

REMEMBERING WHAT THE C.E. STANDS FOR:
TOWARD A GREATER ROLE FOR CROSS-EXAMINATION IN CEDA DEBATE

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One of the motives for creating an alternative to NDT in college debating was to provide the opportunity for debaters to test the arguments of their opponents under direct examination. Indeed, when CEDA debated questions of policy for an entire season, the presence of cross-examination in CEDA and not in NDT was one of the major differences between the two styles of debating.¹

However, the role of cross-examination in CEDA debating seems to have remained in CEDA's "new name for novice" days and does not seem to have progressed as fast or as far as other elements of CEDA debating. It is atypical for any given cross-examination period to result in information that changes the outcome of a round. More generally, cross-examination has become "prep-time in drag,"² a period where one partner asks for the opportunity to examine or re-read materials while the other, paying little or no attention, prepares for the next constructive. It does not seem unfair to say that cross-examination, one third of all the speaking periods in a debate, is, more often than not, a waste of time.

Part of the problem is that skillful use of cross-examination tends to come fairly late in a speaker's development. Effective cross-examination often requires the ability to see the debate round as a whole, to plan ahead on the basis of what one has researched and what has already been argued. It is unrealistic to expect novices, for example, to be very effective in cross-exam.

To our credit, debate coaches are aware of this problem and have been making efforts to correct it. Several exhaustive treatments of cross-examination skills are in print.³ While room for improvement exists, the information needed to help debaters make themselves better examiners already exists.⁴

The point of this paper is that we need to attack the problem of improving the use of cross-examination on another front. What cross-examination means to the debate as a whole is still unclear. While a critical admission in the cross-exam is known to be something, that if used in the next speech, could be damaging to one's opponents, the less obvious roles of cross-examination remain unexamined in debate theory. The purpose of this paper is to pose five questions about the role of cross-examination and provide one debate coach's view of their answers. Cross-examination is allowed to become "prep-time in drag" in part because how it fits into the debate as a whole is unclear. The following five questions go to that issue.

ONE: IS CROSS-EXAMINATION SPECIFIC?

In the courtroom, cross-examination is limited to the examination of the statements the witness made under direct examination and/or his credibility in making them. In debate, I am asking, is cross-examination limited to the constructive it follows. It is a frequent experience for 1ACs to be asked what the 2AC plans to argue or for the 2NC to be asked about issues on the case when his arguments were "off case." The speaker under cross-examination will often claim to be unaware, either because 2AC is in the future at that point or "I'm

second negative, I don't know anything about case." My question is whether their implied insistence on focusing examination on what they just argued is legitimate.

I would answer that, for the most part, we should not hold cross-exam to be limited to the previous constructive and we should expect debaters to function as a team, with both partners aware of the other's doings. It is interesting how many of these 2NCs who claim to have no idea of what is being argued on case are certain that important arguments were undenied when it comes time to do 2NR. We should allow a questioner to ask any reasonable question about any issue in the round and expect either partner to be able to explain it. If they do not or can not, that would become valid basis for reduced speaker points or, possibly, the ballot itself.

TWO: IS CROSS-EXAMINATION CONSTRUCTIVE?

By this question I mean to ask if issues discussed in cross-examination, but not argued in a constructive, are new arguments in rebuttal if argued in a rebuttal. If cross-examination is part of the constructive process of creating arguments for discussion in the rebuttals, then an argument in rebuttals based on cross-examination would not be new and should be answered on its merits.

I think the answer to this question is clearly that cross-examination should be considered part of the constructive process. My first reason is that, unless considered as such, the cross-exam of the 2NC would become worthless. There is no constructive left, at that point in the debate, and the affirmative deserves the right to use whatever they can discover in cross-exam. Secondly, our style of debating puts an unfair burden on the 1AR. To answer two speeches in one at "CEDA-speed" is an almost impossible burden. Allowing 1AR to use issues developed in cross-exam, however, would make a significant contribution towards both equity for that speaker and making CEDA's goal of debate at reasonable delivery speeds possible. Finally, nothing would encourage the discussion of substantive issues, rather than just evidence reading, in cross-exam like the very real possibility that such discussion would be used later. It would be very much in the debater's interest to ask, and answer, more specifically.

THREE: IS CROSS-EXAMINATION EXHAUSTIVE?

By this question I mean to ask if, just as we discourage argumentation in cross-examination, we should discourage mere questioning during the speeches. The "pimp and press" approach, wherein an argument is answered, not with substantive clash, but with a list of "nit-pick" questions, is fairly common. It is often the resort of a team that lacks a good answer to offer four or more questions and hope the argument goes away. "Pimp and press" is not good debating and there is no need to preserve it. One good way to eliminate such approaches is to regard cross-examination as exhaustive of questioning. If the next speaker can refer "pimp and press" questions to cross-examination, there will be a natural focus on areas where good reasons can prevail. We should encourage debaters to leave argumentation out of cross-exam and non-responsive questions out of the speeches.

FOUR: IS CROSS-EXAMINATION COMPULSORY?

Cross-examination has become so obviously "prep-time in drag" that an occasional team will request that cross-exam be waived and three additional minutes of pre-time awarded. My question here is whether we should allow that

or require a team that is not eager to do a cross-examination to do one. I'm inclined to answer that we should allow a team to use as much or as little cross-examination time as they see fit, but that we should not award additional preparation time in place of cross-exam. If debaters don't wish to take advantage of cross-exam, fairness to their opponents and their audience dictates that we should return the time to the tournament. While I would reward a team that recognizes it has asked what it needs in less than three minutes and sits down, I would punish a team that thinks so little of reasoned discourse that preparation time is more important than even re-reading evidence. However, I would limit the penalty to the three minutes involved. Debate is an example of freedom of speech at its best and freedom to speak is also freedom not to speak but we should not create incentives not to cross-examine.

FIVE: WHEN IS CROSS-EXAMINATION BINDING?

For cross-examination to be meaningful, the answers given therein must be binding on the team that gave them. Cross-exam would quickly become a farce if a team could make any answer and retract it at will. However, the holding that cross-examination answers are binding raises the question of the point at which they become so. Mis-speaking is a common human experience and it seems too harsh a rule to hold that a cross-examination answer is binding at the point that it is uttered. Since speakers are often unaware of having mis-spoken, a holding that answers are binding at the conclusion of the cross-examination period would be almost as harsh. I would hold that a cross-examination answer is binding at the point of use by the other team. If 1AC gives an incorrect answer and 1NC make a good-faith argument on the basis of that answer, 2AC should not be able to announce that it was all a mistake and ignore the 1NC argument. However, if 1AC gives an incorrect answer and 1NC, face-down in preparation, ignores it, 2AC should be allowed to correct the error. Cross-examination answers are for use in speeches, if never used, the answers are worthless, save only as an aid to understanding. I don't see a great deal of hardship imposed by requiring teams to act promptly if cross-exam gives them something they can use.

Excellence in cross-examination is one of the most vital skills offered by college debate. Cross-examination is most like argumentation outside of debating, wherein timed speeches and elaborate theory constructs are absent. We do a disservice to debaters if we don't make them able to ask and answer questions with skill, and only by clarifying and expanding the role of cross-examination can that essential learning be given the maximum chance to take place.

NOTES

¹An affirmation of the value of cross-examination is found in the fact that shortly after CEDA came into being, NDT adopted cross-examination debating as well.

²"Prep-time in drag" is the author's own term for the misuse of cross-exam in this way. Other, and probably better, terms exist.

³See, for example, Evan Caminker and Tom Miller's contribution to last year's CEDA YEARBOOK.

⁴Such articles tend to suffer from an over-reliance on law (where cross-exam is of much longer time, under oath, and of witnesses rather than advocates) and tend to provide "dumbbell" examples of questions and answers that debaters of normal intellect rarely fall into.