

# **Government's Defense of the *Status Quo*: Advocating a Shift in Applying Presumption Theory In Intercollegiate Parliamentary Debate**

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## **Introduction**

Fictional FBI agents Scully and Mulder of the "X Files" would have us believe that "the truth is out there." The Apostle John tells us "Then you will know the truth and the truth shall set you free" (John 8:32). A bit further in his Gospel, John reveals that Jesus makes the following claim to Pontius Pilate, the Roman Governor of Samaria and Judea presiding at Jesus' trial. "You are right in saying I am a King. In fact for this reason I came into the world, to testify to the truth. Everyone on the side of truth listens to me" (John 18:37). To which Pilate asks a question that has long plagued rhetoricians and philosophers, "What is truth?" (John 18:38) This quest for truth has become even more confusing in a post modern era that tells us there are many different, often contradictory or mutually exclusive claims to truth and that all such truth claims may be equally valid or invalid.

Intercollegiate debate attempts to seek an understanding of truth, at least as it relates to any given debate round, through the dialectic method, a method popularized by Aristotle. In intercollegiate debate two opposing sides debate an issue as defined and confined by the resolution. The resolution is a truth claim. The validity of that truth claim is usually left up to the critic, judge or audience to determine through weighing competing arguments posited during the course of the debate. Since in most such intercollegiate debate contests it is not acceptable to leave the resolutive question unanswered (by allowing a tie), there must be some set of presumptive guidelines to determine which side prevails especially in close debates. These guidelines center in part on the notion of Burden of Proof, and the countervailing notion of presumption.<sup>1</sup>

This essay will first provide an overview of various interpretations of presumption theory and the burden of proof, highlighting the differences between natural and artificial presumption. Next, particular attention will be focused on the role presumption currently plays in intercollegiate parliamentary debate. This second section will argue that artificial presumption is unfairly positioned above natural presumption. The third section argues that government teams should defend the *status quo* more often to gain strategi-

cally from the benefits of natural presumption. Critics and competitors should be more open to government teams defending *status quo* policies if the resolutions do not logically prevent such a practice. One benefit might include a more even division between government and opposition wins, which currently favors opposition teams by an approximate ratio of 60/40.

### **Burden Of Proof And Presumption Theory**

In interscholastic debate, the "burden of proof requires that the initial speech in the debate clearly prove the resolution. At a broader level it means that what one asserts, one must prove. Various interpretations of Presumption will be analyzed and defined in greater depth later in this section, but all owe their origin when applied to argumentation theory to Archbishop Richard Whately who wrote extensively on presumption and burden of proof in his 1828 text, *Elements of Rhetoric*, which was subsequently expanded.<sup>2</sup>

Within a typical interscholastic debate context, presumption has become understood to mean that in the absence of the first speaker proving that the resolution is valid (their burden of proof), we can assume (or presume) that the opposition has won the debate. This can be true even in the absence of compelling opposition arguments against the resolution or the case. This view of presumption treats it like a rule of the game. Its chief benefit is that it helps to prevent ties, which are difficult to factor into a zero sum game like competitive debate. This essay will argue that such a traditional understanding of presumption can be too simplistic and is often incorrect. Thomas (1987) argues that ties should be allowed when no clear winner is determinable without relying on presumption. This paper will not take so extreme a stand. Instead, it is hoped that a more sophisticated understanding of the differences between artificial and natural presumption and when one should be favored above the other will be helpful.

Presumptive burdens are not unique to interscholastic debate. Our American jurisprudence system requires that the State maintain the burden to prove that a defendant is guilty. In the absence of such proof of guilt the defendant is presumed innocent, acquitted and set free, or as defense attorney Johnny Cochran argued in the O. J. Simpson criminal trial, "If it doesn't fit, you must acquit." Speaking of presumptive rules relating to ill fitting leather gloves, in baseball, if a runner and the ball arrive at a base at the same time the tie goes to the runner. These presumptive rules are not divinely preordained understandings and could just as easily have been decided in the opposite manner. But in both cases it has been codified that one side is presumed to be favored over the other in the absence of clear proof to the contrary. Remember presumption addresses the relationship

between a position and what should be accepted as true.

The explanation of presumption thus far has assumed that there is just one concept of presumption. But according to Ehninger and Brockriede (1963)<sup>3</sup> presumption should be divided into natural presumption and artificial presumption. Artificial presumption imposes an artificially constructed or imposed relationship or set of rules between what is being posited (innocence/guilt, safe/out, win/loss) and what will ultimately be accepted. It prevents ties. The examples presented above regarding artificially imposed standards for determining innocence or guilt are perfect examples of artificial presumption. In debate, such an interpretation of presumption might traditionally favor the negative as an unwritten rule of the game.

Some would argue the artificial presumption "rule" favors the opposition to help offset benefits afforded the government team's right to give the first and last speech, thus capturing the benefits of the rules of recency and primacy.<sup>4</sup> Others might argue that it helps to offset the advantage a government team gains by being able to choose the case area which the opposition must attack to meet its burden of rejoinder or clash, presumably with less of a chance of preparation. These arguments for artificial presumption will become important later when it will be argued that they are not important enough to outweigh Brockriede and Ehninger's other major conception of presumption, natural presumption.

Natural presumption is an attempt to resolve the same question of which side of an argument or dispute should prevail, but this time by looking to the natural state of things for establishing the preferred standard of judgement. Natural presumption argues that what ever is more closely aligned to the natural state of things, is probably best. Brockriede and Ehninger argue that "Natural presumption reflects things as they are viewed in the world about us. If an argument involves a belief concerning existing institutions, practices, customs, mores, values, or interpretations, the presumption is automatically in favor of that belief simply because the institutions, etc., are thought to exist." (1963, p.83) To expand on that concept, existence proves some level of viability, which can then be expanded to the aphorism "If it ain't broke, don't fix it."

To help illustrate this notion of natural presumption, one could make a compelling argument against opening up a Swiss watch and tinkering with it just because the owner felt it was making an annoying ticking sound not made by their quartz watches. Any number of things could go wrong with such unwarranted and inexpert tinkering that could make things much worse. Likewise, many react in horror to rumors of pop stars having ribs removed to appear thinner, or perhaps to a lesser degree, to invasive

practices such as liposuction and stomach stapling. These techniques are not viewed as natural, and are therefore assumed to be more dangerous than traditional choices such as dieting, exercising or wearing vertical stripes or dark clothing which have a purported slimming effect. The artificial or in this case invasive techniques should be reserved for only extremely dire circumstances where the health risk of continued obesity outweighs the dangers of the invasive procedure.<sup>5</sup> Similarly, traditional measures for correcting vision problems including wearing glasses and contact lenses are currently the norm, hence the naturally presumptive choice. Ocular laser surgeries are fairly new within the last several decades. So they may be considered a bit radical today, but may well replace eye glasses in our lifetime and become the commonly accepted norm, or naturally presumptive choice.

Archbishop Whately comments on how natural presumption can change with societal perceptions over time and situations. He argues that Jesus Christ, a peasant claiming to be a king and the Son of God at that, was so radically counter to early understandings of the prophesied Messiah of the Old Testament, that natural presumption was counter to His outlandish claims. However, Whately continues, when He satisfied that burden to the satisfaction of the skeptics of the day, presumption slowly shifted in His favor and has increased through the ages (at least through the mid 19<sup>th</sup> Century which is when he was writing). Therefore, Whately claimed that in the ecclesiastical debates of his day those in a Christian civilization that denied that Christ's divinity had the burden to prove their statements, since they clearly countered prevalent societal beliefs. Likewise, when Christian missionaries evangelized in non-Christian lands, he argued, they reassumed the burden of proof since those societies had their own distinct presumptive beliefs.

Similarly, one does not generally favor brash, comprehensive changes to the *status quo* without a very careful analysis of everything that could potentially go wrong with such an action. If one invades country X, how might neighboring countries A, B, and C view this infringement in their sphere of influence and might it cause another superpower to rattle its saber in retaliation. At a secondary level, how might that impact one's ability to meet its other military obligations in other arenas. At a tertiary level, would the increased resources required to invade country X prevent funding a domestic program of some importance, such as a vaccination campaign that might prevent growing death tolls at home.

Natural presumption allows the critic to take these tradeoff issues into consideration, even if the other team has not lodged particular arguments. It is presumed that the *status quo* is superior to major changes unless

the side proposing change can provide a compelling need for the change and some assurances that the chain of reactions will not incur worse problems than are being cited as the rationale for the change. That is not to say that it encourages judge intervention in deciding debate rounds based on the critic's *a priori* belief systems and their own unstated arguments, but it does suggest that the more sweeping and significant the change, the greater the associated risk.

Remember that natural and artificial presumption refer to whether the relationship between what is and what ought to be is primarily imposed (artificial) by agreement, or natural. Jurisprudence has offered a good artificial presumptive decision rule regarding assessment of innocence and guilt. But it can just as easily provide us with an example of natural presumption. For example, the adage that "Possession is 9/10<sup>th</sup> of the law" may help to illustrate natural presumption. The suggestion here is that in a property dispute (whether real or personal), in the absence of clear and compelling testimony or documentation to the contrary, the person in actual possession of the property is presumed to be the rightful owner. The shirt or blouse you are currently wearing is presumed to be yours, unless someone can prove that it is not. Notice too, that this may not be mutually exclusive to artificial presumption in that property laws may well have been codified recognizing and respecting these naturally presumptive tenets of justice. Baseball fans might also find natural presumption at work in the grand old game. Whichever fielder is closest to where a hit ball is, and is moving forward (towards homeplate) has the right to call off other defenders, because they "naturally" are better positioned to effectively make the play while moving forward which is more natural than running backwards.

Steven Brydon (1986) clarifies the distinction between natural and artificial presumption. Natural presumption, according to Brydon, refers to the state an audience naturally is in, whereas artificial presumption imposes an artificial state of mind on the audience by conventions and dictates. He argues that when artificial presumption is imposed it acts as a decision rule (16), and he actually prefers the term decision rule presumption to better capture the meaning of the Ehninger and Brockriede term of artificial presumption.

This notion of an audience's state of mind is a jumping off point for some other interesting discussions on other aspects of presumption which are not essential for this analysis but interesting tangents in the field. Sproule (1976), Brydon (1986) and Zeuschner & Hill (1977) discuss the implications of psychological presumption, especially with regard to values of audiences. Fisher's work (1989) on the internal logic of narrative cohesion and fidelity and Perleman's works (1969, 1982) on both audience

and field dependence can also be drawn into this discussion. Zarefsky (1979, 1987) and Vasilius (1980) discuss different, nonstandard types of resolutional approaches such as hypothesis testing and presumption within a debate context. And Goodnight (1980) and Whedbee (1998) bring questions of political ideology and presumption into the fray by examining liberal and conservative frames of reference and presumptive biases. Whedbee recommends looking to John Stuart Mill's and Alexis de Tocqueville's contributions regarding presumption on these points as well. Many others have contributed to questions of presumption in both policy and value debate as noted in the bibliography.

But since parliamentary debate has been the subject of relatively little research published to date, the effect of presumption on case construction in parliamentary debate has not been thoroughly documented. There is however an excellent conference proceeding paper from Tammy Unruh (1997), that forces us to question all previous assumptions about presumption as it relates to interscholastic debate, since most of those prior assumptions no longer apply to parliamentary debate which has different resolutional assumptions every round. Unruh makes no specific recommendations though on how to treat presumption in parliamentary debate. This paper will follow up on Unruh's challenge to question its appropriate application.

### **Current Application To Parliamentary Debate**

The problem this essay is attempting to isolate is to show that presumption theory is currently being misapplied in the realm of interscholastic parliamentary debate as practiced within the National Parliamentary Debate Association. Currently, tradition dictates that government teams, which speak first in the debate round, must advocate a significant change from the *status quo*, at least in policy rounds which affects most rounds. Most parliamentary debates are policy-related resolutions and many if not most metaphoric debates incorporate a policy focus anyway. While there is currently no formal research published to back this statement, requiring government teams to attack the *status quo* is clearly the predominant practice within the National Parliamentary Debate Association, with very few exceptions. Research efforts are underway now to document the prevalence of this *a priori* bias.

As a tangentially related concern, for the last several years government teams have lost approximately 60% of the debate rounds in most major NPDA tournaments.<sup>6</sup> This should not be too surprising given the standards the intercollegiate debate community has typically held affirmative teams to in order to meet their burdens of proof and overcome presumption dating back to long before the rise in popularity of NPDA style debates occurred.

The difficulty for government teams is certainly accentuated by the fact that a team normally has only 15 minutes of preparation time to prepare a case exposing a serious flaw in the *status quo* and constructing a solvable plan that will overcome the problem without incurring worse effects.

Remember that many current NPDA critics were trained about debate burdens either as coaches or students involved in CEDA/NDT or the similarly structured high school Oxford team style debate, or perhaps from texts based on those primary audiences and markets. Now consider that these other forms of research intensive, evidenced debate maintain a single debate resolution for the entire year. Affirmative teams can and should spend many hours each week researching their cases, then practicing them and debating them in tournaments, followed by judge and coach feedback, more research and further revisions all on the same cases. Many critics are probably consciously or subconsciously comparing parliamentary cases to similarly demanding standards of proof, while perhaps not holding the opposition to the same standards required in other forms of debate. A quick rationale might be that they identify or empathize more quickly with the opposition that had little or no preparation time to prepare specific arguments against case.

The question of equitable standards of proof is better argued elsewhere, but it provides a necessary background for the similar, though larger miscarriage of justice referenced above. Critics are frequently requiring government teams to attack the *status quo* even when the wording of the resolution does not mandate such an action. The reason for this conditioned response on the part some of the NPDA judging community may be due in part to the fallacy of tradition. Most of us have been conditioned from our very first exposure to debate to know that an affirmative team's *prima facie* burdens are to find an inherent problem in the *status quo*, devise a plan that works, and prove the advantages outweigh the disadvantages. Every coach stressed it. Each institute drilled it. Every judge demanded it. All the textbooks and most of the articles on the subject preached it. And it is a principle that is absolutely true..., *but only as long as the wording of the resolution specifically requires it*. That is the foundational prerequisite upon which such an expectation was built. Yet frequently in parliamentary debate no such wording requiring inherent changes even exists within the resolutions.

Instead, judges seem to be applying an unwritten rule that is not logically, theoretically, or institutionally mandated, favoring a bastardized form of artificial presumption over the more appropriate natural presumption, which simply reasons that the least change over the *status quo* is the safest choice. The correlation of this unwritten artificial presumption rule

for parliamentary debate, by association with the other forms of debate, is that an affirmative then must significantly alter *status quo* policy. That is simply not a legitimate requirement to saddle government teams with, at least for this form of debate.

Remember that there is a very large and substantial difference between the other forms of debate and parliamentary debate. The other styles of debate typically have one resolution for the entire year. The actual wording of that resolution is thoroughly discussed by the community of coaches and students for many months. A topic area is typically chosen and then specific wording choices for alternate resolutions are ironed out and finally voted upon, all with the idea of crafting a resolution that fairly divides ground between the two sides on a narrowed topic area. In almost every instance (specific exceptions to be discussed later) each of those resolutions has contained a term such as "will significantly change" referring to *status quo* policy. The stock issue of inherency is arguably a direct outgrowth of this standard resolutional requirement. No wonder presumption always favors the negative in these forms of debate, the resolutions were specifically crafted to insure that they would. To the contrary, many parliamentary resolutions, especially metaphoric, value, and even some policy resolutions, have no such requirement to counter the *status quo*.

Resolutions like, "This House favors bilingual education," or "Resolved: the Emperor is wearing no clothes" or "This House regrets that what goes up must come down" can all lend themselves to good policy rounds, but in no way suggest the need for a change in *status quo* policy unless the government chooses to interpret it in such a way.

A broader understanding of presumption theory should be applied in adjudicating parliamentary debate rounds. More specifically, while presumption is a useful and necessary tool for adjudicating rounds in order to avoid ties, natural presumption should prevail over artificial presumption at least for parliamentary debate. There are several reasons to support this preference.

First, no actual rule exists in parliamentary debate that dictates that presumption resides with either side in the debate, so there is no codified foundation upon which to rest the preeminence of artificial presumption over natural presumption. The "tie goes to the runner" and "innocent until proven guilty" artificial presumption decision rules are both codified and well understood by all parties. Assuming such a rule where no such rule exists is patently unfair, confusing and inhibiting to the affirmative, especially since the existence of such a rule or understanding is supposed to be the appeal of artificial presumption.

Second, those favoring artificial presumption sometime suggest that it is needed by the negative team to offset the advantages gained by the affirmative in giving the first and last speeches. The desire to insure fair ground to both sides of the resolution is a commendable goal. One should not lose rounds, especially elimination rounds from which there is no chance to recover, based primarily on which side of the resolution one is required to represent. The victory or loss should instead be attributable to the skills, abilities, ingenuity and preparedness of the respective debaters, each starting the debate with a fairly equal chance to prevail. The author has uncovered no statistical support in the field of competitive interscholastic debate that supports the concern that speaking order exerts an undue influence in outcome for CEDA/NDT or NPDA debate.

But even if such a rationale did make sense for CEDA/NDT debate, which utilizes extensive tomes of research for the single topic debated all year long, that would not necessarily translate into as viable a concern for parliamentary debate, where each round has a different resolution. One cannot make such an argument from analogy without first testing the similarity of the two distinctly different styles of debate, even though they do share some important elements in common. Based on what research has been done in parliamentary debate, if there is consistently an advantage to either side it clearly rests with the opposition.

This may in part be due to the difficulty of constructing a compelling case and plan in so short a time. It seems much easier to attack on short notice than it is to construct, build up, or fortify. Therefore, that particular support for favoring artificial presumption over natural presumption in parliamentary debate seems arbitrary and counterproductive to the intended purpose of balancing the fairness of the sides. If anything, the government should be afforded the benefit of artificial presumption given the enormous difficulties of crafting a compelling, *prima facie* case in just 15 minutes. That however is not the point of this argument. It is merely to show that artificial presumption as a decision rule is not justified to counter any misperceived advantage stemming from the speaking order.

Third, another reason given to support granting the opposition artificial presumption, is to offset the supposed government advantage choosing the case area. One might suspect that this could even be more of a factor in parliamentary debate than in more traditional styles like CEDA/NDT debate, where the negative at least knows the general topic an affirmative will argue.

Though affirmative teams should have the right to determine case areas, that does not always occur without restriction in NPDA debate. First

and foremost, many critics are not allowing the affirmatives the license to select any resolutional case area. Many significant and often contradictory judge restrictions are placed on governmental case possibilities. The most important unwritten restriction, as it relates to this essay, is that many judges are opposed to allowing governments to select cases supporting the *status quo*, even when the resolution can be reasonably interpreted to allow governments this freedom. The third section of this essay will address a number of reasons legitimizing such a tactic.

Currently though, there are a number of judges that believe it is somehow "unfair" or "against the rules" for a government or affirmative team to win without attacking the *status quo*. As stated earlier, the most probable reason for this is the fallacy of tradition combined with a fallacy of analogy, that is comparing standard practices in CEDA/NDT debate with practices in parliamentary debate. While there are many strong and valid similarities between the two styles of debate, this is not one of them. Instead, judges should concentrate on the practice that is of paramount importance in both styles of debate; the affirmative team should just be responsible to affirm the resolution in order to win the round.

There are many other unwritten impositions and onerous restrictions forced on governments regarding case selection by well-intentioned critics in NPDA debate. While these biases should be analyzed in greater detail in other forums, it is useful to mention some here to dispel the notion that governments can run anything they want. For example, some judges have issued strong warnings against "canned cases," which is a devil-term bandied about to discourage debaters from running a case they have researched, prepared, or practiced prior to that round. Different critics have different thresholds for what is or is not canned, but the only safe rule of thumb is to exclude cases you have debated before or know much about (ouch). Presumably warning signs of violating this exclusion might be sounding too smooth or knowing too much in a given round. This is an amazingly nebulous standard, clearly an "unwritten" rule, and an unfair and counterproductive practice that punishes well read, articulate debaters that take the time to keep up on current events and care enough to anticipate current hot button issues and practice debating them. Critics practicing this exclusionary standard are no doubt well intentioned and hoping to maintain a fair ground accessible to both teams, but we need a better method to address these fears that affirmatives have too much knowledge on the selected issues. Increasing debaters' and critics' knowledge base should be the goal, rather than restricting it. We should continually strive for excellence not mediocrity.

A related restriction placed on government cases is the concern

with specific knowledge. There is a belief within some parts of the community that specific knowledge is either unfair or illegal. Again, no such rule exists in parliamentary debate. If a case such as Jubilee 2000, which advocates forgiving third world debt, is unclear to the opposition, they have rights to ask for more information. Further, if an opposition team can argue that a case is too small or insignificant to fairly represent the resolution, they may make any number of attacks on logical fallacies employed within the case as reasons to reject the case. But frequently critics will make those arguments for the opposition and reject such cases as being too specific. Also, certain critics often reject regionally specific issues. As exists in individual events judging, some critics tend to reject cases they feel are overdone, such as lifting the Cuban embargo, legalizing drugs, controlling guns, or banning the death penalty.

An extension on both of these last few areas might be the blanket restriction that some judges also decide against cases that use the current (or recent past) topics of CEDA/NDT, National Forensics Association Lincoln Douglas (NFA LD), or the high school Oxford team debate topic. They fear one side may have access to more information than the other side, thus leading to bad debate with unfair burdens. The point here is not to argue for or against such restrictions, but to show that many such limitations (most of them unwritten and poorly articulated) exist severely limiting what approaches an Affirmative team can or should take in constructing a case. Thus the other rationale for artificial presumption's preeminence, as a rule to offset a huge government advantage in selecting case areas, seems to fall short.

To further support this last point, another difference one sometimes sees in parliamentary debate is that some critics are not as insistent that opposition teams restrict their argument strategy to simply countering the government case area. Oppositions occasionally argue counterwarrants, where a team is basically ignoring or minimizing the importance of the specific government case area(s), instead suggesting that the critic focus on the opposition's arguments and examples against the resolution. This tactic has not been as successful in other forms of interscholastic debate except perhaps at the critique level. Fortunately counterwarrants are not widespread in parliamentary debate either, but is probably more common due to the pool of judges that have not been formally trained in debate theory. But if some oppositions are not even being required to defeat specific case areas, it further degrades the claim that governments have a significant advantage in selecting the case area that should be offset with an artificial presumption decision rule.

The previous arguments have been advanced to help show why

artificial presumption should not prevail in parliamentary debate. The case for the importance of natural presumption has already been explained throughout this paper and need not be resurrected here. Further rationales and illustrations for the importance of natural presumption can be found throughout most of the sources cited in the attached bibliography. Natural presumption should therefore be considered to be more important than artificial presumption in parliamentary debate. That should remove any artificially presumptive barriers toward government teams running defense of the *status quo* cases. Next it will be argued that cases that defend the *status quo* when should be allowed and encouraged, when resolitional.

### **Advocacy For Governmental Defense Of The *Status Quo***

Now that the unsubstantiated concern for artificial presumption decision rules has been addressed, we will look to the reasons why parliamentary debaters should, when resolitional, construct cases defending the *status quo*. This course of action can be defended legally, theoretically, strategically, and paradigmatically.

By legal justification, we are of course suggesting that there are no codified prescriptions against a government team defending the *status quo*. As with most forms of debate, know that the only real requirement of government teams is that they affirm the resolution. Most other details, besides order and time of speeches, are negotiable within the round. Presumption can favor the negative or affirmative, depending on which side provides the best rationale. To further complicate things, different presumptions might even favor different sides on different issues.

At a theoretical level, Whately's writings on presumption suggest the many benefits of staking out and defending ground that currently exists. Natural presumption argues that all other things being equal one should opt for what is and what has already been accepted, thus mandating that the opposition take on the burden to prove not only an inadequacy in the current system, but also a better way to resolve it. The rationale for this choice was explained in greater detail above, but in short it is a fairly conservative view that eschews the risk of the unknown for the benefits of the familiar. Some, like Goodnight (1980), have questioned this conservative bias, but most accept the premise that the devil we know (definitely not Whately's choice of words) is better than the risk of potentially worse in the unknown or counterfactual universe in the absence of reasonable proof to the contrary. As many debaters have argued through the years, that may help to explain why U. S. armed forces, though capable of eliminating worrisome dictators of rogue nations such as Iraq and Libya, have instead allowed them to remain in power. From a theoretical standpoint, defending the *status quo* is

a good idea for government teams if given the option.

Strategically, this is also true. We have already established the existing imbalance in the win/loss records favoring the negative, which has predominantly benefited from defending the *status quo*. It is probably easier to show why something that exists works well, than it is to hypothesize about something that either does not yet exist, or does so only on a small scale, and prove that it will work better. At a very basic level, one might subconsciously ask if it is so much better than the current way, then why haven't we already adopted it, again showing the conservative bias for what "is" over what "could be."

While trained debate critics should know better than to interject their own arguments into the round, sometimes it is just too hard to ignore some of the gaping logical holes of a hastily thrown together case and plan. Fifteen minutes is hardly sufficient time to design a case and plan of the caliber we are used to seeing in other forms of debate where we have an entire year to debate the same topic. I suspect that many critics subconsciously hold affirmatives to that high a standard of proving significance or solvency. Critics may then become sympathetic to opposition claims that even breathe on the reservations the critic also harbor about the case or plan. Many critics fail to hold negative teams to the same high standard of proof they hold the government to, or the same standard to which they may hold a negative team in CEDA or NDT debate. There appears to be somewhat of a double standard that favors the opposition. Choosing to affirm the *status quo* on the government is a strategic way to not only sidestep the bias held towards the *status quo*, but to actually capture the benefits of those naturally presumptive biases and aforementioned double standards.

There are other strategic considerations as well, such as taking the opposition by surprise. This may become less of a surprise though as the tactic is utilized more. But until then, there is something that is demoralizing to the opposition when the government comes out making the same arguments the opposition had developed in their preparation time, anticipating that the government would attack the *status quo*. In martial arts this might be like using an opponent's mass and density against them in throw or a flip. Anytime the government team can render the opposition team's preparation time meaningless, it gains a slight advantage. Now the sides have effectively been reversed. If the government can defend the *status quo*, then it is incumbent upon the opposition to attack the *status quo* and propose an improvement that will better solve the problem. The government can at least argue that despite the opposition's case presses and arguments, in the absence of a clear opposition mandate for change with a solid plan to solve for the problem, the critic should vote for the government. Doesn't this in

part help to explain the magnitude of the incumbency advantage in politics, short of a major economic or moral crisis. Campaign phrases like "Don't change horses midstream" and "It's the economy, Stupid" remind us of the bias toward the *status quo* at least in good times, and probably also in times of dire crisis.

So legally, theoretically, strategically, and resolutionally this tactic makes sense. But tradition is a stubborn beast to sway once committed to lumbering down a given path. To further address the legitimacy of allowing governments to support the *status quo*, we should look to the very paradigm upon which we have based this format of intercollegiate debate, parliamentary government itself. The first team to speak is after all named "the government team", which is led by the Prime Minister. The negative side is labeled "the opposition." The parliamentary government system is clearly the overarching model of choice. Since members of parliament, or the sitting governments in most nation states, are frequently in the position of defending current government programs or *status quo* commitments and decisions, it seems perfectly logical to allow the government teams in intercollegiate parliamentary debate that option as well. Certainly the government should also have the option of arguing for a change both in Parliamentary debate and in the government model it emulates.

But, it seems silly to always require such a call for drastic change of all government teams in every situation regardless of the wording of a given resolution. That is after all the job of the honorable opposition, isn't it? Shouldn't the opposition be the side expected to oppose what the controlling party (or government) is advocating or has instituted, i.e. the *status quo*. Yet, for some unexplained reason we require them to defend the *status quo*, just because that is the way other forms of debate have operated, apparently without any serious regard for the parliamentary paradigm we supposedly favor. And paradigmatically speaking, in the real world of politics, wouldn't a government that is always arguing how bad the current system is eventually, if not immediately, lead to a vote of no confidence, which in many parliamentary systems leads to an automatic midterm turning out of the government? It should be clear that nothing within the paradigmatic model of parliamentary government would prohibit government teams from defending the *status quo*. To the contrary such a paradigm strengthens the call for government teams to make such a defense of the *status quo*, again unless the specific wording of the resolution prohibits such a tactic. Further, if anyone is expected to oppose the *status quo*, shouldn't it be the opposition?

Such strategizing might also help to redress the current imbalance between government and opposition team wins. This imbalance is probably

the least compelling of the reasons for the activity as a whole to consider an ideological shift. But from a strictly strategic stand point, if it helps you to win more rounds on the government side without violating rules or ethical considerations, why wouldn't you favorably consider such an approach? It is expected however, that in the near future there may well be some strong resistance to such an idea primarily because it is counter to how the activity has progressed through the years. It is hoped that a reasonable critic, when confronted with the legal, theoretic, strategic and paradigmatic justifications for such a change of perspective will at least consider it.

It should also be noted, that though not common, such an advocacy of shifting presumption to the affirmative has precedents in other forms of intercollegiate debate as well. Brydon (1986) points out that there are a number of incidents in CEDA and NDT style debate when presumption can shift from the negative to the affirmative. Examples include value topics which may not mandate the affirmative defend the *status quo*, counterplans which may yield presumption to the affirmative if it represents the least change, and there is even a policy resolution from 1985 that is noteworthy. That year the CEDA resolution was, "Resolved: that the United States is justified in providing military support to non-democratic governments." Brydon claims (17) "Depending on their definition of non-democratic, affirmative teams generally provided numerous examples of current U.S. policy which embodied the resolution, claiming that they had presumption in the debate, and that the negative had the burden of proof."

Further, Brydon suggests that Goodnight (1980) seriously questioned why the conservative approach represented the least risk. "Goodnight basis his argument on the issue of risk: "the question arises, why should presumption be in favor of concrete values and permanence?.. What Goodnight is suggesting is a decision rule which would create an artificial presumption against the natural presumption." (18) Brydon (1986), Goodnight (1980), Zarefsky (1979, 1989), Sproule (1976), Unruh (1997) and others are clearly calling for the questioning of presumption and the notion that presumption should not be tied to just one side. Whately makes similar suggestions as noted before. Madsen and Loudon (1987, 92) add that presumption may have limited utility in value debate, while Lee and Lee (1985, 169-170) lodge a number of arguments against a rules based approach to presumption in argumentation.

An additional benefit might be that such a heightened focus on being true to just the wording of resolutions might improve the quality of the resolutions chosen for each tournament. The quality of resolutions seems to have been improving lately, but there is still room for more improvement. By this I am not suggesting that tournament directors should exclude

resolutions which allow *status quo* defenses (though that might happen with greater frequency), merely that greater time and effort be spent selecting topic wordings based on fairly assessing government and opposition ground and possible strategies. To better follow the parliamentary paradigm we claim to be emulating, we should at least have some resolutions which allow government cases to be constructed in such a way as to defend the *status quo*, and let the opposition team finally actually oppose the *status quo*.

### Summary

Parliamentary debate is undergoing similar growing pains to what CEDA experienced when it was relatively new. Not all the practices and theoretical applications from CEDA's predecessor (what has become known as NDT debate) fit exactly with the desired paradigm set forth for CEDA debate in its embryonic stages. It was necessary to carefully analyze theoretical implications and practices based on the template of the desired paradigm for the new activity. Likewise, NPDA will need to pay particular attention to which aspects of debate theory and practice from previous forms of the activity will logically apply to and enhance parliamentary debate, and conversely which areas need to be revised to fit this new paradigm. It would be foolish and self destructive to automatically reject all that was CEDA or NDT in an effort to define this new form simply through negation. There is after all a wealth of argumentation theory and practice from over a century of intercollegiate debate from which to draw insights. But it might be just as ill conceived to assume that virtually all past practice and theory will exactly cross apply to the new format. If that were true, why even begin a new format in the first place?

This paper has attempted to trace the development of presumption theory from its roots to how it has traditionally been applied to interscholastic debate. It then exposed an improper application of artificial presumption that has survived as a holdover from a different form of debate where it was more appropriate, to the newly emerging form of parliamentary debate. It was suggested that NPDA debate should rely more on natural presumption over artificial presumption since topics change from round to round in parliamentary debate and artificial presumption presupposes certain resolutional wording specifications that are not always present. Finally, it was recommended that the NPDA community (coaches, critics and debaters alike) consider and allow defending the *status quo* on the government side.

Ironically, this appeal to defend the *status quo* in parliamentary debate rounds is in itself a blatant attack on the *status quo* and as such it defies natural presumption. With apologies to Walter Fisher, perhaps narrative cohesion or internal consistency is not always essential. Whately's

work provides a forewarning that such appeals for drastic changes have a high burden of proof. Hopefully, the preceding arguments have at least caused the reader to consider issues that might not have been seriously questioned before.

### References

Bartanen, Michael D., and David A. Frank (1991). *Debating values*. Scottsdale: Gorsuch Scarisbrick.

Branham, Robert James (1991). *Debate and critical analysis: The harmony of conflict*. Hillsdale, NJ: Lawrence Erlbaum Associates.

Brydon, Steven, R. (1986). "Presumption in non-policy debate: In search of a paradigm," *Journal of the American Forensics Association* 23 (Summer): 15-22.

Campbell, George (1963). *The philosophy of rhetoric*. Ed. Lloyd F. Bitzer. Carbondale: Southern Illinois UP.

Cox, Robert J., and Charles Arthur Willard, eds. (1982). *Advances in argumentation theory and research*. Carbondale: Southern Illinois UP.

Ehninger, Douglas, and Wayne Brockriede (1963). *Decision by debate*. New York: Dodd, Mead, and Co.

Fisher, Walter R. (1989). *Human communication as narration: Toward a philosophy of reason, value, and action*. Columbia: U South Carolina P.

Freeley, Austin J., and David L. Steinberg (2000). *Argumentation and debate: Critical thinking for reasoned decision making*. 10<sup>th</sup> ed. Australia: Wadsworth.

Golden, James L., Goodwin F. Berquist, and William E. Coleman (1976). *The rhetoric of western thought*. 3<sup>d</sup> ed. Dubuque: Kendall/Hunt.

Goodnight, G. Thomas (1986). "The Liberal and the Conservative Presumptions: On Political Philosophy and the Foundation of Public Argument." *Proceedings of the summer conference on argumentation*. Eds. Jack Rhodes and Sara Newell. Falls Church, VA: Speech Communication Association: 304-337.

Harris, Randy Allen, ed. (1997). *Landmark essays on rhetoric of science*. Landmark Essays 11. Mahwah, N.J.: Hermagoras Press.

Hart, Jack "Presumption in Policy Systems." *Advanced debate: Readings in theory, practice & teaching*. Eds. David A Thomas and Jack Hart. Lincolnwood, IL: National Textbook Co.: 373-383.

Hill, Bill and Richard W. Leeman (1997). *The art and practice of argumentation and debate*. Mountain View, CA: Mayfield.

Inch, Edward S., and Barbara Warnick (1998). *Critical thinking and communication: The use of reason in argument*. 3<sup>rd</sup> Ed. Boston: Allyn and Bacon.

Kruger, Arthur N. (1960). *Modern debate: Its logic and strategy*. New York: McGraw Hill.

Lahman, Carroll Pollock (1936). *Debate coaching: A handbook for teachers and coaches*. New York: H. W. Wilson Co.

Lee, Ronald, and Karen King Lee (1985). "Reconsidering Whately's folly: an emotive treatment of presumption. *Central states speech journal*. 53: 164-177.

Lichtman, Allan J. and Daniel M. Rohrer (1979). "Decision rules in policy debate: presumption and the burden of proof *Advanced debate: Readings in theory, practice and teaching*, ed. David Thomas. 2d. ed. Skokie, IL: National Textbook Co.

Madsen, Arnie, and Allan D. Louden (1987). "Jurisdiction and the evaluation of topicality." *Journal of the American Forensic Association*. 24: 73-94

Matlon, Ronald J. (1987) "Debating propositions of value" *Advanced debate: Readings in theory, practice & teaching*. 3<sup>rd</sup> ed. Eds. David A Thomas and Jack Hart. Lincolnwood, IL: National Textbook Co.: 394-407.

—(1981). "Propositions of value: An inquiry into issue analysis and the locus of presumption." *Dimensions of argument: Proceedings of the second summer conference on argumentation*. Eds. George Ziegmueller and Jack Rhodes. Annandale, VA: Speech Communication Association: 494-512.

McBurney, James H., James M. O'Niell, and Glen E. Mills (1951). *Argumentation & debate: Techniques of a free society*. New York: MacMillan Co.

Perelman, Ch. (1982). *The realm of rhetoric*. Trans. William Kluback. Notre Dame: U Notre Dame P.

Perelman, Ch., and L. Olbrechts-Tyteca (1969). *The new rhetoric: A treatise on argumentation*. 1958. Trans. John Wilkinson and Purcell Weaver. Notre Dame: University Notre Dame Press.

Podgurshi, Dwight T. (1983). "Presumption in the value proposition realm." *CEDA Yearbook*: 34-39.

Reinard, John C. (1991). *Foundations of argument: Effective communication for critical thinking*. Dubuque: Wm. C. Brown.

— (1984). "The role of Toulmin's categories of message development in persuasive communication: two experimental studies on attitude change." *Journal of the American Forensics Association*, 20 (Spring): 206-223.

Reike, Richard D., and Malcolm O. Sillars (1997). *Argumentation and critical decision making*, 4<sup>th</sup> ed. New York: Longman.

Rybacki, Karyn Charles, and Donald Jay Rybacki (1996). *Advocacy and opposition: An introduction to argumentation*. 3<sup>rd</sup> ed. Boston: Allyn and Bacon.

Sproule, J. Michael (1976). "The psychological burden of proof: on the evolutionary development of Richard Whately's theory of presumption." *Communication Monographs*, 43: 115-129.

Thomas, David A. (1987). "A case for natural presumption based on current non-policy paradigms." *Advanced debate: Readings in theory, practice & teaching*. 3<sup>rd</sup> ed. Eds. David A Thomas and Jack Hart. Lincolnwood, IL: National Textbook Co.: 448-468.

Thomas, David A. and Maridall Fryar (1981). "Value resolutions, presumption, and stock issues." *Dimensions of argument: Proceedings of the second summer conference on argumentation*. Eds. George Ziegmueller and Jack Rhodes. Annandale VA: Speech Communication Association: 513-531.

Tuman, Joseph S (1987). "Getting to first base: *Prima facie* arguments for propositions of value." *Journal of the American Forensics Association*, 24 (Fall): 84-94.

Unruh, Tammy Duvanel (1997). "Presumption in parliamentary debate: Examining Whately's ideas and their application to an emerging and evolving debate style." *Conference proceedings of the third national developmental conference on individual events*. Ed. Shawnalee A. Whitney. Rice University, Houston TX: 56-60.

Walton, Douglas (1995). *A pragmatic theory of fallacy*. Tuscaloosa: U Alabama P.

Walton, Douglas N. (1992). "Bias, critical doubt and fallacies." *Argumentation and Advocacy*. 28 (Summer: 1-22).

Whatley, Richard (1963). *Elements of rhetoric: Comprising an analysis of the laws of moral evidence and of persuasion, with rules for argumentative composition and elocution*. Ed. Douglas Ehninger. Carbondale: Southern Illinois UP.

Whedbee, Karen (1998). "Authority, freedom and liberal judgment: The presumptions and presumptuousness of Whately, Mill and Tocqueville." *Quarterly Journal of Speech* 84: 171-189.

Willard, Charles Arthur (1989). *A theory of argumentation*. Tuscaloosa: U Alabama P.

Williams, David Cratis, and Michael David Hazen, eds. (1990). *Argumentation theory and the rhetoric of assent*. Tuscaloosa: U Alabama P.

Wood, Roy V., and Lynn Goodnight (1990). *Strategic debate*. 4<sup>th</sup> Ed. Lincolnwood, IL: National Textbook Co.

Zarefsky, David (1979). "Argument as hypothesis testing." *Advanced debate: Readings in theory, practice and teaching*. Ed. David Thomas. 2d. ed. Skokie, IL: National Textbook Co.: 427-437.

—(1987). "Criteria for evaluating non-policy argument." *Advanced debate: Readings in theory, practice & teaching*. 3<sup>rd</sup> ed. Eds. David A Thomas and Jack Hart. Lincolnwood, IL: National Textbook Co.: 388-393.

Zeuschner, Raymond (Bud) and Charlene Arnold Hill (1981). "Psychological presumption: Its place in value topic debates." *Contributions of the philosophy and practice of CEDA*. Ed. Don Brownlee. Long Beach, CA: CEDA: 20-24.

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<sup>1</sup>Many of the illustrations used to explain presumption in this essay borrow heavily from Whately's text. It is an invaluable tool to understanding the concept, as is Douglas Ehninger's introduction to the 1963 Southern Illinois University Press release of this classic as a part of SIU's Landmarks in Rhetoric and Public Address series. As the then Archbishop of Dublin, it should come as no surprise that much of *Elements of Rhetoric* was geared towards helping the churchgoers in ecclesiastical debates. In his introduction, Ehninger writes, "The cognate principles of Presumption and Burden of Proof are introduced to acquaint the Christian apologist with his rights and obligations in controversy (p. x)." He further states that Whately is primarily trying to produce a college textbook on rhetoric, but one that is chiefly aimed (at least in its defense of *a priori* truth) to arming the minister to preach to the congregation, and arming "... the Christian controversialist who is called upon to defend the evidences of religion against the onslaughts of the skeptic (xi).

<sup>2</sup> See Sproule (1976) for a detailed analysis of the evolution of Whately's development of his theory of presumption through subsequent editions of *Elements of Rhetoric*.

<sup>3</sup> See Ehninger and Brockriede's discussion of natural and artificial presumption for a more complete discussion of these concepts (pp. 82-85).

<sup>4</sup>The rule of primacy suggests that the person speaking first in a discussion has an undue influence in setting the tone with the audience. The rule of recency conversely suggests that the most important speech we hear is the last speech offered. Research on argument placement within a given speech suggests that both have about the same influence, but arguably more than intervening arguments.

<sup>5</sup>Okay, this example may not have come from Archbishop

Whately, but I thought it might help to explain my point.

<sup>6</sup>The 60/40 Opposition Win/Loss ratio has been pretty consistently recognized the last several years when results have been calculated and reported to the community whether formally or informally. Results calculated for the NPDA National Tournaments for 1998 and 1999 both supported this, as have results from the Sunset Cliffs Classic at Point Loma Nazarene University for the years 1998-2000, one of the larger parliamentary debate invitationals each year. A notable exception came at the 2000 NPDA National Championship Tournament hosted by Creighton University. Those results had closer to a ten-percentage point difference, still favoring the opposition. Much time and effort was spent by a committee on selecting topics for this tournament with a goal of providing debatable ground for both sides, and recognition that the normal win/loss distribution had not equal.