



**Official Opening of Moot Court  
Edith Cowan University**

Address

by

**The Honourable Wayne Martin AC  
Chief Justice of Western Australia**

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## **Introduction**

It is a great pleasure and an honour to have been invited to officially open the Moot Court at the School of Law at Edith Cowan University. Before going any further, I would like to acknowledge the traditional owners of the land on which we meet, the Whadjuk people, who form part of the great Noongar clan of South Western Australia, and pay my respects to their elders past and present and acknowledge their continuing stewardship of these lands.

## **The ancient and the modern**

The Moot Court which we are opening this evening embodies a fascinating combination of the ancient and the modern. The ancient is represented not just by my presence, but by the notion of the 'moot', a word which comes from ancient Anglo Saxon English and, before that, the Germanic languages which the Saxons took with them to the large island off the coast of mainland Europe. The word can be loosely translated to mean 'meeting' or 'assembly'. A form of the word is embodied in the 'Witenagemot' – a word used by the Anglo Saxons to describe a meeting of wise men or elders – the ruling class in Anglo Saxon times, the function of which was to advise the king. The participants in the meeting included the most important ecclesiastical and secular figures in the land, and the seeds of what was to become the English Parliament can be seen in this institution.

J K Rowling was obviously familiar with this institution as she purloined the name to fashion her Wizengamot – the name she gave to the wizard council and court in the Harry Potter series of books and over which Dumbledore presided. In *The Lord of the Rings* J R R Tolkien also took literary licence of the word 'moot' when he described the meeting of Ents as the 'Entmoot'.

## **The moot in legal education**

From these ancient origins the word 'moot' was coined to describe what was to become a significant feature of legal education over many centuries. The teaching of law at universities is a relatively recent phenomenon, occurring first in North America before the notion was taken up by English universities only as recently as the 19th Century. Before that, in England, legal education took the form of apprenticeship – solicitors being trained by working as articled clerks in a solicitor's firm, and barristers being trained by undertaking pupillage at one of the Inns of Court. A prominent feature of the education provided by the Inns of Court was the 'moot', where the benchers of the Inn would gather to assess the manner in which the pupils argued difficult or contentious points of law. It was one of the more significant components of the formal training provided by the Inns of Court.

Happily, when legal training shifted to the universities, the 'moot' went with it. I was an active participant in mooting during my own law studies more than 45 years ago, and was fortunate enough to represent the State at an intervarsity mooting competition in Melbourne. It was so long ago that we travelled to Melbourne by train!!! (although that was actually a lot of fun).

At first sight mooting might appear to be just another component of practical training for students who wish to enter the legal profession, and there is no doubt that mooting does perform that function. However, mooting is much more than that, which is just as well because, of course, the teaching of law at university is not only about preparing students for entry into the legal profession, but also aims to provide a much broader education for those students whose careers lie elsewhere.

The real strength of mooting lies in the manner in which it requires students to develop a variety of analytical skills including:

- identifying the legal issues which arise from a hypothetical set of facts
- researching the identified legal issues
- constructing a logical and principled argument which not only develops a series of propositions which support a particular conclusion, but also effectively counters propositions to the contrary
- the succinct oral expression of that argument, and
- the capacity to respond immediately to challenges to the arguments presented.

The development of these skills provides students with insight into the manner in which the common law developed and evolved because, of course, the evolution of the principles of law which underpin contemporary Australian common law occurred through precisely this process – namely, the identification and resolution of legal issues arising from a set of facts, and the derivation of legal principles through this iterative process.

### **The modern**

This ancient method of legal education has been combined with the modern in this terrific facility by the incorporation of state of the art technology. Information technology permeates every aspect of life today and the law is no exception. Legal research is today predominantly conducted through electronic databases and the traditional law library is a much less significant feature of both legal education and legal practice. Audio visual technology is used every day in every court in Western Australia to present defendants and witnesses to the court through a digital image rather than in person. Although Western Australia has lagged behind other jurisdictions in this area, we are finally moving to a world of electronic lodgement of documents in all courts in this State. Electronic trials, in which documentary evidence is presented in digital

rather than paper form, have been a feature of legal practice in this State for more than 20 years.

It follows that if a moot court is to replicate, as near as possible, a contemporary courtroom setting, it must contain and utilise the technology which is a feature of contemporary courtrooms. It is a credit to those responsible for planning and developing this moot court that they have understood and been able to implement this important feature.

### **Conclusion**

I have no doubt that this terrific new facility will add a new dimension to the experience of students in this law school and will add significantly to the quality of legal education provided, better equipping those students for whatever career path they may follow in the future.

I am very pleased to officially open this Moot Court.