assessing negotiation as part of the BVC, which is a year long course to prepare trainees for the Bar of England and Wales. There have been two main underlying changes in the teaching during this period. First, the emphasis of the teaching has been switched from strategy to substance. Secondly, there has been a move from exposing trainees to a variety of concepts, to setting out specific steps for them to follow so that they prepare in an organised way and are thus enabled to be in control of what they do in a negotiation, regardless of the strategies of the parties.

At the start of the BVC in 1989, the lecturers were anxious about being too prescriptive in their teaching. They felt that trainees would learn best if they were exposed to a broad range of civil and criminal contexts and to the different theories and practicalities of negotiation, and were made to appreciate the differences and learn through discovery what was best for them in any particular negotiation.

Staff, however, became concerned on two accounts. First, they felt that the teaching did not take into account the specific circumstances in which trainees would be negotiating in practice. In particular, it had not sufficiently been considered how the principled (as opposed to problem-solving) approach worked in the 'at the court door' context in which the trainees would be negotiating. Secondly, they were concerned that trainees did not seem to be learning how to prepare in such a way that they could use their case analysis effectively in the negotiation. While clear about what they wanted to get out of the negotiation, many trainees were far from clear about what they would actually do to achieve this. Overall, it was felt by lecturers that, while an understanding of strategy was important, they were not focusing enough on the actual substance/content of the negotiations trainees would conduct in practice, and the detailed and practical preparation that would be needed. This lack may have sent the message to trainees that the selection of a particular strategy was more important than thorough analysis of the case.

The gradual changes made to the course have been consolidated and it now focuses more expressly on the substance of the negotiation. This is taught through a conceptual paradigm which consists of basic steps to enable trainees to prepare in an organised way. The first of the main stages of preparation is the preliminary analysis which includes identifying and understanding the objectives of both parties, the issues underlying the dispute, the factual and legal basis of the issues and the need for any information exchange. The next stage is formulating and evaluating arguments and identifying a reasonable settlement standard. Planning what concessions to seek and make is the third step. The final stage is to consider the best way to structure the negotiation, taking into account the issues in dispute, the wants and needs of the parties and the court door context of the negotiation with the attendant limitations and time pressure. In line with these changes, the course materials have also been altered to make them more useful teaching vehicles.

Selectively focusing on the substance of the negotiation has enabled the course staff to concentrate on those aspects they think are the most helpful to trainees in developing practical tools to use in negotiations, whatever their or their opponent's personality or strategy. The author is convinced that, as teaching has become more explicit and has emphasised the need to develop the specific skills of analysis, persuasive argument and concession planning, the trainees have become more sophisticated negotiators.

One of the interesting aspects of the change in focus to more specific teaching about the substance of negotiation has been how it has highlighted, for the staff involved, the similarities and differences between 'court door' negotiation and court room advocacy, particularly the ability to use persuasive argument. An essential persuasive skill for a lawyer, there appears to be little express teaching about the formulation and evaluation of argument. Many lawyers lack a basic understanding of the structure and process of legal argumentation. The BVC team are currently developing their teaching to provide trainees with more precise guidance on the construction and use of argument.

Teaching trial advocacy: inviting the thespian into Blackstone's tower
L McCrimmon & I Maxwell
33 *Law Teacher* 1, 1999, pp 31–49

The trial process embodies three categories of skills and activities: foundation skills; preparation skills and presentation skills. Trial advocacy courses modelled on the National Institute for Trial Advocacy (NITA) simulation / critique model of advocacy training focus on the presentation skills, the trial itself. Within the context of the NITA model, preparation for performance tends to be confined to case analysis, the development of an effective case theory and the formulation of a case theme. Drama, as an integral part of the advocate's preparation for trial, is largely ignored. Further, an analysis of the trial / theatrical performance interface is not addressed in other courses in the traditional law curriculum. This neglect warrants attention and models of acting should be considered when modifying an existing advocacy course or when developing a new course.

In the course described by the authors, students participate in a two hour workshop designed by actor Ian Maxwell. The workshop starts with a few very simple exercises in proxemics and kinesics: the instructors get students to move through space, ask them to stop and talk to their classmates, and then instruct them to 'freeze' in order to analyse their body language with re-

spect to each other. Without being proscriptive, it is possible to encourage students to understand how their proximity to each other — 'proxemics' — and their own embodiment — 'kinesics' — conveys or creates particular meanings for others. The students then engage in 'status exercises', in which they experiment with eye contact and relative height as they adopt broad or narrow stances, take up more or less physical space, etc. Through participating in and observing such exercises, students begin to understand how the manipulation of certain variables might help put a witness at ease, or, alternatively, be used to create discomfort.

In the second half of the workshop students are given Shakespeare soliloquies to perform. They are asked to pay attention to the content and structure of what they are saying, not to get carried away with the language or emotion of the piece. When performing the piece they are encouraged to focus on the effect they are having on their audience, and to attempt to produce the appropriate gesture or inflection of voice necessary to move the spectator along to the desired state of emotion and understanding. Emphasis is placed on the advocate's ultimate objective, which is to lead the audience through the stages of the argument towards a conclusion.

The first stage of rehearsal involves an analytical phase, sometimes referred to as 'table work', in which the text is broken down into units of action. This precedes rehearsal in space. In the next step students are introduced to the principle of rehearsing 'big' and performing 'small', and are encouraged, when rehearsing argument, to find kinesthetic analogues for figures of logic. For example, words like 'yet', 'but', 'however', 'or' can be used to reorient the body in space. If the speech involves a thesis-antithesis structure, these images or ideas are placed at opposite ends of the rehearsal room, and the advocate moves between them. For example, emphasis of a point that, in rehearsal, involved a movement from one end of the room to the other may, at trial, consist of a turn of the head or a small hand movement. Through rehearsal, gestures and inflections of voice are programmed into the 'body memory', freeing up the mind to monitor the emotion and understanding of the judge and jury.

This rehearsal technique can be adapted to assist advocacy students to prepare for their 'performance' of various components of the trial. Opening and closing addresses are immediately obvious. This is not to suggest that students should prepare a detailed 'script' of their addresses. Rather, they are encouraged to 'table work' their outline to understand how a piece of written text is moved into a performance. By correlating points of argument to units of action, the advocate can develop a feel for moving their audience through a complex set of ideas.

On a very basic level it must be acknowledged that the acquisition of acting techniques, if used inappropriately, prompt some students to engage in over-zealous advocacy. To warrant coverage in a trial advocacy course, instruction in the actor's craft must be taught within a context of ethics and professional responsibility. Advocates should strive to be persuasive and it is the responsibility of advocacy teachers to expose students to techniques that can be used to achieve that objective. It needs to be recognised that courtroom advocacy does take place in the context of a performance and rehearsal techniques warrant coverage in an advocacy course.

Incorporating dispute resolution and drafting skills into a substantive law course

R Buckley

16 *J Prof L Educ* 2, 1998, pp 261–269

In an integrated skills program, each legal skill is studied in a module incorporated into a substantive law subject, with each skill revisited a number of times during the degree to reinforce and build upon the prior learning. At Bond University six skills are taught, each between two and four times. A student will complete 18 skills modules during the course of the degree. However, skills are taught in only 13 compulsory law subjects in the degree. In step with contemporary trends, much of the degree is comprised of a broad range of elective courses which, for reasons of coverage and orderly progression, are not suitable vehicles for the inclusion of skill modules. Accordingly, more than one skill needs to be taught in each compulsory subject. This article addresses how to teach two skills modules in the one subject without overburdening students or faculty. The two chosen skills are dispute resolution and drafting. The chosen substantive subject is Contracts.

The skills taught in the Bond integrated program are legal research and analysis, legal writing and drafting, information technology, dispute resolution, advocacy and oral presentation, and client interviewing and communication. Skills modules are allocated to specific subjects based on an assessment of how good a fit a skill is with a subject. Drafting a contract in a Contracts subject, for instance, is an obvious fit and serves to make concrete a lot of otherwise abstract learning. Likewise, dispute resolution is an obvious fit in a Remedies course, as negotiation resolves far more disputes than litigation. The number of modules offered in each skill varies and is based on an assessment of how many modules students require to attain the desired level of competence. The place of the skills modules within the degree is determined by an assessment of the stage at which students need the specific skills and the stage at which they can most usefully be taught.

In general, skills modules are taught at Bond in two ways: in extra classes