



**Sir Harry Gibbs National Moot Competition Grand Final Awards Dinner
Monday 4 October 2004, 7.30pm
Sebel, 95 Charlotte St**

Chief Justice Paul de Jersey AC

It is a great pleasure to address you. Congratulations to all involved in the proceedings this evening! Four years ago, it was my honour to speak at the inauguration of the University of Queensland Moot Court Bench. I then mentioned the so-called “Seven Lamps of Advocacy” identified early last century by the impressively named Judge Edward Abbott Parry: honesty, courage, industry, wit, eloquence, judgment and fellowship. Those qualities have all been evident in the extremely high standard competition we have been privileged to experience today.

The competition has grown substantially this year, with the participation of 13 universities from around Australia. When the competition was launched in 2002, it was the first of its type in Australia. The focus of this competition, on “national rather than local law”, with an emphasis on extensive preparation, was “traditionally reserved [by our law schools] for international competitions.” It is always refreshing to see an innovative project succeeding. The organisers posed a challenging constitutional law problem. I commend the participants for rising so well to that challenge. I also congratulate the T.C. Beirne School of Law for its continued support of mooting competitions.

I suppose many of you debated at school: maybe now at university – it is a common feature with prospective lawyers. As a schoolboy I was heavily involved in debating and I recall struggling for acceptance. I remember urging the Master who edited the school magazine to list the Captain of Debating with the other activity captains at the front of the magazine. He dismissed me as a presumptuous upstart. Maybe he was teaching me a lesson in humility – you see I happened to be the Captain! Tonight it is reassuring to see mooting



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– really a refined example of debating – is held in such high esteem among tertiary institutions, and that you are receiving the respect you deserve!

I believe Sir Harry Gibbs, if present, would have been impressed by the ingenuity of the argument presented this evening. Sir Harry's national, indeed international standing as a jurist is of legendary proportion. His grounding in principle provides an inspiring example for us all. I hope you may come to learn of his achievement, and regard it as a source of encouragement. Justice Williams of our Court of Appeal recounts a diverting episode in the book, *Queensland Judges on the High Court*, about this competition's namesake, perhaps a little closer to your present situations. It concerned Sir Harry's admission to the Bar:

[Sir Harry Gibbs], and [his friend Tom] Matthews, as the holders of first class Honours degrees, sought admission without any payment of any fee, relying on certain provisions of the Barristers' Admission Rules. The Barristers' Board contested the construction placed on the Rule by Mr P.L. Hart who appeared for Matthews and Gibbs ... the court (Blair CJ, Webb and E.A. Douglas JJ) held in favour of the applicants. E.A. Douglas J noted: "I am very pleased that these young men, who have qualified themselves by obtaining distinction, should have their work recognised in some tangible form". Thus the precedent was set absolving honours graduates from paying admission fees until the Rules were amended in 2001.

That the fees are no longer waived is, by the way, a reflection of the financial need of the Supreme Court Library Committee: please still strive for honours.

Now I noted a deal of quick-witted flexibility in the competition this evening. I cannot claim to have demonstrated any great mental flexibility when I debated for my school. Indeed, two of my then sparring partners – now also Judges – have since accused me of a degree of dull uniformity. They remind me, for example, that I had two standard jokes, which I managed to introduce into



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every debate, whatever the topic. I won't burden you with the jokes. I will however tell you of my undoing. Come the final debate, and after my speech – jokes and all – I realised, to my great consternation, that we had had the same adjudicator before. But he was very kind to me – no doubt appreciating my terrific sense of humour!

The great advantage of debating, as with mooting, in my opinion, is that it develops one's mental agility. I was much intrigued by the performance of one particular school team I debated against in the 60's. That team relied heavily on the pronouncements of a little known Greek philosopher. Curiously, this 'philosopher' had something clever and interesting to say on almost every topic we undertook, and furthermore, his views coincided exactly with the position that team had to promote. The curiosity was not so apparent to me then. But about 10 years later, the chief culprit revealed to me that his so-called philosopher was entirely fictional! He went on to become the managing partner of a very successful firm of Brisbane solicitors, and, I hasten to add, is scrupulously honest. I wonder whether during your preparation for this moot, you may perhaps have entertained the idea that a perfect judgment could somewhere be crafted to support your arguments! No, of course not.

I am still surrounded by debate. A Judge cannot escape it. And the argument is not confined to the barristers. Sometimes the public intervenes. It is then one must be careful to restrain the quick quip in response. It's alright, you see, to banter with the barristers, but one must be more circumspect when dealing with the public – it is they who employ you. It's rather like rubbishing your opponent to death, but later speaking with profound reverence to the adjudicator, especially if he or she has found your way. I found myself a few years ago having to sentence a young bank robber to a substantial term of imprisonment. As I was leaving the court, having passed the sentence, the prisoner's somewhat upset mother shouted after me: 'May God strike you dead.' I suppose I could have responded: 'No, madam, you need not invoke



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the Deity, but you may, if you wish, invoke the Court of Appeal', but silence was golden.

You may be fortunate enough to keep in touch in later life with your current mooting contacts. I really feel the intellectual fellowship which characterises mooting teams may be more enduring than the physical camaraderie of the rugby field. Or is that heresy? Particularly in light of the 'footy fever' of the past few weeks!

I have kept up some degree of contact with two of my three co-debaters, one of whom is an official secretary to a vice-regal. Another staunch former debating opponent sits on the Supreme Court and another is on the Federal Court. To add to this, my debating Master went to the Bar, and regularly appeared before me for many years – and, I might say, with considerable success!

Competitions like this one, promoting excellence in written and oral advocacy are excellent training tools, particularly for the bar, if you are that way inclined. Keep those skills: they will serve you well whatever your destination – and above all, foster your flair.

Once again, congratulations to all participants in the 2004 Sir Harry Gibbs National Moot Competition!