state Democratic Convention, 1970-1988.

* Hobbies: Gardening, golf and reading political biographies and murder mysteries. Atlanta Braves fan.

* Quote: "I've been a member of this court for 11 years, and I feel I've made good, strong contributions. I feel I can make a good, strong contribution as the system's leader."

S.C. Supreme Court

Three other justices serve on the court in addition to Ernest Finney and Jean Toal.

* E.C. Burnett III, 57, of Spartanburg, first elected to the court March 21, 1995. Graduate of Wofford College and University of South Carolina Law School. Served in state House 1973-1974. Spartanburg County probate judge, 1976-1980. Family Court judge, 1980-1981. Circuit

Court judge, 1981-1995.

* James Edward Moore, 62, of Greenwood, first elected to the court May 29, 1991. Earned bachelor's and law degrees from Duke University. Served in state House, 1969-1976. Circuit Court judge, 1976-1991.

* John Henry Waller Jr., 61, of Marion, first elected to the court May 11, 1994. Graduate of Wofford College and University of South Carolina Law School. Served in state House, 1967-1976 and state Senate, 1977-1980. Circuit Court judge, 1980-1994.

Associate Justice Jean Toal. LINDA STELTER/THE STATE



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