"WHEN YOU BEGIN A DIVISION, NEVER FEED IT TOO MUCH;
SOMETHING MAY HAPPEN, YOU NEVER KNOW WHAT!"
(with apologies to Dr. Seuss)

PRESUMPTION IN THE VALUE PROPOSITION REALM
"A definition whose time has come"

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Once upon a time, three blind debate coaches came upon a huge beast that had been feeding on the side of the road. One coach, feeling only the first part of the beast, decided that the beast fit best into a cage of jurisprudence. The second, wanting to test the hypothesis of the beast's existence, thought that they should doubt the existence of the beast altogether until it made a noise in the forest. The third, feeling the historical part of the beast, was sure that it would act much like another beast he had come in contact with before; the policy platypus.

Much confusion has centered around the "beast" examined by most contemporary debate instructors. Policy debate has a full and rich history of theory building to rely upon and to settle questions of argument application in the competitive debate setting. Stock issues including inherency, workability, solvency and topicality have evolved throughout the last several decades to guide the policy debater in choosing appropriate arguments during rounds and in research decisions prior to tournament competition. It is rare in policy debate, even among the novice competitors to find a debater who lacks at least a marginal understanding of "debate theory."

Unfortunately, the relative state of consensus concerning stock issues enjoyed by instructors and students of policy debate is not shared by their counterparts in the value proposition setting. After twelve seasons of CEDA competition, little, if any clarity exists. Debaters continue to cry out "we don't have to have significance/be inherent/run D.A.s/be topical. This is CEDA," as though debating in a nonpolicy realm were a license for irrational thought. On more than one occasion, much to my disdain, debaters have chosen to ignore all previous speeches, analysis and evidence to discuss what they've cleverly labeled "issues." If CEDA debaters are at a loss (if you'll pardon the expression) for quality argumentation, much of the problem can be attributed to the current state of publication dealing with the value proposition realm. One particularly confusing concept is presumption. This paper will serve to offer a unifying paradigm of presumption in an effort to provide clarity and a rational presumption standard. It is hoped that this paper will additionally serve as a useful guide for the competitive CEDA debater who has, in most cases, had to wade headfirst through pages of analysis on Archbishop Whately's view of the legislative world.

Few would suggest that presumption plays no part in competitive debate. Application of Whately's concept was evident well before most coaches were born, although admittedly a few coaches may be possible exceptions. The importance of presumption was well illustrated in the 1963 edition of Decision

by Debate:

> Every debate that ever has or ever will take place concerns, if not an actual, at least a figurative piece of ground. One of the disputants preoccupies-figuratively stands upon-an idea, interpretation, or value that the other thinks he should not be occupying. Indeed, unless some actual or figurative piece of ground is preoccupied, there can be no debate. There is no established order or pattern of relationships that may be challenged. The situation is chaotic or formless and hence not subject to reordering. There is nothing to argue about, no matter concerning which the parties can disagree. For a debate to occur, the occupancy of a piece of ground must be contested . . . The technical term for the preoccupation of a piece of argumentative ground is presumption.[1]

The real question, then, is not whether presumption has a place in debate but rather what role it plays. Often, given the lack of clarity on this issue, value debaters have found it convenient to borrow theory from successful policy debaters. The text Public Policy Decision Making explains the position most adopted by policy debaters: "The legislative counterpart of presumption is primarily an administrative concept. The assumption favors present policies simply because it takes time and energy to change those policies, not because those policies are assumed correct.[2] In many cases, affirmative teams in value debate will argue presumption from a legislative paradigm claiming that since the affirmative case defends values and/or systems which exist currently, the affirmative team should therefore receive the benefit of presumption and the negative the burden of proof. This strategy, however, is not a particularly viable one. The legislative paradigm is truly applicable only in a policy setting.

Value propositions, although occasionally requiring a policy evaluation, do not explicitly require a policy comparison. In addition, since neither the affirmative or negative is required to advocate a uniquely advantageous policy not currently in existence, neither the affirmative or the negative need to feel compelled to abandon the status quo. In some cases, the 1983 CEDA resolution for example, the affirmative and negative are both required to defend the status quo in order to fulfill the demands of the resolution. In a resolution which poses the question "Are the individual rights of privacy more important than any other Constitutional right?," little, if any, discussion can take place outside of the status quo. Granting presumption to both sides in the debate, as would be consistent with the legislative paradigm view, offers nothing to the decision making process. Furthermore, since value propositions tend to discuss reality conditions rather than policy per se, the legislative paradigm becomes an even more inappropriate decision making tool. Brock, et al, provides excellent elaboration:

> With a legislative analogy in a process reality the concept of presumption would apply to policies, but it would not be relevant in discussing conditions or institutions. The quality of policies is judged by how well they respond to conditions. Thus, because conditions change continually, while administrative policy does not necessarily change correspondingly, policies seldom really match conditions. So under normal conditions, changes are good . . . Presumption has been undermined also by its failure to differentiate between changes in conditions and changes in policy. This differentiation is important, because in a process reality conditions are continually changing while policies must be acted upon. One would

> think that policies remain constant until a legislature modifies them in some way, but this is not quite the case. Administrative latitude allows regular, incremental change in policy, for example, in areas such as integration, school busing, and food stamps. At times, when the original policy statement is ambiguous, an administrator can circumvent the legislative process and even initiate major policy changes. This is especially true in foreign policy, where the President's power and jurisdiction are great.[3]

Mation, in his article, "Propositions of Value: An Inquiry into Issue Analysis and the Locus of Presumption" further argues for the rejection of the legislative paradigm:

> Another unsuitable definition of presumption is that which places it with the status quo or existing institutions prior to the start of the debate. This approach places the burden of proof automatically on the value(s) or ethical system(s) which constitute unpopular opinion. To attempt to decide before a debate begins which side has the more popular or reasonable value system is to create a decision rule which ignores the positions of the advocates, dismisses the value system of the judge, and assumes that values operate in a fixed and universal hierarchy each time a proposition is being debated.[4]

Since it is reasonably clear that a legitimate paradigm is inapplicable, where then, as many have asked, does presumption lie in a value debate? The most reasonable standard, a position well-grounded in contemporary research, is one which places presumption against the resolution. Certainly the most easily understood and applied standard of presumption, a number of authors have chosen to support this position. The "he who asserts must prove" principle is closely aligned with this conclusion. Given the affirmative obligation to "assert" the resolution, it becomes their burden to defend it and the decision of the judge should be based on whether or not the affirmative was successful in fulfilling that burden. Courtney & Capp; Winds & Hastings; Dick; and Patterson & Zarefsky respectively arrive at the same decision: "By the mere statement of the question the affirmative has the burden of overcoming the natural advantage given to the negative of any properly phrased proposition."[5] "A proposition should be worded so that the negative has the benefit of presumption . . . The assumption is wisely and well founded that one need not be forced to defend the merits of current belief or action until they have been attacked."[6] "The presumption is with the negative side in a dispute."[7] "Presumption does not lie with any side or system; instead it is always against the resolution."[8]

In probable opposition to this standard are the positions espoused by Thomas & Fryar and Zeuschner & Hill. Thomas and Fryar, viewing presumption as a method of audience analysis indicated:

> If, however, we were to read Whately in his entirety, our theories of preusmption would be audience oriented. Among the implications of this reformulated interpretation of presumption, Sproule suggested that '. . . advocates should use presumption as a tool of audience analysis. The arguer is advised to ask such questions as: (1) to what groups do members of the audience belong? (2) to what sources of information (persons, books, groups) do audience members accord deference? (3) what is the popular and unpopular opinion on a particular subject? (4) what information on a subject might hold the advantage of novelty? Such queries would assist the advocate in selecting arguments and evidence best fitted to persuading persons on a given subject . . . Thus, an arguer would be wise to use, as evidence, sources of information perceived as credible by the audience.[9]

As quoted by Matlon (1981), Zeuschner and Hill express a similar opinion:

> Since values and their society are at issue, the true roots of presumption should exist in the prevailing opinions and predominant values of society . . . Consider this point in the context of a value debate. The affirmative may claim psychological presumption, and the negative may counter claim the same presumption . . . The argument is addressed to the audience (the judge in a debate) and it is the audience or judge which affixes presumption.[10]

This position of presumption as a function of audience analysis contains the same inadequacies as the legislative paradigm. At the very least, it ignores the context of competitive value debate as a man-made convention. If, for example, prevailing opinion were aligned with the resolution, as was likely the case during the 1978-79 CEDA resolution (that Human Rights in U.S. Foreign Policy is Desirable) assigning presumption to the affirmative at the start of the debate would at best render the first affirmative speech virtually meaningless and at worst place an unreasonable burden on the negative team. The unfortunate negative team would have not only the burden of rebuttal, but also the burden of proving their own assertions, and the burden of overcoming the prevailing opinions of society and/or decision maker without the benefit of the first and last "stand on the floor." If, as Matlon suggests, engaging in only direct refutation is far too easy a task, then this paradigm is clearly unreasonable, because of the significant advantage it accords the affirmative. Understandably, if, as policy debaters have argued under a multiplicity of topics, that increased stress is causally linked to higher incidences of death and disease, it is probable that, given this paradigm, a number of First Negatives would not survive the debate season.

Additionally, the prevailing opinion analysis is better applied to analysis of individual arguments and issues advanced during the course of the debate than to an evaluation of the resolution overall. Rieke and Sillars explain the distinction quite well:

> Note that there is a distinction between <u>the</u> burden of proof and a burden of proof. THE burden of proof always rests on the affirmative; it must prove that the proposition should be adopted. However, a burden of proof may rest on either the affirmative or the negative. Whoever introduces an issue or a contention into the debate has a burden of proof. The advocate must support the argument he introduces.[11]

Unquestionably, as long as human judges are utilized, some arguments will be evaluated more favorably than others, ultimately determined by the attitudes and opinions held by each decision maker. Presumption against the resolution does not serve to undermine those human qualities nor does it ask the decision maker to ignore them. It simply demands that the affirmative present a reasonable case supported by sufficient rationale and documentation rather than rely on the predispositions of society. It is blatantly unreasonable to demand that a negative argue a position sufficiently well-developed to defeat both the affirmative and decision maker simultaneously. Presumption against the resolution, however, does not in any way encourage unsubstantiated or poorly developed negative argumentation. In contrast, by requiring the affirmative to

provide a prima facie case strong enough to overcome a presumption against the resolution, it encourages affirmative teams to locate and utilize quality research and well-developed analysis. Well supported affirmative presentations, given the negative's burden of rebuttal, would undoubtedly demand equally well supported negative responses.

Presumption against the resolution, a concept embodied in hypothesis testing, seems, without question, the most advantageous and rational application of Whately's conceptualization. As Vasilius concludes:

> The paradigm (hypothesis testing) is also uniquely suited to propositions of value or judgement . . . The optimal approach to arguing propositions of value would use the most appropriate paradigm . . . Hypothesis testing seems to be the most appropriate paradigm for value proposition debating. First, hypothesis testing establishes presumption. As indicated above, presumption serves to establish duties and thus reduce some chaos by making debate possible. The traditional assignment of presumption, to the present system, is rarely possible in Value Proposition Debate. As Thomas Dye explained, 'There are no societal values usually agreed upon, but only the values of specific groups or individuals, many of which are conflicting.' Dye suggests that even generally held precepts lack such generalization when considered in a hierarchy. Presumption can hardly be assigned to a non-existent status quo. In some cases, the 1978-79 CEDA topic, for example, the proposition arguably is the status quo. Hypothesis testing provides reason to assign presumption.[12]

This standard of presumption also allows incorporation and consideration of a legal paradigm. As Sproule reveals, "Traditional treatments of Whately suggest that the Archbishop's theory may be interpreted as a predominantly legal insight. That is, objective rules govern the assignment of a monolithic single presumption to only one side in a dispute."[13] The legal paradigm is further elaborated by Eisenberg & Ilardo and Ziegelmueller & Dause respectively: "Burden of proof is the counterpart of presumption. The latter refers to the 'logical advantage' held by an opponent of a proposition. In our courts of law, a man is presumed innocent until proven guilty. The presumption is in his favor; the burden of proof rests on the prosecution."[14]

> An example of presumption in a legal context is the presumption of innocence. In the American legal system an individual who is accused of a crime is presumed not guilty until proven otherwise. This presumption requires acquittal unless guilt is established by sufficient evidence. If the prosecuting attorney fails to present a case against the accused individual or presents an insufficient case, the presumption of innocence requires that the man be freed.[15]

In the trial setting, the audience is aware that it is the prosecution, the advocate who asserts the guilt of the defendant, which must carry the burden of proof. Rarely, if ever, must the defendant prove his innocence before guilt has been established. The clarity of these well-defined judicial roles can be applied to the value proposition realm with little difficulty. Matlon discounts this application by claiming that the role of the accused and accuser are not clearly defined in a debate setting. If, however, presumption is assigned against the resolution prior to the start of the trial, the debater who acts as accuser and the debater who serves as the accused are readily identifiable.

Consistently placing the burden of proof on the affirmative team would finally provide the long needed clarity of argumentative roles CEDA has so long coveted, in addition to creating the advantages previously discussed. Neither CEDA nor presumption need be thought of as unmanageable "beasts." But debate coach and debater alike should be aware that the more we understand about the nature of this monolith we've created, the better chance we'll have to subdue it before it consumes us all in confusion.

NOTES

[1]Douglas Ehninger and Wayne Brockriede, Decision By Debate, New York: Dodd, Mead and Co., 1963, p. 83.

[2]Bernard L. Brock, James W. Cheesebro, John F. Cragan and James F. Klump, Public Policy Decision-Making: Systems Analysis and Comparative Advantage Debate, New York: Harper & Row Publishers, 1973, p. 154.

[3]Ibid., pp. 153-4.

[4]Ronald J. Matlon, "Propositions of Value: An Inquiry Into Issue Analysis and the Locus of Presumption," Dimensions of Argument: Second Summer Conference on Argumentation, 1981, p. 499.

[5]Luther W. Courtney and Glenn R. Capp, Practical Debating, J.B. Lippincott Co., 1949, p.20.

[6]Russel R. Winds and Arthur Hastings, Argumentation and Advocacy, New York: Random House, 1966, p.76.

[7]Robert C. Dick, Argumentation and Rational Debating, Dubuque, Iowa: Wm. C. Brown Company Publishers, 1972, p.6.

[8]J.W. Patterson and David Zarefsky, Contemporary Debate, Boston: Houghton Mifflin Company, 1983, p.215.

[9]David A. Thomas and Maridell Fryar, "Value Resolutions, Presumption, and Stock Issues," Dimensions of Argument: Second Summer Conference on Argumentation, 1981, p. 519.

[10]Matlon, p.499.

[11]Austin J. Freeley, Argumentation and Debate: Rational Decision Making, Belmont, Ca.: Wadsworth Publishing, Inc., 1966, p.33.

[12]Jan Vasilius, "Presumption, Presumption, Wherefore Art Thou Presumption," Presented at the Desert Argumentation Symposium in Tucson, Arizona, March, 1980, pp. 35-37.

[13]J. Michael Sproule, "The Psychological Burden of Proof: On the Evolutionary Development of Richard Whatley's Theory of Presumption," Communication Monographs, Vol. 43, June, 1976, p. 115.

[14]A.M. Eisenberg and Joseph A. Ilardo, Argument: An Alternative to Violence, Englewwod Cliffs, N.J.: Prentice-Hall, Inc., 1972, p.25.

[15]George W. Ziegelmueller and Charles A. Dause, Argumentation: Inquiry and Advocacy, Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1975, p.19.