

9-20-2012

A Middle School Guide to Debate, Mock Trial and Critical Thinking

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Recommended Citation

Levvis, Gary W., "A Middle School Guide to Debate, Mock Trial and Critical Thinking" (2012). *Torrington Articles*. 6.
https://opencommons.uconn.edu/torr_articles/6

**A MIDDLE SCHOOL GUIDE TO
DEBATE, MOCK TRIAL &
CRITICAL THINKING**

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ACKNOWLEDGEMENTS

This book is a guide for middle school students trying to navigate the rules and strategies of debate and mock trial. Hopefully, it will also serve as a valuable tool for teachers and coaches and, in particular, for college students who are assisting middle school debate teams as a form of community engagement.

The author makes no claim to originality with regard to the format introduced herein for debate or mock trial. The format is based upon and designed to supplement the rules as presented by Civics First <<http://civicsfirstct.org>>. It is no substitute for the rules themselves. Students and coaches should be wary that the official rules for a given year, and certainly for other states if this guide is used elsewhere, may vary from what is presented here.

This book attempts to set debate and mock trial within the broader context of critical thinking techniques. The "arrow technique" for analyzing arguments, introduced in Chapter One and used throughout the book, is ubiquitous among college-level logic and critical thinking textbooks. Similarly, the criteria for argument evaluation introduced in Chapter Two can be found in any number of college textbooks. For teachers interested in learning more about these techniques, I recommend (1) Patrick Hurley's "A Concise Introduction to Logic" (Wadsworth) and (2) Brooke Noel Parker's and Richard Moore's, "Critical Thinking" (McGraw-Hill). Both have proven to be excellent texts for my college students, and the techniques demonstrated in them are easily adapted to middle school students.

The glossary is an amalgamation of definitions from logic texts, the Civics First website, and Black's Law Dictionary.

This book came into existence as a guide for the members of middle school debate team at Hartland Elementary School in East Hartland, CT. Debate Team provided students with the opportunity to engage in informal discussions pertaining to current issues, and to participate in the cross-examination debate and mock trial competitions sponsored by Connecticut's Civics First. Special thanks is due to the students who used and provided helpful suggested for improving the text, and to

the incredible volunteers who make Civics First a possibility, particularly its leaders, Jim Schmidt and Beth DeLuca, whose tireless dedication to the education of our children has been an invaluable treasure for our state.

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CHAPTER ONE
DISSECTING ARGUMENTS

I. Introduction.

This chapter introduces you to arguments (or argumentation). It will do *three* things. First, it will define what an argument is. Second, it will explain why arguments are valuable. Third, it'll provide you with a technique for analyzing arguments -- a deeply important skill to have if you are to compete in formal debate or mock trial. The next chapter will teach you how to assess arguments -- some arguments are *good*, others are *bad*; you have to learn to tell the difference.

II. What Is An Argument?

You've heard the words "argue" and "argument" before. To *argue*, or to provide an *argument*, or to engage in *argumentation* means to back up your beliefs with *reasons* (evidence).

Pretend you believe that **girls and boys ought to attend separate schools**. (Don't worry whether you actually believe this; just pretend.) Can you think of some reason someone might offer in support of this claim?

STOP AND THINK!

SET ASIDE THIS BOOK FOR A MINUTE.

HOW MIGHT SOMEONE DEFEND THIS CLAIM?

What reason did you come up with? Here are a few that I've heard:

- Boys and girls distract each other. Being separate will let them get more schoolwork done.
- Girls are smarter than boys. We could cover more information without boys in the class.
- Boys are smarter than girls. We could do more in class without the girls around.

You may not agree with these reasons (and maybe you shouldn't), but what's important about them is that they are at least offered as ***reasons in support of*** the idea that boys and girls should attend different schools.

When you engage in debate, you'll do a lot more than give an argument for your view. You'll make your argument a strong one, and you'll analyze and criticize your opponent's arguments too. That way you'll show that your argument is the better one -- in other words, that your view is the more reasonable one to accept.

III. The Value of Argument.

Simply presenting (or asserting) your viewpoint, or listening to someone else assert her viewpoint isn't particularly interesting. *Everyone has a viewpoint.* Maybe I believe the moon is made of green cheese. Would you accept what I believe as true?

What makes a viewpoint (a belief) interesting is that it's backed up by reasons or evidence. You wouldn't take much of an interest in my belief that the moon is made of green cheese, if I just asserted it without backing it up. But pretend I were to show you a document from NASA indicating that every part of the moon explored so far has been found to be made green cheese, your attitude toward what I'm asserting (or claiming) would be very different.

When someone introduces **EVIDENCE** for his or her view, you take it more seriously. Likewise, when you give evidence for your view, other persons take your view more seriously.

Suppose, passing a shop window with a parent, you see a pair of pants that you want, and you say, "I need to buy those pants!" Your parent asks, "why?" -- Which of the following answers do you think would be reasonable to your parent?

A. I just need those pants -- that's all.

B. I've outgrown most of the pants I own, and those in the window aren't too expensive.

You know the answer is B. But why is it B?

THE POINT IS: we all respect beliefs that are backed up by evidence more than we do those that are merely asserted without evidence. The A answer above just reasserts the same point (*I need those pants!*) and doesn't give a reason. Being able to defend one's views is a *virtue* and a *skill*.

Let's take another example. Look at the following dialogue between John and Mary:

John: I think we should not buy anything that contains chocolate.

Mary: That's ridiculous!

John: It's not ridiculous at all! The chocolate we eat is harvested on cocoa plantations that use child slaves.

Mary: Well, I think it's ok to eat chocolate.

Do you *respect* John's or Mary's opinion more? Set aside whether you agree with what Mary believes (namely, that buying and eating chocolate is o.k.).

Consider only the way John and Mary back up their opinion. Who does a better job?

Chances are you respect John's opinion more, even if you agree with Mary that it's ok to eat chocolate. At least John backs up his view. All Mary does is ridicule John's position. She never defends her view. She simply ridicules his view and re-states her own view without defense.

John, on the other hand, backs up his belief that we shouldn't buy anything made of chocolate with a **reason**. He says,

(1) The chocolate we eat is harvested on cocoa plantations that use child slaves.

Whether or not one agrees with John's viewpoint, *at least* he is giving an **argument** for his view. Mary doesn't.

If you respect John's willingness to give evidence for his view, but you happen to agree with Mary that eating chocolate is ok, then you are in a very interesting position. If you are open-minded about the issue, you have two options: (a) you can be persuaded by John (and change your mind), or (b) you can find some **reason** for disagreeing with him. Both paths are respectable ones to follow.

Consider this: **Respect** is a two-way street. You want others to respect your opinions (and the better argued they are, the more respectable they'll be). This means, however, that the best way to respect the opinions of others is for you to *listen*

carefully and open-mindedly as they present their reasons for their beliefs to you.

You certainly don't have to agree with another person's viewpoint, even if he or she backs up their views with an argument. (Remember: some arguments are good and others are bad.) And you don't have to walk around thinking that everybody's opinion is just as good as everybody else's (because they're *not* -- some are better argued). What you do want to do is try to understand someone's else's view and then decide *for yourself* whether you should accept it or reject it based on the evidence provided.

REMEMBER: Reasoning is valuable. If you want someone to respect your viewpoint, you must give them **evidence** or **reasons** for thinking that what you believe is correct.

If someone expresses a viewpoint contrary to your own, one of the most respectful things to do is ask the other person what his or her reasons happen to be.

IV. Understanding Arguments.

1. Overview.

This and the next chapter are designed to give you some tips on understanding and evaluating arguments. Suppose someone defends a viewpoint contrary to your own. You must do two things: first, you must understand the other person's argument;

second, you must decide whether or not her argument is worth accepting. This section deals with 'understanding' arguments. The next section deals with how to 'judge' or 'evaluate' them.

2. How to Dissect an Argument.

Before we begin, remember that giving an **argument** means giving *evidence* or *reasons* for believing some claim is true.

With that in mind, let's dissect an argument. Suppose someone tells you:

My dog will bite you. So, you shouldn't try to pet him.

What does the speaker want you to believe? What is she trying to convince you of? Answer: *that you shouldn't pet her dog*. What reason does she give for why you shouldn't pet her dog? Answer: *that it'll bite you*.

There! You just dissected the argument. You know its parts (the two claims) and how they fit together.

Now let's introduce a pair of new words for describing the parts of an argument. We'll use the word **conclusion** to refer to the claim that the speaker is trying to persuade you to accept. We'll call any claim that contains a reason or evidence for accepting the conclusion a **premise**.

Premise (reason): My dog will bite you.

Conclusion: You shouldn't pet him.

Every argument has at least one premise and a conclusion. When you present an argument, you must know what your premises are and what your conclusion is. You do this naturally all the time, even if you are not accustomed to using words like "premise" and "conclusion." Do any of the following sound familiar?

Dad, you have got to buy me these shoes! My old ones are hurting my feet.

Sis, you can't borrow my scarf, because I need it this afternoon.

No, I don't have my homework. But it's not my fault, because my Mom forgot to put it in my backpack.

Each is an argument. Each has a premise and a conclusion.

3. The Technique.

Let's introduce a handy way to picture arguments to ourselves. This will be an important tool both in cross-examination debate and mock trial.

The technique is very simple. We just draw an arrow from any premise to the conclusion it is designed to support.

Remember our earlier argument?

My dog will bite you.



Therefore, you shouldn't pet him.

The arrow tells you which direction the evidence is supposed to flow. It's as if the speaker is saying, "*if you accept my premise (my evidence), then you should follow me to this conclusion.*" When we link a premise to a conclusion of an argument by way of an arrow, we produce a **diagram** of the argument.

For another example, let's turn back to the discussion between Mary and John, and let's **diagram** John's argument. Here, again, is the discussion:

John: I think we should not buy anything
that contains chocolate.

Mary: That's ridiculous!

John: It's not ridiculous at all! The
chocolate we eat is harvested on
cocoa plantations that use child
slaves.

Mary: Well, I think it's ok to eat
chocolate.

When John defends his view, he does it this way:

(1) The chocolate we eat is harvested on cocoa
plantations that use child slaves.



Therefore, (2) we should not buy anything that contains
chocolate.

Notice that we've inserted the numerals (1) and (2) into
the argument. That's just to help label the different claims.
We could do without them, but when we look at more complex
arguments later, you'll find them pretty handy. They are just
labels.

Now, as for John's argument, notice that (1) is his premise
and (2) is his conclusion. His belief, expressed in (1), *that
the chocolate we eat is harvested on cocoa plantations that
employ child slaves* is his reason for concluding *that we should
not buy anything that contains chocolate.*

So far, you've learned what an **argument** is, and that it is important to distinguish between the **premise** (reason, evidence) and the **conclusion**. Now, here is a question to ponder:

**If you're listening to or reading
someone else's argument, how do you
know what's the premise and what's the
conclusion?**

First, when you are discussing an issue with someone (for example, the issue of whether kids should boycott chocolate), you already tend to know what it is that the other person wants to prove. So, you know his or her conclusion. In a formal debate, such as the Connecticut Young People's Debate, you'll be arguing for or against a particular claim (in that context called, 'the resolution' or 'the resolve'), and your opponent will be arguing for the opposite conclusion. You won't have to worry about who's arguing for what!

Second, there are clues in our language that some claims are premises and others are conclusions. Look back at John's argument that we diagrammed a minute ago:

(1) The chocolate we eat is harvested on cocoa
plantations that use child slaves.



Therefore, (2) we should not buy anything that contains chocolate.

Notice the word “therefore” is used to introduce the conclusion. There are lots of words that are used in English and other languages to introduce conclusions. Pause for a minute to think of a few.

We call these words **conclusion-indicators**, because they indicate that what’s coming up is the conclusion of an argument. Here are some other conclusion-indicators (the “...” shows you where the conclusion would go):

CONCLUSION-INDICATORS

Therefore...

So...

Consequently...

It follows that...

Thus...

Hence...

Which means that...

Which implies that...

John might have used any of these words instead of "therefore" to introduce his conclusion.

There are also words and phrases that function as **premise-indicators**. John could have expressed his argument this way:

We should not buy anything that contains
chocolate, *because* the chocolate we eat is harvested
on cocoa plantations that use child slaves.

This is the very same argument, but it's worded slightly differently. For one thing, the conclusion is presented first, followed by the premise. (**Important lesson:** the *order* of the claims is not important when it comes to dissecting an argument.) For another, the word "because" (a premise-indicator) is now being used rather than the conclusion-indicator "therefore."

Here are some premise-indicators (the "... " shows you where the premise would go):

PREMISE-INDICATORS

because...

since...

for the reason that...

as...

for...

Given that...

Assuming that...

The reason is that...

This follows from the fact that...

So, John might have chosen to word his argument the following way:

Given that the chocolate we eat is harvested on cocoa plantations that use child slaves, we should not buy anything that contains chocolate.

It's the same argument (same premise, same conclusion), just worded differently. So, make sure you watch for **indicator-words!**

Finally, when in doubt use the **why-test**. When someone offers you an argument, they are supposed to be giving you a reason for **why** you should accept their conclusion. Suppose someone just says to you out of the blue:

My dog will bite you. You shouldn't try to pet him.

There are no indicator-words. Yet, you know the conclusion. You probably used the why-test without realizing it. At the speed of light, you asked yourself whether the speaker gave you

a reason **why** you shouldn't pet her dog. And you recognized that she did, namely, by informing you that it would bite you.

Consider the other claim in the argument: *My dog will bite you*. Does the speaker ever tell you **why** it will bite you? No. Take a second to think up reasons why it might be true that the speaker's dog might bite you:

- It has a bad temper.
- You look like the dog's previous owner, and the dog hated that owner.
- It's hungry, and chomps on anything or anyone it thinks might be giving it food.

These are all fairly good reasons for thinking that what the speaker is saying is true when she says, "My dog will bite you." Are any of these expressed in the argument? No. Chances are, then, that "My dog will bite you" is NOT the conclusion. It fails the why-test.

4. Exercises for 2-3.

Before we go on, try to diagram (using arrows) the following arguments. Some have indicator-words, some don't. Some are harder to understand than others, but you should be able to figure out the premise and the conclusion. Don't peek at the answers. They come right after the exercises. I've

stuck numerals in the passages to help label the claims.

Instead of writing out the whole sentence, just use the numeral.

Here is an example:

Question: (1) John is dishonest. Therefore, (2)
you shouldn't loan him your money.

Answer: (1)
↓
(2)

The conclusion-indicator ("Therefore") is a big tip. However, without it, the why-test would clearly indicate that (2) is the conclusion. That John is dishonest is a reason why you shouldn't loan him money. On the other hand, why should you believe he is dishonest? The argument says nothing about that.

Now go ahead and diagram the following arguments on a separate sheet of paper. Look for premise- and conclusion-indicators. If none are present, use the why-test.

A. (1) Bill should have been driving more carefully. So, (2)
he's responsible for the accident.

B. (1) Mr. Jones will probably be reelected, because (2) he's very popular.

C. (1) Surprise locker searches are unfair. This follows from the fact that (2) the lockers belong to students.

D. (1) Searching student lockers is not unfair. Consequently, (2) it was not unfair that Bob's locker was searched.

E. (1) That necklace does not belong to Mary. (2) I saw her steal it from the store.

5. More Complex arguments.

Ordinarily, arguments have more than a single premise and conclusion. Look carefully at the following argument.

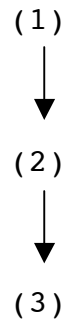
(1) John was a great class president last year.

Therefore, (2) he will probably make a great class president this year. So, (3) vote for John!

The argument is made up of three claims. (1) is a premise for (2): the speaker is predicting that John will make a great class president based on John's prior performance. But, now,

what is the relationship between (2) and (3). The speaker is claiming that one ought to vote for John on grounds that he'll probably make a great president. So, (2) is a premise for (3).

We diagram it this way:



This is known as a **chain argument**. Notice that (2) plays two different logical roles. It's a conclusion in relation to (1), and it's a premise in relation to (3). Chain arguments are quite common. You tend to offer a chain argument when you know you need to back up your premise. Let's extend the conversation between John and Mary (I've inserted the numerals from our previous diagram):

John: (2) I think we should not buy
 anything that contains chocolate.

Mary: That's ridiculous!

John: It's not ridiculous at all! (1) The
 chocolate we eat is harvested on

cocoa plantations that use child
slaves.

Mary: Well, I think it's ok to eat
chocolate. Besides, how do you know
that child slaves are used on cocoa
plantations?

John: [Hands Mary a photo] (3)
According to the United Nations,
thousands of children are used as
slaves in Ivory Coast and
neighboring countries. Look, here's
a photo.

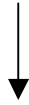
John's final remark (3) backs up (1). We can extend
the earlier diagram as follows:

(3) According to the United Nations, thousands of children are
used as slaves in Ivory Coast and neighboring countries.



(1) The chocolate we eat is harvested on cocoa

plantations that use child slaves.



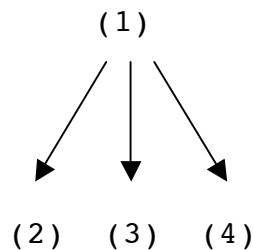
Therefore, (2) we should not buy anything that contains chocolate.

The picture that John gives Mary serves as an *example* of information, mentioned in (3).

So much for chain arguments. Here's another type of argument, known as a **fan argument**:

(1) My dog will bite you. So, (2) you shouldn't try to pet him. In fact, for that very same reason, (3) you should back away from him, and (4) you should never step on my property again.

From earlier, we know that (1) is a premise, and (2) is a conclusion. But what about (3) and (4)? The phrase "for that very same reason..." is a big clue. The speaker intends (1) (the reason given for not petting the dog) to serve as evidence for (3) and (4) as well. We diagram it this way:



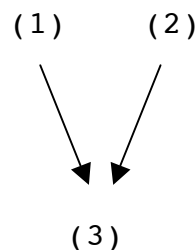
You can see why it is called a *fan* argument: the premise fans out to support more than one conclusion. Fan arguments can have two, three, four, or more conclusions. This one happens to have three.

Now you've seen simple arguments, chain arguments and fan arguments. Here is one final pattern of argument; it's called a **branch argument**. Try to diagram the following:

(1) School uniforms would make students less
conscious about how one another dress. (2) Uniforms
are also very affordable in comparison to most
clothes that students wear. Therefore, (3) students
ought to be required to wear uniforms.

The word "therefore" tips you off that (3) is a conclusion. How about (1) and (2)? How are they related to (3)?

(1) and (2) are independent reasons for accepting (3). We diagram it this way:



We say (1) is one branch of the argument for (3), and that (2) is the other branch of the argument for (3). Branch arguments can have any number of branches.

It's very important in debate to recognize branch arguments when they occur. Suppose it's your job in a debate to attack the argument above. If you were to spend all your time attacking the first branch of the argument, the other branch would still be left untouched, and you would lose the debate.

One last thing about diagramming arguments. Read the following passage:

(1) School uniforms would make students less
conscious about how one another dress. (2)
When students are conscious of what one another
wear, they tend to pick on each other.
Therefore, (3) students ought to be required to
wear uniforms.

In this argument, (2) does not provide an independent premise for the conclusion. Suppose we were to take away (1), would (2) by itself look like an argument for (3)?

When students are conscious of what one another wear, they tend to pick on each other. Therefore, students ought to be required to wear uniforms.

There seems to be something missing from this argument. You end up scratching your head and wondering: what's the connection between the claim *that students who are conscious of one another's clothes tend to pick on each other* and the claim *that students ought to have to wear school uniforms*? (1) tells you what that connection is. It tells you that uniforms would make students less conscious of their clothes. Together with (2), which tells you why that's important, you have a single argument for (3). Here's how we diagram it:

(1) + (2)



(3)

The '+' sign indicates that (1) and (2) must be put together as premises. In a branch argument, the premises are **independent** lines of argument. Here, in contrast, we say that the premises

are **dependent**. They depend on one another to establish the conclusion. In contrast to branch arguments, if in a debate you were to successfully attack (1) or (2), the whole argument would crumble.

6. Putting it all together.

All arguments fit one of the above patterns. Simple arguments, chain arguments, fan arguments, branch arguments, and arguments with dependent premises.

Before ending this chapter, let's look at one last argument. An argument can incorporate any combination of the above patterns, and can become quite complex. Consider:

(1) School uniforms would make students less conscious about how one another dress. (2) When students are conscious of what one another wear, they tend to pick on each other. Therefore, (3) students ought to be required to wear uniforms. (4) Consequently, the principal needs to inform all the parents. (5) If she needs to inform all the parents, then she better draft a letter by next week. It follows (6) that she needs to draft a letter by next week. Since she needs to draft a letter by

next week, (7) she better cut her vacation short, and (8) start composing that letter now.

This isn't as bad as it looks. We've already seen the first three claims and diagrammed them this way:

(1) + (2)



(3)

(3) becomes a premise for (4). The conclusion-indicator "consequently" tips you off that (4) is a conclusion. Furthermore, the fact that the school plans a new uniform policy is a reason why the principal ought to inform parents. So, let's add on (4) to the diagram:

(1) + (2)



(3)



(4)

Now let's look at (5) and (6). The fact that she needs to inform the parents (as asserted in (4)) is a reason why she better start drafting a letter. That she better start drafting a letter is what (6) asserts, and (6) - you'll notice - begins with the conclusion indicator "It follows that..."; so, it looks like (6) is a conclusion based upon (4).

What about (5)? (5) says,

If the principal needs to inform all the
parents, then she better draft a letter by next
week.

(5) works with (4) as a dependent premise for (6). You can see this, if you consider the fact that (5) by itself doesn't establish (6) as a conclusion (or anything else as a conclusion). Instead, it forges a link between (4) and (6), in effect saying: *if (4) is true, then (6) is true*. Well, is (4) true? According to the speaker, yes. So, according to the speaker, (6) follows as a conclusion.

If you are having trouble seeing this, then ask yourself what follows (as a conclusion) if we put the following premises together:

If the principal needs to inform all the
parents, then she better draft a letter by next
week.

and

The Principal needs to inform the parents.

What follows? Isn't it: *she better draft a letter by next week?*

(Compare. What follows from: "If we shoot the bear, then he'll die" and "We will shoot the bear"? -- Amazing! You knew the conclusion had to be "he'll die.") The fact is that **conditional sentences** (If..., then...) often form the glue within arguments and serve as dependent premises.

Let's add (5) and (6) to our argument:

(1) + (2)



(3)



(4) + (5)



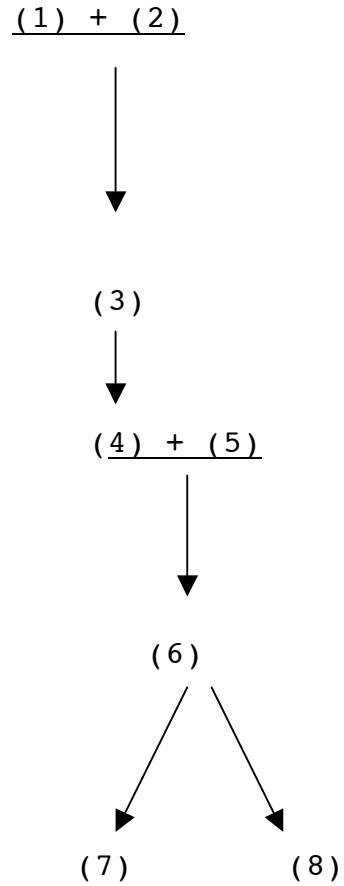
(6)

The only thing left is to figure out what to do with (7) and (8). Let's re-read the last little part of the argument.

Since she needs to draft a letter by next week,
(7) she better cut her vacation short, and (8)
start composing that letter now.

Notice that the beginning of the first sentence (everything up to the comma) simply repeats (6). Furthermore, notice that it is preceded by the word "since." "Since" is a premise indicator. So, we've just learned that (6) is a premise for *something*. For what? Well, along come (7), the claim *that she better cut her vacation short*, and (8), *the claim that she better start composing that letter now*. This looks like a fan argument, but let's make sure both (7) and (8) can pass the why-test. Why should she cut her vacation short? Because she needs to draft a letter by next week. (It may not be a very *good* reason for cutting her vacation short, but it *is* a reason.) Why should she begin writing the letter now? Again, because she needs to have it drafted by next week. (7) and (8) pass the why-test with regards to (6). You may not think the argument is very strong, but we'll discuss the "strength" of arguments in the next chapter.)

The final diagram will look like this:



If you've gotten this far, good work! Now the fun starts. In the next chapter, we'll start to think about how to tell good arguments from bad ones!

7. Exercises. Try diagramming the following arguments.

- A. (1) Cheating on schoolwork is wrong, because (2) it is dishonest.

B. (1) Cheating on schoolwork is wrong, because (2) it means relying on someone else's knowledge, whereas (3) the purpose of education is to learn to rely on your own knowledge.

C. (1) Regular exercise strengthens muscles, (2) strengthens your heart, and (3) lowers cholesterol. For all those reasons, (4) one should exercise regularly.

- D. Since (1) my car won't start, (2) I will have to take the bus; so (3) I need to take exact change for the fare.
- E. (1) Stephan must have a pretty good allowance, since (2) he bought at least six cd's at the mall on Saturday.
- F. There are at least three reasons for thinking that (1) random inspections of students' lockers should be permitted. First, (2) lockers are school property. Second, (3) school administrators have a duty to keep dangerous items such as guns or drugs from entering the school. And finally, (4) random inspections help students remember who's in charge.

G. (1) Random inspections of students' lockers should not be permitted! (2) Doing so violates their right to privacy. Furthermore, (3) random inspections foster resentment of authority in students, and (4) that's bad.

CHAPTER TWO

EVALUATING ARGUMENTS

I. INTRODUCTION.

Some arguments are better than others. If I were to argue that you ought to steal candy from a nearby store on the grounds that they have good candy there, would you accept the conclusion? Probably not. It's a terrible argument! That there is good candy at a nearby store is not a *good* reason to steal.

In this chapter, you'll learn about four distinct standards for judging an argument as good or bad. The guidelines will help you in any context in which you must examine evidence.

The four standards are:

- (1) Clarity.
- (2) Relevance.
- (3) Truth.
- (5) Logical Strength.

II. CLARITY.

There is an old saying: What can be said, can be said *clearly*. In debate speaking (and thinking) clearly is essential. Clarity depends on three things:

- (1) Key words must be well-defined.
- (2) Sentences must be well-formed.
- (3) Arguments must be well-organized.

Let's take each in turn.

(1) **Key words must be well-defined.** Suppose you are a lawyer trying to convict a defendant of 'negligent homicide.' You better know what negligent homicide is, and any expert witness you plan use better know what it means too! The point goes beyond not looking like a fool (a lawyer trying to convict someone of negligent homicide who doesn't know what negligent homicide is??). The fact is, in a debate, if you are unclear of the meaning of your main words, chances are you will be unclear as to what your **burden of proof** is (that is, what you must do to prove your conclusion). Consider the following discussion:

Frank: Mary is guilty of negligent
 homicide.

John: What does that mean?

Frank: It means that her actions caused
 someone's death.

John: Can she go for jail for that?

Frank: Yes, provided the death was
 caused by her carelessness.

Notice that Frank gives two different definitions of 'negligent homicide'. First he says that negligent homicide means causing a death by means of one's actions. Then he tells us that not only must one cause the death, but that the death had to result from one's carelessness. Which is it? (Probably the second definition, or one close to it.) The point is that Frank's lack of clarity can harm his argument. Suppose Frank is the lawyer attempting to prove Mary's guilt. Unclear of his task, he takes the easier road and proves merely that Mary's actions caused someone's death. Frank's lack of clarity has resulted in his failing to meet his **burden of proof**.

Or, matters can get even worse. Suppose you introduce definitions that are at odds with one another. Here is an argument I heard in one of my classes recently. We were discussing animal rights. Naturally, the issue turned on what is meant by a "right." Once you figure that out, you can decide

whether non-human animals have rights. But look at how Mimi goes about it in the following exchange between Mark and her.

Mimi: Animals don't have rights, because
 they aren't like humans.

Mark: Not like human, how?

Mimi: Well, they don't have minds like
 us...they can't think in the way we
 do.

Mark: But you have rights, don't you?
 Would you agree that if I punched
 you in the nose, I would violate
 some right that you have?

Mimi: Of course, you'd be causing me pain.
 Anything that can feel pain has a
 right not to be caused unnecessary
 pain.

Her second comment suggests that "having rights" requires an ability to think like humans do. Her last comment, however, suggests the capacity to feel pain is enough. Which is it? She not only expresses *different* views, but views that are *contrary* to one another. By her first definition, non-human animals incapable of human-like thought have no rights. By her second definition, they do have rights. She's contradicted herself. Her view falls apart.

Next, **(2) Sentences must be well-formed.** A string of words that doesn't amount to a well-formed, syntactical sentence *says nothing!*

Garbled words says nothing:

Example: "The defendant was intended harm the victim."

Sentence fragments say nothing:

Example: "The defendant was..." (Was *what?*)

Example: "If the defendant harmed the victim..." (*Then* what?)

Example: "Either the defendant harmed the victim..." (Or *what?*)

Clarity is also enhanced by simplifying sentences. A run-on sentence may be well formed; but if it's too long or complex for anyone to understand, then what use is it?

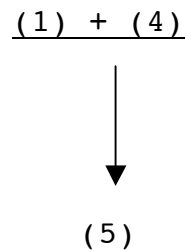
These same points apply to asking questions in the course of a debate or mock trial. In a mock trial, if you ask a witness a question that is unintelligible, you'll lose points.

Finally, **(3) Arguments must be well-organized.** The best way to make sure your argument is well-organized is to keep before your mind's eye a mental diagram of what you are saying - a diagram such as we discussed in the previous chapter. Everything you say should fit together and help prove the ultimate conclusion. Be careful, as you present an argument, not to get distracted by things that don't further your argument or your presentation of it. For example:

(1) Our opinion poll of the 7th and 8th graders indicates that school uniforms would be very unpopular. (2) In fact, Mary Jenkins is in 7th grade, and (3) she wears the coolest clothes. Anyway, to get back to what I was saying, (1) our opinion poll of the 7th and 8th graders indicates that school uniforms

would be very unpopular. (4) Unpopular policies should not be imposed on students. So, (5) the school should not require students to wear uniforms.

What role do (2) and (3) play in the argument? None. The speaker has simply gotten distracted. They amount to **parenthetical remarks**. Notice that valuable time is wasted, as the speaker must re-state (1) in order to get back on track. The diagram for this argument is simply:



If the speaker had trimmed from her argument anything that couldn't be diagramed, then (2) and (3) would never have been spoken.

As you become more familiar with diagramming arguments, you'll be able to recognize when other persons stray off course too. Sometimes it's worth pointing out someone with whom you are discussing an issue, that that the other's comments are not important. (But if you're short on time in a debate, or if you

don't want to risk your friendship, perhaps you should ignore the unimportant comments.)

III. RELEVANCE.

Sometimes people use sneaky tactics to get others to accept their views. For example, suppose you are discussing whether the death penalty ought to be outlawed. There are interesting things to say for and against the death penalty, but suppose someone argues this way:

The death penalty ought to be outlawed. The process is disgusting: the lips turn blue, smoke appears around the eye sockets...

Well, you get the picture. The speaker is trying to disgust you. He is trying to play on your emotions to get you to accept his belief that the death penalty ought to be outlawed. Emotions are powerful things. Nevertheless, they are no substitute for evidence.

When someone introduces irrelevant material into an argument with the purpose of using it to persuade you, we say the speaker has committed a **fallacy**.

When you evaluate an argument, you must ask yourself:

Do the premises contain relevant evidence?

Has the author of the argument committed a fallacy?

There are a variety of fallacies to be on the look-out for. They fall into a variety of groups. Remember: any argument that commits a fallacy is a bad argument.

1. Subjective fallacies.
2. Credibility Fallacies.
3. Causal Fallacies
4. Missing Evidence Fallacies
5. "You're missing the point!" Fallacies

1. First Group: Subjective Fallacies.

In each of these fallacies, the speaker needs to provide information about some (objective) fact but resorts instead to (subjective) personal beliefs, group beliefs, emotions, etc.

A. APPEAL TO PERSONAL BELIEF: Claiming that a conclusion is true merely on the grounds that one believes it to be true. Example: "Locker inspections ought to be prohibited, because that's just what I think!"

Expressions of **DOGMATISM** fall into this category. Example: "Children shouldn't talk at the dinner table. That's what I was raised to believe, and that's all there is to it!"

Another important way this fallacy arises is when moral matters are assimilated to matters of taste. Whether you think putting peanut butter on pizza makes for a "good" pizza is a matter of taste or *personal preference*, and it isn't particularly important in the grand scheme of things. But moral issues -- for example, whether asylum seekers should have the right to petition a country for protection -- are much more serious matters, because persons' well-being hinge on their outcome. Sometimes matters of personal preference and morality are confused. For example, "Anti-war T-shirts are *offensive to me*, so they ought to be banned." Offensiveness is subjective. If there is a reason for banning anti-war T-shirts, a better reason needs to be offered. (Maybe one could argue that the T-shirt incites violence, etc.)

Finally, another manifestation of this fallacy occurs when one encounters **WISHFUL THINKING**: claiming that a conclusion is true merely on the grounds that one desires it to be true. "I'm going to make an A on tomorrow's test. How do I know? Well, I

really, really want one." Here's another: "I can't stand the thought of there not being an afterlife; so, there must be one."

B. APPEAL TO POPULAR BELIEF: Claiming that a proposition is true merely on the grounds that a number of people believe or desire it to be true. Example: "Just about everyone thinks that locker inspections is wrong."

One version of this is known as **HOPPING ON THE BANDWAGON:** because everyone (or nearly everyone or maybe just the most popular people) do something, it must be right. Example: "Mom, You've got to buy me that new Linkin Park CD, everybody else's parents have bought it for them." OR: "Mom, all of the 'in' crowd are getting their tongues pierced. So, I should be able to get mine pierced too!"

C. APPEAL TO EMOTION: Influencing another by eliciting pity or some other emotion. Example: [Spoken to a Debate Competition Judge] "Please, give the 7th Grade Debate Team a 'Bye' in the first round, because they'll never win, but advancing beyond the first round will mean so much to their parents."

Our earlier example of the anti- death penalty argument was an appeal to emotion.

D. APPEAL TO FORCE: Forcing someone to accept a conclusion by offering a threat. The threat doesn't have to be physical.

Example: Teacher says, "You don't think your assignment was graded correctly? Well, before you say another word, maybe you should consider who is in charge of this class! Your grades *could* get considerably worse."

This, however, is NOT an appeal to force: "My dog will bite you. Therefore, you shouldn't pet it." Having information of the risk connected with doing a particular kind of action is important for deciding whether to engage in that action. In contrast, the appeal to force involves a threat against you simply because you believe what you do. The threat must be directed against you by persons who think your belief is wrong.

See if you can identify the fallacies in the following passages. Start by identifying the premise(s) and conclusion.

(a) Boys and girls ought to attend different schools. That's what I think, and that's all there is to it.

(b) Playground bully: Joey, I heard you told the teacher that you think school uniforms would be a good idea. You better change your mind, or else I'll knock your head off!

(c) All the students think Mrs. Jones is a good teacher. So, she must be great!

(d) Don't give Bill's CD back to him. I heard Bill talking about you the other day. He said he thought you were the stupidest kid he knows.

2. Second Group: Credibility Fallacies.

These fallacies involve either the erroneous use of an expert, or an erroneous attack on a person's expertise.

A. Appeal to Inexpert Authority:

(1) Using an expert's testimony with regards to something outside that expert's area of expertise. Example: "Hi, I'm Shaquille Oneil. If you want to be a champion, eat Wheaties! Wheaties is a nutritious breakfast cereal." Shaq is an expert at basketball, but he's hardly a nutritionist. So, what he has to say about the nutritional value of Wheaties better be taken with a grain of salt.

(2) Using the testimony of an expert who lacks objectivity or has a vested interest. Would you believe a tobacco industry spokesperson who says, "Our studies show that cigarette tobacco is not addictive"?

In a debate, it's often necessary to make use of studies performed by experts. There is nothing wrong with that. Always make sure your source is credible. Always keep track of the source of any study. In a debate, you need that information at arm's length.

B. ATTACK UPON THE PERSON. (AD HOMINEM ATTACK): Attacking a person who holds a position rather than the position itself. An **AD HOMINEM** asks you to conclude that a particular proposition is false because it is held by a person who possesses *undesirable character traits*. Example: "Bill thinks that school should be canceled when there is a bad snow storm, but you know how lazy Bill is."

3. Third Group: Causal Fallacies.

These are fallacies that involve causal claims. A causal claim is any statement in which one thing (or event) is said to cause another thing (or event). Each of these is a causal claim:

- John caused the accident.
- War causes poverty.
- Debate produces sharp thinkers.

In the fallacies described below, notice how in some cases the fallacy occurs when the causal claim functions as a premise, while in other cases it occurs when the causal claim appears in the conclusion.

A. SLIPPERY SLOPE: Drawing a conclusion based on the erroneous assumption that a certain chain of events is inevitable. "If we outlaw cigarettes, the next thing you know alcohol will be banned. Where will it end? With the government taking away all our liberties?"

B. FALSE CAUSE: Also called the **POST HOC** fallacy. Alleging that one event x caused another event y merely because x preceded y. This is the source of a lot of superstition. "John smoked his first cigarette last week, and this week he's dead. Shows you what smoking will do for you!"

C. ACCIDENT: Treating something nonessential as essential. One version of this involves drawing an incorrect inference about a person's intentions from the effects of a person's action. For example, "John knocked Mary out of the way of the oncoming truck and saved her life! What a hero!" Here the speaker infers from the fact that John saved Mary's life, that he intended to save her life. Perhaps John tripped and accidentally pushed Mary out of the way of the car. In that case, the speaker is mistaken that the cause of John's action was his intention to save Mary.

Now see if you can correctly identify the fallacies from the second and third group that are contained in the following passages.

(a) I wore this sweater and then received an A on the math test. So, I better wear it in the future whenever we have additional tests.

(b) You're wrong to agree with Jim that Mr. Hummer is a good teacher. Jim is a nincompoop.

(c) My science teacher gave me a bad grade. The next day my English teacher gave me a bad grade too. So, I guess by the end of the week I will be flunking Spanish, Gym and all the rest of my subjects.

(d) We're here to discuss the death penalty. And who would know more about it than inmates on death row!? When interviewed, 100% of them were against the death penalty. So, the death penalty ought to be abolished.

(e) The Founding Fathers were all church-going folks. Therefore, the Constitution of the U.S. is a religious document.

4. Fourth Group: Missing Evidence Fallacies.

All fallacious arguments are missing evidence. But these fallacies are *really* missing evidence! Read on, and see why.

A. CIRCULAR ARGUMENT. Also called: **BEGGING THE QUESTION.**

This happens when someone smuggles into his premises the very conclusion for which evidence is needed. Example: "Cigarettes should be outlawed. Therefore, they should be made illegal."

To be outlawed and to be made illegal are the same thing. The speaker has simply reworded the conclusion as a premise.

B. APPEAL TO IGNORANCE: Asserting some claim to be true on the grounds that it hasn't been proven false. Or asserting that some claim is false because it has never been proven true.

Example: "No one has ever proven that
smoking causes cancer. So, it
doesn't."

Sometimes this is called the **BURDEN OF PROOF** fallacy. In any debate there is a greater burden or responsibility that rests with one side to prove its point. Ordinarily, the burden rests upon the side that is proposing change (for example, *that cigarettes ought to be outlawed in the U.S.*) or defending an extraordinary claim (for example, *that ghosts exist*). The fallacy is committed when someone shirks their duty. Example:

"You say I haven't proven that ghosts exist!? Well, can you prove that they *don't*?"

C. PROOF SURROGATE: Asserting there is a *reason* for believing some claim, but being unwilling to give it. Most often this occurs when persons simply claim there exists some statistics or data that support their view, but they don't provide you with the source of the information. "Statistics prove cigarette-smoking causes cancer." If you're discussing some issue related to cigarettes and cancer, you would want to ask for the source of these statistics. In a debate, any time you refer to some study, be sure you know its source!

5. "You're missing the point!" Fallacies.

In each of these cases, the speaker attempts to distract you from the real issue or from relevant options important to deciding an issue.

A. FALSE DILEMMA: Assumes that only two alternatives exist in a given situation, so that anyone who does not agree with the first, must agree with the second. "You say you're not going to vote Republican? Then I guess you'll have to vote Democratic." The speaker has drawn a possibly false conclusion by neglecting the fact that persons can vote for candidates of other parties (Green Party, Libertarian Party, etc.)

LOADED QUESTIONS foster false dilemmas. Suppose a teacher were to say to you, "Tell me -- yes or no -- do you still plan

to steal the money for the class trip?" You would think there is no easy yes or no answer. "*Still* plan to steal the money?? - - I *never* planned to steal the money!"

One type of False Dilemma is the **PERFECTIONIST FALLACY**: if something can't be done perfectly, then it's not worth being done at all.

B. SMOKESCREEN OR DIVERSION. Providing evidence for a claim that is similar to but slightly different from the one that needs to be proven. Example: "Let me explain to you why I believe it's good to belong to the Boy Scouts. My sister joined the Girl Scouts and had a wonderful time! They went on field trips and learned lots of neat stuff." Not a very convincing argument, right? The evidence leads to a different (although similar) conclusion, namely, that being a *Girl* Scout is a good thing.

In a debate, if you mistake your opponent's position, you'll be told you are **ATTACKING A STRAW MAN**.

Now try to find the fallacies, drawn from the fourth and fifth groups, in the passages below.

(a) We can't beat that team. So, there is no use trying.

(b) John stole the computer from the library! We can draw this conclusion from the fact that two years ago it was discovered that he stole his sister's wallet.

(c) John must have stolen the computer, since no one has proven that John didn't steal the computer.

(d) How do I know that John stole the computer?
Well, the computer was stolen by a thief, and John was that thief.

(e) There is plenty of evidence suggesting John is the thief. So, he is.

(f) Let Joe bat for Tim. After all, Joe is a mighty good second-base player.

IV. Truth.

So far you have considered two important standards for judging arguments as good or bad. Good arguments must use clear language, and they cannot contain any fallacies.

The third standard is **TRUTH**. The premises of an argument must be true! Consider the following argument:

(1) If you camp beside a stream at night, you mustn't speak above a whisper. (2) Because, if you do, the rocks in the stream will sprout arms and legs, and they'll come looking for you.

Would you accept (1), the conclusion of the argument? No, because the premise is false (untrue).

What makes a claim true or false? For a large number of the claims that we believe or assert, their truth consists in their corresponding to facts. It is not a fact that rocks come to life, sprouting arms and legs when they hear voices. So, the premise is false.

Beliefs, statements, claims, assertions, propositions (call them what you will) are made true by facts of one sort or another. If the weather forecaster forecasts a snow storm in your vicinity tomorrow, his or her claim will be made true (or false) by tomorrow's weather facts.

Sometimes it's not always easy to know what kinds of facts will make a claim true or false. For example, moral judgments such as, "It's wrong to steal" or "We ought to abolish slavery in the cocoa industry" are controversial as to what makes them

true. So are mathematical statements such as, "Two plus two is four." These statements seem true and don't seem like mere pieces of fiction (like, "Sherlock Holmes lived in London"), so they can be rather puzzling. Before closing this section, I'll mention some possibilities regarding moral and legal claims.

We're going to say that a claim is true when it corresponds to some fact. It's false when it does not. If one or more of the premises of an argument are false, that's a serious flaw!

When it comes to a specific claim, there are *three* attitudes you can take: (a) **accept it as true**, (b) **reject it as false**, (c) **suspend judgment** (remain **skeptical**) until more information is made available to you. Look at the following list of claims. Which attitude do you take toward each?

- (a) Most cars need gasoline.
- (b) There is a huge mountain made of gold in Hartland.
- (c) Your teachers have wings that allow them to fly.
- (d) We will experience 20 inches of snow this February.
- (e) You will make an 100% on your next math test.
- (f) Aliens landed at Roswell, New Mexico back in the
1950s.
- (g) Ghosts live under the floor of Hartland School.

(h) A Republican will be elected President in the next election.

After you read the section below, go back to see whether you would answer the above in the same way.

There are some basic guidelines for judging a claim true or false.

- (1) Rely upon adequate observation whenever possible.
- (2) Rely upon expert testimony when needed.
- (3) Consult your background beliefs.
- (4) Explore implications.
- (5) Check for coherence.

(1) Rely upon adequate observation whenever possible.

One of the best tests we have for deciding what's true is observation: what we see, hear, smell, feel, and taste.

If someone tells you that it's snowing, but there is no snow to be seen (or heard or felt), then the claim that it is snowing should be regarded as false. The burden of proof clearly rests on the other person. Observation tips the balance when it comes to burden of proof.

Bear in mind that some observations are better than others. If you are near-sighted, and you aren't wearing your glasses,

you better remain skeptical if you're fishing from a boat and think there are fish jumping 300 feet away. Your conclusion that bass are jumping 300 feet away would be much more acceptable if you were wearing your glasses.

Some persons are trained to be observers. A traffic cop would be better at describing an accident than an untrained bystander.

If you are engaged in mock trial competition, one of the best things you can do as a lawyer is to attack the opposing side's witness's capability to observe the relevant facts.

(2) Rely upon expert testimony when needed.

Earlier you heard about the fallacy of **appealing to inexpert authority**. Bad authorities make bad arguments. Sometimes, however, you *need* an expert's point of view. For example, in a mock trial you will need to use **expert witnesses**. Make sure your expert witnesses are (i) experts in their field and (ii) objective about what they think.

(3) Consult your background beliefs.

During your life you have gained lots of knowledge about the world. If someone were to say that your best friend is a

murderer, you would be smart to consult what you already believe or know about your friend before. Chances are, on the basis of that knowledge, you would reject the claim that he or she is a murderer

Background beliefs work alongside observations. If a friend at school tells you that Martians landed in your town last night, would you agree? You shouldn't. You *know* that sort of thing would have prompted a school cancellation, and that the town would be filled with police and government officials. Yet you did not observe the latter happening. So, the claim that Martians are in town is probably false.

(4) Explore implications.

Sometimes you have to consider what is implied by a claim before deciding whether to accept it or reject it. Consider the following moral claim:

Only adults have rights.

Rights come in a variety of forms. Persons have a right to own property. They have a right not to be physically harmed by another person or to be killed, and so on.

If the above claim is true, what follows from it? At the very least, if it is true *that only adults have rights*, then it's true *that kids have none*! This implies that kids can't own property, that it is ok to harm or kill them, and so on. These implications are awfully hard to swallow. You can conclude that the original claim is false.

(5) Check for coherence.

A claim is incoherent when it contradicts itself. Suppose the following were a school policy:

Any students caught throwing snowballs at other students will be expelled from school for two days, and during those two days they will report for detention after being dismissed from their last class.

How is a student supposed to be absent (expelled) from school but also present at his "last class"? The policy contradicts itself. It could never be *truly* enforced. That's grounds for rejecting the policy

VI. LOGICAL STRENGTH.

The last enormously important standard we use for deciding whether an argument is any good is logical strength. The

premises not only have to be true, they have to provide *strong enough* evidence to support the conclusion. Suppose someone offers you the following argument:

(A) Barack Obama works in Washington D.C.

Therefore, he is the President of the United States.

The argument passes our first three tests. The language is clear. The premise commits no fallacy, and it's true. However, the argument is *weak*. Take a moment to put into words why you think it is weak.

Chances are you figured, "Well, lots of people work in Washington, D.C. besides the President. So, it doesn't follow from the premise that he works in Washington D.C. that he is the President."

Compare that argument with this one:

(B) Barack Obama works in the White House.

Therefore, he is the President of the United States.

Which argument -- (A) or (B) -- is stronger? (B) leaves a lot to be desired (many persons work in the White House), but it's the stronger of the two.

Logical strength comes in degrees. See if you can come up with a stronger argument than (B). How's this?

(C) Barack Obama works in the Oval Office of the White House. Therefore, he is the President of the United States.

This argument is not air tight, but it's stronger than (B). (A) is extremely weak, because you can think of many **examples** of persons who work in D.C but who are not the President. An example of this sort is called a **counter-example**. (B) is weak too, but not as weak as (A), because there are fewer counter-examples. A guy who drives a bus in downtown D.C. is a counter-example to (A) but not to (B). On the other hand, the head of White House security is a counter-example to (B): he works at the White House but isn't President. You can see that there are even fewer counter-examples to argument (C), yet there some: the President's private secretary, staff members, etc. See if you can imagine a stronger argument than (C).

How do we judge an argument's logical strength? -- Well, the good news is: you already know how to! The main technique is simply to use your imagination to think of counter-examples. The more counter-examples, the weaker the argument. The fewer counter-examples, the stronger the argument.

There is a second technique, but it's a little more difficult. Consider argument (D); after dissecting it, evaluate its logical strength:

(D) (1) Seventh and Eighth Graders shouldn't have any recess, because (2) if they devote the time to studying, their grades will increase.

There is a big logical gap in this argument. *In order for (1) to follow from (2), what must the speaker assume is true?* In fact there are two crucial assumptions made by the speaker, and the whole argument turns on whether they are true. Before reading further, try to think of what they are.

One assumption is that there is a need for the 7th and 8th graders to improve their grades. Suppose all or most are A students -- would it follow that their recess should be taken away? Of course not.

The other assumption is that supposing the students do need to improve their grades, taking away their recess would be an effective means of achieving that goal. It might not be. It might be that students need a recess in order to do well in school. That would make depriving them of recess counter-productive.

The second technique is this: figure out the unstated assumption (or assumptions) that closes the gap between premise and conclusion. The more likely it is that that assumption is false, the weaker the argument. The more likely it is that that assumption is true, the stronger the argument.

By the way, there is something else important about the objection just raised against argument (D). When we looked for hidden assumptions, the assumptions we discovered concerned (a) the **need** for a change in policy, and (b) whether the change would be an effective **means** for achieving its goal. When it comes to a debate, there is a burden of proof on the affirmative (the Pro side of the debate) to demonstrate that the resolution they are defending is necessary and effective. It's the job of the Negative (the Con side of the debate) to prove the resolve is either not necessary or that it won't be effective.

Try a few exercises. Each pair of arguments has the same conclusion but different premises. Figure out which in each pair is stronger. Remember, you're checking for logical strength, not for truth.

1. a. Brenda is runner. Therefore, she is healthy.

 b. Brenda just had a check-up, and her doctor
 said she's healthy. Therefore, she is
 healthy.
2. a. It's probably going to rain tonight; my trick
 knee is aching.

 b. There's a cold front moving in from the west,
 and the barometer is falling. So, it's
 probably going to rain tonight.
3. a. If Dr. Levvis is from Mars, then he's not
 from Earth. He is from Mars. Therefore,
 he's not from Earth.

 b. Dr. Levvis was seen on his roof with a radio
 device aimed at the North Star. Therefore,
 he's not from Earth.

- 4. a. You're not eating a balanced diet. So, you ought to eat vitamins.
- b. Vitamins are pretty. They come in different colors and shapes. Therefore, you ought to eat vitamins.
- 5. a. Bill is a vegetarian. But John is a carnivore. Therefore Bill eats less meat than John.
- b. Bill says he is a vegetarian. John is a carnivore. Therefore Bill eats less meat than John.

VI. Summary.

This chapter has introduced you to the techniques for evaluating arguments. Almost any argument you encounter -- from friends and relatives, in the news, or at work or school can be dealt with using the techniques described here.

You'll want to keep these standards for good argumentation in mind too, as you present your view to others. Arguments that are unclear, fallacious, logically weak, or which contain false premises are inherently bad.

Of course, you should not expect yourself to be perfect in all these respects. The best any of us can do is be on guard against these difficulties and try to avoid them.

CHAPTER THREE

CROSS-EXAMINATION DEBATE (I)

1. In a **CROSS-EXAMINATION DEBATE**, you will pair up with one other person to form a team. You will be given a **resolution**: a claim that the two of you must defend in one round of competition and attack in another. The resolution is presented in the following fashion:

Resolved: Cigarette tobacco shall be made illegal in
the U.S.

Resolved: The electoral college shall be abolished.

Resolved: The death penalty shall be abolished.

Resolved: The U.S shall boycott Chocolate products
produced using child slave labor.

The word "Resolved" serves to announce the issue. Think of it as short for: *Let it be resolved that...* It also tells you what the Affirmative Team must prove.

Let it be resolved that chocolate products
produced using child slave labor shall be
boycotted by U.S. consumers.

As you can see, the topics can range from those of historical interest to others that are controversial today. The issue (above) pertaining to the Indian Removal Act asks you to re-enter a debate that took place during the 19th Century and consider the perspectives of the persons at the time. The issue concerning child slavery in the cocoa industry has you looking at a contemporary issue.

You'll be told the topic months in advance. You and your partner will work as a team. You will need to research the topic in the library and on-line in order to discover the pros and cons of the resolution. You will practice by going up against other pairs of students from our school.

At this point you may be thinking that that sounds like an awful lot to do. However, your debate coach, teacher(s), librarian and parent(s) can help in important ways. This guide is written for students grades 6 - 8. Sixth graders need a little more guidance from adults concerning research than do the older students. Ask adults to show you how to find important resources. Usually your coach or teacher can point you to relevant web sites, and your librarian can help you find important resources in the school. Keep in mind that during our preparation for competition, you will be discussing information with the other teams from the school. The Debate Team as a whole will prepare together. Everyone is expected to pitch in.

3. What to expect. The debate will take place at a nearby school. There are two rounds. For each round, you and your partner will be instructed to go to a particular room. There you'll meet the other team and the judge. *Be polite. Make a point of introducing yourself.* Ordinarily there may be some parents watching and possibly your coach (but don't count on this, since your school will probably enter a number of teams. Someone in the audience will be designated as the timekeeper.

There are two rounds. You and your partner must argue the Affirmative side of the resolve in one round, and you must argue the Negative side in another round. You will not know which you are to do first until moments before the actual round, but the several months of preparation prior to the contest will ready you to do either.

As you walk into that room, take a deep breath, relax, be confident that the work you and your partner, and the Debate Team as a whole, have put into preparation is a source of strength.

The judge for the debate is most likely a teacher/coach from another school, a lawyer, or some other volunteer who has been trained to be a judge. The judges are your friends. They're here because they like kids and enjoy debate. They see this as an educational experience, and look forward to giving

you constructive criticism. Everybody gets constructive criticism.

3. Your Duties as a Speaker.

As a team, you and your partner have specific duties. Let's look at the big picture, starting with the Affirmative (Pro).

3.1 The Main duties of the Affirmative.

In brief, the Affirmative must demonstrate that:

- There is a **problem**, a **need** for change, and the resolution is a possible solution to that problem. (A **case** can be made for changing the *status quo*.)

And

- The resolution can be implemented in an **effective manner**, that is, that it is a **practical** solution.

And

- The resolution is a better, **more practical solution than any alternative plan** proposed by the Negative side.

When arguing the Affirmative, you must accomplish all three goals. The **burden of proof** is on you. Repeatedly remind yourself:

I shall show a need for change; and I shall show that our resolution is practical; and I shall show that it is the most practical of solutions!

As you begin researching the subject, you must keep these three points in mind. They will guide you, so that you can distinguish what is relevant from what is not.

Don't worry about this sounding complicated. A debate is divided into a number of tiny time segments, and what you will do in each segment is decided for you. Plus, you'll have a partner with whom to share the chores.

Let's consider an example. Suppose you are the Affirmative in a debate concerning the following resolution:

Resolved: *Americans should be vegetarians.*

Let's start with a definition of "vegetarian." This will help *clarify* the resolution. As the Affirmative, you are responsible for defining key terms and clarifying the issue. A *vegetarian* is someone who doesn't eat meat. This isn't a great definition, but it will do for now. In an actual debate it

would need some tinkering. We have a clearer idea, though, of what the resolution is: *Americans should not eat meat.*

Eating meat is the status quo in the U.S.; it's the customary thing. Now let's consider the three things the Affirmative must prove:

- 1st. There is a need for changing the status quo.
- 2nd. Adopting the resolution will be an effective means for changing the status quo.
- 3rd. Adopting the resolution is the most effective means for changing the status quo.

The first thing you have to do is show that there is a need for change. Can you think of reasons why persons should not eat meat?

When trying to prove the status quo should be changed, you should consider two types of questions:

1. What harm is produced by the status quo?
2. Does the status quo violate anyone's rights (or anything's rights, if as here you are considering the

'rights' of animals); that is, is there something inherently wrong about the?

We will ignore question #2 for now. In debates over policies or laws, the tendency is to fall back on matters related to rights or wrongdoing only when absolutely necessary. Question #2 does become important in this issue eventually. However, let's focus on Question #1 for now.

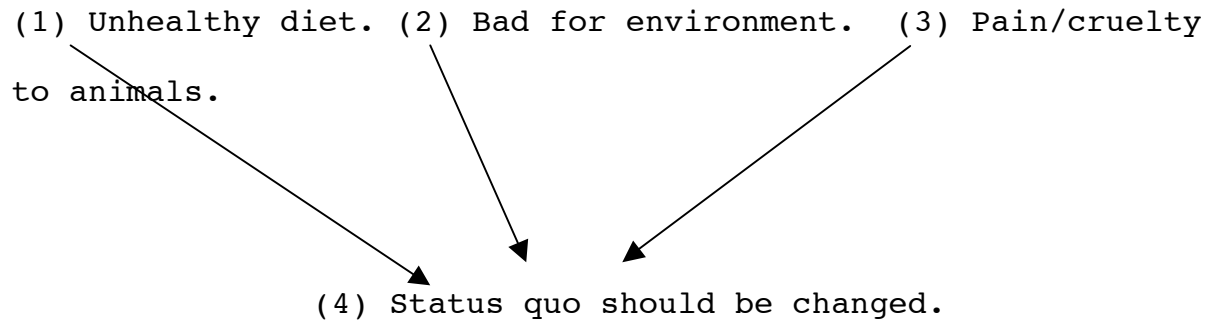
In preparing for a debate, in order to answer Question #1, you would have to do a little **research**. What harms, if any are produced by the current pattern of consumption of meat? You will have to go to the library or research the subject on the Internet. If you go to the Internet, you need to make sure your sources are reliable and unbiased.

Chances are that in researching the subject, you would discover the following:

- The amount of meat typically consumed by Americans is unhealthy. It contributes to various diseases, such as heart disease, colon cancer, etc.

- The production and consumption of meat is not environmentally sound. It plays a major role in the loss of topsoil, rain forests, etc.
- The animals that are slaughtered meet painful deaths.

So, here are three different reasons for thinking that the status quo (how things currently are) is problematic. Your argument, so far, looks like this:

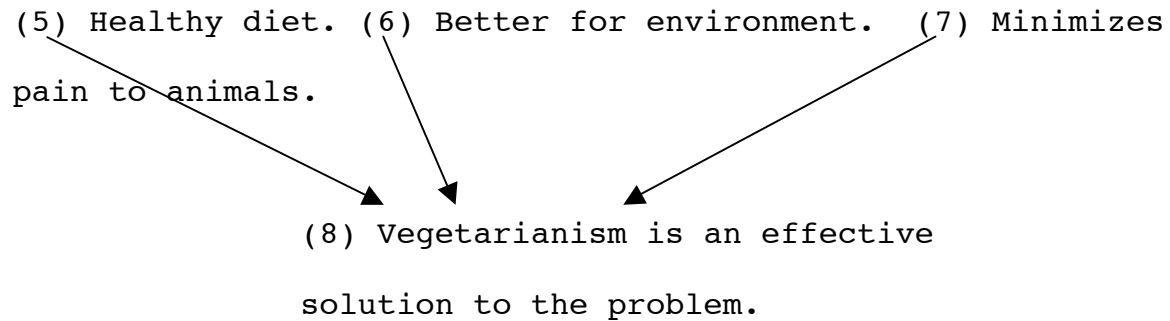


Naturally, you would need to back up (1), (2) and (3) with evidence.

Next, you must show that the resolution is an effective means for remedying these problems. You must show that a vegetarian diet has advantages:

- It's healthier.
- It doesn't impact the environment in as negative a way.

- It minimizes the pain experienced by animals that are slaughtered.



Naturally, you would have to provide evidence for (5), (6) and (7), but this gives you the general framework for your argument.

Finally, you must show that yours is the best solution to the problem. This is the toughest part of your job, and when you are debating, a lot will depend on what the other side offers by way of alternatives. Typically, the Negative will suggest that tinkering with, but not abandoning, existing policy (or values) will resolve any problem the Affirmative has attributed to the status quo.

Consequently, in preparing for debate you must try to anticipate what these alternatives might be, so that you'll be ready to attack them. Your opponents are going to try to **rebut** your argument by showing how refining existing policy can overcome your criticism.

- In response to your 'Healthy Diet' argument, they might argue that by eating less meat, but not abandoning meat altogether, one can be healthy.
- In response to the 'It's Better for the Environment' argument, they might outline less environmentally harmful ways of raising beef, poultry, and pork.
- In response to the 'Moral' argument, they might try to offer less painful ways of killing animals.

Your job will be to anticipate and eventually rebut these **counter-arguments**. In debate, if you are arguing the Affirmative, this is where you earn your points!

We will not devote time here to considering detailed responses to these criticisms. Perhaps you could bolster the Healthy Diet argument by citing risks that are present in even

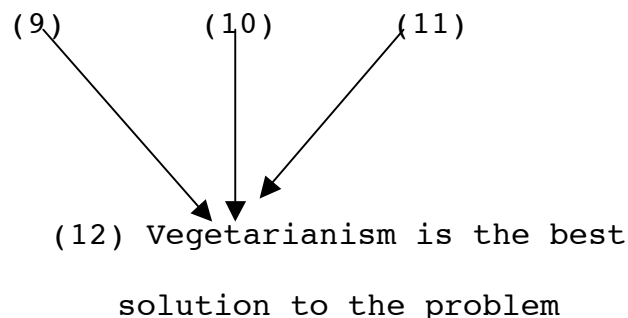
minimal consumption of meat: food poisoning, mad cow disease, etc. Perhaps you could strengthen the Environmental argument by showing that even the modifications suggested by the negative are environmentally unsound. Perhaps you could give more bite to the Moral argument by the Negative's proposals still cause unnecessary suffering in animals.

There are other possible strategies, but we won't discuss them here. Just keep in mind that this third aspect of your argument must close off alternative solutions. Try to picture this part of your argument:

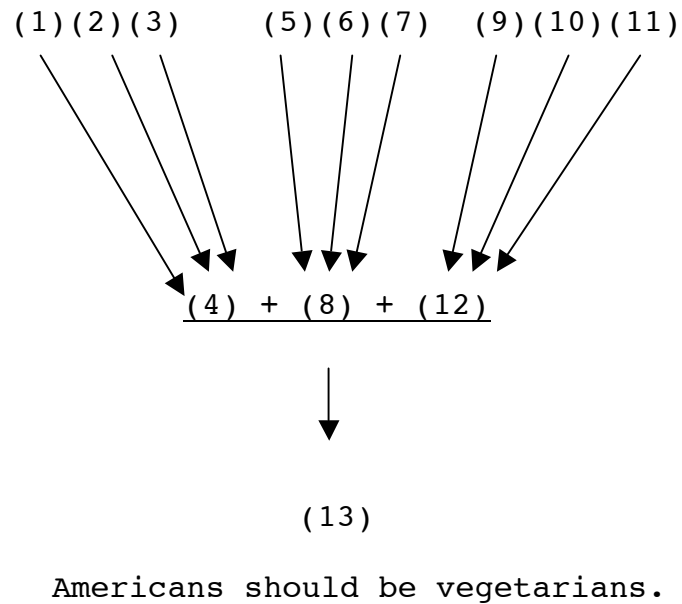
(9) Even a diet with a minimal amount of meat carries a higher cancer risk than a vegetarian diet.

(10) Beef consumption, even if minimized will continue to cause water pollution.

(11) Even the 'kindest' slaughtering method induces pain.



Here is what the total argument looks like:



Keep in mind that this is a description of the bare bones logic of your argument. In the next chapter, you'll become familiar with the format of a formal debate. Each debater is assigned a speaking role, and you have to squeeze these arguments into your particular roles and the format for the debate.

3.2 The Negative Argument. Now let's take a look at what the Negative side must do. Again, we're just concerned with the logic of the argument, not the actual format of the debate. Our purpose here is for you to gain an idea of what your goal is during the debate.

The Negative side has the easier job. Remember that the **burden of proof** rests with the Affirmative. The Negative must disprove that the resolution should be adopted. The Affirmative is trying to prove *that persons ought to be vegetarians*. So, it's the Negative's job to prove the opposite, or, at the very least, to demonstrate that the Affirmative hasn't meet its burden of proof.

Recall that the Affirmative must prove:

- The **status quo** (what the resolution seeks to change) is problematic/harmful,
- that the resolution will effect a positive change, and;
- that adopting the resolution is better than merely modifying the status quo.

The Negative can win the debate by disproving any of these three things. In other words, you want to prove either:

- There is **no** problem. The **status quo** (= the way things are) does not need to be changed -- specifically, that there is little or no harm that it causes.

Or

- The resolution will be ineffective in achieving its goals. It won't solve the problem. This is to attack the **solvency** of the Affirmative's position.

Or

- There are alternative solutions (or means) for achieving the same goal without abandoning the *status quo*. The *status quo* can be tinkered with so that adopting the affirmative's proposal is not necessary.

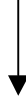
Keep reminding yourself:

I shall show no need for change; or I shall show that the resolution is not practical; or I shall show that there are more practical solutions than proposed by the Affirmative.

Don't forget that there are three legs to the Affirmative argument. Break any leg, and you win. Here is the diagram of your task:

- (1) **Either** there is no need for change;
or the resolution is not practical;
or there are more practical solutions

than proposed by the Affirmative.



(2) **Therefore**, the resolution is not justified.

Notice that you don't have to prove that the resolution -- that is, the conclusion of the Affirmative's argument -- is **false**. You don't have to prove that it's ok not to be a vegetarian. If you can, that's great. However, all you *need* to do is show that the Affirmative hasn't proven its point.

Let's think how that might be done for the argument discussed above. In the first leg of their argument, the Affirmative has given three reasons for why the *status quo* -- in this case, the fact that persons by and large are not vegetarians -- is problematic. To break this leg of their argument, you would need to refute all three of their lines of argument concerning health, the environment or the suffering of animals. That's going to be tough. If they had simply argued that *persons should be vegetarians, because animals have superior minds to humans*, you could argue that it is false that they have superior minds to humans. But they didn't do this.

Remember that they supported the need to change the status quo by appealing to health, the environment, and cruelty to

animals. If you can show that any of these underlying claims are false, do so. Short of that, ask about the source of their information. Does it come from a reliable source? Is the source credible and objective?

STRATEGY: Try to prove your opponent's claims are false. If that's not possible, show their claims are not adequately supported.

If you can't break the first leg (need), break the second. The affirmative must prove that adopting the resolution will solve the problem with the *status quo*. This is referred to as the issue of **solvency**. The Affirmative must prove that the resolution has solvency (= that it can solve the problem). The Negative should try to show that it doesn't.

So, will becoming vegetarians solve the *health problem*? Your research might very well show that it could. For example, the American Dietetic Association claims there are numerous advantages to reducing if not eliminating meat from one's diet and replacing it with soy protein (protein derived from soy beans). It might be hard refute the affirmative in this case. Perhaps you could point out that persons can eat unhealthy vegetarian diets (for example, by not varying their source of

vegetable protein or by eating too much). This tactic would point ahead to a later aspect of your argument, namely, that the status quo can be tinkered with: get persons simply to *decrease* their intake of meat.

What about the Environmental Argument? Wouldn't it make your job easy if you were to discover that a massive increase in raising soybeans would result in environmental catastrophe!? Well, that's just not going to happen. Your best bet is to wait this one out: lessening the consumption of meat would probably result in less environmental damage.

Then there was the Moral Argument. It would be impossible for you to refute the idea that everyone becoming vegetarians would lessen animal suffering. Once again, your best bet may be to concede the point, and then later argue that a more humane ways of slaughtering (a smaller number of) animals might be adopted.

So your rebuttal of the Affirmative comes down to the last leg of its argument: can you show that an alternative exists to adopting the resolution? In looking for an alternative solution, you must show that the *status quo* can be tinkered with.

You want to argue that persons don't need to abandon eating meat. By reducing meat intake, the Affirmative's health, environmental and cruelty problems can be met.

Remember, your task is to prove the following:

(1) **Either** there is no need for change;
or the resolution is not practical;
or there are more practical solutions
than proposed by the Affirmative.



(2) **Therefore**, the resolution is not justified.

When you are defending the Negative side, this is the Big Plan. Now let's turn to the specifics of debate competition.

CHAPTER FOUR

CROSS-EXAMINATION DEBATE (II)

I. Preliminaries.

You and one other person will form a team. Pick someone who you know is in it for the long haul. Preparing for a debate takes a month or two of effort. You will need to research the topic and read various materials. You'll have to practice and polish your delivery.

Once the debate topic has been announced, you can get to work. Start reading anything you can get your hands on concerning the topic. Take notes. *Keep good records of the sources of all information.*

The debate has two rounds. During one round, you and your partner will argue the Affirmative position. During the other round, you and your partner will argue the Negative position. Your final score will be based on your performance in both rounds. Ordinarily, teams that win both rounds compete against one another at a latter date. This process continues until a victor emerges. Along the way, the best team(s) and best individual speaker(s) are honored.

The debate follows a set procedure, passing through a number of timed stages. *The first four stages are the core:* you and your opponents will present your basic **constructive** arguments and have the opportunity to cross-examine one another during this time.

You and your partner will perform different tasks during the debate. During the your Affirmative round, one of you will have to be the 1st Affirmative speaker while the other is the 2nd Affirmative speaker. Likewise, for your Negative round, one of you will have to be the 1st Negative and the other the 2nd Negative. The chart below describes the roles of all four debaters during the *constructive arguments* (the first four stages) of the debate.

II. Arguments.

General Comments. During your constructive arguments, each speaker will have 5 minutes. Always introduce yourself. Always leave time (30 seconds or so) to summarize what you have said.

1. First Affirmative: Constructive and Cross Examination.

1.1 1st Affirmative Constructive [5 minutes]

a. *Introduce yourself. Indicate that you will be the first to speak for the Affirmative.* ["Good morning. My name is Misty Speaker, and I will be the first speaker for the Affirmative."]

b. *Introduction.*

Open with a well-worn quotation that can tie into the issue. ["It was 1969 when Supreme Court Justice Abe Fortas, writing for the majority in *Tinker v. Des Moines*, proclaimed that neither students nor teachers shed their constitutional rights to freedom of expression or speech at the schoolhouse gate."]

Tie the quote to the resolution, and state the resolution. ["Since 1969 the Court has repeatedly chipped away at students' 1st Amendment rights to free speech and expression. In 1988, the Court decided, in *Hazlewood v. Kuhlmeier*, that public schools could censor student publications that seek to discuss abortion, divorce, and other issues important to teenagers today. Because these restrictions are in violation of a right guaranteed under our own Bill of Rights, we, the affirmative, stand resolved that school administrators and teachers should not be able to censor student publications."]

c. *Problems with the Status Quo.*

Remember the first component of your argument? You must show that the status quo is problematic and needs to be changed. So, prove the **need** for change. Do this by showing what **harm** the status quo causes. The harms you describe must be **significant**: How many people are affected? How serious is the harm to them. This is where you begin your research in earnest. [Go find how

many students and student newspapers are affected by the Hazlewood decision. Find out if it has been challenged in court, and describe the harms evident in those cases. Consider the extension of the Hazlewood decision to other forms of student media: web sites, radio and television, etc.]. **Need. Harm. Significance.** The judge will expect you to demonstrate all three.

d. *Articulate your plan/resolution.*

The second leg of your argument involves showing that the resolution avoids the problem inherent in the status quo.

Prove: If the resolution were adopted, then the significant harm described above would not occur. [Note: later in the debate the 2nd Negative will attack your plan. Do not worry about that now. You'll have an opportunity later to rebut those claims.] Here what you must do is state the **advantages** of your plan (of your resolution).

In describing your plan, you have some freedom regarding the amount of detail you want to enter into. The web site for Connecticut's Young People's debate offers the following suggestion:

The plan can be very simple, i.e., the affirmative only adopts the resolution, or it can be complex, where the affirmative explains how the resolution will be implemented. The advantage to spelling out more detail in the plan is that

it offset some negative plan attacks right up front. (They can't accuse the affirmative of overlooking ramifications of their plan.) [<http://www.CCLCE.org> ; "Speakers' Responsibilities," p. 1.]

e. *Solvency.*

Remember, the last leg of your argument involves showing that yours is the best solution to the problem you have described. The negative is going to try to show that the status quo merely needs to be modified in order to overcome the problem(s) you have described. Here is your chance to go on the offensive! Presumably you will have shown that certain harms are inherent in the status quo. You and the 2nd Affirmative will have the task of **proving that your plan solves those problems.**

The 1st Affirmative merely outlines or lists the advantages of the resolution. The 2nd Affirmative (later on) elaborates and provides the specific evidence.

For example, suppose that disallowing students to talk about divorce, or drug use, or abortion (and so on) contributes to an inability to deal with these problems on a personal level...anxiety, social problems, and so on. 1st Affirmative should simply state that the resolution solves this problem. In other words, **state** that communication among students about these subjects (in a forum such as a student paper, a radio call-in

show, etc.) can **cause** a reduction of the harm (anxiety, social problems, and so on). And indicate that your partner (2nd Affirmative) will elaborate upon this and provide the concrete evidence.

Later, during the 2nd Affirmative Constructive argument, your partner can give the evidence. *The two of you will have to work hard to discover this evidence.* Go find it: interview guidance counselors, look for statistics, do whatever you can.

f. *Other Matters.*

You should **define** any key words you plan to use. If you characterize the *status quo* after *Kuhlmeier* as one in which censorship is ok if it serves "legitimate pedagogical purposes," you better define what this means. Part of your preparation will be to learn what all those hard words mean. Ask your coaches. Check the dictionary. Look for definitions in the legal writings you're examining.

Know the meanings of any words you use! During its cross-examination, the Negative side will seek clarification of your position. If you don't know what you're talking about, they will make a monkey out of you. Imagine a trial in which the defendant has been accused of *negligent homicide* but the prosecution's expert witness can't even define "negligent homicide" -- what would you think of the prosecution's argument?

Not much, right? So, if you say, "current laws allowing the censorship of student publications violate the 1st Amendment of the U.S. Constitution," you better know what "censorship" means and what the "1st Amendment" refers to!

1.2 First Affirmative Cross Examination. [2 Minutes]

Conducted by 2nd Negative.

This is when the 1st Affirmative must clarify and demonstrate knowledge of what he or she has said. If you used words you didn't understand while presenting the 1st Affirmative Constructive, plan on being killed here.

The 2nd Negative conducts this cross-examination. Here is what you should do, if you're the 2nd Negative.

- Clarify terms. If you anticipate the Affirmative's definition of some key concept begs the question (unfairly counts in the Affirmative's favor), ask why the concept is defined that way rather than, say, how you would prefer it defined.
- Demonstrate that the Affirmative's case, as it stands, is **inconsistent** or that they **lack knowledge** about something important to the issue. ["Aren't there already limitations on free speech that prohibit, for example, yelling "Fire!" in a theater? (Yes) Wouldn't you agree that this standard should be applicable within schools?" -- Here the Negative is fishing for an inconsistency. Or consider: "Are there

many students who suffer under the status quo?" -- Here the Negative wants to determine whether the Affirmative really can prove the significance of the harms they have attributed to the status quo.

During cross-examination, you can only *ask* questions. (You can't assert and defend your own view.) Ask as many as possible in the 2 minutes given to you. If you go over 2 minutes, you will lose time when you give your 1st Negative Constructive argument.

2. First Negative: Constructive and Cross Examination.

2.1 1st Negative Constructive. [5 Minutes]

Your responsibility is to respond to the Affirmative's *case for changing the status quo*. Do not attack the plan or its solvency. All you want to do is:

**Prove there is no inherent problem
with the status quo.**

If you can do this, then you will have proven there is no need to adopt the Affirmative's resolution. Here are possible techniques.

- Show that the harms described by the 1st Affirmative are not caused by the status quo. In other words, show that

the Affirmative has committed a False Cause fallacy (see Chapter Two).

- Show that the harms are not very significant. Can you demonstrate that other side has exaggerated the harms? If you can introduce produce a credible scientific study that rebuts the Affirmative's claims, you'll be in good shape.
- Finally, demonstrate that the modifications to the status quo, rather than adoption of the resolution, can eliminate the harms.

2.2 First Negative Cross Examination. [2 Minutes]

Conducted by First Affirmative.

You want to follow the same general guidelines that pertain to the First Affirmative Cross Examination:

- Clarify terms.
- Check for inconsistency and lack of knowledge.
- Keep it simple. Remember that this is not your time for presenting or defending your own position. Consider what the First Negative has just told you.
- If he or she has downplayed the harms you presented during your constructive speech, ask for clarification concerning what they regard as "significant."
- If he or she has accused you of committing a False Cause fallacy, ask for the data; ask about its source, etc. Make

sure you know in advance what sources are and are not reliable.

- Ask for clarification concerning the method for modifying the status quo.
- Be careful, however, not to let the First Negative to take the opportunity to simply take the floor and re-present the Negative's argument. You control the floor. Try to stick to Yes-No questions. Here is an example (suppose the issue is censorship of student publications):

Q: You claimed that the *status quo* simply needs to be modified, correct?

A: Yes.

Q: And you maintain that it's adequate simply to inform students that they can enjoy unlimited free speech rights by setting up publications that are not sponsored by the school, correct?

A: Yes.

Q: So you assume that students have access outside of school to the equipment necessary for creating a newspaper, or running a radio or TV station, or putting on their own art exhibits or plays?

Notice how the final question places an added burden of proof on the Negative while seeking clarification.

Look for inconsistencies. For example, in the censorship case, since the Negative is defending the status quo established in *Kuhlmeier*, you might inquire into the *consistency* of a plan that involves censorship of school newspapers to protect privacy while allowing “underground” papers (operated by students but not sponsored by the school) in which privacy is not be protected.

3. Second Affirmative: Constructive and Cross Examination.

3.1 2nd Affirmative Constructive. [5 Minutes]

You are responsible for two things. First, it’s your job to respond to the objections just raised by the 1st Negative. Second, you are responsible for proving SOLVENCY, that is, proving that your PLAN will work. These two tasks go hand in hand.

3.1.1 Responding to 1st Negative’s Objections.

Remember what the 1st negative attempted to do. 1st Negative attempted to show:

- There is no inherent problem with the status quo.
- The status quo produces no harm or only insignificant harm.

- Minor repairs (rather than abandoning the status quo) will solve the problem.
- Your job will be to counter each of these claims. You must:
- Rebuild inherency.
- Reestablish harms or the significance of the harms.
- Show that minor repairs suggested by the Negative team won't work.

You may introduce new evidence to support your claims. Be flexible, keying on those points raised by the 1st Negative. The cross examination of 1st Negative by the 1st Affirmative will have paved the way for you to some degree, especially if questions were raised concerning the Negative's proposals for minor repairs.

3.1.2 Establishing Solvency.

You've just demonstrated that the minor repairs offered by the Negative won't work. Now it's your job to show that ***only the Affirmative's plan will solve the problem.***

Introduce evidence that your plan will resolve the harms you exposed (and just reestablished) in the status quo. For example, if you are discussing school censorship, and you have claimed that censorship of articles on teen pregnancy, divorce

etc. leaves students uninformed and at risk, now would be a good time to demonstrate that open discussion of these topics can be proven to be beneficial. Go find statistics. Conduct your own study: interview school guidance counselors. You must demonstrate that the plan will work.

3.2 Second Affirmative Cross Examination.

[2 Minutes] Conducted by First Negative

Use the same strategies mentioned above. Clarify. Look for inconsistency. Look for lack of relevant information.

You just heard the details of the Affirmative's argument. Now raise questions about what you heard. In an important way, you are paving the way for the Second Negative Constructive argument that is about to follow. While you are asking questions, the 2nd negative will be preparing. Her/his job will be to attack the plan. So pave the way by raising questions about the Affirmative's sources and methods.

4. Second Negative: Constructive and Cross Examination.

4.1 Second Negative Constructive. [5 Minutes]

You have one main job: show that the Affirmative's PLAN won't work.

Since you won't know exactly what your opponent will argue before the tournament, you should anticipate various plans and

come prepared with various PLAN ATTACKS. According to the rules in place during the Connecticut Young People's Debate, you may have these plan attacks written out in advance. You may read the relevant ones. It's more impressive, though, if you know how to attack a given plan without having to read from your notes. There are two strategies you may use:

First, try to show that the Affirmative's plan will not solve the very problem that it has raised. Suppose the Affirmative has claimed that there is a NEED for students to be more informed about the risks of teenage pregnancy, and has argued that its plan to eliminate censorship of student publications has the advantage of making students more informed about these risks. Consider how you could attack this claim. One great way to do it would be to show that teenage pregnancy rates are higher than desirable even among students who have access to publications in which the subject is treated. You might find a study of teenage pregnancy at schools that run articles in student publications on that very topic, or you could point to the futility of special classes and informational session offered by the school devoted to the topic. You might conclude, *students provided with this information get pregnant anyway*. This strategy would undermine the Affirmative's claim to their being some causal connection between its plan and any solution to the problem.

The second tactic consists in demonstrating that the Affirmative's plan has significant disadvantages, perhaps that it produces unexpected harms. For example, might there be some disadvantage to relying up student articles to inform students about the risks of teenage pregnancy? Couldn't misconceptions about the topic be spread this way? On a more general level, wouldn't completely unrestrained free speech pose risks? In the Supreme Court case involving *Hazlewood School District v. Kuhlmeier*, the court was worried about talking about the existence of Santa Claus around 1st Graders, violating parents' privacy, etc.

4.2 Second Negative Cross Examination.

Conducted by Second Affirmative. [2 Minutes]

The 2nd Negative has just done everything possible to attack your plan. Remember, 2nd Negative was trying to show that your plan would not solve the problem you've raised, and that your plan can produce harms of its own. Dig into the Negative's information. Have they proven their point? Where did they get their information? What's the source? Make sure no Appeal to Inexpert Authority Fallacy has been committed. Do whatever you can to expose holes in the 2nd Negative's arguments.

5. Rebuttals.

The debate concludes with each speaker summarizing his or her main points. Keep in mind your specific duty during the constructive phase of the debate. If there is some point advanced by the opposite side to which you have not adequately responded, now is the time to do it! You may not advance new lines of argument, but you can introduce new evidence to bolster existing lines. The order of the speakers is as follows:

5.1 First Negative. [3 Minutes]

- Summarize your attack on the NEED for change.
- Fill any holes the Affirmative poked in your argument.
- Refresh the Judge's memory as to what you have proven and what the Affirmative has failed to prove.

5.2 First Affirmative. [3 Minutes]

- It was your job during the constructive phase of the argument to show why the status quo needs to be changed. Here address any arguments raised by the Negative against a need for change.
- Summarize your argument and explain what the Negative has failed to prove.

5.3 Second Negative. [3 Minutes]

- Summarize your attack on the Affirmative's PLAN.
- Rebut any of the Affirmative's replies to your earlier argument.
- Summarize the your side's defense of the status quo, and ***call for rejection of the resolution.***
- You are the final negative speaker, so *your delivery is very important.* You can be *emotional* (but don't be overly dramatic).
-

5.4 Second Affirmative. [3 Minutes]

- Refute any negative replies to your arguments.
- Summarize your arguments.
- ***Call for acceptance of the resolution.*** You're the final speaker for the Affirmative, so your delivery is very important too. You can be emotional. This means demonstrating a sincere understanding for why change should occur, not grandstanding. Let your arguments shine through. Don't fall back on a fallacious appeal to emotion.

III. Miscellaneous Items.

1. Intra-Team Conferences.

Throughout the debate you are allotted a total of 5 minutes to confer with your teammate. Good points at which to hold a conference are:

- Before your side cross examines a speaker after his/her constructive argument;
- Prior to the 1st Negative and 1st Affirmative constructive arguments (since these require some response to the previous speaker's points.

You may take time at any key juncture, however.

2. Preparation.

It is crucial that you work on your arguments between meetings. Work with your parents, coach, and teammate. If you can't make a meeting, you and your partner should try to meet with the coach to get back up to speed.

Here is the order in which to prepare specific items:

- (1) Determine the status quo. Find out the existing legal precedent.
- (2) Work on 1st Affirmative Constructive. Determine NEED for change. Find Harms inherent in the status quo.

(3) Work on 1st Negative Constructive. How can you establish there is no need for change? Defend the status quo, or demonstrate only minor repairs are needed.

(4) Prepare 2nd Affirmative Constructive. Answer the 1st Negative attack. Give additional evidence for need for change. Prove solvency.

(5) Prepare 2nd negative Constructive. Attack the PLAN. Show it can meet the need identified by the Affirmative, or that it has harms of its own. Develop (write out) various plan attacks. Practice so you can avoid reading them at the tournament.

(6) Practice your Constructive arguments with other teams. Outlines should be on note cards.

(7) Work on Rebuttals in light of practice debates.

(8) Dress rehearsal.

Take this list very seriously. Remember, throughout your preparation to keep track of all sources of information. Put this information on a note card, and keep it with you.

3. Clothing and Behavior.

You must dress neatly and relatively conservatively. Sport coats (or sweaters) and ties for boys. Suits, skirts, dresses for girls. You should speak politely and to the

judge(s) during the competition. You must not rattle papers, chatter, or do anything that would serve as a distraction. You WILL loose points for doing so! You can have super arguments yet still lose, if you fool around. When you walk into the room, you must be serious and polite. Introduce yourselves to the other team, and shake their hands. How you comport yourself says a lot!

CHAPTER FIVE
MOCK TRIAL COMPETITION

1. Introduction.

You've probably watched shows like "Law and Order" or "CSI Miami" in which evidence is prepared for a trial and presented by the various lawyers. In a mock trial competition, you will either be on the prosecution (or plaintiff) team or on the defense team. Each school must have both a prosecution and defense team, so if your school hasn't enough students to comprise two teams, you are going to have to argue for the prosecution in one round and for the defense in another. That's a lot of work. So work hard to find enough team members.

As a member of the prosecution or defense team, you will serve as either an attorney or a witness. The number of witnesses and lawyers required depends upon the rules of the specific competition you are entering. In Connecticut, for example, the mock trial sponsored by the CCLCE requires three lawyers and three witnesses on both prosecution and defense, for a total of six members per team.

To compete well, you must practice your role well in advance of the competition. Mock trial is as much about acting as it is about legal reasoning. You will not only need to have

your arguments ready at hand several weeks before the competition, but your costumes as well. If you are playing the part of an old lady, find a cane, some frumpy clothes and throw some baby powder in your hair to make it look gray, and learn to walk and talk like the elderly person that you are. If you are a police officer testifying as an expert witness, buy an imitation police badge at a costume shop and pin it to a blazer. If you're a lawyer, dress up! (Gentleman: sport coat, tie, and nice slacks. Ladies: Dress or suit.) *Don't even think about objecting to this!* During the competition, you will be judged by legal professionals: lawyers and judges who are used to a high level of decorum.

2. Getting Started.

In the courtroom two teams are pitted against one another. At the center of the activity is the **DEFENDANT** whose behavior has led to a court action. The Defendant has been charged with some kind of illegal behavior. If the defendant's allegedly illegal behavior violates some criminal code or statute (for example, driving recklessly even though no one is hurt), the trial is considered a **criminal** procedure. The defendant is charged with a crime against the state (by violating the state's rules), so the state **prosecutes** the defendant. The state's attorney is known as the **prosecuting attorney**.

In other cases, the defendant is charged with causing harm to another individual or an individual's property (for example, by running over this individual's prize rose garden), and the individual who has been harmed seeks to monetary relief for his or her damages. This is known as a **civil procedure**, and the person alleging the damages is known as the **PLAINTIFF**.

Your mock trial will be either a criminal or civil procedure. In a criminal trial there are prosecution attorneys, prosecution witnesses, defense attorneys and defense witnesses. In a civil trial there are plaintiff attorneys, plaintiff witnesses, defense attorneys and defense witnesses. Don't let all this jargon bug you.

2.1. Why is the difference between criminal and civil trials important?

For one very big reason: the two differ in terms of how much evidence it takes to find the defendant guilty. Ordinarily, criminal trials have a higher burden of proof. In other words, more evidence is required to prove the case. Sometimes this is expressed by saying that the defendant must be shown to be guilty "beyond any reasonable doubt." If that sounds vague (what is a "reasonable" doubt?), it is. We'll discuss this further later. In civil trials, sometimes it is said that guilt can be established by (hold your breath for more vagueness!) "a *preponderance* of the evidence." What's a

preponderance of the evidence, you ask? Basically, if you and your opponent's evidence were set on a teeter-totter, if the teeter-totter were to tip just slightly your way, you would have a "preponderance" -- a slight advantage -- in terms of the evidence. When the burden of proof is heavier, as in a criminal trial, the teeter-totter must tip your way a lot.

2.2. Your Team.

Your team will consist of between six persons (minimum) and fourteen persons (maximum). For both the prosecution and defense there are: three attorneys and three witnesses, plus one or two bailiffs.

The attorneys' job is to make sure all the important evidence is presented. Evidence takes two forms: (i) testimony by witnesses and (ii) exhibits (physical evidence). We'll discuss these in greater detail below.

One or two other members of your team will serve as bailiffs. A bailiff attends to the formalities of the court (calling the court to order, and so on). During the time your team is preparing for competition the bailiff plays an important role as an "assistant coach" who helps keep things moving during practice runs. The bailiff will keep track of speaker order and will serve as timekeeper. At the actual competition, the

bailiff may be called on to serve as timekeeper as well, so it is important for him or her to practice this role very well.

3. Documents.

All competing teams are provided with a set of documents. These fall into two groups. First, there are the general rules of the mock trial. These can be divided into rules of evidence and rules of procedure. Rules of evidence place limits on the kind of information that can be presented in court. Rules of procedure provide instructions concerning how court is to be conducted and how lawyers must proceed in order to present information.

Second, there are the materials specific to the case: A list of stipulations to which both sides must agree. These will include certain *facts about the case* (where and when the alleged crime took place). Another important kind of stipulation concerns *restrictions on what sorts of issues may be raised* by the lawyers (for example, it might be stipulated that the case does not raise any federal due process issues).

- A list of relevant laws and the definitions of the key legal terms ("murder," "manslaughter," "self-defense," and so forth). You should write these definitions on a card and memorize them. They define the task at hand.
- Witness affidavits. These are the statements the witnesses provided to investigators. They are the source of most of

your evidence. Typically there are three prosecution/plaintiff witnesses and three defense witnesses. Each will have an affidavit. At the trial the lawyers will cull from the witnesses the information in each affidavit that helps their side.

- Exhibits. These are physical items such as pictures, maps, documents (for example, a pamphlet written by an expert witness), etc.

4. The Order of the Speakers.

The steps in a mock trial are as follows.

4.1. Opening the Court.

The Bailiff. Calls the court to order, saying: "All Rise. The Superior Court of New Justice is now open and in session; the Honorable Judge _____ presiding. All having due cause of action herein, draw near and give attention according to law. You may be seated."

If you are the Bailiff, make sure you learn the judge's name upon arriving in the courtroom.

4.2. Call of the Calendar.

The judge announces the case and asks each group of attorneys whether they are ready to proceed:

Judge: "Is the Plaintiff ready?"

Plaintiff Attorney: "Ready, your Honor."

Judge: "Is the Defendant ready?"

Defendant Attorney: "Ready, your Honor."

4.3. Opening Statements. [4 minutes].

The Plaintiff's attorney, followed by the Defense's attorney, (a) introduces the members of the team; (b) outlines the argument(s); and (c) states the desired outcome. In outlining the arguments, mention who will be giving testimony and (briefly) what they will contribute to the case.

4.4. Plaintiff/Prosecution Direct Examination. [6 minutes per witness].

Call each witness to the stand. The Bailiff must swear the witness in.

Bailiff: "Do you solemnly swear or affirm that the testimony in the cause now pending before this court shall be the truth, the whole truth and nothing but the truth according to the Mock Trial Rules?"

Witness: "I do."

You have three lawyers, one per witness. Each lawyer conducts one, and only one, direct examination. You should have your questions typed out in advance. Write the expected answer in brackets beneath the question, and note the line in the witness affidavit where the answer can be found! If the witness fails to remember his/her answer, you must (a) ask the judge if you

may approach; (b) ask the judge whether you may ask the witness to examine his/her affidavit at lines x through y; and, (c) have the witness do just that. It is a very bad thing to have to do this with one of your own witnesses, since it indicates the witness (a member of your team) is not well prepared. However, it does provide you with a safety net, in case your team member flubs up. (Of course, if you have to do this to the other team's witness on cross-examination – see below – then it shows the other team is not prepared.

Attorney [to judge]:	"Your Honor, may I approach?"
Judge:	"You may."
Attorney:	"May I ask the witness to read lines 14 through 17 of her affidavit?"
Judge:	"You may."
Attorney [to witness]:	"Please read lines 14 through 17 and indicate when you are finished"
Witness:	"I'm finished."
Attorney:	"Thank you. Now let me ask again..."

If the witness takes too long, she will be wasting her own team's time. (If this should occur on cross-exam, and you waste the other teams time, you may be penalized points for delaying the trial by the judge!) During direct examination, you should (a) have the witness identify herself; (b) have the witness explain her role (neighbor, employee, friend; possibly the witness is an 'expert witness' in which case you will want to ask a series of questions designed to establish her expertise before the court); and, (c) extract from the witness –in an orderly, logical fashion – the information that supports your case.

Do not allow your witness to introduce material that helps the other side! Remember, each affidavit contains information that is useful to BOTH sides. As a lawyer, it is your job to manage the information that is presented before the court.

4.5. Cross-Examination of Plaintiff Witness by Defense. [6 minutes per witness.]

After Plaintiff Witness #1 finishes direct examination by her own team's lawyer, a defense lawyer has the chance to cross-examine the witness.

- If the witness is an **expert witness**, try to find chinks in the witness' expertise or credibility. Is the witness truly an expert in the required way? (Sometimes the folks who write the case for mock trial insert a witness who is

not quite the right sort of expert. (See Chapter Two, the Appeal to Inexpert Authority.) Is the witness credible?

If the witness has a vested interest, then her testimony will be suspect. For example, suppose an insurance company is being sued to cover the expenses of a car accident and puts one of its own accident investigators on the stand. That this person *works for the insurance company* matters. The investigator is testifying on behalf of the very company that pays his wages!

- If the witness is an eye witness, then try to impugn the testimony by raising questions about the witness' credibility by considering, for example, (a) was the witness physically located where she would need to be in order to testify in the way she did? (b) was the witness too emotionally distraught to make a clear-headed judgment about her observations?
- Always look for **inconsistencies** in a witness' testimony. For example, it is inconsistent for a witness to say in her affidavit, "The defendant was quarreling with the victim, but I couldn't hear what they were saying," but later say, "The defendant said 'I'm going to kill you!'" How did the witness know what was being said, if she couldn't hear what they were saying? If a witness is inconsistent, her credibility disappears.

4.6. Plaintiff Redirect. [3 Questions.]

Didn't like something you heard on cross-examination? Was your witness' credibility impugned? Was an inconsistency discovered? Now is the time to patch things up. You may ask three questions to rehabilitate your witness.

Attorney: The Defense attorney has suggested you have been inconsistent in your testimony. How do you explain this?

Witness: At first I couldn't hear them, but they began to quarrel more loudly [or: I got closer, etc.]

Witnesses must not make up anything. They must stick to the affidavit or what can be reasonably deduced from the affidavit. If the affidavit provides a way out of the inconsistency, make sure you have the witness present this information.

4.7. Defense Re-Cross Examination of Plaintiff Witness. [3 questions]

Always have at least one question prepared. Of course, your main job will be to repair any damage done to your side by the Redirect. If you have more evidence to extract from the witness, do so now! If nothing else, ask ONE QUESTION that helps to emphasize your side's argument.

4.8. PLAINTIFF/PROSECUTION REPEATS FOR WITNESSES #2 AND #3.

You will follow the above rules THREE TIMES, that is, for each of the Plaintiff/Prosecution witnesses. A different lawyer will question each witness.

Keep in mind that communication between lawyers is strictly limited. The two lawyers who are not involved in the questioning may not speak to the active lawyer, unless they write a comment on a slip of paper.

4.9. Direct Examination by Defense. [6 minutes for each witness]

Follow the rules for Direct Examination above. Remember that it is your job to show that the Plaintiff/Prosecution has not made her case. You started this process during your cross-examination of the Plaintiff/Prosecution's witnesses. Now present additional evidence (i) to contradict the Plaintiff/Prosecution witnesses' testimony and (ii) to establish the innocence of the defendant. Do everything you can to build your case. Just be sure to restrict yourself to the evidence before the court (stipulations, witness affidavits, and exhibits).

4.10. Cross-Examination of Defense Witness by Plaintiff/Prosecution.

The same rules apply here as to cross-examination above (in 4.5). Look for ways to impugn the testimony of the witness. Also make sure you get the witness to present information in her affidavit that supports your side's view, that is, facts that the Plaintiff/Prosecution did not want the witness to present that supports your arguments.

4.11. Re-direct of Defense witness by Defense Attorney.

Follow the directions for Re-direct above (4.6). Keep your defense plan in mind. If you need to rehabilitate your witness' credibility, find some way to do so.

For example, if your witness is charged with running an illicit facility that produces violent dogs, make sure you (i) clarify your witness' credentials as a respectable dog trainer and (ii) demonstrate that the claims against your witness are groundless. Refer back to other witnesses, and ask good questions!

Lawyer: "We've heard from Ms. X that the dog you trained for her was well disciplined. Yet the Plaintiff contends that the dogs you raise are quite vicious. Could you re-state your qualifications and tell the court whether

you have ever been prosecuted for training fight dogs?

4.12. Re-Cross of Defense witness by Prosecution/Plaintiff Attorney.

Follow the directions for Re-direct above (4.7).

4.13. Closing Argument for the Defense.

One of your attorneys must now summarize the case. You should highlight strengths in your evidence and the weaknesses in your opponents' argument. Remind the judge of the relevant law ("To prove "murder" the prosecution must show X and Y and Z; however Y and Z have never been proven!) Go through what the witnesses and exhibits demonstrated or (in the case of the prosecution's witnesses) failed to demonstrate. Show some emotion and commitment to the cause!

The best closing argument is not totally canned! Consider what the prosecution said during the trial and how you responded to it. Tailor the closing argument to what has just taken place.

4.14. Closing Argument for the Plaintiff/Prosecution.

Follow the suggestions for 4.13, but make sure you can show just how your evidence satisfies the legal requirements; if you had

to show X, Y, and Z in order to prove the defendant was guilty of murder, make sure you explained how you managed to do just that.

Again, the best closing argument is not canned. Referring to the other side's case shows that you've carefully considered your opponent's argument and have found grounds for rejecting it.

5. Raising Objections.

In Chapter Two of this book, we examined fallacies that crop up when persons debate some issue. Fallacies, you may recall, are instances in which someone breaks the rules for good reasoning. Likewise, when the other side breaks a rule during the trial, you should raise an **objection**. You should stand, address the judge and say, "Your Honor, we object on the grounds that_____."

Remember, it's the job of the team attorneys to control what evidence is or isn't introduced into the case. You must listen carefully to the other side in order to prevent them from introducing objectionable material. If they slip something past you, and the judge notices it, your team (not the other) will lose points.

5.1 Irrelevant Evidence.

"Your Honor, we object on the grounds of **relevancy**.

How is _____ related to _____?"

- Is the attorney on a fishing expedition, simply asking random questions? If so, you can let him or her eat up valuable time, or you can object to it. Take your pick. If the opposing attorney is simply fishing, you can be sure the judge is thinking, "This guy is unprepared."
- Sometimes a lawyer will try to introduce information that makes a particular witness seem favorable to the judge in a way that has no bearing on the case. Suppose a defense witness is an expert on raising guard, and the defense attorney asks her whether she loves dogs, has a favorite pet, etc. (This might happen if the judge is known to be a dog-lover in order to gain favor.) Object!
- Some evidence is **unfairly prejudicial**. It evokes strong emotions (especially hate or sympathy) in the judge or jury. (This is the **Appeal to Emotion** discussed in Chapter Two.) Suppose a defendant produces a picture of his dear sweet Grandmother, or the defendant's attorney paints a verbal picture of this poor woman who will miss her grandson should he be sent to jail, *that's prejudicial*. Object. ("Your Honor, we object on the grounds that the testimony is prejudicial")

- Some testimony is irrelevant because it simply repeats what has already been introduced to the court. One example of this is when a lawyer asks the witness the same question more than once. ("Your Honor, we object. The question was asked and answered.) The content of the question is not necessarily irrelevant; in fact, it probably *is* relevant. But the effect of repetition can be irrelevant. Repetition is an old propaganda tool: repeat something enough times, and people begin believing it. To counter the (irrelevant) numbing effect that repetition has on the mind, make sure you object to it.
- **Character Assassination.** Recall the Ad Hominem Attack discussed in Chapter Two? A lawyer cannot attack the character of a witness, unless the information gained has some obvious bearing upon the trustworthiness of the witness. If a witness lied in the past, engaged in dishonest or illegal behavior, then this is admissible evidence. Consequently, in mock trial, *a witness' previous criminal record may be relevant!* For other material ("Isn't it true you are a lonely widow who resents her neighbors?"), object by saying "Your Honor, we object on the grounds that this is *inadmissible character evidence*."

5.2 Hearsay.

Suppose Bob has been charged with murdering his wife. At trial, a witness asserts, "Frank told me he saw Bob murder his wife." This is hearsay, because somebody out-of-court made the statement "Bob murdered his wife." One witness cannot testify as to what another person did or did not see.

There are several exceptions to the Hearsay Rule.

- A witness for one side gives hearsay evidence that counts against his own side's case. This is called an "admission against interest." Example: Defense Witness X testifies that the defendant said he killed the victim.
- Witness X testifies Non-Witness Y made an "excited utterance" under some circumstance. Example: Witness X testifies that Mr. Matthews hollered at the victim "Get off my property!"
- Hearsay about someone's *state of mind* is admissible when that state of mind is an issue before the court. Was the Defendant a nervous, fearful, stress-out person whose state of mind may have interfered with his ability to properly train his attack dog?
- A physician or psychological counselor may testify as to what a patient said.

5.3. Improper Expert Opinion.

In Chapter Two we discussed the fallacy of relying on inexpert testimony. Here the same rule applies. Only an expert (someone with specialized knowledge) can give expert testimony; and the expert must restrict herself to matters within her area of expertise. Say: "Objection, counsel is asking the witness to provide testimony regarding an area in which she lacks expertise."

5.4. Invention of Facts.

If during direct examination a witness introduces facts not contained in the case or material, then you should object that the witness is "inventing facts" or "speculating" as matters not in the court record. (You should use your cross-examination to impeach the testimony of a witness who *contradicts* the record.)

5.5. Lack of Personal Knowledge.

An eyewitness can only testify to that which he or she has actually perceived. Witnesses cannot speculate about facts nor report what others have presumably seen or heard.

This is a very general that includes hearsay as well as the invention of facts. Use the more specific label when possible. Use the more general label when, for example, a witness mentions or repeats evidence admitted into court from some other source

(another witness, physical evidence). Suppose an earlier witness testifies that "John robbed the bank" and then a later witness begins with this as an assumption stating, "When John went into the bank to rob it, he was wearing a red shirt." The second witness has made an assumption to which he is not entitled, and if it goes unchecked, you will help the other side and possibly lose points.

5.6. Non-Responsive Answer.

Suppose a witness fails to answer a question but offers other information that may be relevant to the case. You should object that the witness has been unresponsive, and ask that the court strike the witness' answer.

5.7. Leading Questions.

During Direct Examination and Redirect, you must not ask leading questions. A non-leading question is open-ended and allows the witness to do more than simply say 'Yes' or 'No'. "Where do you work?" is a non-leading question. "Do you work at Kanine Kennels?" is a leading question.

During cross-examination, it you may ask leading questions. Since your job is to impeach the witness' testimony, you will want to hunt down any inconsistency in as efficient a manner as possible. Allowing the witness to give lengthy narratives at

this point can only help the opposing team and chew up valuable time.

5.8. Beyond the Scope of Direct, Cross- or Redirect.

During cross-examination, you may only ask about information brought out during direct. (Likewise, during redirect, you must limit yourself to the cross- material. And during recross, you must limit yourself to the redirect material. Of course you can still ask questions that pertain to a witness' credibility.

This may sound as if your hands are tied during cross-examination, since the attorney conducting the direct exam will leave out the parts of the witness affidavit that doesn't support his or her case. However, the unmentioned material that appears to be inconsistent with and can be used to impeach the witness' testimony is relevant.

6. Summing Up.

At the end of each round, the judge will have scored both teams and assigned each a numerical score. Remember that the following are important factors determining your score:

- **Your appearance:** Dress nicely, carry yourself well (stand up straight, give eye contact when speaking to the judge, lawyers or witnesses), and speak clearly. Do not chew gum,

wiggle your body, fiddle with papers or do anything else that might be a distraction.

- **Opening statement** (by one lawyer on your team): Make it concise, logical, and detailed.
- **Direct Examinations:** Remember to stick to the game plan, prove what you said you would prove.
- **Cross/Redirect/and Recross:** Show that you understand the case and can respond to your opponents.
- **Objections:** Use them! And be able to respond to objections from the other side.
- **Closing argument** (one lawyer per team): Go back over your argument, outline the weaknesses of your opponent's argument. Show some pizzazz.

GLOSSARY

ACCIDENT:	A fallacious argument in which one treats something non-essential as essential. Often this is a type of CAUSAL FALLACY.
ADMISSION AGAINST INTEREST:	An exception to the Hearsay Rule. Ordinarily an attorney would object to a witness testifying as to the observations of another person. If a witness offers hearsay testimony that harms his own team (an admission that is counter-productive to the interests of the team), opposing counsel may use that information to their own advantage.
AFFIRMATIVE TEAM:	The team in a debate that must argue for the resolution.
ARGUMENT:	A set of claims consisting of one or more premises and a conclusion. You give an argument when you want others to accept your CONCLUSION.
ATTACK UPON THE PERSON:	Or, AD HOMINEM argument. Fallaciously arguing against another person's view by attacking the person who holds the belief rather than his or her evidence. ABUSIVE AD HOMINEMS attack the person's character. CIRCUMSTANTIAL AD HOMINEMS attack the person's association with other individuals or groups.
ATTITUDES TOWARD CLAIMS:	There are three attitudes possible towards any claim:

accept the claim, reject the claim, or suspend judgment about the claim.

BAILIFF: In mock trial, the bailiff is responsible for opening the court, swearing in witnesses, and keeping time.

BEYOND THE SCOPE (OBJECTION): In mock trial there are restrictions on the sorts of questions opposing counsel can ask. After DIRECT EXAMINATION, testimony is limited to that for which a "foundation" has been provided during DIRECT or CROSS EXAMINATION.

BRANCH ARGUMENT: An argument with multiple lines of evidence for the conclusion.

BURDEN OF PROOF: In any debate the burden or responsibility of providing evidence rests upon the person who holds the more provocative or extreme view. In a cross-examination debate, the burden of proof rests upon the Affirmative, since it seeks to change the status quo.

CAUSAL FALLACIES: Any fallacious argument involving a causal claim. See FALSE CAUSE, SLIPPERY SLOPE, and ACCIDENT.

CHAIN ARGUMENT: An argument in which a conclusion functions as a premise for some further conclusion.

CIRCULAR ARGUMENT: A fallacious argument in which one the very conclusion for which evidence must be given is introduced as a premise (or is presupposed by a premise).

CIVIL TRIAL/
PROCEEDING/SUIT:

A trial, other than a criminal trial, in which the plaintiff seeks restitution or redress from the defendant for damages allegedly caused by the defendant.

CLAIM:

Something we say (or believe) that can be either true or false. Ordinarily, declarative sentences (e.g., "The Eiffel Tower is in Paris" are used to express claims.

CLARITY:

One of the criteria for evaluating arguments. Key words must be well-defined. Sentences must be grammatical. Arguments must be ordered in a logical fashion.

CONCLUSION:

In an argument, it is the claim for which evidence is given. In discussions and debates there are intermediate conclusions [see chain argument] as well as the ultimate conclusions.

CONCLUSION-
INDICATOR:

A word, such as "therefore...", that indicates what follows is a conclusion.

CONDITIONAL
SENTENCE:

A sentence such as, "*If* Levvis is from Mars, *then* he's not from Earth." The sentence asserts a single conditional (or hypothetical claim). Its parts (If..., then...) are not claimed to be true by the speaker. It would be a mistake to think the speaker had claimed Levvis is from Mars in the previous sentence.

COUNTER-ARGUMENT:

(1) A rebuttal of an argument. Counter-arguments can raise questions concerning the clarity, relevance, truth and logical strength of the original argument. (2) An argument that exposes the invalidity (lack of logical strength) of another argument by way of example. Suppose x argues, "Spot is a dog. Some dogs chase cats. Therefore, Spot chases cats." A counter-argument using the same pattern of reasoning but displaying that the conclusion doesn't follow from the premises would be: "Bush is a president. Some presidents have been assassinated. Therefore, Bush has been assassinated." In the counter-argument it's obvious that the premises are true but the conclusion doesn't follow from them.

CREDIBILITY
FALLACIES:

A fallacy that involves either the erroneous use of an expert, or an erroneous attack on a person's expertise. See APPEAL TO INEXPERT AUTHORITY and ATTACK UPON THE PERSON.

CRIMINAL TRIAL/
PROCEEDING:

In a criminal trial, the person charged with a crime has allegedly committed an act sufficient for the state itself (rather than another individual) to bring a suit before the court.

CROSS-
EXAMINATION
DEBATE:

This debate format involves two teams with two persons on each team. There are two rounds to

the debate. One in which the team argues the Affirmative position, another in which they argue the negative position. In each round, both team members present constructive arguments (5 minutes each), are cross-examined by the other team (2 minutes), and conclude by summarizing their positions and responding to counter-arguments during a rebuttal phase (3 minutes each).

CROSS EXAMINATION:

In mock trial, following DIRECT EXAMINATION of a witness, the opposing counsel will attempt to undermine the witness' testimony by citing inconsistencies with other evidence (affidavits, exhibits, other witness' testimony) and within that testimony itself.

DEFENDANT:

The person sued in a civil suit or accused in a criminal action.

**DEPENDENT
PREMISES:**

Two premises are dependent if they do not constitute independent lines of argument for a conclusion. Dependent premises require one another to validate an inference to a conclusion.

DIRECT EXAMINATION:

In mock trial each attorney conducts a "direct examination" of a designated witness in order to elicit testimony that supports their side. Prosecution attorneys examine prosecution witnesses and defense attorneys examine defense witnesses in order to elicit from the witnesses the information in their affidavits that support their side. Direct examination provides the fundamental

layer of evidence; new evidence may not be introduced later. (See OUTSIDE THE SCOPE OF PREVIOUS TESTIMONY OBJECTION.)

DISSECTION: Analysis of an argument into its component parts.

DIVERSION: (1) Fallaciously arguing for a claim by presenting evidence for a different, somewhat similar claim. (2) Downplaying an opponent's claim, perhaps through humor.

**EMOTION,
APPEAL TO:** Fallaciously arguing for some conclusion by eliciting an emotion rather than offering evidence. Pity, spite, and many emotions are used.

EVIDENCE: Information that counts toward the likelihood of the conclusion being true.

EXHIBIT: In mock trial exhibits (documents, charts, etc.) are introduced to bolster eyewitness and expert testimony.

EXPERT WITNESS: In mock trial a witness who possesses a special expertise in some field of study. Opposing counsel must seek to IMPUGN (IMPEACH) the credibility of such witnesses.

**FALLACIOUS
ARGUMENT:** See FALLACY.

FALLACY: Any mistake in reasoning. A fallacy of relevance employs irrelevant information in the premises. A fallacy of ambiguity involves changing the meaning of words or phrases.

FALSE CAUSE
FALLACY:

Erroneously concluding that one event causes another event simply because one preceded the other.

FAN ARGUMENT:

An argument in which a single premise (or set of premises) supports a variety of conclusions.

FACT:

How the world is, or has been, or will be. Facts are independent of our beliefs about them. Believing that the Earth is flat won't make it flat. Believing that fairies exist won't make them exist.

FACT/OPINION
DISTINCTION:

Forget everything your textbooks have told you about this distinction, and look up the definitions of each in this glossary.

FALSE DILEMMA:

Fallaciously arguing from premises that exclude relevant options.
Example: "Either Jeb will vote Republican, or he'll vote Democratic. He said he won't vote Republican. So, he must be voting Democratic." Jeb might be voting for the Green candidate.

FORCE,
APPEAL TO

A fallacious argument in which the speaker tries to compel acceptance of a conclusion by way of a threat.

HEARSAY
(OBJECTION):

In mock trial a witness may not state what another person did or did not observe. There are exceptions to the Hearsay Rule: Witness X may state what Non-Witness Y claims to have observed, if: (1) Non-Witness Y's state of mind is at issue; (2) Witness X is a physician or counselor testifying as to what a patient has said; (3) Witness X testifies Non-Witness Y made an "excited utterance." In each case, the truth of Y's utterance is less important than what it reveals about Y himself.

See also ADMISSION AGAINST INTEREST.

IGNORANCE,
APPEAL TO:

A fallacious argument in which one claims a conclusion is true simply because it hasn't been proven false (or, that a conclusion is false simply because it hasn't been proven true).

IMPEACH
(or IMPUGN):

To discredit the testimony of a witness. In the case of an expert witness, one tries to impugn the witness' credibility.

IMPROPER EXPERT
OPINION
(OBJECTION):

In mock trial only an expert in a particular field may provide information based on that field's specialized knowledge. See INEXPERT AUTHORITY.

INDEPENDENT
PREMISES:

Premises that generate independent lines of argument for a conclusion.

If once of the premises is proven false, the remaining premises can still constitute a viable argument in their own right.

INEXPERT AUTHORITY,
APPEAL TO:

A credibility fallacy in which the demands of evidence call for expertise in some field of study; however, either the information is provided by either (1) a non-expert or (2) an expert lacking objectivity perhaps as a result of having some vested interest.

INVENTION OF
FACTS (OBJECTION):

In mock trial a witness cannot invent facts beyond the record (in the witness affidavits, etc,).

IRRELEVANT EVIDENCE
(OBJECTION):

In mock trial the opposing attorney might try to elicit testimony that is NOT RELEVANT to establishing the truth of the defendant's guilt or innocence. Instead it tries to mold the judge's attitude or feelings about the defendant. In particular, be on guard against testimony that (1) is UNFAIRLY PREJUDICIAL (See also APPEAL TO EMOTION FALLACY) or (2) relies on CHARACTER ASSASSINATION (See also AD HOMINEM FALLACY).

Two techniques to guard against are: (1) REPEATED TESTIMONY (repetition adds emphasis and heighten emotional impact), so you should object that the question has been ASKED AND ANSWERED; and (2) THE FISHING EXPEDITION in which the opposing attorney's line of questioning seems to have no relevant purpose but may ultimately produce information capable of affecting the judge's attitude.

ISSUE:	One takes issue over <i>whether</i> some claim is true. Wherever a dispute over the truth of a claim exists, an issue occurs.
LACK OF PERSONAL KNOWLEDGE (OBJECTION):	In mock trial, eyewitnesses may only testify as to what they actually perceived.
LEADING QUESTION (OBJECTION):	In mock trial a leading question is the opposite of a neutral or open-ended question. A leading question anticipates a desired answer. Often they can be answered 'yes' or 'no', whereas a neutral question calls for a narrative from the witness. During DIRECT EXAMINATION attorneys are not permitted to ask leading questions. Leading questions are permitted during CROSS-EXAMINATION.
LOGICAL STRENGTH:	The degree to which the premises, <u>IF</u> true, make it likely that the conclusion is true. An argument in which it is impossible for the premise(s) to be true and the conclusion false is said to be VALID. An INVALID argument has a logical gap. Some invalid arguments can be strong nevertheless.
MISSING EVIDENCE FALLACIES:	Fallacies in which evidence is simply absent from the premises. See CIRCULAR ARGUMENT, APPEAL TO IGNORANCE, and PROOF SURROGATE.

NEGATIVE TEAM:

In a debate, the Negative team is responsible for defending the status quo. It must demonstrate there is no need for change, that minor repairs to the status quo can be made, and that the Affirmative's plan won't work.

NONRESPONSIVE
ANSWER:

In mock trial a witness must answer the question stated and must not be allowed to introduce other unasked for information that could affect the outcome of the trial. Opposing counsel should ask that the court STRIKE FROM THE RECORD such information.

OBJECTION:

In mock trial, when the opposing counsel violates any of the rules of evidence or procedure, you must formulate an objection in which you ask the judge to immediately decide upon the legitimacy of the other attorney's actions. You must state the basis of your objection when you make the objection. "Your Honor, we object on the grounds that_____."

OPINION:

A belief. Opinions can be true or false. They can be justified or unjustified.

OUTSIDE THE SCOPE OF
PREVIOUS TESTIMONY
(OBJECTION):

In mock trial, all questions and testimony must be tied to what was presented during the direct examinations of the witnesses. Everything after the direct exam must be used to support, elaborate upon, or rebut(impeach) what was presented during direct.

PERSONAL BELIEF,
APPEAL TO:

A fallacious argument in which one maintains that a conclusion

follows simply from the fact
that one believes it is true.

PLAINTIFF: In a mock trial, the person who
brings a civil action against another
person (or organization). The
plaintiff raises a *complaint* against
the defendant.

PLAN: In a cross-examination debate,
the Affirmative defends a plan
for changing the status quo.
The plan includes the resolution
and the method for implementing
it.

POPULAR BELIEF,
APPEAL TO: Fallaciously arguing that a
claim is true just because a
bunch of people believe it is
true.

PREMISE: A claim within an argument that
contains evidence for the
conclusion.

PREMISE-
INDICATOR: A word, such as "since....," that
indicates what follows is a
premise.

PROOF SURROGATE: A fallacious argument in which
the speaker claims evidence
exists for some a conclusion but
never offers it. Example:
"Studies prove that miracles
occur. So, they do!" --
What studies?

PROSECUTION: (1) The side in a trial that attempts
to prove the guilt of the defendant in
a criminal trial.

REBUTTAL: See COUNTER-ARGUMENT (1).

RECROSS-
EXAMINATION: In a mock trial, following RE-DIRECT,
this is an attorney's second and last

chance to sully the testimony of opposing counsel's witness. Questions must be restricted to the matters raised during RE-DIRECT.

RE-DIRECT
EXAMINATION:

In mock trial, following CROSS EXAMINATION, an attorney will have the chance to "rehabilitate" their team's witness if opposing counsel undermined that witness' testimony during the cross examination.

RELEVANCE:

One criterion for judging an argument is the relevance of the premises. Introducing an emotional appeal, or appealing to popular belief, or engaging in personal attack are several of the many ways irrelevant information is introduced into (bad) arguments.

SLIPPERY SLOPE:

A fallacious argument in which one assumes a particular chain of events is inevitable when it isn't.

SOLVENCY:

In a cross-examination debate, the Affirmative must prove that their PLAN can solve the problems they have identified with the status quo. They must prove solvency.

STATUS QUO:

Literally, "how things stand" or the present situation. In a debate, the Negative defends the status quo, while the Affirmative attacks it and calls for change.

STIPULATIONS:

In mock trial stipulations designate the basic ground rules that must be accepted by both sides. These include applicable laws, definitions

of key terms, and any exceptions to the rules of procedure or evidence.

STRIKE FROM
THE RECORD:

In mock trial an attorney should ask to "strike from the record" any inadmissible testimony that might affect the outcome of the trial. Otherwise that information remains "in play."

SUBJECTIVE
FALLACIES:

In each of these fallacies, the speaker needs to provide information about some (objective) fact but resorts instead to (subjective) personal beliefs, group beliefs, emotions, etc.

TRUTH:

A claim (or belief or proposition or assertion) is true if it correspond to some fact. If you Tower is in Paris, then the fact of its being in Paris *makes* the claim true.

UNFAIRLY
PREJUDICIAL:

Testimony in mock trial designed to "prejudice" the judge or jury usually by virtue of its emotional impact or somewhat misleading information.

WHY-TEST:

When dissecting an argument, if there are no premise- or conclusion-indicators, use the Why-test to figure out if a particular claim is a conclusion. Has the author given a reason for why you should think the claim is true? If so, chances are it's a conclusion.

WITNESS AFFIDAVIT:

In mock trial these are the written statements of witnesses based on their observations or expertise. Typically they contain information useful to both sides. Counsel will elicit testimony during DIRECT EXAMINATION from witnesses to support their side based on the affidavits. Likewise, during CROSS EXAMINATION, opposing counsel will try to elicit information that is inconsistent with or otherwise undermines what was revealed during the DIRECT EXAMINATION.

YOU'RE MISSING
THE POINT
FALLACIES:

Fallacious arguments in which the speaker attempts to distract you from the real issue or from relevant options important to deciding an issue. See FALSE DILEMMA and DIVERSION.