

is to teach our students how to make those decisions. In the real world, presumptions play a crucial role in providing useful rule-of-thumb standards for deciding among alternatives. In debate, however, we should not presume in advance that any substantive claim is more likely to be true than any other substantive claim. Rather, we should let the debaters debate about that claim. The pedagogical function of debate therefore is best met by eliminating presumption as a key theoretical concept and requiring that both the affirmative and negative meet a burden of proof on every issue under consideration.

Works Cited

- Hill, Bill. "Toward a Holistic Model of Presumption for Non-Policy Debate." *CEDA Yearbook* 10 (1989): 22-32.
- Podgurski, Dwight T. "Presumption in the Value Proposition Realm." *CEDA Yearbook* 4 (1983): 34-39.
- Rescher, Nicholas. *Dialectics: A Controversy-Oriented Approach to the Theory of Knowledge*. Albany: State U of New York P, 1977.
- Rowland, Robert C. "The Influence of Purpose on Fields of Argument." *Journal of the American Forensic Association* 19 (1982): 228-45.
- . "Standards for Paradigm Evaluation." *Journal of the American Forensic Association* 18 (1982): 133-40.
- Tuman, Joseph S. "Getting to First Base: Prima Facie Arguments For Propositions of Value." *Journal of the American Forensic Association* 24 (1987): 84-94.
- Zarefsky, David. "A Reformulation of the Concept of Presumption." Central States Speech Association Convention. Chicago, 6 April, 1972.
- Zeuschner Raymond and Charlene A. Hill. "Psychological Presumption: Its Place in Value Topic Debate." *Contributions on the Philosophy and Practice of CEDA [CEDA Yearbook 2]* (1981): 20-24.

Using Presumption as a Decision Rule in Value Debate

KAREN WHEDBEE

In 1828, Richard Whately introduced the word *presumption* into the vocabulary of rhetorical theory. He thought of presumption, primarily, as a sort of inventional tool: it represents the starting point of debate, and it indicates the lines of argument that may be presented by participants. Although Whately emphasized the role of presumption as an inventional tool, he also recognized a sense in which presumption can be used as a decision rule; that is, in some circumstances, presumption provides a standard by which to evaluate competing arguments.

Presumption has played a pivotal role in academic debate--particularly in American debating societies. In policy debate, presumption traditionally was granted to the negative side when the negative defended the status quo. The affirmative, on the other hand, carried the burden of overturning presumption. Although innovations such as comparative-advantage cases render presumption less important (Vasilius 34), in traditional policy debates, if the affirmative fails to establish particular arguments, then the negative must win the debate by default. In such debates, presumption gives debaters a clear sense of what types of arguments they must make, and it also provides judges with a standard for evaluating the arguments and rendering a decision. Other formulations of presumption have come out of the arena of academic debate. Zarefsky, for example, argues that presumption should be granted to the negative, that is, against the resolution, rather than in favor of the status quo (5).

With the advent of non-policy, including value, topics in academic debate came questions about the role of presumption in such debates. As presumption has been adapted to academic debate, both as an inventional tool and as a decision rule, these scholars have made major modifications to the concept. This essay will show that such modifications have done serious damage to Whately's original concept by attempting to make presumption do things that it cannot do; presumption rarely, if ever, can operate as a decision rule in value debate. Further, some modifications result in confusion about the role of presumption. To support this thesis, I begin by examining how Whately

Karen Whedbee is a Ph.D. candidate at the University of Wisconsin in Madison, Wisconsin.

conceived of presumption, and then I evaluate the modifications made to Whately's original concept.

Whately on Presumption

When Whately first proposed the notion of presumption, he signalled a rebellion against Enlightenment theories of argumentation. In the seventeenth and eighteenth centuries, most philosophers believed that argument ought to commence from indubitable "first foundations." Descartes, for example, argued that the proper order of argument is to begin with the most simple and clear truths. One then advances step by step toward more complex truths, making sure that each step of the argument is indisputable. In starting argument from first foundations, one must reject every statement that can possibly be doubted, until one arrives at simple and self-evident truths that cannot possibly be doubted. These self-evident truths are the sure foundations of knowledge.

One important implication of the Cartesian method is that received beliefs and practices have no presumptive legitimacy. For Descartes, the beliefs and attitudes we inherit from our ancestors through education and enculturation represent no more than illusion and prejudice. To escape these illusions, the individual thinker must withdraw in solitude and "raze everything in [his] life, down to the very bottom, so as to begin again from first foundations" (13).

Descartes' meditations revealed that the first foundation of argument is the *cogito*. But when John Locke withdrew in solitude to write his *Essay on Human Understanding*, he discovered that the first foundation is not some rational principle such as the *cogito* but rather the knowledge of particulars received through our senses. For Locke, the mind is largely passive; it cannot originate any genuinely new idea but only can combine simple ideas already sensed. The particular virtue of the mind is to perceive and process realities accurately, hence, to avoid distortions, prejudices, and "idols" that have been inherited from our ancestors. For Locke, the premises given by our ancestors have no standing unless they can be empirically verified.

Rhetoricians could not help but be influenced by the philosophical climate of their age. For example, in Book I, chapter 5 of *The Philosophy of Rhetoric*, George Campbell explained that argument commences with several types of indubitable truths: (1) mathematical axioms; (2) the data of consciousness, including sense perception; and (3) common sense truths such as "the future will resemble the past," and "there are other intelligent beings in the universe besides me." Absent from Campbell's list is the notion that argument may commence with probabilities or with received opinions and values.

With the dawn of the nineteenth century, there was a backlash against the Enlightenment notion of the solitary thinker. Beginning with Edmund Burke,

philosophers began to realize that the eighteenth-century approach to argument lacked all historical and sociological sense. Burke recognized that religious traditions, belief systems, and values are the binding forces that hold society together. Picking up on this theme, Coleridge insisted that new political and moral practices cannot be designed *ab initio* into existence. A society's beliefs and practices at any given moment represent one stage in an evolving and constraining tradition. These themes also would become central in the theories of the Saint Simonians and in the philosophy of John Stuart Mill.

Whately's notion of presumption was consistent with these new ideas. Like Burke, Coleridge, and Mill, Whately believed that we delude ourselves if we think we can begin an argument from indubitable "first foundations." Humans are born into a specific historical and cultural context, and it is psychologically impossible to escape the influence of received beliefs, attitudes and values. Moreover, it is not desirable that a thinker should try to escape the fabric of this inherited belief system. One would have to be very arrogant to suppose that a single isolated individual engaging in "*hygiène cérébrale*" could accomplish in one lifetime what it took generations of thinkers to accomplish over the entire history of humankind.

Whately's major contribution to argumentation theory, then, was the suggestion that we ought to give our ancestors the benefit of the doubt: we ought to assume that received beliefs, attitudes, values and institutions are correct until sufficient reason has been adduced against them. Whately was careful to point out that this does not mean there is a *probability* in favor of the status quo. *Presumption* is different than *probability* (Whately 113). What it does mean is that arguments do not appear in a vacuum; arguments exist within a specific historical context. The starting point of argument is not with indubitable "first foundations," but with the attitudes, opinions and values we have inherited from our ancestors and earned through past decision-making.

The early nineteenth century was a period of philosophical and political turmoil. In France, there was revolution; in Britain, the seeds of reform were being planted. Writers like Bentham, Coleridge, Comte and Mill saw the world in terms of a dichotomy between the forces of conservatism and the forces of progress. Not surprisingly, Whately's discussion of the notion of presumption was structured in terms of this dichotomy.

Whately saw that many speakers were assailing existing beliefs and institutions, and he wanted to suggest lines of argument for both reformers and conservatives. For example, he explained

There is a Presumption in favour of every *existing* institution. Many of these (we will suppose, the majority) may be susceptible of alteration for the better; but still the "Burden of proof" lies with him who proposes an

alteration; simply, on the ground that since a change is not a good in itself, he who demands a change should show cause for it. No one is *called on* (though he may find it advisable) to defend an existing institution, till some argument is adduced against it; and that argument ought in fairness to prove, not merely an actual inconvenience, but the possibility of change for the better (114).

The notion of presumption indicates what types of arguments need to be presented by conservatives and by reformers. Conservatives are not called upon to defend an existing institution until reformers have presented a case against that institution. Not only must reformers establish that a problem exists, but they also must establish that the problem can be solved. In this sense, presumption is an inventional tool and a decision rule. By determining which side in a debate has presumption, we gain a sense of what types of arguments are required of speakers, and also we gain some basic standards for evaluating those arguments.

Thus, Whately's discussion of presumption is designed specifically for traditional policy debate in which propositions are worded such that the affirmative takes on the role of reformers and the negative plays the role of conservatives by defending the status quo. Presumption indicates not only the types of arguments that are required at the outset of a debate, but, in certain circumstances, it can also indicate a decision rule for ending the debate; if the affirmative fails to present certain types of arguments, the negative wins by default.

Given the political climate of Whately's age, he saw debate in terms of a contest between conservatives and reformers. Apparently, it never occurred to him that debate need not be structured in this way. Whately never addressed himself explicitly to the possibility that a debate proposition might be phrased in such a way that there is no clear cut division between conservatives and reformers. He leaves scholars from the twentieth century to sort out for themselves what role presumption plays in value debate.

Evaluation of Modifications to Presumption

Attempting to adapt presumption to value debate, scholars have devised several new interpretations of the concept. The general consensus is that "as the concept of presumption is examined more closely . . . it turns out to be more complex than Whately's familiar statement implies" (Brydon 15). Two separate views of presumption have emerged. One view is that presumption is stipulated; that is, it is assigned to a side (Zarefsky 5; Brydon 15-22). The other view is that presumption is psychological, arising from audience attitudes, preferences, or beliefs (Tuman; Sproule). Hill attempts to

reconcile the two by arguing for a holistic model. I suggest, first, that modifications of presumption under the guise of "stipulation" cause unnecessary confusion. Second, I suggest that psychological presumption is consistent with Whately in principle if not in terminology; however, the use some modern scholars suggest for psychological presumption is inappropriate.

Stipulated Presumption

Much discussion of stipulated presumption confuses Whately's notion of presumption. This confusion arises from the implication that presumption should be assigned arbitrarily, the suggestion that it is useful to break ties, and the assignment of presumption to the negative in all debates.

Stipulated presumption was first introduced by Ehninger and Brockriede as "artificial presumption." They explained the concept in this way: "Artificial presumption . . . is the result of ground arbitrarily assigned, a preoccupation by agreement rather than by the present order of things. That a man brought to trial is to be presumed innocent until proved guilty is an example of presumption of this . . . sort" (84).

That Ehninger and Brockriede used the word *arbitrary* to describe artificial or stipulated presumption is unfortunate. Although *arbitrary* is subject to many interpretations, when we say we do something "arbitrarily," we usually mean we do it at our own discretion, without any justification. Surely Ehninger and Brockriede did not mean to imply that presumption of innocence is granted without justification. The presumption of innocence is justified by both legal precedent and practical moral reasoning. Through history, our culture has come to believe that it is a far greater evil to condemn an innocent person than to allow a guilty person to escape punishment. If this moral rule were to be reversed—if we were to presume guilt—federal and state penitentiaries would be filled not only with criminals but also with law-abiding people unable to overcome the presumption of guilt. The presumption of innocence is an *artificial* rule—that is, it is a rule created by humans. But this is nothing more than a truism. Unless one subscribes to some form of theological naturalism, one has to admit that all moral and legal rules are created by humans. To say that a rule is artificial does not necessarily imply that the rule is arbitrary.

The locus of presumption, as Whately describes it, is not arbitrary; it resides with prevailing opinion, thus giving our ancestors the benefit of doubt. The burden of proof upon reformers is to adduce sufficient reason against prevailing opinion to allow the audience to assent to change. Thus, all presumption, including the presumption of

innocence, is rooted in what modern scholars term "psychological" presumption, as discussed below.

Further, presumption is neither useful nor necessary to break ties in a debate. Hill identifies what seems to be a popular notion of ties: "a tie can only exist when the affirmative does not meet the burden of proof to overcome stipulated presumption" (25). Unfortunately, this description of a *tie* only confuses matters. When the affirmative does not meet its burden of proof, no tie results. The affirmative has not provided sufficient evidence to overcome the presumption, so the negative is presumed to have won the debate. This is not a tie. A true tie occurs when the affirmative and the negative present *equally* strong arguments; a tie means that both sides have an equal claim to win the debate. If the rules of debate stipulate that judges must declare a single winner, then what is needed is an *arbitrary* rule to break the tie. The rule may specify that the negative or the affirmative team should win in the case of a tie. Or, the rule may specify that, in case of a tie, the judge should flip a coin. In any case, stipulated presumption truly is arbitrary, and a far cry from Whately's concept. Indeed, to call arbitrary, tie-breaking rules "presumption" only confuses the concept.

Assignment of presumption to the negative in a value debate also causes confusion. When we assign presumption to the defendant in a legal setting, we are not acting "arbitrarily"; good, relevant reasons can be presented to justify granting presumption to the defendant. Accordingly, can we identify good reasons in support of assigning presumption to the negative side in value debate? Cronkhite responds that any time a person makes an assertion, she, by implication, takes on the obligation of proving that assertion. He suggests, "The *onus probandi* accrues to the party who initiates a dispute, and that party, in initiating the dispute, automatically awards the presumption to the position which he assails" (273). Cronkhite continues, "Obviously, the party advancing a proposition of fact or value automatically assumes the burden of proving it" (275). Regardless of the status of prevailing opinion, the initiator of the argument—the affirmative—ought always to have the burden of proof. If the affirmative fails to meet this burden, then our judgment must be that the negative has won the debate.

At first glance, Cronkhite's analysis seems accurate; but on closer inspection, he still leaves a mist hanging over the subject. Vancil provides a very important observation: in the legal setting, and in traditional policy debates, we begin the debate by assigning presumption to one side or the other. Only *after* presumption has been assigned, do we then determine the speaking order (240). Cronkhite's proposal reverses this process: first, we assign the speaking order, and *then* we assign presumption. The speaking order provides us with a reason for the assignment of presumption; but what justification do we have for our assignment of the speaking order? To the best of my knowledge, no one has addressed that question. Such silence invites the conclusion that

the assignation of the speaking order is purely arbitrary. And since the speaking order is arbitrary, then the assignation of presumption is also arbitrary. Once again, "stipulated presumption" reduces to an arbitrary, tie-breaking rule. One has to wonder what is gained by calling this arbitrary rule "presumption."

If, however, what Hill calls the "argumentative analog" (23) of stipulated presumption—"she who asserts must prove"—can be argued as a good reason for assigning presumption to the negative in a value debate, the reason lies not in the realm of stipulated presumption but in the realm of psychological presumption. Prevailing opinion may support that view. Thus, the need for presumption to be stipulated evaporates. What is needed is arbitrary rules about debate ties and a unified model of presumption rooted in the psychological view. Modern discussion of psychological presumption, however, is not without its own problems.

Psychological Presumption

Some have argued that presumption has no role in value debate. Rowland, for example, suggests debaters should support any claim they make (24). But imagine what debates would be like if we adopted this suggestion. Instead of assuming that a received opinion or value is true until sufficient reason is adduced against it, judges would be required to withhold assent from every premise until sufficient reason is provided to support it. Although the enormous amount of "evidence" read in many debate rounds indicates movement in the direction of such a state, even the most "modern" judges and debaters do not expect or provide cases built from "first foundations." Theoretically, it may be possible to build debate cases from first foundations, but it is not very practical. To prove a simple premise such as "murder is wrong" easily could take up the full ten minutes allotted to a speaker. Does psychological presumption play any role in value debates? The answer, obviously, is "yes." Our arguments do not begin from "first foundations"; they begin with received attitudes, opinions and values. And, as Whately tells us, we ought to defer to received attitudes, opinions and values until sufficient reason has been adduced against them.

Sproule invites us to pay closer attention to Whately's original definition of the word *presumption*, and we would be wise to heed his advice. As Whately used *presumption*, it refers to the prevailing opinions and predominant values of an audience. *Presumption* is a psychological state in which the audience grants the speaker certain premises, and unless sufficient reason is adduced against those premises, the audience will continue to assume that the premises are true.

Sproule takes pains to remain consistent with Whately's interpretation of *presumption*. Recently, however, this notion of *psychological presumption* has been

extended to go well beyond Whately. For example, Zeuschner and Hill argue that psychological presumption may be used as a decision rule in value debate:

Sproule suggests, based on the writings of Whately, that "advocates should use presumption as a tool of audience analysis." The side best able to adapt and appeal to the value system of a given judge, and which presents the superior arguments and evidence can be said to have *earned* psychological presumption" (23).

Zeuschner and Hill believe that "psychological presumption represents a criterion for judgment which critics of value debate have been calling for" (22). They are not alone in thinking that psychological presumption can be used as a decision rule. Matlon too argues that "[t]he person or team winning presumption is also the person or team who has had their values accepted by the critic-judge" (501). In this view, presumption is not something that is granted at the beginning of debate, but it is something that speakers must earn during the process of debate. The team that acquires presumption deserves to win the debate.

Can presumption be used as a decision rule in a value debate? My answer is "no." To support this answer, three observations are relevant.

First, as Brydon points out, to use psychological presumption as a decision rule is not terribly helpful: "The team that convinces the judge that their values are superior ought to win the debate, regardless of presumption. If neither team can convince the judge that their values are superior, then a tie exists, but no one has established presumption and the tie cannot be resolved" (19).

Moreover, as Brydon also mentions, if we use psychological presumption as a decision rule, we are guilty of committing the "naturalistic fallacy": we are using the *is* to determine the *ought*. Zeuschner and Hill, as well as Matlon, would like to be able to test the strength of a case by its persuasive force. This amounts to saying that an argument is worthy of belief if that argument compels belief. But as Hume, Mill, Moore, Hare, and many others would point out, *belief* is not equivalent to *evidence*. Just because we believe in something does not mean we *ought* to believe in it. Thus, we could always ask, *ought* the judge (or the audience) to have been persuaded? Advocates of psychological presumption can provide no answer to this question.

My final objection to using psychological presumption as a decision rule can be explained best through an illustration. Suppose the topic being debated is the following: "Resolved: That protection of the natural environment is a more important goal than the satisfaction of America's energy needs." Given this topic, the affirmative side will, no doubt, begin the debate by linking their case to the rule that states, "we ought to protect

the environment." The negative side, on the other hand, probably will link their case to the rule, "Americans ought to be self-sufficient in supplying our energy needs."

Taken separately, each of these rules is generally accepted by our society. To use the language of moral philosophy, they are "intuitive rules." Our society has determined that, *in general*, it is better to follow these rules than to break them. As individuals, we accept these rules intuitively—that is, without proof. There is a sense in which both sides in the debate could claim the advantage of presumption because both sides are advocating rules that will be generally accepted by audience members without proof.

In most circumstances, we have an obligation to follow both of these intuitive rules. In general, individuals and governmental agencies ought to do all they can to protect the environment. In general, individuals and governmental agencies ought to do all they can to make the United States energy self-sufficient. The problem, however, is that, in this particular circumstance, the two intuitive rules have come into conflict. We cannot follow both of the rules at the same time: we are forced to choose which rule is more important. Received opinion tells us that both rules, taken separately, are important, *in general*. The problem is that received opinion does not tell us which rule should be overridden in this particular situation when the two rules conflict. If received opinion did tell us which rule is more important, then the topic would not be controversial.

Our problem, then, is to develop a method for deciding between the two intuitive rules when they come into conflict. And, at this point, many debate coaches and argumentation theorists turn to presumption for aid. But to use presumption as a decision rule in this context is to beg the question. It assumes that the conflict between the rules has already been resolved. However, the point is that the conflict has not been resolved.

To put this another way, we have already established that our inherited belief system includes an internal inconsistency: we cannot agree to both of the intuitive rules at the same time. Given this acknowledged inconsistency, we cannot then turn around and appeal to our inherited belief system to resolve the inconsistency. The intuitions that gave rise to the conflict are the product of our upbringing and our past experience of decision-making. If these intuitions are called into question, we cannot appeal to them to settle the question. Debaters cannot rest on the safe ground of presumption because the status quo is itself unreliable.

What we need, then, is a decision-procedure that goes beyond the notion of presumption. We need normative standards for evaluating an argument on its own ground and not on the basis of extrinsic factors such as the feelings of the judge, or the status of popular opinion, or the assignment of speaking order. Presumption cannot function as a decision rule in value debate because the whole point of value debate is to discuss topics in which received opinions and values are inconsistent.

Conclusions

Given the problems involved in applying stipulated presumption and psychological presumption to value debates, one might well begin to wonder whether presumption has any relevance to value debates at all. I think it does. But the problem is that argumentation scholars are trying to distort the concept of presumption to make it do things that it cannot do. Many of our modifications to Whately's original concept have only confused matters. Stipulated presumption is really only an arbitrary, tie-breaking rule; one has to wonder what we gain by calling this arbitrary rule by the name *presumption*. Psychological presumption is closer to Whately's original vision of the concept. It cannot function, however, as a decision rule in value debate because the point of value debate is to discuss situations in which our inherited beliefs, attitudes and values are internally inconsistent. To use presumption as a decision rule under these circumstances is a viciously circular procedure.

Works Cited

- Bentham, Jeremy. *Principles of Morals and Legislation*. 1789. Oxford: Clarendon, 1907.
- Brydon, Steven R. "Presumption in Non-Policy Debate: In Search of a Paradigm." *Journal of the American Forensic Association* 23 (1986): 15-22.
- Burke, Edmund. *Reflections on the Revolution in France*. 1790. Indianapolis: Hackett, 1987.
- Campbell, George. *The Philosophy of Rhetoric*. Ed. Lloyd F. Bitzer. 1776. Carbondale, IL: Southern Illinois UP, 1988.
- Coleridge, Samuel Taylor. *On the Constitution of Church and State, According to the Idea of Each*. London: Hurst and Chance, 1830.
- Comte, Auguste. *Positive Philosophy*. 2 Vols. Trans. Harriet Martineau. London: Trübner, 1853.
- Cronkhite, Gary. "The Locus of Presumption." *Central States Speech Journal* 17 (1966): 270-76.

- Descartes, René. *Meditations on First Philosophy*. Trans. Donald A. Cress. 1641. Indianapolis: Hackett, 1979.
- Ehninger, Douglas and Wayne Brockriede. *Decision by Debate*. New York: Dodd, Mead, 1963.
- Hare, R.M. *Moral Thinking: Its Levels, Method and Point*. Oxford: Clarendon, 1981.
- Hill, Bill. "Toward a Holistic Model of Presumption for Non-Policy Debate." *CEDA Yearbook* 10 (1989): 22-32.
- Hume, David. *A Treatise of Human Nature*. 1739. London: Penguin, 1969.
- Locke, John. *An Essay Concerning Human Understanding*. Ed. A. D. Wood. 1690. New York: Meridian, 1974.
- Matlon, Ronald J. "Propositions of Value: An Inquiry Into Issue Analysis and the Locus of Presumption." *Dimensions of Argument: Proceedings of the Second Summer Conference on Argumentation*. Ed. George Ziegelmüller and Jack Rhodes. Annandale, VA: Speech Communication Association, 1981. 494-512.
- Mill, John Stuart. *A System of Logic*. Vol. 7 and 8 of *The Collected Works of John Stuart Mill*. Ed. J. Robson. 1843. Toronto: U of Toronto P, 1969.
- Moore, G.E. *Principia Ethica*. London: Cambridge UP, 1903.
- Rowland, Robert C. "The Function of Presumption in Academic Debate." *CEDA Yearbook* 13 (1992): 20-24.
- Sproule, J. Michael. "The Psychological Burden of Proof: On the Evolutionary Development of Richard Whately's Theory of Presumption." *Communication Monographs* 43 (1976): 115-29.
- Tuman, Joseph S. "Getting to First Base: Prima Facie Arguments for Propositions of Value." *Journal of the American Forensic Association* 24 (1987): 84-94.
- Vancil, David. *Rhetoric and Argumentation*. (In press).

- Vasilius, Jan. "Presumption, Presumption, Wherefore Art Thou Presumption?" *Perspectives on Non-Policy Argument* [CEDA Yearbook 1] (1980): 33-42.
- Whately, Richard. *Elements of Rhetoric*. Ed. Douglas Ehninger. 1846. Carbondale: Southern Illinois UP, 1963.
- Zarefsky, David. "A Reformulation of the Concept of Presumption." Central States Speech Association Convention. Chicago, 6 April, 1972.
- Zeuschner, Raymond (Bud) and Charlene Arnold Hill. "Psychological Presumption: Its Place in Value Topic Debates." *Contributions of the Philosophy and Practice of CEDA* [CEDA Yearbook 2] (1981): 20-24.

Archbishop Whately and the Concept of Presumption: Lessons for Non-policy Debate

NICHOLAS F. BURNETT

With the recent Clarence Thomas nomination hearings, the American public probably heard a great deal about the concepts of burden of proof and presumption. Senators debated the aptness of the judicial metaphor, wondered about the effect of public opinion on presumption in the controversy, and desperately sought to impose upon the opposing faction onerous burdens before the charges of sexual harassment could be accepted or rejected. Rarely have such technical points of argument surfaced in such an important and visible way in public debate. What those hearings demonstrated, among other things, was the continuing vitality and theoretical importance of the concepts of presumption and burden of proof articulated by Archbishop Whately one-hundred-and-fifty years ago. While policy debate seems to have a well-developed sense of how presumption operates as a part of both debate strategy and for the decision calculus for each round, in non-policy debate, that understanding is neither as clear nor as fully realized.

My interest in this area stems in part from my frustration with debates in which presumption seems to be a prize awarded to the team who claims it first or the team who offers even the most flimsy justification for its assignment. One of the attractions of this activity is that students and teachers can be active participants in the creation and application of debate theory and the subsequent alterations of debate practice. We clearly have not done enough to teach our students to think through the special challenges offered by non-policy debate to the application of presumption. The purpose of this article, therefore, is to retrace some of the ground covered by those who have previously considered this concept and to look specifically to the work we most often credit with providing the theoretical foundation for modern conceptions of presumption—Richard Whately's *The Elements of Rhetoric*. Review of Whately's contributions suggests ways in which debaters can operationalize some of Whately's ideas in the realm of non-policy debate.

Nicholas Burnett is assistant professor and Director of Forensics at California State University, Sacramento, in Sacramento, California. A version of this paper was presented at the Speech Communication Association Convention in Atlanta, Georgia, in November, 1991.