

# BURDEN OF PROOF AND PRESUMPTION IN LINCOLN-DOUGLAS DEBATE: A CALL FOR REFORM

by Minh A. Luong

The lack of presumption and burden of proof standards in high school Lincoln-Douglas debate continues to be two of the most important, yet unresolved topics of discussion for members of the debate community. This essay describes the problems resulting from lack of such standards in Lincoln-Douglas debate, examines several of the most applicable theories relating to presumption and burden of proof standards in value argumentation, and concludes with a call for the National Forensic League to implement necessary reforms by incorporating these argumentation standards in high school Lincoln-Douglas debate.<sup>1</sup>

*I think our theories of argument would be given greater validity and wider utility by grappling with issues such as the nature of presumption and burden of proof, the responsibilities of the advocates, the role of the judge, and the nature of "good reasons" in the context of non-policy propositions. And I think our students would be far better prepared to understand and to apply the argumentative perspective to the wider range of setting in which human beings must make choices under conditions of uncertainty.*

David Zarefsky, "Criteria for Evaluating Non-Policy Argument," *Advanced Debate*, 3rd ed., 1987, p. 392.

*There are no prescribed burdens in L-D...; no "burden of proof" and no "presumption."*

"NFL Lincoln-Douglas Ballot Instructions," *National Forensic League Tournament Manual*, 1995, p. TA-2

## INTRODUCTION

In policy debate, the issues of presumption and burden of proof have enjoyed legitimacy and widespread agreement on their respective meanings and purposes. With the birth of val-

ues-orientated (sometimes referred to as "non-policy") argumentation in the Lincoln-Douglas (or "L-D") format in 1979, however, the potential benefits from presumption and burden of proof standards have been untapped because these two argumentative elements are actually excluded by National Forensic League L-D rules.<sup>2</sup> There are few theoretical issues in the field of argumentation that are acknowledged to be so important, yet has received so little attention, than the issue of presumption and burden of proof standards in values-orientated Lincoln-Douglas debate. Ronald Matlon, one of the first argumentation scholars to advocate debate on value propositions, urged the debate community to discuss the issue when he wrote: "Because presumption is the yardstick by which debate judges should award a decision to an affirmative or negative team, it is essential that the concept be clarified."<sup>3</sup>

The author will argue in this essay that presumption and burden of proof standards are necessary components of argumentation and that the debate community is currently witnessing a "stunting" of the development and maturity of Lincoln-Douglas as a debate event because it lacks a complete argumentative framework. If the high school debate community wants to promote the continued development of this young event, then the National Forensic League needs to implement an upgraded argumentation structure which includes burden of proof and presumption standards.

At present, there are few clear standards from which to debate and judge a Lincoln-Dou-

glas round and it would seem logical that if clear presumption and burden of proof standards could be implemented in this event, three benefits would result: 1) the debaters themselves would have a much clearer understanding of their argumentative responsibilities; 2) judges would have a firmer basis upon which to render sound decisions; and 3) a more unified acceptance of how Lincoln-Douglas debate is practiced and judged will replace the current "patchwork quilt" system of different regional styles and customs.

## CURRENT PROBLEMS

*There is no commonly accepted definition of Lincoln-Douglas debate*

Today in many parts of the country, NFL Lincoln-Douglas guidelines are virtually ignored because local practices and customs now dictate "proper" debating styles and judging criteria. This has led to various regional differences, some significant in key areas, in how Lincoln-Douglas debate is debated and judged. The difference between the philosophical and empirical approaches, for example, typifies the fragmentation of this supposedly national event. Many coaches have found that what is successful in one area is flatly rejected at tournaments less than 50 miles away; a good number of programs have abandoned national and even regional travel because of the lack of uniform standards in L-D debate.<sup>4</sup> It is not surprising that relatively few L-D debaters and judges now possess a working knowledge of either the L-D judging criteria or debating guidelines, creating even more distance between members of

the Lincoln-Douglas debate community.<sup>5</sup>

*Present L-D guidelines promote and reward fallacious argumentation*

The lack of presumption and burden of proof standards lead to irresponsible argumentation. Several serious problems have arisen by not requiring these essential elements of argumentation. Many debaters are not upholding their argumentative responsibilities by proving their own cases, but instead demand opponents prove their arguments false. By explicitly excluding burdens of proof, the Lincoln-Douglas debate guidelines are actually promoting a form of the logical fallacy

"Argumentum ad ignoratum,"<sup>6</sup> in other words, "the argument that I am making needs no proof; it is presumed correct until my opponent proves it wrong."

The most common example of the "argumentum ad ignoratum" fallacy is when affirmative L-D debaters claim that instead of the affirmative needing to prove the resolution true, it is the responsibility of negative to prove the resolution false. Use of this heinous tactic is the sign of a poorly trained and coached L-D debater and continues to be a favorite maneuver employed by hate groups and demagogues.<sup>7</sup>

*No burden of proof standards eliminate the need for clash*

The lack of clash that we are witnessing in many Lincoln-Douglas debates stem from the fact that there are simply no burden of proof requirements; resulting in the absence of substantive support for arguments. Coaches who defend maintaining the current L-D guidelines and judging rules are quick to point to NFL Guidelines #7 and #11, stating that these two rules provide sufficient standards to ensure clash.<sup>8</sup> A careful reading of these two guidelines, how-

ever, reveals several significant shortcomings.

First, Guideline #7 stipulates there is a need for clash and should be focused on all or some of the three primary case components: value premise, value criteria, and the argumentation. Guideline #11, however, undercuts the usefulness Guideline #7 by stating that the only affirmative responsibility is to "support the resolution with value(s) and to clash with the negative position." The negative is to clash with the affirmative by "using refutation and/or opposing value(s)." The scope of Guideline #11 is much narrower than #7, and also quite ambiguous; leaving open the possibilities of many interpretations. Support for ambiguous interpretation of these two guidelines is bolstered by the fact that other guidelines are much more specific and detailed. For example, compare the narrow scope and ambiguity of Guidelines #7 and #11 to the coverage and clarity of Guidelines #1 and #2, which have proven to be far more useful.

Second, even if students were to derive adequate instructions from NFL L-D Guidelines #7 and #11, it may be for naught because the official NFL judging instructions, printed on every NFL L-D ballot, completely contradicts those two guidelines. L-D judging instruction #2 clearly states that "there are no prescribed burdens in L-D debate...; no "burden of proof" and no "presumption."<sup>9</sup> The problem here is that most NFL Tournament Manuals reside on the shelves of coaches' libraries or on the desks of tournament directors while the judging instructions are printed on every ballot and are read by each judge. The two questions that many observers pose are: "Which instruction is going to matter when the judge decides the debate round?" and "Why is there such a contradiction in the NFL L-D rules?"

Finally, judges who are not

knowledgeable in values argumentation theory or L-D practice often take the NFL L-D ballot instructions literally and do not expect debaters to prove their arguments. Thus, debaters who can orate well yet prove nothing are often declared the winner over other debaters who present well-developed arguments but do not possess the skills of the "sophist of the ages."<sup>10</sup>

*Lincoln-Douglas debate is losing its effectiveness as an argumentation event*

Although there are numerous interpretations over how Lincoln-Douglas debate arrived at its present state, one assessment remains clear: Lincoln-Douglas debate lacks consensus on advocate responsibilities and judging standards which has created a multitude of problems that threaten the development of Lincoln-Douglas debate as an argumentation event. Jason Baldwin has observed that "L/D has lost much of the discriminating philosophical character that made it an attractive alternative to policy debate."<sup>11</sup> His concerns include the poor quality of argument construction presented by debaters, reliance on "nonspecific debate conventions"<sup>12</sup> by judges, and the need for "focus on the burdens imposed by the resolution."<sup>13</sup> What Baldwin describes are the symptoms of the problems which plague Lincoln-Douglas debate because there are no clear argumentative burdens prescribed for debaters to uphold and no presumptive assumptions within the L-D judging framework.

Marilee Dukes has read "an enormous number of ballots from very fine adjudicators" who consistently expressed frustration with the lack of "good reasons" to vote one way or another. Dukes conveys what many judges (including this author) have written on countless L-D ballots: "I kept waiting for

you to focus on a reason for me to vote, but it never came..."<sup>14</sup> She also shares the concerns of Baldwin and others regarding the lack of argumentative substance in L-D debate rounds. The two most common problems are speeches full of pleasantries wherein little substantive analysis or support is given to arguments and philosopher "name dropping," where many debaters name a famous philosopher, yet fail to justify or support that philosopher's position.

#### *A need for discussion and consensus*

While certainly not a "cure-all," burden of proof and presumption standards would greatly clarify resolutive burdens and judging criteria in Lincoln-Douglas debate rounds and would prove to be an important first step.

An initial problem, however, has been gaining consensus on an appropriate approach to meet those standards. There was still a lack of substantive discussion on these issues by 1979 when the National Forensic League inaugurated Lincoln-Douglas debate as a national debate event; thus the founders wisely avoided trying to address burden of proof and presumption as argumentation framework issues, fearing the "excesses" of policy debate at the time would "poison" the new debate event. Over the past sixteen years, Lincoln-Douglas debate has formed a unique personality of its own but has since outgrown the utility of the useful, but limited L-D guidelines which have served as rules since the event's inception and is not being served at all by the "patchwork quilt" nature of different regional L-D styles and customs. Although nearly everyone in the Lincoln-Douglas debate community agrees that some measure of reform and improvement is necessary, few want to change their own devel-

oped systems; fearing that their programs will cease to be successful under an upgraded set of L-D guidelines.<sup>15</sup>

The time has come for the high school debate community to undertake a critical assessment of Lincoln-Douglas debate from theory to practice and examine key framework issues like burden of proof and presumption to see how they can be utilized to promote the quality of argumentation and judging in Lincoln-Douglas debate.

### **NECESSARY ELEMENTS**

One of the earliest objections to even debating value topics was the lack of consistent judging standards. For example, Thomas Kane speculated in 1975: "We have a consistent set of judging standards for propositions of policy, but on value propositions, tournament judges would vote only on instinct."<sup>16</sup> Many of the concerns regarding value debate which were raised by members of the traditional debate community have been addressed by contemporary argumentation theorists who have applied various methods to define and apply presumption and burden of proof standards to the value debate framework.

Today the debate community has a clearer understanding of the nature and purpose of presumption and burden of proof standards in value debate. There has been more research and scholarship undertaken on these subjects which has sparked lively continuing discussion at tournaments, coaches meetings, and national speech conferences like SCA.<sup>17</sup>

#### *Burden of proof defined and explained*

The notion of "burden of proof" in debate is remarkably straightforward and uncomplicated. Jim Hanson, in his standard-bearer *NTC's Dictionary of Debate*, defines this concept as:

"The obligation to prove a claim or a proposition."<sup>18</sup> While most interpret "burden of proof" with the phrase "the one who asserts must prove," there are actually two types of burden of proof standards: resolutive and argumentative.

Resolutive burden of proof. This debate standard answers the question:

"Who has the responsibility to prove the resolution true or false?" In value argumentation nearly all theorists will agree that in a structured academic debate round where the affirmative has the first and last speeches and a judge renders either a win or loss, but not a tie, the burden to prove the resolution true rests firmly with the affirmative debater.<sup>19</sup> For reasons discussed earlier in this essay, the negative should not have to prove the resolution false in order to defeat the affirmative; the burden of proof for the negative is to simply defeat the affirmative's value, criteria, or case.<sup>20</sup> Thus on a resolutive level, the burden of proof is uni-directional, or in other words, the burden of proof to prove the resolution true is borne by the affirmative speaker.

One strategy which has become popular with negative debaters lately is the "balance" or "equally important" approach. The premise of the argument is that when evaluating resolutions with two value terms, the negative can win by proving the two value terms are equivalent with one not being any more important than the other. The reasoning behind this approach is that if the negative can succeed in proving the two value terms equivalent, then logically the affirmative cannot prove that one is more important than the other. Evaluating this strategy falls outside the scope of this essay, however, Jason Baldwin's treatment of this approach appears elsewhere in this issue of the Rostrum. Suf-

fice it to say that this "balance neg" approach is problematic as it does assume a resolutorial burden of proof for the negative which does not exist and L-D debaters arguing on the negative who employ this approach must solve additional problems concerning logical analysis and strategic options.

Argumentative burden of proof. This burden of proof standard is the most commonly recognized of the two types. Simply put, the burden of proof on an argument level places the responsibility on an advocate to prove her or his specific arguments in a debate round. So while the affirmative has the obligation to prove the truth of the resolution, both debaters have the burden of proof to support their individual arguments. Thus when evaluating particular arguments in an L-D debate, the burden of proof is bi-directional, or in other words, each debater should assume responsibility for sound argumentation.

This model, called the "initiator of argument model" stipulates that the one who initiates the discussion carries the burden of proving its truth and/or significance. Gary Cronkhite (1966) was one of the first advocates of this argumentative analog. This viewpoint was later advocated by Barbara Warnick (1981) and Steven Brydon (1986), among many others. Cronkhite's analog is described by Bill Hill:

According to Cronkhite, the party who initiates a dispute automatically surrenders presumption to the position he/she attacks and assumes the burden of proof for the position he/she advocates.<sup>21</sup>

#### *Presumption defined and explained*

The issue of "presumption" has been described in various ways. Some scholars approach presumption from a policy de-

bate perspective, others derive support from a legal paradigm, and yet a third group has devised their own interpretations of presumption with respect to value debate. Jim Hanson gives us one of the most detailed and comprehensive definitions:

**PRESUMPTION:** The initial beliefs of the judge or audience about the resolution and the argument claims advanced by debaters. Presumption determines who must prove their case and may decide which team wins if the debate ends in a tie. Here are four views of presumption. First, traditional presumption is with the present system. . . Second, risk presumption is against the risk of uncertainty. . . Third, hypothesis-testing presumption is against the resolution or a claim. . . Fourth, psychological presumption is with the judge's or audience's beliefs.<sup>22</sup>

Hanson's definition includes most of the contemporary approaches to presumption and encompasses both policy and value argumentation fields. The following discussion of the leading theories regarding presumption will be relevant to the application of this issue in Lincoln-Douglas debate:

Traditional presumption. Nearly all debate scholars would agree that within the realm of policy debate the "status quo," or current system, is "presumed" (hence, the term "presumption") acceptable until proven otherwise. Many have applied that approach to value debate in similar fashion: "That the currently held value or belief is presumed to be acceptable until proven otherwise." While many in the L-D community wince at the idea of incorporating a "policy" debate concept, this approach is regarded as the simplest solution to the presumption in L-D issue.

Value comparison and risk presumption. The value comparison model is used most often when value propositions stipulate two value terms for consideration. In value comparison debates, presumption favors the value that is demonstrated to be the most desirable or worthy. Austin Freeley stated: "In value debate the presumption favors the greater over the lesser value."<sup>23</sup> Although there are some problems with this approach, such as determination of the worthiness of the value not being made until the end of debate round, many critics determine the initial level of presumption at a prima facie (at first glance) level.<sup>24</sup>

Risk presumption is similar to the value comparison model, except it emphasizes the negative side of the values. Instead of comparing the virtues or merits of the values, risk presumption debates focus upon the relative risks or dangers of the values. Thus, whichever value can be shown to be the most dangerous or uncertain shall have presumption weighed against it. Hanson defined risk presumption as:

. . . against the risk of uncertainty. The larger a policy or value change is and the riskier a value or policy is, the greater the presumption is against that value or policy.<sup>25</sup>

Whichever of the two approaches are selected, the other can be used to attack it. Thus, if an affirmative chooses to support a given value by comparing its advantages to the negative's value, the negative debater has two choices: 1) directly refute the claim by arguing that the negative value is comparatively superior; or 2) introduce a risk presumption argument to discredit or lessen the attractiveness of the affirmative value.

Hypothesis-testing presumption. One of the leading

advocates of hypothesis testing in value debate is David Zarefsky.<sup>26</sup> Although best known for his contributions in policy debate, Zarefsky is also well known for his leadership in developing value argumentation theory. Under the hypothesis-testing model, presumption is always against the proposition for debate. Zarefsky's premise is that the debate resolution is very similar to a scientific hypothesis which should be tested for truth and/or validity. Any successful claim against the hypothesis would yield a negative result; thus disproving the hypothesis. The burden is on the affirmative debater to prove the truth of the resolution. Zarefsky describes presumption under the hypothesis-testing model:

Presumption is placed against the specific proposition being debated. This procedure, as described above, assures a rigorous test of the proposition. . . . the hypothesis-tester regards presumption as stipulated rather than natural. . . . One might ask why rigor is served by placing presumption always against the proposition; indeed, it might seem that to do so is to fail to test rigorously the arguments advanced by the negative. But the negative is not proposing a thesis for adherence; its aim is only to negate. Rejecting the proposition does not preclude taking any other position. . . . Since rejection involves fewer risks than does acceptance, it is appropriate to locate presumption against the resolution. Such reasoning is analogous to that by which the scientist presumes the null hypothesis.<sup>27</sup>

One important difference between hypothesis-testing in the scientific field and the argumentation field, however, is the level of certainty needed to ac-

cept the hypothesis. In high school Lincoln-Douglas debates, judges need only be sure of its probable or general truth before voting for the affirmative. In other words, in order to prove the "truth of the resolution" the affirmative need not prove the resolution true or desirable in every and all conceivable or hypothetical instances, but rather just prove the resolution "generally true or desirable." Insignificant or atypical claims as well as examples provided by the negative, even if it factually disproves the absolute truth of the resolution, are not sufficient to warrant rejecting the resolution.<sup>28</sup>

Psychological or natural presumption. A few debate scholars and theorists have concerns with presumption simply being assigned to the negative.<sup>29</sup> The result, "psychological presumption" (also referred to in some scholarly journals as "natural" presumption) attempts to focus presumption on the audience's (or judge's) own beliefs and values. Under this model, the values held by the audience would be presumed correct until there was reason to change. Steven Brydon described psychological presumption as "the state of belief actually existing in the mind of an audience."<sup>30</sup> Indeed, other scholars have viewed psychological presumption in a similar manner. Michael Bartanen and David Frank suggested:

Presumptions are *preconceived beliefs of an audience*. In the absence of contrary assertions or claims, an audience will likely hold to a presumed belief until an arguer makes a convincing contrary case.<sup>31</sup> [italics in original]

Naturally, audience analysis would be a key factor in a psychological presumption debate. Debaters will need to ask themselves several questions while

preparing for such a debate: "Is this a homogeneous or heterogeneous audience?" "Do the members of this audience share similar values with me?" "Are the members of this audience willing to change their viewpoints during the course of the debate?" Rybacki and Rybacki warn that presumption could vary by the composition of the audience:

The importance of determining where presumption lies is emphasized when we consider that natural presumption resides in whatever point of view the audience of argumentation may hold.<sup>32</sup>

For many debaters, the thought of presumption shifting from round to round is unsettling. However, supporters of this perspective point out that the natural presumption model more accurately reflects the "real world" and offers the advocate a forum from which to practice adapting to various audiences.

#### **A CALL FOR ADOPTION**

The author offers the following suggestions intended to be a starting point for discussion. It is the hope of the author that after careful consideration, the NFL will continue to improve the L-D guidelines and judging instructions as well as promote their widespread acceptance throughout the Lincoln-Douglas community.

*Incorporate both resolutive and argumentative burdens of proof in L-D debate*

These two argumentation standards represent the most basic and straightforward aspects of debate as an academic activity, yet they remain misunderstood and ignored by many Lincoln-Douglas debaters and judges. NFL L-D guidelines should be reformulated to clearly define the resolutive and argumentative burdens for

both speakers. The last revision of the L-D guidelines represented a vast improvement over the original version, however, students and judges would benefit even more if the guidelines were to be upgraded further by clarifying and explicitly assigning burdens to each speaker.

*Set presumption against the affirmative as the judging standard*

In an unstructured setting such as a casual philosophical discussion around a table, there are no time limits or limits upon the number of times a participant can speak; presumption is neither necessary or desirable. Placed in the context of an academic debate round, however, where cases are structured and a critic must render a decision, artificial presumption against the affirmative is necessary because the affirmative debater receives several substantial advantages against which presumption is intended to equalize.

Initially, the affirmative receives the right to deliver the initial and final speech in the debate. Thus not only does the affirmative set the argumentative ground in the debate, the affirmative also closes the debate selecting the final issues upon which the judge is asked to render a decision. Secondly, the affirmative delivers more speeches which represents additional opportunities to preempt or respond to negative attacks (although speaking times are equal.) Finally, the affirmative has the opportunity to prepare its case well in advance of the debate and thus, should be well-versed in the intricacies and nuances of the affirmative position.

This presumptive approach promotes sound argumentation without imposing any preferential standard nor prescribing a particular model from which to adhere. At the same time, this approach equalizes the substantial advantages the affirmative

enjoys from the structure of academic debate by artificially assigning presumption to the negative.

*L-D topic wording committee should protect presumptive ground by topic phrasing*

Lincoln-Douglas topic wording committees should try to phrase topics so that established institutions or commonly held beliefs are negative ground. Thus, by incorporating models as issue-agenda and psychological presumption, the wording committee can place the burden on the affirmative to present a compelling case for adoption of the alternative value. Admittedly, this will prove to be a challenge, as presumption will vary in different parts of the country, however, attention to this important consideration may prevent a topic from being excessively biased toward one side of the resolution.

*Judging philosophies should be standard tournament protocol*

A judging philosophy is a statement, authored by the debate critic, ranging in length from one to two typewritten pages, which describes any paradigms, argumentative methods and delivery styles that are preferred by that particular judge. It serves as an audience analysis tool which can be used by the debaters to select their arguments, styles, and strategies and provides a forum from which the judge can use to inform the debaters whether he or she has any "pet peeves" or particular dislikes. Judging philosophies are widespread on the college level and are used at some high school invitationals. These statements are partially responsible for an increase in the quality of debating when used properly. A debater who accurately analyzes a judging philosophy statement can determine which model of presumption would be most appropriate

for the critic(s). A judging philosophy can also be given orally just before the debate round as well.

The use of judging philosophies in high school Lincoln-Douglas debate can be especially useful, considering the overwhelming number of debaters who deliver the same "stock cases," regardless of the type of audience. This addresses the frequent complaint about debaters not being responsive to their audiences and would perhaps promote development of Lincoln-Douglas debate away from "two-person oratory" and towards "clash-orientated argumentation."

Considering the large percentage of forensics students who wish to be legislators, attorneys, journalists, educators, and civic leaders, judging philosophies would teach students the art of judge/audience adaptation. Any good speaker would conduct an analysis of the audience before delivering a speech because knowledge of the audience's accepted beliefs and values would be the key to the speech being accepted by the audience. By taking into account psychological presumption, students can develop advanced persuasive and reasoning skills necessary for leadership.

In addition, judging philosophies reduce stereotyping based on race, gender, origin, and appearance. Without any prior knowledge of the critic's judging philosophy, coaches and students would be forced to make assumptions about the critic on potentially misleading information.<sup>33</sup>

*Eliminate contradictions between the NFL L-D guidelines and judging instructions*

The source of the most confusion and argument over Lincoln-Douglas debate practice is the contradiction between the explicit exclusion of presumption and burden of proof stan-

dards in the NFL L-D judging instructions and the guidelines which attempt to prescribe clash and speaker obligations in the NFL L-D guidelines. Perhaps it may be useful to incorporate both into one main document and have one section devoted to judging criteria and instructions which would be included on each NFL L-D ballot. Contradictions between both documents can then be resolved. In this manner, coaches, debaters, and judges can refer to just one document for direction and clarification.

### CONCLUSIONS

Presumption and burden of proof are important and necessary elements of value argumentation and debate. Since the National Forensic League has declared Lincoln-Douglas an actual debate event, it seems only logical to include the requisite argumentative issues which would guide debaters in upholding their duties as advocates and assist judges in rendering sound decisions.<sup>34</sup> The debate community has recognized the importance of value argumentation, as evidenced by the fact that the popularity of values-oriented debate has surpassed policy debate both on the high school and collegiate levels. As Lincoln-Douglas debate has grown and matured, the rules and guidelines which govern the event must be refined and updated to promote continued development of this important argumentation event. A serious recommitment to the issues of presumption and burden of proof would promote better argumentation and teach sound reasoning. As David Zarefsky noted in the first epigraph at the beginning of this essay, the incorporation of presumption and burden of proof standards in value debate would greatly enhance the benefits that participation in Lincoln-Douglas debate imparts.

In this essay, the author has briefly identified some of the

problems occurring in Lincoln-Douglas debate today stemming from the lack of presumption and burden of proof standards, covered several of the leading interpretations of these argumentation standards, discussed several ways these standards could be incorporated into Lincoln-Douglas debate, and concluded with a call for in-depth discussion and eventual refinement of the current NFL L-D debate guidelines and judging instructions.

There has been a great deal of controversy and disagreement regarding the various suggested roles for presumption and burden of proof standards in Lincoln-Douglas debate. The L-D community should begin a "debate on debate" and openly discuss how it may continue to improve the event.<sup>35</sup> It is the hope of the author that the subjects covered in this essay will promote the necessary discussion within the National Forensic League which will result in implementation of much needed reform in the areas of presumption and burden of proof standards in L-D debate.

The phenomenal growth of Lincoln-Douglas debate and development of value argumentation theories have far exceeded the utility and scope of the basic rules and judging guidelines which were hastily established in 1979.<sup>36</sup> The high school debate community simply cannot afford to delay implementing additional reforms to promote the continued growth and maturity of this relatively young and exciting debate format which will allow our discipline to continue to develop active citizens and leaders for the 21st century.

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### FOR FURTHER READING

[Author's note: I have tried to include not only the primary source, but in addition, any reprints or collections which include these sources which might be more accessible to the debate coach and student. Page numbers, however, corresponds to the source used in the preparation of this essay.]

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## ENDNOTES

<sup>1</sup>Material for this essay comes from a variety of sources, including the author's earlier article on the issue of presumption, "Defining the Role of Presumption in Lincoln-Douglas Debate," National Forensic League Journal 2 (1992): 1-15; in-depth discussions with debate coaches and students at L-D tournaments, summer institutes, and regional seminars over the past several years; and a recent re-examination of the issue by the author.

The author thanks several individuals for their insights and assistance with this essay. Discussions with Joseph S. Tuman (San Francisco State University), Nicholas J. Coburn-Palo (Weber State University), Pauline Jones Luong (Harvard University), Melodi Morrison (formerly from University of California at Berkeley), and Steven C. Clemmons (Loyola-Marymount University) proved especially valuable. In-depth discussions and important feedback from Mark Webber (Memorial HS-Houston, TX and



NFL L-D Topic Wording Committee) are especially appreciated. The author also thanks Jim Copeland, Executive Secretary of the National Forensic League, for his continual support and assistance with this and upcoming essays.

<sup>2</sup>See the 1995 National Forensic League Tournament Manual, Appendix III- Lincoln-Douglas Debate. L-D judging rule #2 states: "There are no prescribed burdens in L-D Debate as there are in policy debate; no "burden of proof" and no "presumption" There is no status quo. Therefore, decision rules are fair issues to be argued in the round."

<sup>3</sup>Matlon, CEDA Yearbook, 8. The word "team" appears in the text because at many Cross-Examination Debate Association (CEDA) sanctioned tournaments, the team format (two partners per side) is utilized to maximize participation.

<sup>4</sup>Countless discussions with coaches from both large and small programs around the country over the last several years reveal what the author considers a disturbing consensus: That Lincoln-Douglas debate means vastly different things to different people, both in theory and practice. Many complain that because the event is approached so differently in various parts of the country, L-D debate is starting to lose its effectiveness as an argumentation event. One coach laments: "I can't even take my state champion L-D debater to NFL Nationals and tell her that she will be competitive when basic things like debate rules and judging criteria are up for grabs." Another coach asks: "Without knowing what is expected of the debaters and judges how can you even have a meaningful debate? Many times the outcome is not decided by the quality of arguments, but who the judges are and what style of L-D they like; it's really a crapshoot."

<sup>5</sup>The author routinely asks his institute and seminar students the following question: "How many of you have read the official NFL Lincoln-Douglas debate judging instructions and debating guidelines?" Every year since 1987, no more than 15% of the students in attendance have ever raised their hands.

<sup>6</sup>Eisenberg, 91. See, for example, Eisenberg and Ilardo's treatment of logical fallacies, which provides both examples and explanations for each type of fallacies. Knowledge of these fallacies should be a part of every debater's education.

<sup>7</sup>The National Forensic League's stated mission is to "Train Youth For Leadership" and an important part of that goal involves cultivating superior analytical reasoning skills. The Lincoln-Douglas debate community can and should do more to promote logical integrity by implementing improved argumentation standards. Considering the number of debaters who go on to become attorneys, educators, journalists, and policy makers, the relevance of this observation takes on an even greater sense of importance.

<sup>8</sup>NFL L-D Guideline #7 states: "Since this is debate, clash is necessary. With the exception of the affirmative constructive speech, neither speaker should be rewarded for presenting oratory unrelated to the rest of the debate. Clash in the debate should be on one or more of the following as they are applied to the specific topic: the values premise, the values criteria, the argumentation." NFL L-D Guideline #11 states: "The affirmative obligation is to support the resolution with the value(s) and to clash with the negative position. The negative obligation is to clash with the affirmative position by using refutation and/or opposing value(s)." See "Appendix V: Lincoln-Douglas Guidelines," NFL Tournament Manual, 1995, p. TA-4.

<sup>9</sup>NFL Executive Secretary Jim Copeland stated in a telephone interview with the author that the NFL judging instructions printed on each L-D debate ballot are considered rules in the same way as the NFL L-D Guidelines found in the NFL Tournament Manual serve as rules for the event. Jim Copeland, telephone interview with author, 12 September 1995.

<sup>10</sup>During his tenure as a high school and college coach in Northern California, the author frequently observed first-time or inexperienced judges rendering decisions on what can be charitably considered "bizarre" grounds. When pressed by the tournament director or judging coordinator for an actual "reason for decision," many judges pointed directly to the NFL L-D instructions printed on the ballot, stating that they did not base their decision on the affirmative's nor negative's cases because there was -no burden of proof."

<sup>11</sup>Baldwin Rostrum 1994, 11-12

<sup>12</sup>Ibid., 12.

<sup>13</sup>Ibid., 12.

<sup>14</sup>Marilee Dukes, widely regarded as one of the leading coaches and educators in the L-D community, explains the dilemma of judges who are knowledgeable in L-D theory and practice. Even if judges can render decisions based on sound argumentation principles, the lack of clear argumentative standards and expectations for debaters means that many of these judges will continue to suffer through rounds lacking proper arguments and as a result, be forced to intervene when deciding the debate. A number of excellent points raised in this article would serve as fine starting points for discussions on refining and improving the current NFL L-D guidelines. See Marilee Dukes, "Please! Don't Ask Me To Think!," Rostrum 69.7 (March 1995): 36.

<sup>15</sup>Coaches are not the only ones reluctant to adopt improved rules in L-D debate. In particular, certain summer L-D camps which promote their own "winning approach and records" in L-D debate have a commercial interest in maintaining the present system which lacks unified standards and stands to lose the most if reforms are adopted and accepted nationwide. Such institutes teach L-D as a

"formulaic system" using pre-written cases and briefs which de-emphasizes well-developed, holistic argumentation and promotes parametric styles of analysis (arguing from isolated examples). Such an approach is regarded by most recognized value argumentation scholars as "intellectually bankrupt" and is appropriately excluded by NFL L-D Guideline #5 which states: "Neither the affirmative nor the negative is to debate his or her position exclusively from the standpoint of isolated examples." For the most part, however, instructors at the top two or three national institutes who teach rhetorically-sound argumentation methods have been vocal advocates for improvements in the NFL L-D guidelines.

<sup>16</sup>Kane argued even further that: "... our understanding of propositions of value is in a never-never land."

<sup>17</sup>The Speech Communication Association and its communication organization subunits sponsors panels where scholars present their research and discuss their findings with other members of the academic community. For example, the SCA/CEDA panel on presumption in value debate in 1991 led to several published articles the following year in the CEDA Yearbook, the Cross-Examination Debate Association's annual scholarly journal.

<sup>18</sup>Hanson, 24.

<sup>19</sup>Some critics might argue that burden of proof and presumption standards are impossible to assign due to the evaluative nature of value resolutions, however, the underlying assumptions of this position are that the truth-seeking discussion never ends and that speakers receive an unlimited amount of time to present their points. Such assumptions were first articulated by early Greek philosophers and assumes a continuous conversational "debate" (lasting years or centuries) rather than a structured academic debate round as we have today (lasting 32 minutes).

<sup>20</sup>Sometimes the negative debater has no choice but to argue against the truth of the resolution instead of against the affirmative case because the affirmative has presented a parametric case (arguing from isolated examples) or a "squirrel case" (unusual or marginal case analysis). Instances such as these lend additional credence to the argument for burden of proof and presumption standards, because such standards would require full resolutorial analysis (holistic argumentation) and complete prima facie value cases (See Tuman, 1987.)

<sup>21</sup>Hill, 25.

<sup>22</sup>The definition included in this essay omits the examples and explanations that accompany the definition. See Hanson, 139-140 for the complete definition.

<sup>23</sup>Freeley, 416.

<sup>24</sup>Other types of judges will allow the level of presumption to fluctuate throughout the debate, as they are persuaded by each side. However, the usefulness of presumption as a decision ren-

dering mechanism decreases with the amount of fluctuation in the judge's mind.

<sup>25</sup>Hanson, 139-140.

<sup>26</sup>For a complete explanation and rationale for using hypotesting in value debate, see: Zarefsky, *Advanced Debate* 205-215; Patterson and Zarefsky; and Vasilius.

<sup>27</sup>Zarefsky, *Advanced Debate* 209-210.

<sup>28</sup>This approach would be consistent with NFL L-D Guideline #5: "Debating the resolution in its entirety..." See "Appendix V: Lincoln-Douglas Guidelines," *NFL Tournament Manual*, 1995, p. TA-4.

<sup>29</sup>Aside from the controversy whether presumption has a role in value debate, much discussion has been focused upon the legitimacy of natural presumption in a structured argumentation forum such as forensic debate. See, for example, Sproule (1976), Bartanen (1981), Podgurski (1983), Rybacki and Rybacki (1986), and Brydon (1986).

<sup>30</sup>Brydon, 16.

<sup>31</sup>Bartanen and Frank, *Debating Values* 30.

<sup>32</sup>Rybacki and Rybacki, 18.

<sup>33</sup>For example, when this author judges at tournaments where no judging philosophies are distributed, debaters have often committed the fatal error in making grossly inaccurate stereotypical assumptions when selecting their style and strategy. As a result, this author has had to endure many unpleasant rounds that could have been far more enjoyable and educational for both the debaters and judge.

<sup>34</sup>In fact, NFL L-D Guideline #7 declares: "Since this is debate, clash is necessary." Emphasis appears in original. See "Appendix V: Lincoln-Douglas Guidelines," *NFL Tournament Manual*, 1995, p. TA-4.

<sup>35</sup>Dale McCall is well-known for teaching her students as well as other coaches "that you cannot prove an ought with an is." Many coaches in the L-D community, however, refuse to even discuss the possibility of reform, citing that "there is an L-D rule that says that there

is no presumption and no burden of proof, therefore we ought not discuss it." Perhaps those who adamantly refuse to discuss these issues can benefit from some valuable advice from Coach McCall.

<sup>36</sup>The high school Lincoln-Douglas format was formulated and implemented as an NFL national event in less than a year in response to calls from both within and outside the debate community for an audience-orientated debate event. While the need to promote creative argumentation and differentiation from policy debate were good reasons at the time for issuing basic rules and guidelines, L-D debate has sufficiently developed its own identity to warrant the inclusion of previously excluded argumentation issues such as presumption and burden of proof.

*[Editor's note: L-D debate will be one of the subjects of the Summer 1996 NFL Conference currently being planned by NFL President Donus Roberts]*