

INSOL Tenth Quadrennial Congress

14 March 2017

[Opening remarks of Scott Atkins]

III and INSOL International Inaugural Ian Fletcher International Insolvency Law Moot

Good afternoon distinguished guests, mooters, ladies and gentlemen

On behalf of INSOL International and the International Insolvency Institute, it is my honour to also extend a very warm welcome to each of you at this Inaugural Ian Fletcher International Insolvency Law Moot.

It is also my pleasure to welcome you to my home town of Sydney - a vibrant, dynamic and progressive global city.

As you have already heard, this is the first joint initiative of INSOL International and the III. I am proud to be a member of the Executive of the INSOL Board and an inaugural INSOL Fellow. I am also a member of the prestigious and invitation-only III. I actually have a day job too as a restructuring partner and chairman of an Australian law firm, Henry Davis York.

The President of INSOL International - Mr Mark Robinson (another Sydney-sider) and the President of the III, the Honourable James Peck of New York, are unable to be here today - but both extend their warmest best wishes.

When the possibility of a global insolvency law moot was first floated, it made immediate sense that it should have the support of INSOL International and the III. If I may share a little about each then you will understand why.

The **International Insolvency Institute** is a non-profit, limited-membership organization dedicated to advancing and promoting insolvency as a respected discipline in the international field. Its primary objectives include improving international co-operation in the insolvency area and achieving greater co-ordination among nations in multinational business reorganizations and restructurings.

INSOL International is a member-driven network, maximising global economic value by improving solutions to cross-border issues, advancing restructuring and insolvency systems through the deep expertise of its 10,000 plus members. INSOL International influences global restructuring and insolvency practice and policy. INSOL celebrates its 35th anniversary this year.

Both the III and INSOL's membership is drawn from the most senior and respected insolvency practitioners, judges and academics in the world and both have valuable liaisons with many of the most senior professionals in the insolvency field.

I would be delighted to discuss your future participation in both organisations and you can find me through google.

What should fascinate us all is that mooting has an ancient history in the legal profession of our tradition. The first recorded mention of moots in English legal history was in 1428 but it certainly pre-dated that year. The records of Lincoln's Inn (literally the Black Books) state that a member was expelled from the Inn in that year for a default in mooting. Clearly enough the system of mock courts, in which students contested orally some fine point of law, was well established by that time.

The records of the fifteenth and sixteenth centuries tell of the organisation of legal education in the societies of the Inns of Court in London in which barristers practised the craft of law and students learned the skills necessary for practice by watching and imitating them.

So the system of mooting was established in London as one of the two major skills in which the student at law had to be trained. The other was reading. Fortunately there survive to this day the books of causes that set out a case, or a series of facts, for discussion. The problems of those times relating to land law and the application of statute law, are carefully described. They give an example both of the kind of society in which such problems arose and of the continuity of many legal questions.

As in present times, the moots in which the students disputed in Lancastrian and Tudor England, were conducted with the

participation of senior members of the legal profession: judges and barristers. They were commonly conducted in legal French, the language in which the problem, and the facts, were recorded.

One of the finest of the moot books from Tudor times is now owned by Harvard Law School. It contains cases in the form of set problems not unlike examination questions, but usually ending with the occult question "Ceux que droit?" or "What does the law say on this?" Some of the problems are based on real cases (as indeed are many moot problems today). Others explore abiding legal puzzles.

It is sobering for us all to recognise that the experience you will be immersed in over the coming days has its origin in traditions dating back over 600 years ago.

If I may finish on a personal note. I have had the privilege of attending lectures in programmes convened by Professor Ian Fletcher and Professor Rosalind Mason and have lectured in courses convened by Professor Stumbles - so it is an additional honour today to be able to recognize their respective contributions to the field of international insolvency - a field in which they can genuinely claim to be among the leaders. We should again congratulate Professor Mason for her tireless energy and commitment in bringing this moot to its pinnacle in Sydney.

I look forward to seeing how the brightest mooters in the world tackle the challenges over the coming days. As Winston Churchill would have cause to remind us: **'success is not final, and failure is not fatal: it is the courage to continue that counts.'**

I wish you the best of luck for the coming days and may the best mooters win!

Thank you