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TO SPONSORS AND MEMBERS

Please send all communications relating to initiation, certificates of membership, key orders, and names of members to the National Secretary. All requests for authority to initiate and for emblems should be sent to the National Secretary and should be accompanied by check or money orders. Inasmuch as all checks and money orders are forwarded by the Secretary to the National Treasurer, please make them to: "The Treasurer of Delta Sigma Rho."

The membership fee is $10.00. The official key of 10K (size shown in cut on this page) is $6.00, or the official keypin of 10K is $7.00. Cut diamond in key is $7 additional. Prices include Federal Tax.

The names of new members, those elected between September of one year and September of the following year, appear in the November issue of THE GAVEL. According to present regulations of the society, new members receive THE GAVEL for two years following their initiation if they return the record form supplied them at the time their application is approved by the Executive Secretary and certified to the sponsor. Following this time all members who wish to receive THE GAVEL may subscribe at the following rates: $1.50 per year for the standard subscription; $5.00 per year for those who wish to contribute to the work of THE GAVEL and who will be listed as sponsors in each issue; or $25.00 for a lifetime subscription.

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President's Page . . .

Our House In Order

Although the National President sends out a contact letter to the chapters each fall, the response is often disappointing. Sometimes months have elapsed before communications between the national officers and the chapters have been established. In this fall of 1962 there is a special urgency which will require, in some cases, unusual measures to secure the return of the information required. The reason for this is that the national officers must be in a position to give positive and accurate information about each chapter when the Council meets in Cleveland in December. At this time, the governing bodies of Delta Sigma Rho and Tau Kappa Alpha will consider the adoption of the proposed constitution for the merged society of Delta Sigma Rho-Tau Kappa Alpha. Each society must be in a position to certify to the coordinating committee a list of the active chapters which are to be incorporated into the new society. This information can be furnished only with the cooperation of the advisor and officers of each collegiate chapter. Therefore it is vitally important to each chapter to see to it that complete information as to the health and vitality of the chapter is in the hands of the national officers as early this fall as possible. It will obviously be very embarrassing to an institution to find that it has not been certified for membership in the new society; and that the chapter can only be reinstated by making a completely new application which will need to conform to the rules set up for the merged society. Quick action now is therefore of the utmost importance.

The national officers are eager to present a full roster of active chapters. Each chap-
THE GAVEL

ter will then have the opportunity of voting on acceptance of the proposed constitution of Delta Sigma Rho–Tau Kappa Alpha. If this vote is favorable, as there is every reason to believe that it will be, the new society should come into being about the first of July, 1963. The merged society will be the outstanding forensic society in the United States with chapters well distributed throughout the nation. In academic circles, its prestige will be universally recognized.

Looking forward to this future, Delta Sigma Rho must set its house in order this fall. This means that every chapter must take a positive and active attitude and cooperate to the fullest. 1962–3 may well be one of the historic years in the illustrious history of American college forensics.

Delta Sigma Rho Calendar

Executive Council Meeting—Thursday, December 27, SAA, Cleveland, Ohio
General Council Meeting—Saturday, December 29, SAA, Cleveland, Ohio
Eastern Delta Sigma Rho Tournament—Dartmouth College, April 5 and 6, 1963.
Midwestern Delta Sigma Rho Forensic Conference—University of Michigan, April 4, 5, 6, 1963

The Use of Discussion as a Teaching Technique

BY REMO P. FAUSTI

Associate Professor of Speech, Washington State University

Traditional methods of instruction are in the process of being tested and re-evaluated as a means of finding practicable solutions to the problems that have been created by the expanding enrollments of colleges and universities in the United States. Prognosticators are generally agreed that the number of trained instructors is not likely to increase in a ratio commensurate with the increase of students. If all qualified students are allowed to enter college, the present student-instructor ratio cannot be maintained. The number of students taught by one instructor must be increased to accommodate the rising number of students. The concern of educators has been the maintenance of high standards, or the raising of standards, coincidental with the education of a significantly greater number of students. To be feasible, any new method of instruction should improve present-day high standards, and, in addition, increase the student-instructor ratio.

The discussion approach to instruction was used in an experiment conducted by the School of Education at Washington State University as a means of finding suitable solutions to the problems caused by increasing college enrollments. The discussion procedure employed enabled the instructor to decrease the number of times each student was required to attend a formal class. This was accomplished by dividing the experimental class of sixty students into discussion groups, each of which met once a week instead of three times a week as did the control group. The experimental group was assigned four discussion topics related to the subject matter field (School Curriculum) of Education 301. A bibliography was given each student who was assigned to consult particular references, usually five in number. The student consulted these sources prior to participating in the discussion group, so that the discussion procedure was one that was based on: (1) required reading, (2) reaction to the reading, and (3) participation in the discussion situation. By means of this process, it was intended to discover whether these students could learn at least as well in a class of sixty as the students who
TABLE I

Summary of Total Responses to Individual Questions of the Questionnaire

<table>
<thead>
<tr>
<th>Questions</th>
<th>Yes</th>
<th>Per Cent</th>
<th>No</th>
<th>Per Cent</th>
<th>Omitted</th>
<th>Per Cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Amount of learning satisfactory?</td>
<td>184</td>
<td>73.90</td>
<td>65</td>
<td>26.10</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2. Better learned by lecture?</td>
<td>59</td>
<td>23.69</td>
<td>187</td>
<td>75.10</td>
<td>3</td>
<td>1.20</td>
</tr>
<tr>
<td>3. Better if more members participated?</td>
<td>146</td>
<td>58.63</td>
<td>99</td>
<td>39.76</td>
<td>4</td>
<td>1.61</td>
</tr>
<tr>
<td>4. Discussion dominated by few?</td>
<td>73</td>
<td>28.32</td>
<td>176</td>
<td>71.68</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>5. Leadership satisfactory?</td>
<td>241</td>
<td>96.79</td>
<td>8</td>
<td>3.21</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>6. Irritation by other participants?</td>
<td>29</td>
<td>11.65</td>
<td>220</td>
<td>88.35</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>7. Sufficient opportunity to talk?</td>
<td>227</td>
<td>91.16</td>
<td>21</td>
<td>8.84</td>
<td>1</td>
<td>.40</td>
</tr>
<tr>
<td>8. Group did superior job?</td>
<td>138</td>
<td>55.43</td>
<td>106</td>
<td>42.57</td>
<td>5</td>
<td>2.01</td>
</tr>
<tr>
<td>9. Easy to select best student participant?</td>
<td>47</td>
<td>18.88</td>
<td>202</td>
<td>81.12</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>10. Place yourself in top 1/3 of group?</td>
<td>119</td>
<td>47.79</td>
<td>126</td>
<td>50.60</td>
<td>4</td>
<td>1.61</td>
</tr>
</tbody>
</table>

were taught by the conventional lecture method, in a class of thirty. The writer, at the request of the School of Education, was the consultant and an observer-critic of the discussion segment of the experiment.

As a means of measuring the students’ reactions and evaluation of the discussion procedure, a questionnaire was formulated and administered to each group immediately after each of the discussions. It should be noted that the questionnaire was not administered to the second group of discussions which classified students into groups on the basis of their teaching major. In these later discussions, the writer acted as the consultant and discussion leader for the language arts group. Two kinescopes, each a half hour in length, were made. A composite of the two filmings was made into a form suitable for showing to educators, students, or others interested in the technique. The purpose of the television experiment and film was to explore the possibilities of television as an instructional medium.

A summary of the results of the questionnaires administered during the first series of discussion follows:

1. Seventy-four per cent of the students were satisfied with the amount of learning that resulted from their participation in the discussion.
2. Seventy-five per cent indicated that they learned at least as much through the discussion method as the lecture method.
3. Fifty-nine per cent indicated that the discussion would have been improved if the less talkative members of the group had been encouraged to express their opinions more readily.
4. Seventy-two per cent indicated that the discussion was not dominated by a few students.
5. Ninety-seven per cent indicated that the discussion leader did a satisfactory job.
6. Eighty-eight per cent had no feelings of irritation with other members of the discussion group.
7. Ninety-one per cent said that they had sufficient opportunity to talk as often as they wished.
8. Fifty-five per cent indicated that their group did a superior job.
9. Eighty-one per cent said that it would not be easy to pick out the one student that contributed most to the success of the discussion.
10. Forty-eight per cent of the students rated themselves in the upper one-third of their group.

The summaries of the responses to questions “1” and “2” are of particular import, for they indicate that approximately seventy-five per cent of the students were satisfied with the amount of learning obtained from the discussion approach. Although it is not
possible to draw irrefutable conclusions from these data, there certainly exists a strong indication that the discussion type of teaching has definite possibilities which merit further exploitation in the search for a solution to the instructional problem facing the colleges and universities.

Tests were administered at the end of the course which indicated that the students in the discussion segments of the class were in no area inferior to the control group, and in the area of problem-solving ranked well ahead of the control group. The students, therefore, learned at least as much and at least as well as the students in the smaller control group that was taught by conventional methods. The experiment would therefore indicate that this method of instruction could be used as the basis for solutions to the problems of teaching a significantly greater number of students without a significantly larger teaching staff.

The experiment offers possibilities that should form the basis of future studies of teaching methodology; i.e., the use of graduate students as discussion leaders in the groups. This procedure, if successful, would allow one instructor to supervise a very large number of students in a class, and simultaneously it would help alleviate the instructor shortage through an increased teaching fellowship program.

Appendix I

THE QUESTIONNAIRE FORM

Date ____________________ Diagnosis of Group Behavior ________________ Group Number ________________

Instructions:

(1) Immediately following the completion of the discussion complete this form.
(2) For each question describe as frankly as possible your present feeling.

1. Were you satisfied with the amount of learning that resulted from participation in the discussion?

Yes ____________ No ____________

2. Do you think that you would have learned more had the material been presented in a 50-minute lecture?

Yes ____________ No ____________

3. Do you think it would have been helpful if the less talkative members of the group had expressed their opinions more readily?

Yes ____________ No ____________

4. Do you feel that the discussion was dominated by two or three students?

Yes ____________ No ____________

5. Did the leader do a satisfactory job?

Yes ____________ No ____________

6. Did you have any feelings of irritation with other members during the discussion?

Yes ____________ No ____________

7. Did you have the opportunity to talk as often as you wished during the discussion?

Yes ____________ No ____________

8. Do you think that under the circumstances your group did a superior job?

Yes ____________ No ____________

9. Do you think it would be easy to pick out the one student who contributed most to the success of the discussion?

Yes ____________ No ____________

10. Would you place yourself in the top third of the group in terms of ability to work efficiently at a task like this?

Yes ____________ No ____________
Experimentation and the Future of Debate

BY GERALD M. PHILLIPS

Department of Speech, Washington State University, Pullman, Washington

A number of studies have been made in recent years to investigate the relationship between debate and skill as that undefinable art called "critical thinking." Without attempting to pin down, at the moment, a definition for "critical thinking," the studies seem to show that whatever critical thinking tests measure, participation in debate doesn't seem to improve it, although debaters seem to be above average in the amount of it that they possess initially.

In a recent master's thesis done by Lois Bursack, it was pointed out that high school debaters tend to increase their knowledge of the subject matter involved in the proposition after a season in debate, but show no significant gain in critical thinking ability over their initial scores or over random gains made by non-debating colleagues. Roughly 300 debaters and non-debaters were included in this study—certainly not a sufficient sample from which to draw precise conclusions—but since the results seem to square so nicely with previous studies covering the same ground, we might try a few hypotheses which seem to result to see where they lead us.

1. It is possible to develop a scale that can measure critical thinking skill, and if debate improves critical thinking skill, the results should be measurable.

2. A series of experiments show that debate does not cause a significant increase in critical thinking skill insofar as we can measure it, hence that portion of the debate program which is supposed to impart critical thinking skill ought to be (a) dropped and replaced, (b) revised so that it does impart critical thinking skill, or (c) analyzed to see precisely what it does do to or for the debater.

3. A series of experiments show that persons who are gifted in critical thinking skill are attracted to debate, so it is necessary to give some attention to the development of an ethic of debate coaching and debate participation.

Now let us develop the implications of these hypotheses.

It is possible to measure critical thinking. Critical thinking is generally defined as the ability to apply problem-solving techniques in a given situation. Two major scales have been developed, both statistically reliable and valid. These are the Watson-Glaser Scale and the "How Do You Think" Scale by Alma Johnson Sarett. Without attempting to describe the methods used in these tests it can be asserted that both of these scales are highly useful in measuring ability at problem-solving. Studies with debaters on both the high school and college level indicate that persons who participate in debate for some time and with some distinction have higher scores on these tests initially than persons who do not participate in debate, but that, in general, their scores do not improve significantly as a result of their participation in debate. Critical thinking, then, must be regarded as a quality which is taught somewhere other than in debate, although it is a quality, apparently, necessary for successful participation in debate. If debate does not teach or improve critical thinking ability, then we ought to devote more effort to those areas where debate has proven useful, or we ought to revise debate


3 Alma Johnson, "An Experimental Study in the Analysis and Measurement of Reflective Thinking." Speech Monographs, X, 1943, p. 84.

programming until it is able to improve critical thinking skill.

Debate programs ought to be revised so that debaters can receive a maximum of training in areas where debate has been proven strong. Here the literature is scant. There is a marked paucity of studies of a broad investigative nature designed to determine what debate does do for the debater. There have been no basic studies designed to analyze the effect of debate on the debater without a preconceived hypothesis. At this moment we are short of insights about what training and participation in debate might do for the individual. Certain results, however, are assumed by the greater number of coaches. For example, debate imparts skill in critical thinking, research and public speaking, or debate imparts the ability to function under stress, etc. But the Frandsen-Phillips survey also showed that a minority of coaches talked in terms of debate as a provider of social skills, appreciations of diversity, or character-building qualities. Significantly, there is little mention anywhere of debate as a pure educational device which imparts knowledge of a subject-matter field—although the Bursack study gives considerable evidence that this might very well be debate's greatest value.

We might also ask what effect, if any, debate has on the value-structure of the debater. Do debaters tend to become more liberal or more conservative in their attitude toward the proposition they debate? The Bursack study seemed to show that they move to a center position, and if this is true there are some implications here in relation to debate and the discussion process. All of this seems to cry out for a carefully planned and regulated program of research conducted nation-

ally. The editor of The Gavel complained in a recent issue about how debate has been ignored in the controversy now raging about education. It may well be that debate has a significant contribution to make to general education, particularly in the area of training of gifted persons in the social sciences, but it is necessary for us to prove this contribution with an eye toward a wider use of debate as both an activity and a classroom technique.

Persons who are gifted in critical thinking ability need special training in the ethics of their art; debate can provide this training. The concept of a good speaker as a "good man" seems to have disappeared from our literature. The emphasis in speech training appears to be on expediency—win your point or get your job. A blanket charge that debaters are inherently unethical would probably not stand up, but, like any competitive activity, there is always the possibility in competitive debate to strain the ethical in order to achieve the goal. There is no point in detailing here the list of charges that have been leveled at debate over the years. One point appears obvious—and that is that the nature of our tournaments tends to place excessive stress on a false value. Winning a tournament round bears no relationship to anything real in our society. When we persuade in the pulpit, the bar, the legislative chamber or even on Madison Avenue, we do not attempt to "score points" through our technique—we attempt to sway the minds of men. Debate coaches recognize this, and most of them take great pains to see that the truth is not strained in order to win a point. But debaters are not so dull that they cannot recognize some of the artificiality of the situation. As one debater remarked, "it's role-playing." Tournament competition is fun, and winning provides satisfaction and tangible reward—hence, if tournaments are won on techniques, why not try to develop the technique that would enable one to win. But, if we are to

5 A number of studies have been published in which debaters, coaches, etc. have expressed their subjective attitudes on what debate has done for them. Cf. particularly Eugene Vasilew, "A Pilot Study of Debaters' Attitudes Toward Debating," AFA Register, Spring, 1959, pp. 20–34; Gerald M. Phillips and Kenneth D. Frandsen, "A Summary of Intercollegiate Debate Practices and Attitudes: 1958-59," The AFA Register, VIII, 3, pp. 26–36; and Bruce Haston, "A Survey of Forensics Activity in the Northwest." (Unpublished M.A. Thesis, Washington State University, 1960.)
8 Ibid., p. 82.
presume that some carry-over exists between what is learned in debate and what is done in other areas of life—and we have made this assumption, certainly, when we talked of critical thinking ability—then we must presume that what is unethical would transfer as easily as what is ethical. If the debater develops for himself a set of values which do not square with accepted standards in society, then, if he employed these values in society, he would be an anti-social human being. Certain ethical questions arise as a result of this hypothesis:

1. Is it possible to debate without discussing first? Is it possible to do an adequate and ethical job of defending a point of view without first having had an opportunity to explore that point of view under a broader heading? What is the effect on the individual of being forced, arbitrarily, to select one side or the other of a proposition handed to him from an outside source? Is it not necessary that the multivalued nature of social problems be recognized and the individual not get the idea that all questions of public policy can be reduced to only two choices?

2. Is there any relationship between the doctrine of expediency which dictates that debaters shift from one side to another in order to make the tournament system "work" and a doctrine of expediency that would dictate that an individual support a political party that would make the society or the country work? Is there a relationship between the conception that equivalent arguments can be developed on either side of a proposition in tournament competition and the conception that a case can be made for any concept of government? What is the effect on society of the tournament concept that victory goes to the most effective arguer and not to the argument that holds the greatest truth or the widest range of effective application?

3. Is it not necessary to impart to debaters the concept of the good man who speaks well—stressing the idea that skill in speech (and in critical thinking) confers power upon them, and that power also confers a responsibility to society rather than self?

4. Should not debaters be able to recognize excellence and be self-critical, and hence, concentrate on learning the "truth" of a proposition rather than the skills and techniques of defending truth if it were known?

In short, debate has been devoid of imaginative, speculative, philosophical thinking. We who coach like to think that the students we work with are the academic cream. If this is so, we owe it to ourselves, to our students and to our field to work in a framework of scientific certainty insofar as possible, and to be philosophically convinced of our ethical value of what we do. This calls out for greater activity on our part in exploring what we do, for if what we do is right we cannot extend its values until we can prove them.

The Model Security Council Conference

BY R. R. ALLEN*

Most college debate organizations are dedicated to the promotion and encouragement of speech activities in the high schools of their area. This dedication frequently finds an outlet in such activities as college sponsored high school debate clinics and college sponsored high school debate tournaments. These projects are to be commended for the assistance and stimulation which they

* Director of Forensics, Amherst College.
provide for high school debaters. However, the college director of debate may find these projects to be something less than educationally rewarding to the college students involved who frequently assume the roles of administrators or guides rather than participants.

The purpose of this article is to report a high school–college speech project which is educationally rewarding to both high school and college participants, and which constitutes a useful activity for local chapters of Delta Sigma Rho.

For the past two years the Amherst College chapter of Delta Sigma Rho in conjunction with the Amherst College Debate Council and the Amherst College Chapter of the Collegiate Council for the United Nations has sponsored a United Nations Model Security Council Conference for students from high schools in the Amherst–Springfield area. Two criteria were used in selecting topics for these conferences. (1) The problem must have been considered previously by the United Nations Security Council in order that student delegates could base their contributions on actual policy and precedence rather than conjecture. (2) The problem should remain as an area of immediate international concern. The 1961 Council considered the Congolese question while the 1962 Council was devoted to the Laotian crisis.

THE MORNING SESSION

The conferences were opened with Keynote Speeches by experts on the particular topic under consideration. Following the keynote speech, student delegations, representing each of the eleven Security Council member nations, met in seminars under the guidance of college student advisers. Each high school was permitted to send eleven students. It was felt that no more than one student from each high school should be assigned to each of the seminar groups. After receiving the enrollment form from the high school faculty adviser, each adviser was sent the list of nations which his students would represent. He could then assign one nation to each student. Along with this letter we found it helpful to include the following:

1. Provisional rules of procedure for a Model United Nations Security Council (Copies may be obtained through the CCUN).
2. A brief résumé of the agenda followed and positions taken by Security Council member nations, when the question was actually considered (This information may be obtained from the Security Council Official Records which is published under the auspices of the UNO).
3. A bibliography which the high school students may use in obtaining background information on the question (Such periodicals as the New York Times, Newsweek, Time, and the United Nations Review, provide ample information concerning the questions debated by the Security Council).

These seminars were devoted to a consideration of the rules of procedure employed in the United Nations Security Council, the history of the problem, and the actual consideration of the crisis by the United Nations Security Council. In considering the previous action of the Security Council, each seminar group employed the following outline:

I. How the crisis became a matter for Security Council consideration
II. The major issues discussed during the Security Council debate (agenda)
III. The position taken by the specific member nation (views expressed, voting behavior, determination of voting behavior)

A delegate and an assistant delegate were elected from each seminar to represent that nation in the Model Security Council which followed the seminar meetings.

In the Model Security Council morning session, the delegates elected by each of the seminar groups met to consider the crisis. The views expressed by the delegates, although extemporaneous, were expected to be consistent with the actual contributions and voting behavior of the respective nations in the actual Security Council session. The college student advisers and student delegates were permitted to exchange notes during the session, although the college advisers were not permitted to sit at the Security Council table. A college student served as Secretary-General/parliamentarian, and another college student assumed the Presidency of the Council. The high school students not elected as delegates by their respective seminar groups comprised the audience. The agenda for the morning Security Council session was the same one employed in the actual Security Council meeting.
THE AFTERNOON SESSION

The morning session was designed to provide procedural orientation, understanding of the particular crisis, and insight into the policies pursued by the member nations of the Security Council. In the morning Security Council session each delegate knew, from the records of actual Security Council proceedings, how he must vote and what his position must be. The afternoon session was designed to enable the student delegates to utilize the information and insight gained from the morning session in making policy decisions in light of a new hypothetical crisis, the nature of which was described by the Secretary-General. This facet of the conference stimulated creative thinking (consistent with political reality) in the realm of international politics.

The seminar groups met briefly in the afternoon to determine the policy of their nation in light of the new crisis. Resolutions were prepared and submitted for inclusion on the agenda of the afternoon Security Council session.

The conferences were concluded with evaluations of the proceedings by an authority on the functioning of the United Nations Organization. Certificates were awarded to those students who served as delegates at the Model Security Council sessions.

CONCLUSION

The Model Security Council Conference is successful in achieving the following objectives:

1. It provides an educationally rewarding experience for both high school and college student participants.
2. It fulfills the goal of stimulating interest in speech activities among high school students of varied interests and abilities.
3. It provides a stimulating supplement to the high school and college tournament debating program.
4. It stimulates interest in, and knowledge of, the United Nations Organization as well as the vital international questions of the day.
5. It provides a learning experience which is easily integrated with high school class units in history, government, world problems, and speech.
6. It familiarizes students with the procedures of legislative debating and informal group discussion.
7. It is easy to administer and inexpensive to conduct.

The Role of Oral Argument in the American Appellate Courts

by Frank M. Covey, Jr.*

"To err is human . . ." But judges are human. Ergo, judges err. The early English common law lawyers were acutely aware of this possibility and set about creating a system whereby the errors of the trial courts could be corrected within the legal system itself—as opposed to resorting to self-help, royal intervention, or the like. In the sense of non-judicial appeal, since all power flowed from the Crown, the King was always available to hear appeals from his lower courts. This is, in fact, the source of the American President's power of pardon and executive clemency.

Nothing that was, or could properly be, called an appeal from court to court was known to the English common law before the fusion of the common law and equity courts in 1875. The common law lawyers,
however, became familiar with the graduated appeals of the ecclesiastical courts and used a number of procedures which were of a more or less appellate character. These included writs of attainder, certification, prohibition, and error.

At the time of the establishment of the American court system, the graduated hierarchy of courts was adopted. The lower or trial court stands at the base of the pyramid; it is generally called the district or circuit court. The next level of the pyramid is the intermediate appellate court, and the apex is the supreme or final appellate court.

Each of the American states has some form of appellate court. The state court of last resort is generally called the Supreme Court. One-third of the states also have one or more intermediate appellate courts, which are generally called Appellate Courts or Courts of Appeal. These intermediate courts screen the cases heard by the Supreme Courts, relieve the case load in the highest courts and serve as final appeals courts in certain types of cases. The federal court system, established by Congress under the authority of Article III of the Constitution, follows this latter pattern. On the federal level there are eleven courts of appeal, each of which serves a certain judicial district or circuit, and one Supreme Court.

In all of these courts—whether state or federal and whether Supreme or Appellate—the mechanics of the appeal process are much the same. An appeal is not a retrial. Rather it is a review of the original trial by a bench of from three to nine judges—depending on the court—to determine whether any errors of fact or law were committed in the trial. If the reviewing court finds no error, it will affirm the result below. If it finds error, it will either reverse or reverse and remand to the lower court for further proceedings, such as a new trial, or enter such other order as will do justice under the circumstances.

Under modern practice an appeal is begun by the filing of a notice of appeal by the aggrieved party. The record in the court below—including the pleadings, exhibits, court orders and a typed copy of the stenographic report of the testimony of the witnesses and the arguments at the trial—is then sent to appellate court. The appellant (the party seeking the review) then files a printed abstract of the record, including the stenographic transcript, and a printed brief and argument. The appellee (the party seeking to preserve the result in the court below) then files a brief and argument on behalf of his position. The appellant may then file a reply brief in rebuttal to the appellee's brief. If the parties or the court request, the case is then set for oral argument. The case is argued orally before the court. Subsequently the court will hand down a written decision, called an "opinion."

Before the rise and common use of printing in our society, oral argument played the principal role in an appeal. The reviewing court depended on the record from the court below (here limited to the pleadings and orders), a brief manuscript abstract of that record and manuscript memoranda of the counsel. Oral argument was then relied upon to give the appellate court full information about the case and the issues involved. In an important case such an argument might last for days.

Today printed briefs and thorough printed abstracts are principally relied upon by the appellate courts to inform them on facts and issues of the case. Oral argument has become merely an incident in the presentation of the case. The United States Supreme Court limits oral argument by rule to one hour for each side. The Illinois Supreme Court by rule limits oral argument to thirty minutes for the appellant, thirty minutes for the appellee and ten minutes for rebuttal by the appellant. In all courts, the judges may extend such time, as the United States Supreme Court did in the School Segregation Cases of 1954.

Why has oral argument declined? The rise of printing is not the sole answer. The other factor is the increase in judicial business. In the 1800's the case load of the appellate courts was light, and the court could spend days in hearing oral argument. Today the case load is so great that only a minimum amount of time is available for
each oral argument. In May of 1962 on a
typical day, the author observed the Illinois
Supreme Court hear oral arguments in five
criminal and three civil cases on one day!

Has oral argument then outlived its useful-
ness? Have printing and overloaded dockets
rendered oral argument in the appellate
courts merely a vestige of a former time?
With a few rare exceptions the authorities,
including virtually all the appellate judges,
answer emphatically no.

Oral argument allows the court to ques-
tion the attorneys regarding their exact posi-
tion and just how far the principle they
contend for should be extended. This way
issues and positions can be clarified. The
value of such questioning is reflected in the
United States Supreme Court rules, which
state that the court looks with disfavor on
the submission of cases without oral argu-
ment.

Further, written eloquence and persuasion,
no matter how effective, does not measure
up to oral persuasion. Mr. Justice Frank-
furter, of the United States Supreme Court,
has written, "Oral argument frequently has
a force beyond what the written word con-
veys." The same Justice has referred to
oral argument as "the art of persuasion,"
and persuasion is always more effective as
a two-way street which only oral persuasion
before an active and questioning audience

While its role has changed significantly,
oral argument still plays a significant part
in the American appellate courts. It is now
a much more succinct and precise instru-
ment than it was in former days, but it remains
an essential to a proper appellate decision.
As the late Chief Justice Vanderbilt of New
Jersey wrote, "Cases that are not argued are
not well decided."

Ohio State's West Point Winners

Ohio State has just concluded its most
interesting year in intercollegiate debate
competition. Sarah Benson and Dale Wil-
liams achieved the honor of winning the
West Point national debate tournament,
conducted annually by the United States
Military Academy. Sarah is the first woman
debater to win the final championship
award.

To accompany this honor, Sarah Benson
and Edward McGlone then won the televis-
ion debate contest conducted during the
last school year by KDKA-TV in Pittsburgh.
OSU won the final round as the top debate
team in the University division. The follow-

week (April) they defeated the Harvard
debaters who had won the 1962 Collegiate
debate honors of KDKA. The Harvard de-
baters had been the West Point Champions
of the previous year. In February, Williams
and McGlone brought back the large travel-
ing trophy of the Georgetown University (in
Washington, D. C.) invitational debate tour-
nament. In December, OSU won the Uni-
versity of Pittsburgh tournay. In March they
won their way to West Point by going un-
defeated in the District V elimination con-
test. This is composed of the best teams
from Ohio, Michigan, Indiana and Illinois.

During the year, OSU debaters reached
the semifinals or quarter finals of debate
tournaments at Kentucky, South Carolina, Illi-
going State Normal, Northwestern, DePauw,
Miami, Notre Dame and Marquette Univer-
sities. They reached the semifinals of the
invitational "Heart of America" tourney held
by the University of Kansas for the nation's
top teams.

The debate squad is coached by Richard
Rieke, speech instructor. As an undergradu-
ate debater at the Southern Illinois Univer-
sity, he was a state champion and a West
Point finalist in 1957. His debaters have
been highly respected in national intercolle-
giate debate circles in recent years. The
1961-62 honors were reviewed at a banquet
held at the Ohio Stater Inn on June 2.
President Novice G. Fawcett received the
West Point trophy for Ohio State. The
large silver award is on display at the Presi-
dent's home. A new trophy case is being
donated to the OSU debaters by Everett D.
West Point Debate Winners (left to right): Dale Williams, OSU President Novice Fawcett, and Sarah Benson.

Reese, member-at-large of Delta Sigma Rho.

Debate as an OSU activity is almost as old as the University. The Horton Literary Society held its "first annual commencement" on June 22, 1880. The Aleyone and the Horton Literary Societies were both organized in 1874. They met in an annual contest in oratory and debate as early as 1885. On June 5 of that year they used the debate proposition, "Are Populous Cities Favorable to the Best Interests of Society?" Later the Browning Society (women only), founded in 1882, joined in the literary but not the debate activities of the three organizations.

Ohio State has had numerous honors in debate over the years. Professors Joseph V. Denny (1910) and Victor A. Ketcham (1913) wrote debate text books. Ohio State debated in the Ohio league and the "Big Ten" or Western Conference Debate League which still includes the University of Chicago. Some of the best remembered debate coaches included Charles E. Blanchard and Victor A. Ketcham, both deceased. Earl W. Wiley, professor emeritus, directed successful teams for a number of years. Emory C. Glander, Columbus attorney, coached Big Ten champions, which included Dean John T. Bonner as student debater. Former governor and U.S. Senator John Bricker and retired Dean Leo L. Rummell debated on the same squad. Delta Sigma Rho was founded here as a debate honorary fraternity in 1910. B. F. Miller, Columbus attorney and Elton M. Kile of Kilesville were charter members.

While there have been many debating honors for Buckeye debaters, the past debate season is one of the most successful. The record could be equalled but probably not exceeded. Other successful OSU debaters were Richard Griffith, William Dunlap, Valerie Vanaman, Geoffrey Thompson, John Dupree and John Langham.

Top speakers of various debate tournaments were Edward McClone (2) Dale Williams (4) Sarah Benson (2). These and other debaters won 14 awards as outstanding debaters in a variety of competitions in state and national events.
Prima Facie Case: The Perennial Debate Topic

BY DR. PATRICK O. MARSH
Sponsor of WYO Chapter, Vice President Delta Sigma Rho

Even though the national debate proposition changes annually, one topic is likely to be the subject of informal debates at any tournament; namely, the properties of a prima facie case. Coach-critics differ upon the meaning and importance of this term as widely as they do on the objectives of tournament debate itself. Where one critic may seal his ballot at the end of the second affirmative speech because the affirmative team has not demonstrated a prima facie case, another may give the affirmative the decision because the negative failed to mention that no prima facie case was presented, and still another coach may be hard-pressed to define the term for one of his debaters who finds it on a critique. The attempt in this article will be to clarify the meaning of this term as it applies to extra-judicial debate.

Since the term was borrowed from the legal practice, it may be appropriate to define it first from a legal point of view and then from the points of view of certain argumentation and debate textbook authors.

Black’s Law Dictionary offers this definition:

Prima facie case. Such as will suffice until contradicted and overcome by other evidence. . . . A case which has proceeded upon sufficient proof to that stage where it will support finding if evidence to the contrary is disregarded.

Corpus Juris Secundum further clarifies the legal definition as follows:

. . . where the testimony offered by the party having the burden of proof is inherently weak, or contains contradictions or inconsistencies, a prima facie case may not be made out, and a finding for the adverse party may be made even though he offers no evidence. A prima facie case must be sufficient in itself.

The term which literally translated means “at first sight or appearance, apparent, self-evident” retains much of its original meaning both in law and in debate. A prima facie case must be apparently logical in argument and sufficient in support to demonstrate the proposition. In the absence of refutation, it will stand alone. Definitions from two textbooks of widespread influence are offered to show the similarity between the legal application and the application of the academic debater.

1. O’Neill; Laycock; and Scales define it as follows: "A prima facie case is one of sufficient strength to win if it is not refuted."

2. Freeley prefers this definition:

The prima facie case is defined as a case which in and of itself establishes good and sufficient reason for adopting the proposition unless it is successfully refuted or weakened.

In light of these definitions, exception must be taken with the author of the following definition:

Strictly speaking, a prima facie case is any case presented by the affirmative which if unanswered will stand. If the affirmative presents only one of six possible issues involved in a problem and the negative does not successfully answer that issue, the affirmative has established a prima facie case.

An overemphasis has been placed in this instance upon the refutation of the case. Whether or not the case mentioned above be refuted, it could not be a prima facie case if only one of six issues (vital points of contention) were treated. Such a case would lack the logical linkage to support the proposition. Perhaps a better way of stating the test of a prima facie case would be:

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2 32 C.J.S. Evidence § 1016.
proof be granted to be sufficient to support the contentions lead logically to the acceptance of the proposition? By applying this test to several methods of case construction, some misconceptions concerning prima facie cases may be resolved.

Consider first a syllogistic arrangement of the contentions. Certainly, this method must be considered to "lead logically to the acceptance of the proposition" as the prima facie test requires. If, then, the premises of the following syllogism were adequately supported, this example would constitute a prima facie case. For the proposition "Resolved: That the United States should adopt a policy of initiating military action where armed conflict appears inevitable," the contentions could be:

1. If we fail to strike first in these situations, we will be at a military disadvantage.
2. We must not put ourselves at a military disadvantage.
Therefore,
3. We should strike first.

While this approach to case construction may be undesirable for other reasons, it cannot be rejected on the grounds of failing to meet the prima facie test.

A prima facie debate case which is analogous to the legal cases based upon elements of the crime, requires that each element of the proposition be adequately demonstrated. The following proposition serves to illustrate this approach to the construction of a prima facie case. Consider the proposition: Resolved: That the United States should adopt a program of compulsory health insurance for all citizens. Again the assumption is that each of the contentions can be adequately supported. The required contentions are:

1. The present (or potential) health conditions require modification.
2. Health insurance is the best solution to the problem.
3. Such a program must be compulsory to be workable.
4. Such a program must involve all citizens to be workable.
5. The federal government is the best agency to administer the program.

A further example of this "elemental" approach to a prima facie case is drawn from the proposition of fact: Resolved, That Labor organizations constitute trusts. If the legal definition is used which specifies that trusts are (1) combinations which operate to (2) control prices of services or commodities, (3) restrict trade, (4) or eliminate competition (5) to the detriment of the public, then each of the enumerated points may become a contention of the prima facie case. The essential contentions which must either be proved or granted are:

1. Labor organizations are combinations.
2. These combinations control prices of services or commodities, OR they restrict trade, OR they eliminate competition.
3. These practices are detrimental to the public.

In cases of this type, the elements must be treated before a prima facie case can be made out.

Some critics equate the application of the "stock issues" with the demonstration of a prima facie case. While stock issues certainly may lead logically to the acceptance of the proposition, this approach is not the only legitimate means of establishing a prima facie case. It should be borne in mind while considering this approach that issues are vital questions to which the affirmative must answer "Yes" in order to carry its burden of proof. Ewbank and Auer list the following stock issues, not all of which are required to establish a prima facie case. They are:

1. Are there serious weaknesses in the present system?
2. Are these weaknesses inherent in the system?
3. Will the proposed change remedy these weaknesses?
4. Will it do this without introducing other equally serious or even more serious evils?

5. Does the proposed plan have advantages, in addition to remediying the existing weaknesses?
6. Is the proposed plan the best one available?

If these are in fact "issues," then all must be answered "yes" if the affirmative is to meet its responsibility. But, is 5 really essential in the demonstration of a case? Further, if the proposed plan has significant advantages even where "serious weaknesses" are not "inherent in the system," could not one logically demonstrate that the plan should be adopted? The "comparative advantages" affirmative attempts to do just this.

Consider the comparative advantages case in light of the prima facie test. The first contention is often only implied or offered for judicial notice because it appears to be self-evident.

1. We should adopt the most advantageous system.
2. The affirmative plan has greater advantages and/or fewer disadvantages than the status quo. Therefore,
3. We should adopt the affirmative plan.

If this line of reasoning is logical and if the contentions can be supported, then the comparative advantages case may be considered to be a prima facie case. Some critics deny this type of case prima facie status because an inherent need is not demonstrated. In light of the present analysis it does not appear to be essential.7

One further observation ought to be made regarding the application of the prima facie case. It is, of course, essential for the affirmative to employ it if it is to carry its burden of proof, but this should not restrict its application only to the affirmative case. The negative can, and to good advantage, construct its own prima facie case to be presented during a large portion of the negative constructive speaking time. The same issues, which the affirmative must treat, can be treated by the negative merely by supplying proof which will demonstrate "no" answers to those vital questions. This method of negative case building appears to this coach to provide better training for debaters, as well as to provide for more interesting debates, than the pure refutation approach.

To summarize briefly, four types of cases have been presented which meet the prima facie case test: the syllogistic, the elemental, the stock issues, and the comparative advantages. The contentions can be so arranged for each of these types that they lead logically to the acceptance of the proposition. If, in addition to this requirement, each of the contentions can be proved or granted, a prima facie case will result.

7 Others object to it on the grounds that it departs from the legal tradition of indictment. However, it must be borne in mind that college debate propositions are principally deliberative in nature and that forensic practices were not designed to be applied to the deliberation of policy. Departure from the legal method seems wise if our aim in college debate is to train our students in the skills of deliberation. Let us borrow what techniques are advantages from the legal profession (such as the concept of prima facie argument), but let us not overlook legitimate means of deliberation on the grounds of tradition.
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</table>
DELTA SIGMA RHO

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Columbus 10, Ohio

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