University of Queensland
Moot Court Bench Inauguration

6.30pm, Monday 30 October

The Hon Paul de Jersey AC, Chief Justice of Queensland

It is my great pleasure to be here tonight, and a real honour to be patron of the University of Queensland Moot Court Bench – the very *first* of its kind in Australia.

The TC Beirne School of Law has established an impressive reputation as a formidable mooting force. Under the brilliant tutelage of coaches Professor Gabriel Moens and Mr Anthony Cassimatis, student teams representing this law school have, in this year alone, most impressively won the Willem C Vis International Commercial Arbitration Moot and the Spirit of Jessup award in the Philip C Jessup International Law Moot Competition, and reached second place in the John Marshall Informational Technology Moot competition in Chicago. The law school now draws on the tradition of its finest American counterparts in setting up– with generous support from Corrs Chambers Westgarth – an exciting new Moot Court Bench, with the aim of promoting excellence in the written and oral advocacy skills of all students.

The judges of the inaugural Bench are to be congratulated – they have been selected for their advocacy, public speaking and administrative experience, academic excellence, research and writing skills, initiative and commitment to their school. They perform administrative, adjudicative, coaching, research and editing roles, as well as participating themselves in international moot competition teams. The Bench gains from the wisdom of the Moot Court Committee, comprising the Head of School

Professor Tony Tarr, the International Moot Teams' coaches Professor Moens and Mr Cassimatis, the Director of the Dispute Management Centre Dr Nadja Alexander, Advocacy Co-ordinator Mr Peter Alcorn and the Chief Justice, Peter Travis, and Executive Justice, Peter Black, of the Bench.

It will come as no great surprise that, as one who frequently listens to advocates and reads their written submissions, I fully endorse your aim! But the rewards of greater excellence in advocacy are more than mere preparedness for appearing in the courts – you mooters here this evening may boast personal achievement even in international competition, and display enhanced confidence and superior communicative skills, as well as continuing to enjoy fellowship with your mooting peers. But I hardly need convince anyone present of the merits of mooting!

Traditionally, those hailed as great advocates were the skilled orators who appealed to the hearts and minds of criminal and also, then, civil juries – masters of murder trials, libel, divorce and fraud. When in 1961 Lord Birkett of Ulverston spoke of "Six Great Advocates"[i], he mentioned the persuasive Sir Edward Clarke KC, the versatile Sir Rufus Isaacs KC, the 'elemental force' that was Sir Charles Russell QC, the greatest of cross-examiners Sir Patrick Hastings KC, Thomas Erskine – described as "the very greatest advocate who ever practiced at the English Bar"[ii], and Sir Edward Marshall Hall KC – "one of the greatest exponents of the art [of advocacy]" and "the last of his kind"[iii].

Today, especially in a jury-scarce civil legal environment, excelling as an advocate requires more. In a speech addressing "Advocacy as Art"[iv], Michael Beloff QC described the "pure jury advocate" as "like a one-club golf player".[v] Taking as an example Sir Edward Marshall Hall, Beloff argued he "fell short of true greatness because of his inability to adapt himself to his Tribunal."[vi] The same Sir Edward, who was described as "one of the greatest…", is said to have whispered rather too loudly to his Junior during a case in the Court of Appeal: "You must take this point…There's some law in it."[vii] Today advocacy is exercised in a wide range of fora – impressively reflected in the range of competition facilitated by the Moot Court Bench, from witness examination to arbitration.

I am traditionally limited in what I should say of living legendary advocates of the local scene. Of former times, Dan Casey QC of the Queensland criminal courts, and Maurice Byers QC and Garfield Barwick QC on the national stage, readily come to mind. We are not in Queensland short of very good advocates.

His Honour Judge Edward Abbott Parry wrote early this century of the "Seven Lamps of Advocacy", which the advocate must keep burning 'upon the altars of justice'[viii] . His seven lamps were : honesty, courage, industry, wit, eloquence, judgment and fellowship. The first, honesty, he saw as central to great advocacy, and illustrated with an example of what has been described as the 'perverse honesty'[ix] of Abraham Lincoln. Appearing before the Supreme Court of Illinois for the first time, Lincoln said:

> *"This is the first case I have ever had in this court, and I have therefore examined it with great care. As the court will perceive by looking at the abstract of the record, the only question in the case is one of authority. I have not been able to find any authority to sustain my side of the case, but I have found several cases directly in point on the other side. I will now give these authorities to the court, and then submit the case."*[x]

– and the need ethically to do that is of course part of the reason why advocates in this country still enjoy immunity from suit in negligence.

Those female advocates present will be a little perturbed by Judge Parry's application of his "lamps" concept to women. Giving a lecture at Cambridge in 1924, he commented : "*Honesty and courage women have: but industry crushes them; wit they admire but do not possess. Eloquence they neglect; judgment they lack; fellowship is alien to them."*[xi] With the illumination of personal experience I must, of course, strongly disagree! Indeed, as we read, well organized, dedicated women are said to be striding well ahead of their less directed male counterparts in all fields! But Judge Parry's comments highlight the role that one's era plays in what one perceives as excellent advocacy. The tricks employed by Sir Edward Marshall Hall would hardly impress today – as Beloff describes, he

> *" would make a grand entrance always after the opening of the case proceeded by his clerk carrying his cushion and other odds and ends*

which he arranged. When his opponent started to make submissions, he picked up what appeared to be a scent spray and squirted it three or four times up his nostrils."[xii]

I cannot see such tactics succeeding with my own judicial colleagues. You judges of the Moot Court Bench will no doubt witness all kinds of antics, as well as many very fine performances by the students of this law school.

The life of the advocate, it has been suggested, is never however a bed of roses – it is either all roses and no bed, or all bed and no roses! One of my abiding memories of life at the bar is of its intensity: much very hard work, though with substantial reward. The challenge was always to strike an appropriate balance, and I know you students of today are keenly alive to that imperative.

I wish you all the best as you develop the case law of TC Beirne! Congratulations and best wishes to all who participate in this pioneering, student-run, Moot Court Bench. Happy mooting!

[i] Birkett, WN, 1st Baron Ulverston.1961. *Six Great Advocates.* Harmondsworth:Penguin.
[ii] *Ibid*, p 82
[iii] *Ibid*, p 21
[iv] Beloff QC, MJ. 2000. "Advocacy as Art", *Margaret Howard Memorial Lecture,* Oxford.
[v] *Ibid*, p 18
[vi] *Id*
[vii] *Id*
[viii] Parry, Sir EA. 1923. *The Seven Lamps of Advocacy.* London: Fisher Unwin, p 13
[ix] *Ibid*, p 19
[x] *Id*

[xi] Beloff, p 19
[xii] *Ibid*, p 25