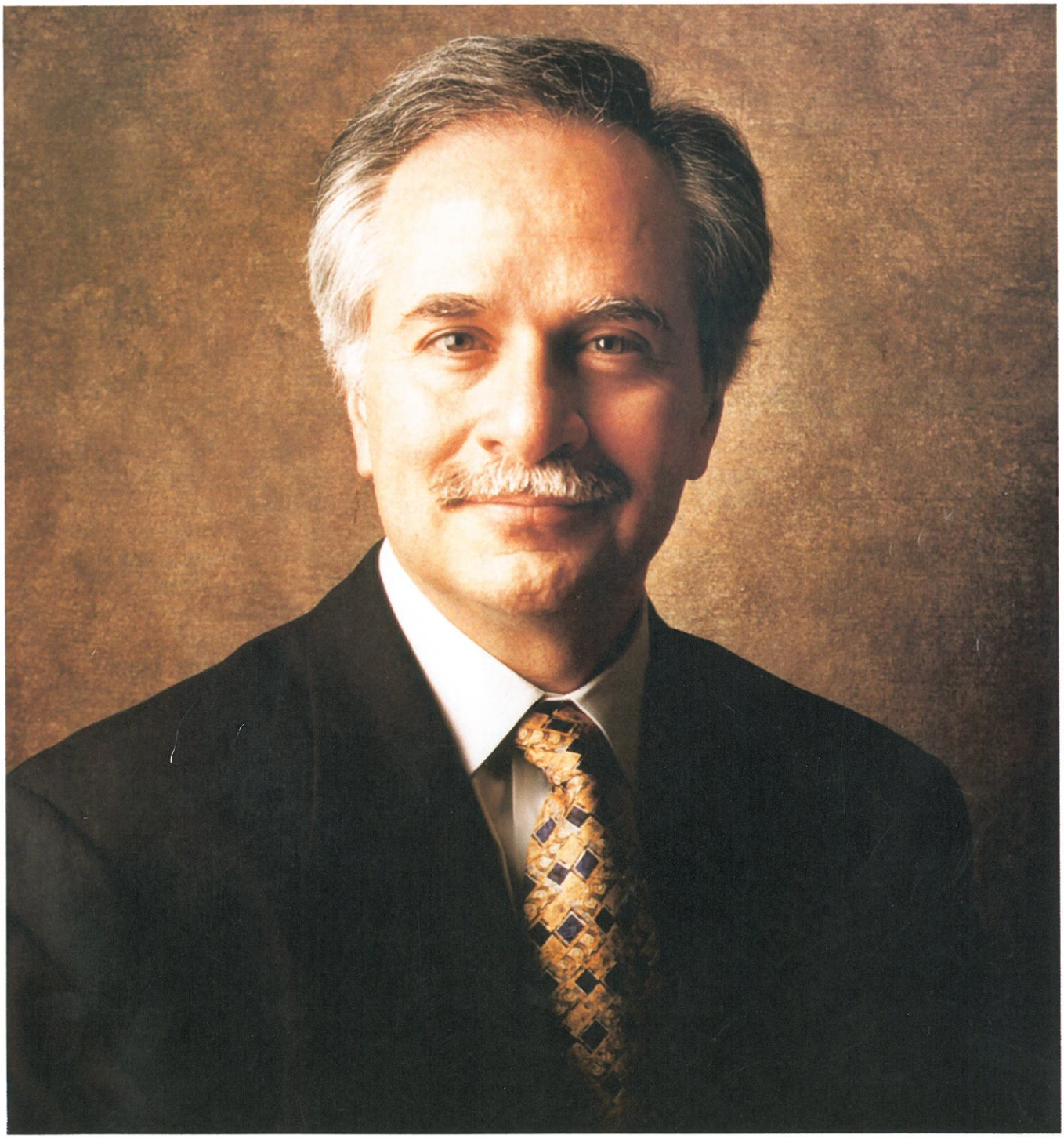
ROSTRUM

VOLUME 73 NUMBER 5 JANUARY 1999



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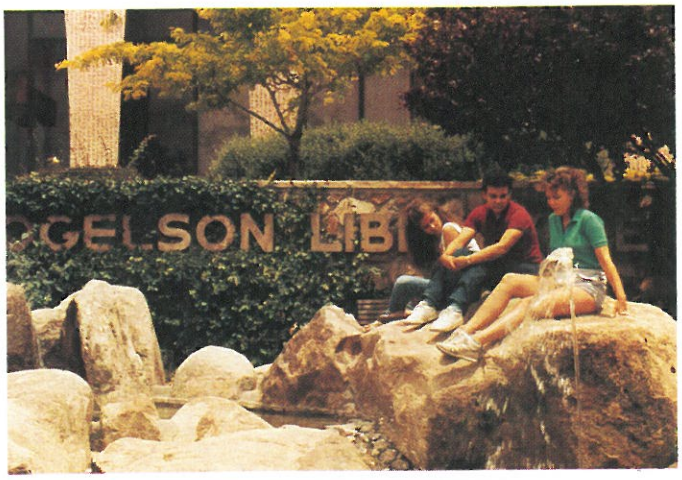

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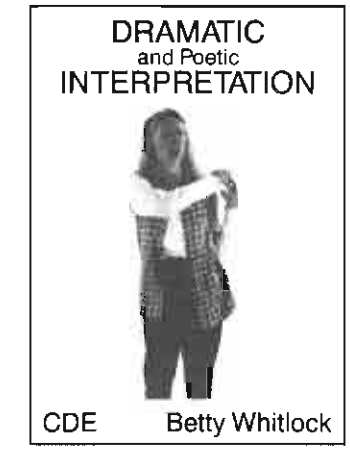

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Lincoln Douglas Debate Workshop: June 27 – July 10

Excellence in debate has been a tradition at Bates since 1896, when the College christened its program by defeating Boston University in the finals of the first New England Debating League Championship. Competitive excellence remains the hallmark of the Bates debate program. In addition to its active participation in debate tournaments throughout the United States and Canada, Bates conducts an annual debating exchange with Japanese universities and makes frequent international tours.

The Bates Policy Debate Institute was founded in 1974 by Professor of Rhetoric Robert Branham. The Lincoln Douglas workshop was added in the 1980s, and 1997 marked the addition of a one-week program in individual speech events.

The student-faculty ratio is carefully limited to 5-to-1. The program features daily supervised library and Internet research, numerous critiqued practice rounds and a full program of recreational and social activities.

Bates ensures that all instructional groups are led by professional forensic coaches with years of teaching experience, assisted by accomplished college debaters. All lab groups are led by senior staff, and each student works with each faculty member. The 1999 teaching faculty includes John Blanchette, R. Eric Burns, Jen Harris, Bob Hoy, Jane McClarie Laughlin, Joan Macri, Mike Matos, Dick Merz, Les Phillips, Jon Sharp and Chris Wheatley.

Students live in double rooms in one of the College's modern dormitories, supervised by Richard Bracknell, parent, grandparent, teacher and forensics coach at Carrollton (Ga.) H.S. Bracknell has been full-time director of residence life for the Bates Institute since 1993. The pastoral 109-acre campus in Lewiston, Maine, is about 140 miles northeast of Boston and within a half-hour drive to the coast.

Comprehensive fees include tuition, handbook and copies of the institute briefs (for policy debaters), videotaped critiques (for speech participants) and room and board. All meals, including a lobster feast on July 4th, are included in the comprehensive fee. There are no hidden costs. The National Policy Institute is $1,212, the Lincoln Douglas Debate Workshop is $820 and the Individual Speech Events Workshop is $470. Need-based financial aid and payment plans are available to qualified applicants.

For further information:
Bates Forensics Institutes
Office of Summer Programs
Bates College, Lewiston, ME 04240
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THE ROSTRUM

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Individuals: $10 one year; $15 two years. Member Schools $5.00 each additional sub.

ON THE COVER: Jon A. Boscia, Chief Executive Officer, Lincoln Financial Group, national sponsor of the National Forensic League (See page 5).

NEXT MONTH: A debate issue featuring Dr. David Cheshier, Minh Luong and Kenneth Grodd.

UNDERWRITING OUR FUTURE

Jon A. Boscia, Chief Executive Officer
Lincoln Financial Group

High school forensics may seem to be an unusual choice of venue for corporate sponsorship. A more common choice might be auto racing, golf and tennis tournaments - even Alpine skiing. But taking a larger view, one can see the logical connection between business and high school speech and debate programs: high school forensics is a training ground that prepares this country's future leaders.

Participation in the National Forensic League prepares young people for a life of contributing to society. They learn the skills, morals and ethics that will eause their future employers to value them as employees. In training for competition, students study the great philosophers of the world and the great concerns of the nation. They embrace the world of ideas and relate as never before to other people's lives.

Lincoln Financial Group is proud to be the national partner of the National Forensic League in its goal of "training youth for leadership." Our increased role is the result of our appreciation at having had the privilege to sponsor the Lincoln-Douglas debates for the past 4 years.

But being a partner is only a portion of the job. More than half the schools in this country don't have an active speech or debate program. Speech and debate is such an important lifelong skill, it's unfortunate that most of the students in the United States don't even have the opportunity to participate. For that reason, Lincoln Financial Group is assisting National Forensic League in recruiting additional member schools. We're helping underwrite and produce a video starring NFL alumna Jane Pauley that will be sent to schools across the country. Testimonials from students, teaehers, principals and superintendents will encourage school decision-makers to join National Forensic League. Additionally, we will continue the outreach program begun by the Phillips Foundation for rural and urban schools that would otherwise be unable to pay the NFL membership fee.

To me, there isn't a problem in society that, if you trace it to its roots, doesn't have at its core the inability of one person to communicate to another, or one group of people to eommunicate to another. That's why I want to encourage students to participate in the training NFL membership provides.

This year all students who eompete well enough at their district tournaments to earn the honor of participating in the National Speech Tournament will be recognized by Lincoln Financial Group. All main event first-place finishers at the national tournament will earn a $5,000 college scholarship. In a continuation of our sponsorship of the Lincoln-Douglas Debates, second through fourth place finishers in that event will earn scholarships in the amounts of $4,000, $3,000 and $2,000, respectively.

The coaches of the NFL are the unsung heroes of high school speech and debate. Coaches serve as role models, teachers, sounding boards and judges, nurturing their charges at tournaments big and small. They log hundreds of hours and thousands of miles, often sacrificing personal time for bus rides and fast food. Across the country, thousands of speech and debate coaches go the extra mile to give their students an unbeatable education and, in the process, instill a lifelong love of learning. Coach scholarships will provide speech teachers and forensic coaches the opportunity to attend summer college programs at accredited universities to learn or upgrade their skills in coaching forensics.

Following in the footsteps of such notables as U.S. Presidents Lyndon Johnson and Richard Nixon, Vice President Hubert Humphrey, Supreme Court Justice Stephen Breyer, Attorney General Janet Reno, Indiana Senator Richard Lugar, Oklahoma Senator David Boren, former Speaker of the House James Wright, news anehor Jane Pauley, actors James Dean, Don Ameche, Patricia Neal and Shelley Long, as well as Rush Limbaugh, Oprah Winfrey and Ted Turner, today's student members of the other NFL are tomorrow's leaders.

By sponsoring the National Forensic League, Lincoln Financial Group is confident it is underwriting the future of America.

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FACT SHEET

Lincoln Financial Group

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Lincoln Financial Group traces its beginnings to the founding of Lincoln National Life Insurance Co. in 1905. In that year, Lincoln Life received permission from Abraham Lincoln's son, Robert Todd Lincoln, to use his father's name and likeness.

A holding company, Lincoln National Corporation (NYSE: LNC), was formed in 1968, and is now the largest corporation, by assets, in the State of Indiana. It is a Fortune 500 company, ranking 39th by assets (*Fortune*, April 27, 1998). Lincoln National Corporation holds a prominent position among financial services companies with assets of $88 billion and annual revenues of $6 billion. The company offers a broad range of financial services, including life insurance, annuities, 401(k) plans, life-health reinsurance, mutual funds, institutional investment management and advisory services and financial planning.

Lincoln Financial Group is the marketing name of Lincoln National Corporation and its affiliates. Lincoln Financial Group demonstrates its commitment to the communities in which it does business by contributing up to 2 percent of its pre-tax earnings to charitable organizations in those communities.

Additionally, Lincoln Financial Group is the sponsor of the National Forensic League, a nationwide high school speech and debate honorary society. In this capacity, Lincoln Financial Group underwrites the annual end-of-the school year National Speech Tournament. Sixteen competitors at the national tournament receive college scholarships from Lincoln Financial Group. Each school year, Lincoln Financial Group selects several of its sales offices to host parties honoring local students who will compete in the National Speech Tournament.

Lincoln Financial Group provides financial planning services and insurance products through two networks of sales offices, Lincoln Financial Advisors and Sagemark Consulting. Lincoln Financial Advisors has offices in 48 cities nationwide. Sagemark Consulting has 23 offices nationwide.

Lincoln Financial Group has major U.S. operations in Fort Wayne, Ind.; Hartford, Conn.; Philadelphia; Oakbrook Terrace, Ill.; and New York City.

NATIONAL EDUCATION WEEK BRINGS A BOOST TO NATIONAL FORENSIC LEAGUE

Lincoln Financial Group announced today that it will become the overall sponsor for the nation's largest high school speech and debate society through the year 2000.

"We are increasing our support of the National Forensic League because it develops the skills that will benefit students for the rest of their lives," said Jon A. Boscia, president and chief executive officer. "Through high school speech and debate activities, students learn how to view an issue with an open mind, see it from all sides and present it to other people.

"These are tremendously important skills for the future of our society," Boscia said.

More than 90,000 students from 2,600 schools in all 50 states participate in the National Forensic League's program of speech communication training through several competitions. They include original oratory, policy debate, Lincoln-Douglas Debate, U.S. extemporaneous speaking, foreign extemporaneous speaking, student congress, humorous interpretation, dramatic interpretation and duo interpretation.

"These are the next generation of political leaders, businessmen and women, entrepreneurs, entertainers and media personalties," said James Copeland, executive secretary of the National Forensic League. "They are learning the art of public speaking and negotiation, studying public policy and history and exploring moral philosophy.

"Student members of the National Forensic League spend hours every week in libraries, researching public policy on, and the historical precedence of, issues that affect Americans every day. These are not lightweight topics. They include such issues as the right to privacy, the right to medical care and the right to free speech," Copeland said.

Lincoln Financial Group's support the National Forensic League includes underwriting the National Speech Tournament, an annual end-of-the-school-year event that draws more than 2,000 competitors from across the nation. The 1999 national tournament will be held June 13-18, 1999 at Desert Vista High School in Phoenix, AZ.

LFG, a Fort Wayne-based financial services company, will provide a prize to every student who qualifies to compete nationally and will award a $5,000 scholarship to first-place winners in the 10 tournament main events.

In addition, Lincoln Financial Group will continue its support of the Lincoln-Douglas Debate program with scholarship funds. Lincoln Life, a subsidiary of Lincoln Financial Group, began sponsoring the Lincoln-Douglas Debates in 1994. Lincoln-Douglas Debate pits two students in a face-to-face verbal duel on issues of morals and ethics. Since 1994, Lincoln Life has awarded 16 college scholarships to Lincoln-Douglas debaters. In a continuation of this program, Lincoln Financial Group will award scholarships to students who finish in first through fourth place in Lincoln-Douglas Debate at the 1999 and 2000 national speech tournaments.

Other components of Lincoln Financial Group's sponsorship include scholarships for 20 teachers to attend summer college programs at accredited universities to learn or improve their skills in teaching and coaching forensics. Another program will underwrite the annual membership fee for 100 urban or rural high schools that need financial assistance to operate the forensic program.

Founded in 1925 by Bruno E. Jacob, the National Forensic League is a non-partisan, not-for-profit educational honorary society, based in Ripon, Wisconsin. Alumni of the National Forensic League include U.S. Supreme Court Justice Stephen Breyer, Attorney General Janet Reno, Sens. William Frist (R-Tenn.) and Richard Lugar (R-Ind.), news anchor Jane Pauley, C-SPAN President Brian Lamb, CNN Founder Ted Turner, Oprah Winfrey, Bette Midler, Shelley Long and commentator Rush Limbaugh.

Lincoln Financial Group is the marketing name of Lincoln National Corporation (NYSE:LNC) and its affiliates. LNC is a prominent financial services company whose businesses provide annuities, life insurance, 401(k) plans, mutual funds, life-health reinsurance, institutional investment management and advisory services and financial planning.

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Announcing a new online resource for debaters:
http://www.aynrand.org/debate

In order to defend controversial ethical or political positions,many debaters resort to strange tactics. By stringing together out-of-context quotations, by dressing their arguments in fancy jargon, or by invoking fantastic examples like nuclear war, they hope that they can, at least, stand out from the crowd. Most of these tactics, however, have little if any educational value.

There is an alternative. Ayn Rand's philosophy of Objectivism offers a debater a consistent, fact-based, philosophical framework that can be used to analyze virtually any debate topic. Objectivism stands for reason, individualism, and laissez-faire capitalism. You can learn more about how to apply these principles to your arguments by visiting our new web site, where you will find advice like the following:

On evaluating the resolution:

"Philosophic tradition takes it as an uncontroversial truth that a question of value -- like the resolution -- cannot be proven factually. Objectivism considers the 'fact-value' or 'is-ought' distinction to be false."

On Lincoln-Douglas debate:

"To prove a proposition of value exhaustively, one ueeds to show which facts of reality make this value judgment necessary.... According to Objectivism, the concept of "value" is not a self-evident primary, but a higher-level concept dependent upon a more basic one: the concept of "life"....Most Lincoln-Douglas debaters leave their values premise as nothing more than that -- a premise -- without any proof as to why they have chosen it. Debaters should reassure themselves...that the introduction of the very basics of Ayn Rand's argument for life as the standard of value will advance their position light-years beyond that of their opponent."

On policy debate:

"Most policy debaters' understanding of concepts like 'harm' or 'advantage' is tenuous. As a result, these debaters will resort to graphic and unlikely examples of death and destruction iu order to illustrate what these conccpts mean. Most policy debaters wil agree that anything that has the slightest chance of producing massive uuclear explosions or blood running in the streets is 'bad.' While nuclear holocaust *is* a bad thing, the meanings of 'advantage' or 'disadvantage,' or 'benefit' and 'harm' are not self-evident...Not only can an Objeetivist affirmative ease define 'advantage' and 'disadvantage,' but it can also justify these definitions."

This new site includes:

- Introductory essays on Objectivism by Ayn Rand and Leonard Peikoff.
- A new, comprehensive essay focusing on practical applications of Objectivism to both Policy and Lincoln-Douglas debate.
- Objectivist analysis of Policy and L-D resolutions.
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- Information on ordering free Objectivist literature.
- Information on an e-mail list devoted to discussing Objectivism in debate.
- Information on getting answers to questions on Objectivist philosophy.

....with more in the works!

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GUEST EDITOR'S FORWARD

by Minh A. Luong, Guest Editor

1999 marks the 20th anniversary of Lincoln-Douglas debate as an National Forensic League event and it seems fitting that we start the year reflecting upon not only the last two decades, but the present state of L-D debate and what lies ahead. In only twenty years, Lincoln-Douglas has become the most popular debate event at the high school level; surpassing established events such as Student Congress and Policy Debate. Despite this spectacular growth, we as a community should be asking ourselves if the event itself has grown commensurately. If I had to ask myself that question, my answer would be no – L-D debate has not matured either in the theoretical or practical sense, especially if we remember the great promise that the event held back in 1979.

At the twenty year mark, we are still struggling with even basic issues such as judging norms, argumentative burdens, and the limited scope of "acceptable philosophies." Coaches, debaters, and judges argue at tournaments and on the LD-L listserve over structural issues such as the "correct" use of values and criteria, definitions, and observations. These are symptoms of a greater underlying issue – that there is no commonly shared "vision" of L-D debate, and even more problematic, one faction is unwilling to accept the approach of any other. It is this division and its resulting divisiveness that threatens to stunt the growth and development of Lincoln-Douglas debate. This issue has been lamented by numerous coaches in the past, and by Brother Michael Tidd most recently in the November 1998 issue of the Rostrum. His call for "a big tent for L-D debate" represents a good starting point for pulling our community together.

This Lincoln Financial Group L/D issue of the NFL Rostrum represents a renewed call to the forensic community to become more engaged and active in the continued development of Lincoln-Douglas debate. To this end, each of my co-authors are first-time contributors to the Rostrum and they represent a new generation of debate scholars who are interested in seeing Lincoln-Douglas debate evolve. We need new voices and perspectives to join the discussion about the future of this important event and NFL Executive Secretary and Rostrum publisher Jim Copeland is always glad to work with new authors on Rostrum submissions. Also of note is the National Debate Coaches Association (NDCA) task force on L-D debate, headed by NFL Executive Council Member and NDCA Board Member Glenda Ferguson. She and the members of the task force are gathering instructional materials on L-D debate and assessing the state of L-D development. This effort represents the first serious initiative in a long time and if you have any materials to contribute, please submit them. Ms. Ferguson's contact information appears on page three of this issue of the Rostrum.

But what drives the success of our activity? Certainly the dedicated instructor/coaches who give up countless after-school hours and weekends, former competitors who give back to the activity by returning as judges or coaches, school administrators who support forensics either as a school-sponsored activity or sanction them as an on-campus club, and the parents who run the booster club and who volunteer to chaperone and/or judge at tournaments. Sometimes forgotten from that list, however, are the folks who financially support our programs whether it be the person who donates a few dollars at one of our car washes or our corporate sponsors who support our national organization, the National Forensic League.

The skills that I developed as a forensic competitor and coach enabled me to enter the realm of corporate consulting where I now work with some of the largest financial institutions in the country. In addition, I provide pro-bono services to non-profit organizations in the area of public relations and fundraising. This combination of experience has given me a unique perspective on corporate partnerships with non-profit organizations.

In an era of ever-shrinking school budgets and increasing expenses, it is not possible for many students to continue their participation in forensics without significant external support. Without the generous support of companies like Lincoln Financial Group, it would be impossible to run the NFL National Tournament without significantly raising membership dues or assessing prohibitively higher tournament fees. In fact, the increased support that Lincoln Financial Group has committed will enable the National Forensic League to continue its mission "Training Youth for Leadership" into the 21st century.

The fact that the Lincoln-NFL partnership exists is indeed special. Because the skills that speech and debate provide are applicable to so many fields, forensics does not fall into a neat constituent category in the eyes of corporate America. Companies of all sizes are approached by hundreds, if not thousands, of proposals from deserving charities and non-profit organizations for support. The question that each corporate philanthropy committee asks itself is: "Are we serving our constituent communities by supporting this organization?" For companies whose business is national or even international in scope, that question becomes very difficult to answer. Just being a "good cause" is not sufficient anymore – there are many other organizations competing for those same charity dollars. Just as Lincoln Financial Group has made a statement about the type of organization they are by funding the National Forensic League and its mission, the forensic community can make its own statement by expressing its appreciation for the support it receives.

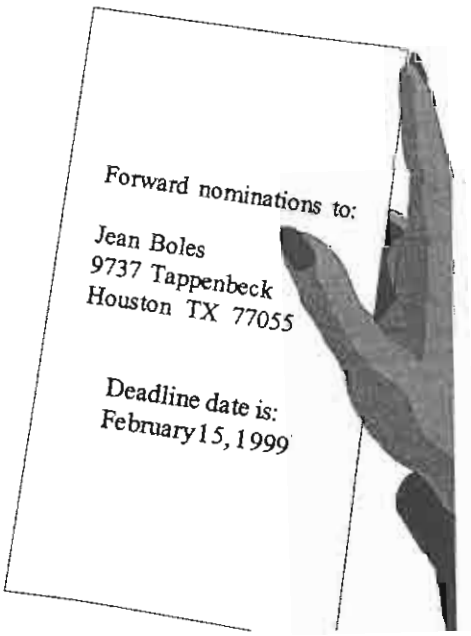
One of America's premier financial services companies, Lincoln Financial Group is a leading writer of individual annuities, pension products, life insurance and mutual funds. Everyone has to prepare for retirement (or so I hope) and investment is a necessity at some point. Please remember that LFG had a choice of organizations to support and it selected ours—The National Forensic League. When choosing a highly-rated provider of financial services for you and your family, I ask that you keep our partnership in mind.

On a personal note, it has been an honor to serve as the Guest Editor but this issue came together due to the hard work of the authors.

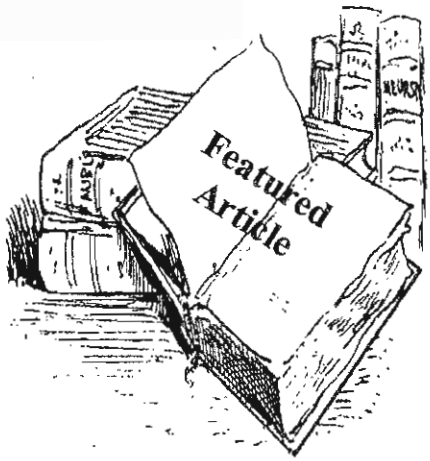
I hope that you find the issues raised in these essays provocative and my co-authors and I invite your responses, either via email or by a Rostrum submission. If we are to maximize the potential of Lincoln-Douglas debate as a pedagogical tool, we all need to recommit to its continued development. A vigorous discussion on fundamental issues would be a start; accepting differences and establishing a common vision for L-D debate would be significant breakthroughs. Let us not wait another twenty years for that to occur.

Attention
District Chairs!
All NFL Coaches!

Nominations are due for the NFL Hall of Fame!!



TOWARDS A MORE FUNCTIONAL METHODOLOGY FOR TOPIC ANALYSIS: A HYBRID OF DATA AND CONCEPT-DRIVEN MODELS



- **Topic Analysis & Statement of Thesis**
  Definitions
- **Common Problems**
  Balanced Cases
  Non-conflict Cases
  Misconstrued Topic
  Misused Definitions
  Conclusion
- **Methodology**
  Data-driven model
  Concept-driven model
  Cherian & Minh's 12 steps for Topic Analysis
  Conclusion

by Cherian G. Koshy and Minh A. Luong

Editors

Cherian G. Koshy

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INTRODUCTION

In 1979, the National Forensic League introduced a new values-oriented argumentation event called Lincoln-Douglas debate, also known as L/D debate. The new debate event was meant to be quite distinctive from policy debate, both in theory and practice. Twp of the unique characteristics of L/D debate are that the debate topic changes every two months and by an absence of framers' intent. The NFL Lincoln-Douglas wording committee, made up of distinguished forensic educators, works during the NFL National Tournament to develop a list of potential topics for the following calendar year. Unlike the position statements found in the *Forensic Quarterly,* the members of the L/D wording committee remain silent for the duration of the debate season. As a result, L/D debaters engage in fresh topic analyzes every two months.

DEFINITION OF TOPIC ANALYSIS AND STATEMENT OF THESIS

Topic analysis is the process used to determine the validity of affirmative and negative positions as well as the burdens necessary to debate the resolution effectively. The main objective of topic analysis is to limit the debate to fair ground and to make the debate as clear as possible. Unfortunately, many coaches and debaters decide not to analyze the resolution, analyze the resolution at the wrong time, or analyze the resolution incorrectly. In this essay, the authors identify the most common problems associated with this process and offer a hybrid model which will facilitate thorough topic analysis.

Common Problems

One of the most distressing situations for debaters is to face an opponent who misanalyzes the topic. There are several examples of interpretations that misdirect the debate and are often the result of not analyzing a topic or analyzing it incorrectly. There are four specific examples of interpretations that are common flaws of poor topic analysis: balanced negative cases, non-conflict positions, misconstrued contexts and misused definitions.

First common problem: balanced cases

The authors observe that the application of balanced negative cases is perhaps the most contentious issue in the evolution of Lincoln Douglas debate for the past few years. Proponents of balanced negatives argue that the negative position is "not the affirmative" as opposed to "the opposite of the affirmative." For instance, the balanced negative position of the 1997 January-February topic, "Resolved: In U.S. policy, the principle of universal human rights ought to take precedence over conflicting national interest," could be interpreted to mean either:

1) national interest and human rights are of equal precedence in U.S. policy; or

2) national interest ought to take precedence some of the time, instead of the affirmative position that human rights ought to always take precedence.

Polk, English and Walker argue in The Value Debate Handbook the oft-quoted basis for the balanced negative,

"The overriding responsibility of a negative debater is to convince the judge that the resolution should be rejected. In performing that task, the negative speaker assumes the burden of refuting the claims made by the affirmative in its defense of the resolution. There can be no negative independent of the affirmative case."

Polk, et. al. continues,

"The negative has much more freedom of action in choosing arguments than does the affirmative since the affirmative is claiming that the resolution is true; it must meet or 'prove' all of the prima facie burdens. The affirmative must win all of the issues to win the debate. Thus, the negative can choose many strategies from attacking only one element of the affirmative to disputing every element of the affirmative case."

Given that latitude, however, why should the negative be given even any more ground to win the debate? Given the complete lack of responsiveness in the L/D debate community to resolve the current crisis over presumption theory, debaters are left with no prescribed argumentative burdens. Thus the result of accepting balance negative cases is that the bar is much higher for affirmatives because they have to decisively win the debate while negatives merely have to earn a draw to achieve victory. In addition, given the current 6-3-7-3-4-6-3 format, the affirmative must handle this unequal burden while debating with a significant dropoff in speaking time compared to the negative speaker.

From purely a topic analysis perspective, balanced negative cases fail to achieve the ultimate goals of debate. First, it fails to establish the negative burden necessary for debate. The mathematical equivalent to a balanced negative is the "equal or more/less than" expression. While that expression certainly has application in the mathematical world, the result is simply a computation result. The purpose of debate is to not only inform, but to persuade and therein lies the shortfall of balanced cases: while factually correct when applied using logical formula (X which is equal to Y cannot be greater than Y), the approach merely supports a fact or truth and fails to directly answer the moral imperative(s) which Lincoln-Douglas debate resolutions raise, which is to make some evaluative judgment of the resolution.

Since we can not adequately deal with the entire concept of balanced cases, please look to additional *Rostrum* sources for information regarding the current debate over balanced cases; the November 1995 issue of the *Rostrum* chronicles the dialogue between Mr. Jason Baldwin and Mr. Mark Webber.

Second common problem: non-conflict cases

The second common problem with topic analysis is the non-conflict case position. As debaters, we often ran into this type of interpretation that posits that the two claims in the resolution do not oppose each other. Therefore, the resolution is flawed and should be negated prima facie. Often, this also results from the natural evolution of debate as it accepts some of the tenets of policy debate such as the critique. While on a superficial level this position may appear to have merit, it fails to meets some of the key requirements of topic analysis. For instance, one objective of topic analysis is to determine whether the resolution is absolutist, comparative, or superlative. If the resolution is comparative, it can often be categorized as an implicit or explicit conflict scenario. Implicit conflict scenarios such as the Jan./ Feb. topic suggest a conflict between the two claims. Explicit conflict scenarios often use the words, "when in conflict," to isolate a specific level of clash between the two claims. For instance, the 1987 NFL Nationals topic, Resolved: When in conflict, the right to a free press is a higher priority than a fair trial, would indicate an explicit conflict scenario. In the realm of topic analysis, the non-conflict interpretation of a resolution fails to

advance sound debate since the round often degenerates into "two ships passing in broad daylight." The resolution presupposes that a conflict exists between the two claims and a thorough analysis of the resolution can isolate what that conflict entails or where it occurs.

Third common problem: misconstrued topic

The third problem that plagues L/D debaters is an opponent who misconstrues the resolution. The specificity with which the L/D wording committee selects phrases and resolutions in general dictates how the topic should be debated even if framers intent is not published. As a result, the context of the resolution is an important facet of topic analysis. Unfortunately, some debaters misconstrue phrases such as "when in conflict" to direct the debate in an inappropriate direction. During the Nov./Dec. 1996 topic, "Resolved: When in conflict, a business' responsibility to itself ought to be valued above it's responsibility to society," some argued that the definition of "conflict" was "war." Thus, the resolution would read "When in armed conflict (or in wartime), a business' responsibility to itself ought to be valued above it's responsibility to society." It is clear that this alternative definition radically changes the focus of the debate which renders topic analysis ineffective. The purpose of topic analysis and the definition of terms is to define the words in the resolution to form the framework for a fair debate and not to define a indefensible position. Consequently, any misinterpretation of the words or phrases in a resolution that alters the framework for debate would result in a misdirected debate round.

Fourth common problem: misused definitions

The final problem that results from poor topic analysis is the misuse of definitions. This varies slightly from misconstruing the topic since the definitional variation could also be unintentional. While there are several contemporary examples of resolutions where definitions could be wholly misused, consider the hypothetical resolution, "Resolved: Physical violence is the just response to oppression." In Webster's Third New International Dictionary, the fourth sub-definition of the third definition of "just" is "only." The resolution could now read, "Resolved: Physical violence is the only response to oppression." Of course, most would agree that there are a plethora of different responses to oppression of which physical violence is but one possibility. The resolution is probably asking whether physical violence was a right, fair or legitimate response to oppression. Here the debater that defines "just" as "only" has obfuscated the round and limited ground unfairly. The affirmative under this interpretation would simply be false. A negative who defined the affirmative ground in this manner would force the affirmative debater into a laughable position while making the negative of the resolution a truism, by contemporary social standards. Another goal of topic analysis is choosing definitions that are commonly held to be true in that particular context. A society is not typically a family, oppressive is not heavy weights (or calculus homework or parents' rules) and national interest is definitely not the money the nation earns on money in the treasury.

It is also important to remember to never use a word to define a word. Equality defined as "the quality or state of being equal" does not describe equality effectively. Many of the amorphous concepts inherent to L/D can fall prey to being defined in this manner. And without clarity, the debaters and the judge do not know what each side is supposed to defend. Sometimes it is important to determine whether the word is a noun or a verb, an adjective or an adverb and perhaps whether the verb is reflective. One particularly hazardous topic for L/D debaters was the resolution, "Resolved: Laws which protect citizens from themselves are justified." The word "themselves" posed a serious problem since it could be concerned with the one citizen and him or herself or one citizen and other citizens.

It is important to look at every aspect of the word and determine how it is used in the sentence.

Conclusion of common problems:

Topic analysis is a crucial step in avoiding many of these prevalent pitfalls. Eliminating these problems can assist debaters in advancing the discourse within the round and providing a semblance of fairness and reasonableness to how Lincoln-Douglas topics are debated. The celerity with which we remedy these problems will dictate how the activity as a whole will evolve and grow. However, through careful evaluation of the aspects of the evolution that takes place we can gain a clearer perception of where the activity is headed and how we might take advantage of the changes occurring around us.

METHODOLOGY

There are two fundamental strategies for topic analysis that are typically used in the L/D community. We will call them the "data-driven model" and the "concept-driven model." While both have their individual merits and flaws, we believe that a combination of the two strategies would yield the most effective results. But first, it is important to assess these different approaches to topic analysis.

First method: Data-driven model

The data-driven model is perhaps the most controversial in professional fields outside of argumentation and rhetoric. Programs that subscribe to this model will often go immediately to the library after discovering the topic. Debaters pull books and articles off shelves by the dozen and spend hundreds of dollars in copying costs. The basis for this type of topic analysis is that the research will provide the foundation for strong argumentation. This is a legitimate concern and a laudable goal. However, data-driven topic analysis almost always results in what we call "topic myopia." If research is the basis of the argumentation then originally-developed argumentation may be discouraged or possibly not considered since the arguments and analysis are lifted from the research material.

The advantage of this type of topic analysis is that case writing is significantly easier since the evidence is already tagged and the 'argument' is already explained. The debater simply places the evidence in the order he or she wishes and fills in the remaining time with explanations, extensions or impacts. Another advantage to this approach is that the arguments are well supported since printed sources often support their claims with documented proof. During Mr. Koshy's high school debate career, he employed this type of argumentation on the 1996 September/October topic, Resolved: Individuals with disabilities ought to be afforded the same athletic competition opportunities as abled bodied athletes. The position of the affirmative case rested on "Section 502b of the Americans with Disabilities Act." As a result of basing all his argumentation on the evidence, the case did not embrace the resolution but rather what the courts would uphold. Mr.

Baldwin made a quite persuasive and applicable claim in his recent *Rostrum* article when he said, "High school debate is not about finding truth, but about learning how to search for it."

Second method: Concept-driven model

The concept-driven topic analysis is one that is frequently taught at national-caliber debate institutes and by many successful programs. The process begins with idea brainstorming sessions, group discussions, and refinement of ideas which may or may not result in persuasive arguments. As anyone who engages in this type of topic analysis can attest, this is a serious and time consuming process. As the arguments are fleshed out, the cases are written and evidence is found to support the arguments that have been presented. While there are obvious differences in approach, there are also differences in execution. For instance, those that employ concept-driven topic analysis find particular merit in mapping sentences and working out eross examination pathways. Whether this is valuable or not, there is sufficient understanding that there are significant differences between both models.

Third method: Cherian and Minh's 12 steps for topic analysis

In order to best utilize limited time and resources, a combination of the two previous models is necessary. While the structure may be humorous, it serves a particular purpose as it stipulates a sequence for specifie tasks. As we discuss each step, we will create the entire process of topic analysis and the justification for the sequence.

Collect definitions: Quite obviously, it is hard to debate that which we do not know. As we completed this article, the current L/D topic: Resolved: The individual ought to value the sanctity of life over the quality of life, requires a firm understanding of what exactly is included in the sanctity of life and what is included in the quality of life. To assist in this proeess, we have included some excellent sources for definitions as well as some rules.

Dictionaries and Reference Materials:

Oxford English Dictionary
American Heritage Dietionary
Webster's New International Dictionary

Field or Specialized Dictionaries:

Black's Law Dictionary
The Dictionary of Philosophy
The American Political Dictionary
Corpus Juris Secundum
Ballentine's Law Dictionary
The Encyclopedia of Philosophy
American Jurisprudence
Words and Phrases

Guidelines for definitions:

- Definitions are used to clarify the debate, not define the debate. Most of all, remember to be reasonable; do not define your opponent out of the round. This is not to say that debaters may not use somewhat slanted definitions or definitions that are more favorable to one side or the other but that they should not eliminate their opponent's ground.
- Consider many definitions and find the best ones for application in the round. Do not settle for the first definition you find.
- Choose only definitions that assist and elarify the debate; never use a form of a word to define a word.
- Decide whether or not to define words independently or in phrases. For instance, quality of life may be better defined as a phrase because it's contextual meaning would be lost independently.
- Most people claim that the debater should not define every word in the resolution. While we agree with the intent behind that sentiment, the debater should not ignore words such as 'a' or 'the' when important as those words may give clues to affirmative and negative burdens.
- Always define the word according to its usage. Define nouns, verbs and adjectives properly.

Have debaters determine type: There are essentially three types of resolutions in Lincoln-Douglas debate: absolute, comparative and superlative. Determining the type of resolution will assist the debater in arguing affirmative and negative ground in the debate round.

- Absolute resolutions follow the yes/no format. After reading the resolution, an implied yes or no would be the answer. In terms of values, we see these resolutions as either right or wrong. An example of this type of resolution is "Resolved: Human genetic engineering is morally justified."
- Comparative resolutions follow the greater than format. When looking at these types of resolutions, a comparison can be made between the two values by the evaluative term. In the following example, a just social order compares the values of liberty and equality using ought as the evaluative term. "Resolved: A just social order ought to value the principle of liberty over the principle of equality."
- Superlative resolutions follow the greatest format. Often these resolutions offer a clear hierarchy of values. Since this type of resolution has a high negative bias, it is rarely used but is still an important evaluative type. Very few current examples come to mind for this particular type but there are some examples of this type. "Resolved: National security ought to be the nation's highest priority."

Examine the action: The resolution often requires that some action must be taken to affirm or negate. This action whether it be valuing above, prioritizing, creating law or obligation not only gives context to the round but also serves as an excellent source for impacts. More often than not, the evaluative term in the resolution has something to do with the action.

Resolve the agent committing the action: After determining what happens when we affirm or negate, it is important to determine who or what commits that action. Often it is the government, society or an individual that would choose the action in the resolution. At the more elite levels of competition, understanding the role of the agent in the resolution can have significant strategic value.

Investigate examples: Often, L/D resolutions have the unique characteristic of being a bit cerebral or too philosophic in nature. In these cases, an effective way to overcome this obstacle is to provide some real world or pragmatie application. Impacts and examples provide that much needed clarity and pragmatic grounding that gives a case depth and universal appeal. An article dealing with pragmatic argumentation in L/D debate, authored by Keryn M. Kwedor and Minh A. Luong, appears elsewhere in this issue of the *Rostrum* so the we will not discuss this issue further.

Arrange a library trip: Here is where the two models intersect and form the "Cherian and Minh model." While we feel that the data-driven approach has its flaws, there is no substitute for knowledge on the topic. The ability to use and understand terms and concepts within the field of the resolution is not only important for argumentative impact but also being clear in the round. While at the library, it is important

to prioritize tasks and make the most of your limited time at the library or on-line research session.

Note all possible arguments: After having a clear idea of what the current literature says as well as what the agent, the action, and possible examples are, debaters should have excellent ideas for possible arguments. An effective means of accomplishing this would be to list all affirmative arguments and then all negative arguments. After making that list, develop first-line responses to each affirmative and negative argument so that you further develop your list. One frequently neglected area is legal argumentation. Despite the fact that nearly every L/D resolution focuses on social issues, legal-based arguments are either nonexistent or are superfluous. An essay on utilizing legal resources and arguments in L/D debate by Elizabeth I. Rogers and Minh A. Luong appear in this issue of the *Rostrum.*

& all effective criteria: Once you have lists of potential affirmative and negative arguments, you can begin to develop and evaluate criteria. Since the literature often provides some unique and interesting criteria that is also topic specific, this is an important time to assess what criteria may be used. This also forces the debater to clearly link the criteria and the arguments. In addition, the criteria will more than likely relate to the topic if it is derived from the arguments. For those who are interested in the value/criterion debate, please refer to Courtney J. Balentine and Minh A. Luong's article on the use of values and criteria in Lincoln-Douglas debate, which appears elsewhere in this issue of the *Rostrum.*

Make a list of values: After creating a list of arguments and the criteria, the next step is the value premise. Instead of getting up on a L/D soapbox about the use of value premises and what value premises are acceptable and not acceptable, we have chosen to simply discuss how to choose a value and why the link to the criteria is important. The most important aspect in choosing a value, especially in comparative resolutions, is to find the value that best adjudicates the competing values in the resolution. So, for instance, when the resolution compares human rights and national interest, a value that can decide between those two claims – in essence, is the most directly related, or intrinsic to the resolution – should be used as the value premise. Typically, the value premise is neutral; that is, either side can achieve it. One suggestion for better value debate is to pick a value and define it specifically to the resolution.

Invest two to three days to develop effective responses: We suggest two to three days because one day should be spent on each side to fully flesh out the development of strong responses. It is often effective to create these responses in a group setting, brainstorming, and listing all responses to the arguments. Remember that cases have not yet been written for very good reasons. Even though the debaters have arguments, criteria and a value premise as well as responses, we do not suggest writing cases until after this stage. The simplest explanation is that the responses can be used to fortify the cases and save them from the easiest responses.

Now, write cases: A treatment on casewriting could justify a dedicated issue of the *Rostrum* -- an entire discussion in itself. Our only note here is that significant time and energy should be undertaken in this process to write, rewrite and rewrite again. Not only will the constant revision undoubtedly improve the cases but will also give debaters the ability to explain concepts and arguments quickly and concisely.

Have practice debates: Debating teammates can give debaters useful insights into whether their arguments make sense and what stands up in a round or what should be scrapped. Sometimes this is not possible before a tournament setting because of either a lack of teammates or a lack of time. If either of these factors are true, debating yourself can also be effective. In any case, the first round a debater has should never be in front of a judge with a ballot.

- Collect definitions
- Have debaters determine type
- Examine the action
- Resolve the agent committing the action
- Investigate examples
- Arrange a library trip
- Note all possible arguments
- & all effective criteria
- Make a list of values
- Invest two to three days for responses
- Now, write cases
- Have practice debates

Conclusion

The evolution of Lincoln-Douglas debate has been a continuous process for nearly 20 years. Each time a debater challenges the norms of what the debate community previously thought was acceptable, another step is taken. Topic analysis gives debaters the tools to stay ahead of the evolutionary trend and take advantage of it. When performed correctly, topic analysis will help debaters understand and research a broader range of issues and decide which are relevant to the discussion. The authors are convinced that several chronic problems which have plagued the Lincoln-Douglas community will be ameliorated by starting with effective topic analysis and argument construction. It is the hope of the authors that through this process, debaters will develop a more universal style that will appeal to wide variety of judges, thereby increasing their rhetorical effectiveness.

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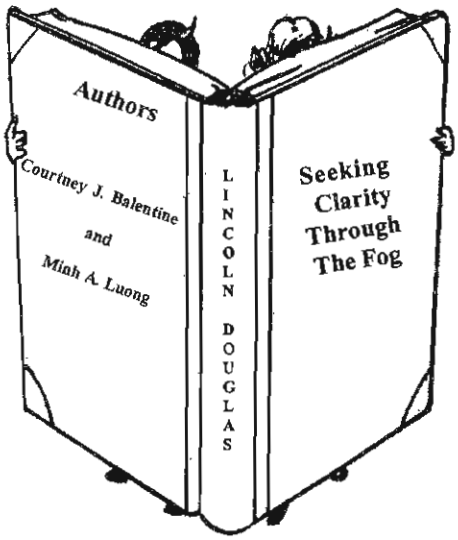
SEEKING CLARITY THROUGH THE FOG: ON THE USE OF VALUES AND CRITERIA IN LINCOLN-DOUGLAS DEBATE

by Courtney J. Balentine and Minh A. Luong



INTRODUCTION

One of the distinguishing characteristics of Lineoln-Douglas debate is the use of value premises and criteria. Therefore, it is particularly disturbing that debaters have so much trouble utilizing them in a construetive fashion. Value premises and criteria have, in effect, become items on a ehecklist. The debaters read them, the judge notes that they have been mentioned, and then they disappear for the rest of the round. Even when the value and eriterion are discussed after the construetive speeches, they are mentioned only in passing because the debaters were told to somehow link arguments to their values. This rather distressing situation has led both coaches and debaters to question the necessity of using values in Lincoln-Douglas debate.

The authors argue that while the situation at present is confusing, it is not for lack of a strong theoretical foundation for the utilization of values and eriteria in values-oriented argumentation. Rather, the authors observe that lack of clarity and consensus on the appropriate use of these useful argumentative decision-making meehanisms are the reason why values and criteria are sometimes not taken seriously and remain underutilized as a means of helping the judge make a sound, rational decision in the debate round.

ASSESSING THE REAL VALUE OF A TOOL WHICH IS CURRENTLY BEING MISUSED

There seems to be two main eomplaints about the use of values and criteria that need to be addressed if they are to fulfill a purpose in Lincoln-Douglas debate. The first complaint is that values and criteria have become so broad and vague that they lack any substantive meaning. One aspect of this problem is the tendency of debaters to select justice as a value regardless of whether it is relevant. This value is popular because some genius came up with the idea that justice was by far "the highest value and subsumes all other values." Debaters deliver this statement with the glassy-eyed certainty of absolute and unquestionable truth. In fact, many debaters appear to go through apoplectic fits when the supremacy of justice is questioned. Even if justice is "the" supreme value, no one could tell from the various definitions being used. These range from "giving people their due" to "the balance of competing claims." Those definitions sound very interesting, but what exactly do they mean? The definitions of values, running the range from justice to freedom, have become so vague and all-encompassing that they confuse instead of clarify. As long as values muddle the round instead of offering grounds for logical discussion, they do little to improve the edueational value of debate.

The second issue that needs to be addressed is that values and criteria are awkward to use in the presently practieed form. Many debaters feel that they must commit a series of logical contortions to make their arguments link to their values. As is often the case, while the argument is logically sound, it bears no relation to the criterion nor the value which are presented. Consequently, debaters either abandon the argument or somehow manufactures a spurious link to the criterion.

Not surprisingly, this situation has led many coaches and debaters to question the purpose of a value and criteria.[1]

A CASE OF THE IGNORANT LEADING THE BLIND?

These problems arise, at least in part, because people have only a vague idea of what constitutes a value and a criterion.[2] Because of this laek of consensus in the L/D community, concepts sueh as justice and rights are merely aceepted as good because everyone else seems to think so.[3] Consequently, few people pause to consider why a particular idea is called a value or whether it is useful in a debate round. There is a strong theoretical foundation in the academic literature[4] upon which to base the use of values and criteria, however, coaches as well as instruetors at summer institutes thus far have not tapped this body of literature to support the use of these values-oriented decision rules.

While most coaches believe that value premises and criteria ean be useful and have a place in Lincoln-Douglas debate, we have a responsibility to our students to explain its use and justify its legitimacy as an argumentative tool. In addition, the concept of goals and decision rules are commonplace in everyday professional life, and mastery of these effeetive decision-making techniques will prove invaluable to our students for the rest of their personal and professional lives.[5]

A COMMON DILEMMA FOUND IN LINCOLN-DOUGLAS DEBATE TODAY

While there are many potential examples, one of the more common ideas advanced in L/D debates is the "Marketplace of Ideas." This concept appears, explicitly or implieitly, whenever a topic involves progress or communication. The arguments used when debating this sort of resolution follow a fairly predictable pattern: A debater stands up and declares that free expression must be virtually unlimited beeause if opinions enter the Marketplace of Ideas, then truth will eventually work its way out and gain near universal acceptance. This argument is often supported by referring to scientific principles, like the roundness of the world, that were once rejected but are now accepted.

Arguments based on this pattern contain many elements of truth, however, they do not provide accurate eontextual descriptions. As anyone subjected to constant electronie mail messages from the L/D-L listserve[6] knows, universal aceeptance of ideas, even something as obvious as whether or not a judge should flow, is simply not the norm. Instead, disagreement about important ideas is far more common than agreement. The relevant issue here is why disagreement is so common if the Marketplace of Ideas leads to truth. It seems intuitively true that the stronger argument will overpower the weaker and this process will lead to truth being accepted. Debaters, in particular, tend to easily aceept this model because debate rounds are supposed to be decided based on the ability of the debat-

ers to eonvinee people through sound argumentation. Unfortunately, this model oversimplifies the process of progress. Although it is likely that "truth is ... found in questioning, opposing, disputing, and resolving the arguments of the other side," there is more to progress than just argumentation.[7] A proper model for progress must aceount for the fact that people will often go to great lengths to avoid accepting that their ideas are incorrect. Racists, for example, will not reject their beliefs even in the face of overwhelming evidence. Simply dismissing these people as irrational fails to account for the fact that "normal" people often exhibit the same behavior and cling to their beliefs even in the face of evidence that refutes them.[8] As philosopher Peter Abelard remarks, people turn habit "into nature, they stubbornly maintain as adults whatever they learned as children."[9]

Since merely presenting arguments is not always sufficient to change people's minds, it is important to realize that constructing a coherent theory of progress and communication should reach beyond the discussion found in *On Liberty*. In particular, it should be noted that permitting free expression is not, by itself, always sufficient to allow progress. As John Dewey writes, He knows little who supposes that freedom of thought is ensured by relaxation of conventions, eensorships and intolerant dogmas. The relaxation supplies opportunity. But while it is a necessary it is not a sufficient condition. *Freedom* of thought denotes freedom of *thinking*; specific doubting, inquiring, suspense, creating and cultivating of tentative hypotheses, trials or experimentings.[10]

If free expression is a necessary but insufficient condition for progress, what else is involved? An important aspect of progress is incorporating new ideas and replacing or modifying old ones. If individuals do not keep open minds when it comes to encountering new ideas, then no amount of persuasion will suffice to make them ehange. Additionally, a sound theory of progress should deal with the mechanism of ehange in people's minds. There are many theorists who attempt to explain what happens in a person's mind when a new idea is encountered. Instead of assuming that a new idea will mysteriously replace an old idea, debaters should make at least some effort to understand and explain what happens when someone changes opinions. Careful research may reveal that this process is not as simple as most people believe.

Finally, if some ultimate agreement about truth is to be reaehed, then people must possess the logieal tools neeessary to distinguish and evaluate "good" arguments from "bad" arguments. Professor James Gouinlock notes that an in order for free speech to be truly valuable, "We must also have the various instruments that are needed to make that freedom effective. Our schools and homes, the practices of daily life, the social sciences, and our media of communieation might be modified in a manner to eonvert an ill-prepared, bewildered, and apathetic mass into a community alive with intelligence."[11] As Professor Gouinlock explains, progress depends, not only on individuals, but on the institutions that shape individuals and provide them with the tools necessary to engage in intelligent discourse. This idea closely mirrors modern communitarian theory by examining progress as a soeial process instead of observing only the behavior of isolated individuals engaged in eommunieation.

SEVERAL SUGGESTIONS FOR DEVELOPING VALUES AND CRITERIA

The authors suggest several ways to make the value and criterion the clarifying mechanism it was meant to be in L/D debate. **First,** it is important to identify the source of values. They do not magically arrive from some unknown place; instead, values come from experience.[12] They represent concepts that have a positive impact on people's lives. Values such as demoeratie freedom, physical health, and equality of outcome are considered valuable precisely beeause they have demonstrable benefits.[13] Since values come from experience, it may be helpful for debaters to look at their own lives when attempting to select or define a value or criteria. Adding a personal slant to values offers several advantages over using definitions derived only from books or convention.

Perhaps the most significant benefit will be a greater understanding of what values really mean. After all, people are more likely to understand something if they explain it in terms of their own experiences instead of simply using someone else's. So when selecting values, do not automatically piek justice. People should try looking at their own lives and considering what they believe is valuable. If justice is still the value of choiee, narrow or earefully define the scope of justice so the judge knows what partieular type of justice is being presented. Individuals should add a personal slant and deserihe it as it relates to their own lives and experienees. This proeess may not produce highly poetic definitions of values but, at the very least, the definitions will have some meaning to the debaters who present them. Additionally, even if people choose to use standard philosophical definitions for values, thinking about values in terms of personal beliefs and experiences can still lead to deeper levels of understanding for both the debaters and judge(s).

The **second** step to making the value and criteria relevant is to ask a question: does this value and criterion serve as an effective guide for conduct?[14] In other words, could a person confronted by a moral dilemma use this value and criterion as the basis for making a decision? If the answer to this qucstion is no, then new definitions are required.

To demonstrate the usefulness of these two steps, it may be helpful to provide an example in whieh they arc applied. Assume for the moment that the L/D debate topic at hand involves a question about the government limiting individual rights to better provide security for the population. If the dreaded term of "justice"[15] is selected as the value it could be defined in this context as the balance between government's obligation to protect its citizens and its obligation to respect rights as legitimate limits on its power. This definition is obviously far from perfect, in fact, it begs several questions, but it is certainly relevant to the round and will be further clarified by the criterion. Moreover, it elueidates the tension that is central to the topic and avoids the absolute vagueness often found in definitions of justice. In this case, an effective criterion could set the conditions that must be met if limitations of rights are to be permitted.

The criteria could be three-pronged and set as follows:

There must be a clear danger created by the exercise of the rights in question. The limitation of the rights should not create a worse evil than the one the government is trying to eorrect. Since rights are so important, they should be limited only if there is no other effective method available.

Taken together, this valuc and criteria provide a elear focus for the rest of the round by establishing the conditions that eaeh side must satisfy in order to win. Instead of employing obscure philosophical theories, the value and criteria are defined in fairly straightforward terms that both lay judges and experienced judges can understand.

A CAVEAT

There is one thing to note about the value and criterion, though. No matter how hard people try, they will never be absolutely precise. Values, by definition, will be broad and perhaps vague. Herein lies the value and necessity of the criterion: It is employed to limit the vagueness and to bring the value closer to the world of specifics by establishing some tangible standards by which to evaluate or measure the value. This means that the value and criterion function as a unit to make value debate relevant and applicable to a practical world as required by the empirical nature of most contemporary Lincoln-Douglas debate topics. Although the criterion clarifies the value by being more specific, it is still difficult to completely define every aspect of a value. Philosophers have been trying to do that for more than two thousand years; it seems unlikely that debaters will succeed in half-an-hour.

CONCLUSIONS

The use of values and criteria can be both intellectually challenging for debaters and an invaluable decision-making mechanism for judges given their proper use and application. By selecting relevant values and tailoring appropriate criteria to them, Lincoln-Douglas debates can be even more enjoyable and valuable as a decision-making exercise for our students.

This brief essay attempts to highlight just a few of the issues surrounding this emerging debate. In the opinion of the authors, it will be difficult for Lincoln-Douglas debate to develop further until the issues relating to the use of values and criteria are settled. The authors hope that the points raised in this essay will become starting points for further discussion and that others in the forensic community will express their views in the NFL *Rostrum* in the near future.[16]

[1]Some of the most vocal critics of the use of values and criteria have used the "apparent" lack of theoretical support and the resulting "misuse" of these decision rules as a basis for constructing Lincoln-Douglas cases without them. While it is true that value and criteria are often misunderstood and misapplied, using a tool incorrectly is not sound basis for rejecting its use.

[2]The official NFL Lincoln-Douglas debate guidelines stipulate the use of values and criteria but lack clarity and direction on this issue, presumably to allow for a wider interpretation. Guideline #1-c is clear, however; it states: '[A decision should be based on:] Clash in the debate based upon the values criteria and/or the values premise.' (1995 NFL Tournament Manual, p. TA-4).

[3]The authors feel that many coaches and debaters have taken the term "value" in value debate too literally. "Pure value" terms such as "justice" are frequently the topic of debate in philosophy and political philosophy journals, however, considering the empirical-orientation of contemporary Lincoln-Douglas debate topics, selection of such terms is inappropriate.

[4]Several academic fields have relevant literature which would form a strong theoretical foundation for the use of values and criteria in L-D debate. Among them: political science (rational decisionmaking), applied philosophy (moral reasoning and decisionmaking), political philosophy (the nature of government), business administration and management science (decision matrices and decision criteria), and rhetoric (logic and decision rules). A future essay on this particular subject by the co-authors is presently under development.

[5]Those who claim that the use of values and criteria have no educational purpose in our activity are overlooking the fact that both personal and professional decisions are made with similar decision matrices. Two examples illustrate this point. When making the decision whether to continue a romantic relationship, a person may determine that they want a "committed, life-long partner." To achieve that goal, that person might follow a set of criteria which will enable her or him to determine whether a suitor is a good candidate. Such criteria might include honesty, intelligence, non-violent personality, and fiscal responsibility. In the business environment, many companies have shifted their focus to improving customer service as opposed to earning absolute maximum profits as their highest priority. In determining the business plan for the upcoming year, such companies use carefully selected criteria to determine which policies will yield the firm the highest levels of customer satisfaction, Criteria of evaluating customer service which includes number of complaints, politeness of sales representatives, number of product returns, time from order to delivery, and number of repeat customers are often used to identify areas needing improvement to increase overall customer satisfaction. These examples highlight the pervasiveness of this method of decision-making in the real world and the value of incorporating this exercise in Lincoln-Douglas debate.

[6]Anyone interested in Lincoln-Douglas debate-related issues should consider subscribing to the Lincoln-Douglas debate listserve, a free internet electronic mails service moderated by San Antonio Lee High School (TX) Director of Forensics P.J. Wexler. To subscribe, send an electronic mail message to: <ld-lrequest@world.std.com> with the single word 'subscribe' in the message body. Questions should be directed to Mr. Wexler at: <pjwexler@world.std.com>.

[7]William of Ockham. A Short Discourse on Tyrannical Government. trans. John Kilcullen. (Cambridge University Press, 1992): 7

[8]This particular trend has been growing since the Watergate scandal of the 1970s. Ever increasing levels of distrust of institutions such as government, the press, and community have led to a "conspiracy theory" mentality wherein facts are discounted because they are "manufactured by the forces of evil such as the 'New World Order' or the 'Trilateral Commission'." Indicative of this trend is the emergence and rapid growth of right-wing 'militia groups' which have been active in promoting a 'don't trust anyone' mentality.

[9]Peter Abelard. Ethical Writings. trans Paul Vincent Spade. (Cambridge: Hackett Publishing Company, Inc., 1995): 3.

[10]Dewey, Experience and Nature, 182.

[11]Gouinlock, James. Excellence in Public Discourse: John Stuart Mill, John Dewey, and Social Intelligence. (New York: Teachers College Press, 1986): 72.

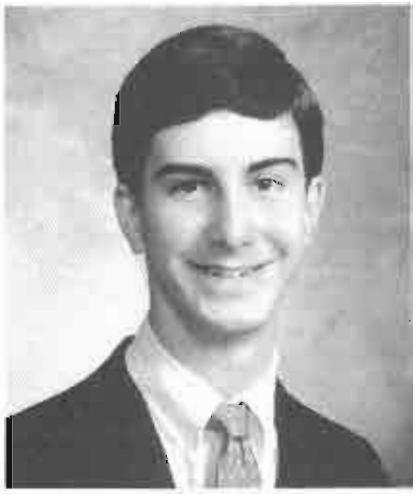
[12]This is a particularly important point due to the fact that nearly all Lincoln-Douglas resolutions are grounded in some type of existing social or moral problem. Selecting appropriate values which have a direct relationship to the topic area of the resolution will serve debaters best.

[13]The use of limiting or descriptive terms along with the value would be an important first step in closing the gap between values, criteria, and resolutional analysis. In general, unless the value term is very specific or has a narrowly understood meaning, broad one-word values have proven to be too vague to be useful in brief time format debates such as high school Lincoln-Douglas debate.

[14]Dewey, John. Experience and Nature. (Chicago: Open Court, 1994): 9.

[15]With apologies to anyone expecting creativity.

[16]The authors thank a number of individuals who assisted with the development of this essay. Jenny Cook (Hopkins HS, MN), Rebecca S. Jacobsen, Melodi A. Morrison, and Paul Metcalf (The Spectrum Organization) provided useful insights. The faculty and fellows of the National Debate Forum contributed their views on values and criteria for the seminar upon which this



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essay is based. Any errors or omissions are strictly the responsibility of the authors.

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PRAGMATIC ORIENTATION IN LINCOLN-DOUGLAS DEBATE: ON THE NEED FOR PERSUASION WITH A PRACTICAL PERSPECTIVE

by Keryn M. Kwedor and Minh A. Luong

Keryn M. Kwedor

Minh A. Luong

When Lincoln-Douglas debate debuted as a national high school forensic event in 1979, it was created with the intention that it have a unique style, format, and purpose. While it has certainly succeeded as a non-policy[1] debate event, nearly twenty years later, the authors raise the issue of the appropriateness of pragmatic orientation in Lincoln-Douglas debate.

Because of variations in how Lincoln-Douglas debate is coached, practiced, and judged throughout the country, it remains one of the most challenging events in which to achieve success nationally. In addition, since it is difficult to identify the realm of a given region based on any concrete geographic-based data, preparation for a particular style of judging becomes difficult. Furthermore, the non-disclosure of judging philosophies, whether written or verbal, highlights the challenge in adapting to local customs and styles.

Several members of the debate community have commented on this phenomenon and while some (including one of the co-authors) have called for a more "unified" approach towards Lincoln-Douglas debate,[2] this essay will focus on a different approach—one which stresses a pragmatic orientation; one which the authors hope will be easier to adopt by the L/D debate community in the short term as more substantive improvements develop.

The essay begins with several observations regarding current efforts to prepare our students for the wide variety of judging styles, identifies two different judge types, introduces the concept of pragmatic case orientation, and argues that not only does this approach have universal appeal, but it is a more effective educational vehicle for teaching real-world persuasive skills.

THE SEARCH FOR COMMON GROUND

Is There a "Common Denominator" For Our Students?

Many coaches who teach at summer L/D debate institutes attempt to identify geographic regions or districts where certain customs are followed. Such advice is often presented during lectures or seminars called "judging adaptation" or "how to win in front of different types of judges." While such information is somewhat helpful for general preparation, there is a consensus among coaches and tournament directors that the national judging variance remains so wide even in the late 1990s that dependence on such data will not appreciably increase a debater's chances of success at tournaments. An example illustrates this point best: Even if such advice was 70% accurate, it still would not guarantee a student will break at some of the more competitive seven preliminary round invitational tournaments held around the country.

The natural question which follows this observation is: then what *actually* classifies a "district" if geographic borders are such unreliable defining concepts? It is necessary to turn to the tenth edition of Merriam Webster's Collegiate Dictionary, which defines a "district" as "an area, region, or section with a distinguishing character." It is through this definition that the true essence of a district on the Lincoln-Douglas debate circuit emerges. Note that physical location plays no part at all in Webster's interpretation of this word, but rather the emphasis is places of the *common characteristics* of that area which make it unique and separate from all others.

The authors argue that rather than focusing on geographical regions, the Lincoln-Douglas debate community should look at common denominators; that is, identification of characteristics marked by a unique style and philosophy of Lincoln-Douglas debate. Despite many differences, there are a number of aspects of Lincoln-Douglas debate whieh have nearly universal acceptance. Everyone debates alone, follows the same pattern of speech times, and is expected to have a prepared case for both sides of the resolution, to name just a few of the most obvious ones. Additionally, one of the most generally accepted traits of Lincoln-Douglas debate is the comparatively slower rate of delivery, not surprising since Lincoln-Douglas dehate was originally created in response to the perceived "excesses" of policy debate.

Are There Common Meanings?

Despite these common characteristics, even basic argumentative structures can be used in different manners from region to region. For example, though everyone is expected to write a case, the basic terminology which is used in that case may differ. While teaching at summer institutes the authors noted that debate vocabulary varied significantly from person to person, depending on the region in which the student debated. For example, students from the West Coast labeled each new argument in their case as an "observation," while the East Coast or Midwestern debaters were more likely to use the terms "contention" or "line of analysis" for the same purpose. Even more specifically, there are debaters from several successful programs competing successfully on the national circuit who do not specify a value premise or criterion in their case, but rather proceed straight into

their specific areas or argumentation, thus clashing with those schools who focus their entire cases around the concept of a core value.

This all ties back into the definition of a district as an "area or section with a distinguishing character," as it is these inconsistencies in debate style which help to define a "district" in debate. Things as basic as the introductory word to a new argument can, thus categorize debaters as belonging to certain regions of the country. As the authors observed from their institute experiences, the West Coast debaters who subscribed to the terminology that dominates their region were immediately singled out as "West Coast debaters." Similarly, many New England debaters share a more rapid pace of speaking than other places on the East Coast and are labeled as such. In California, the concept of a narrative case[3] is a commonplace idea, while an East Coast debater may have never encountered this method of case construction before. It is through these identifying factors that the most applicable identification of a district is created, and it is the district itself which defines and redefines these characteristics.

STRATIFICATION EFFECT: THE EMERGENCE OF NATIONAL AND LOCAL COMPETITIVE CIRCUITS

If Lincoln-Douglas debate is a national event with one set of guidelines, it is only natural to wonder how these differences occurred in the first place. The authors see two primary reasons for this phenomena.

First, when L/D debate was introduced in 1979, there were twelve general guidelines. Several of them, however, provided limited guidance, if any, due to the brevity and/or generality of the statement. For example, "speak clearly" while obvious to some, meant to others what was acceptable to the judge; which in the late '70s and early '80s was most likely a policy debate judge accustomed to rapid delivery styles. In addition, many debate leagues adopted their own supplemental rules which became established customs as the years passed.

Second, Lincoln-Douglas debate has yet to benefit from cross-fertilization of ideas and exposure to different styles, as we have seen in policy debate. Part of this might be attributable to the lack of tradition due to the fact that this event is still in its adolescence. For the remainder, this is where the idea of debate circuits comes into play.

Put simply, competition occurs on two basic levels: local leagues and national invitationals. It is the idea of local competition which fosters a greater understanding of the creation of a district. Nearly all debate teams spend the majority of their time at local competitions, simply because of funding issues and time constraints; it would be nearly impossible for many teams to pay for plane tickets, registration fees, and hotel rooms at national tournaments, plus miss school days for travel and debate rounds, for more than a few days per year, if that. Many other teams are restricted from traveling outside their district or state; the reasons for which vary from liability concerns on the part of litigation-leery school boards to anti-competition regulations from state activities associations.

The bottom line is that although some 20,000 high school students nationwide participate in L/D debate each year, Lincoln-Douglas debate is practiced very differently in different areas of the country and from competition to competition.

AN IMPORTANT CAVEAT

However, the authors' opinions in the essay necessarily comes with a warning label: *Do not pre-judge debaters based on the assumed characteristics of their district!!* Though it is generally accepted that different districts are defined by certain characteristics and, consequently, having knowledge of those characteristics can help you to understand the paradigms of your opponents or judges, it is dangerous to assume that all debaters from a given region can be lumped into a certain category. Stereotyping regions denies the fact that individual debaters possess their own talents and skills which combine with the style of their coach, their teammates, and the people in their district to make up their unique style of Lincoln-Douglas debate. Trends will always exist given the philosophy and area of emphasis in any given district, but that district is not the *only* determining factor which constitutes a debater's technique. The existence of individual talent must not be forgotten in the midst of district analysis, though understanding a debater's district may be important in understanding which methods a debater can use effectively.

JUDGING: THE KEY DETERMINANT

It should come as no surprise to anyone when the authors point out that judging is the key determinant of any debate round; it is inevitably the feelings of the judge which decide the final outcome. The judge is the one who the debater must appeal to and impress with her or his knowledge. For this reason the judge's name is one of the first things that any Lincoln-Douglas debater looks for when the posting for the next round is distributed. All debaters know that the judge's perception of them is pivotal and, thus, desire to have judges who will appreciate their individual style and argumentation.

Unfortunately, all debaters can also *claim* to experience the total injustice of having at least one "clueless" judge in their career who had absolutely no idea how to evaluate the round because, if they did, "they wouldn't have voted against me," right?! Now, let's be completely honest: how many times did that really happen and how many times were we just protecting our debate egos?! Seriously, however, this perception of injustice stems primarily from the debater's desire to win, but also from the differing perspectives that the debater and the judge possess. The judge, as a uniquely objective force in the round, *should* see things in an unbiased manner, while each debater is obviously more focused on the intricacies of his or her performance. However, in the end it is the judge's discretion which decides the fate of both competitors. Thus, it is necessary to evaluate the differing levels of expertise which exist among judges.

Experienced vs. Non-Experienced Judges

When debating on any given circuit, whether it be national or local, there are two primary types of judges which debaters inevitably encounter: the "circuit judge" and the "non-circuit judge." These two types of judges often have vast differences in experience, expectations, and understanding of the Lincoln-Douglas debate event.

The "circuit judge," defined as a person who has a considerable amount of knowledge of the structure and function of debate, has been traditionally the more "desirable" option. Generally, one labels former debaters, coaches, frequent judges who are *trained* in the intricacies of judging, or any combination thereof as a "circuit judge" because they are well-acquainted with Lincoln-Douglas debate and the inner workings of the debate community. They understand the terminology which is used by debaters, what style to expect, and are able to evalu-

ate individual arguments based on their first-hand knowledge of what is expected of a good debater. Their training comes from extensive involvement in the activity, which consequently provides them with the ability to make a decision in a round based on the expectations of the Lincoln-Douglas community. In short, the "circuit judge" possesses the ability to view and understand a Lincoln-Douglas round on the same level as the debaters.

The second judge type can be identified generically as the "non-circuit judge" or the "lay judge." The "lay judge" is someone who is unfamiliar to the specific structure, language, and intricacies of Lincoln-Douglas debate. Judges who fit under this category are generally those which a coach has brought along to a tournament in order to meet judge requirements once the pool of experienced judges that they normally depend on has been exhausted. Such judges have little background in debate and, therefore, are generally less concerned whether or not debaters labeled their first area of analysis a contention or an observation; the term "value premise" has little meaning to them; and they generally do not appreciate a more rapid delivery speed, though these are all things which a "circuit judge" might find appealing.[4] What matters to the "non-circuit judge" is the strength of your actual arguments and the persuasiveness of your style.

Should There Be a Preference? The Answer May Surprise You

The question arises then as to which judge is more desirable. Any debater who is reading this right now would doubt the authors' sanity for even suggesting that this is a difficult question. Can it be because all debaters naturally desire to debate in front of someone who knows what they are doing? Seems fairly logical, doesn't it? Throwing a lay judge into a debate round can be somewhat like allowing someone who is completely unacquainted with basketball referee an NBA game; they have absolutely no concept of the accepted standards by which to judge the activity. Thus, as most debaters have told the authors over the years, the inherent advantage of having the "circuit judge" is that they understand the rules of the game and can make an educated decision about the outcome of the round. In addition, since there is a certain element of trust instilled in the "circuit judge," it is easier to accept a loss from them because debaters *know* that these judges are not clueless about the activity. It is, for instance, difficult to argue with a decision if a former national champion is the judge.

Let us play devil's advocate for a moment and examine the possible benefits of the lay judge. Often the benefits of having an inexperienced judge are overlooked because of their inherent lack of specific knowledge about Lincoln-Douglas debate. It can actually be argued, however, that it is this same inexperience in the workings of debate which can serve to make the lay judge the *best* judge of a debater's persuasiveness. To illustrate this point, reconsider the example of an inexperienced referee who is thrown into the middle of the professional basketball game. There are a few inherent flaws in this example which must be pointed out here. The first is that without knowledge of the particulars of basketball, a referee is essentially useless because it is their job to know and enforce the *set* rules of the game. The key here is that the rules of basketball, as with any sporting event, are consistent from state to state or region to region. No matter what part of the country the team is from, they learn the same rules and follow the exact same procedure. For example, the Chicago Bulls do not have to adapt to the rules of the "Boston basketball district" when they play the Celtics because they both play by the same rules.

Unfortunately in our activity, the variance between L/D debate regions does often mean different standards. However, the subject matter of debate is often something which appeals to any audience. It is possible for any person to formulate an opinion on a resolution such as, "Resolved: That an oppressive government is more desirable than no government." Though this resolution is worded in "debate terminology," the concepts are such that any rational person would be able to weigh its consequences through exercising their own knowledge and personal experience. This universal application of debate resolutions makes it a much more *immediately* accessible activity to most of the general public than any sporting event.

BUT IT'S ABOUT THE REAL WORLD, ISN'T IT?

It is this real world applicability which places the lay judge in a uniquely helpful role to those debaters who are willing to accept the opinions and decisions of a less-experienced judge. The authors argue that it is *because* of their inexperience that "non-circuit judges" can be of tremendous help to debaters in becoming more effective arguers. The "non-circuit judge" doesn't care if the affirmative neglected to answer your fifth response to the second subpoint under contention three; quite honestly, they may not even know that there was a second subpoint to begin with. This type of judge may not know what a value premise is and, therefore, may choose not to place any weight on the fact that it is dropped in the round. What matters to them is *analysis and persuasion.* As a debater you always need to prove to that judge that you understand the topic at hand, not that you can use a bunch of esoteric words that have little significance to the argument itself. It is because lay judges will be looking primarily for convincing arguments that they are often good judges of your ability. Often times debaters get caught up in the smaller issues; did he support his criteria in his second contention? How does she define "liberty" in the context of this resolution? What is the tag for his third subpoint under the first contention? Though these details are definitely important in the round, they are not the *most* important thing. What matters the most is the quality of your analysis. "Non-circuit judges," whether they are trained or not, will be looking for that ways in which your arguments are appealing or unappealing in relation to those of your opponent. Therefore, they can provide the most accurate insight into the persuasiveness of your arguments because their minds are not too caught up in the minute technicalities of the round.

For example, The Manchester High School debate team in Massachusetts supports this idea through their annual "citizen judge tournament," held once a year. Every judge in the policy division of the competition is either a parent, relative, friend, neighbor, or other such acquaintance of a Manchester debater who need to fulfill only one criteria: that they have little or no experience with debate. They are given a crash course in flowing and ballot-writing and sent off to judge their rounds. Why would anyone even consider attending a tournament like this? For many debaters, the concept of a tournament with absolutely no "circuit judges" is worse than their worst nightmare. However, the main purpose of this tournament is to prepare debaters for competition at NFL nationals, where many of the judges are citizens of the city where

the tournament is held. In order to impress these judges, each debater must be as clear and persuasive as possible *without* relying on the safety net of debate terminology or technicalities of argumentation.

What debaters learn from this experience is the ability to see the raw argument when it is stripped of the overly formal structure we emphasize in debate.[5] Seeing an argument in its pure form without labeling it as a "contention" or a "value" can help the debater to see and understand the importance of the position itself. In nearly every occupation and social situation, the structure and style of formal argument is neither appropriate nor desirable. Being an effective persuasive communicator in front of the lay audience is crucial; no matter whether an attorney, educator, physician, salesperson, or domestic engineer. Training in front of lay judges provides excellent practice for such persuasive methods effective in the real-world.[6]

This is not *at all* meant to discredit the benefits of having an expert judge. With a "circuit judge" you know that they will understand you and make the best possible choice, where the decision of non-circuit judges can seem somewhat arbitrary or biased at times because of their inexperience. This is why most tournament directors prefer to have elimination rounds judged by "circuit judges" to try to insure that such a crucial round is being decided consistently. Even if a lay judge must be inserted into an important round because of judge shortages, tournament directors still attempt to make sure that the "circuit judges" outnumber the "non-circuit judges."

It is, however, important to consider the value that inexperienced judges bring to the educational experience instead of dismissing them as completely unknowing or useless.[7]

IS THERE A SOLUTION WITH BROAD-BASED APPEAL?

Though these problems seem insurmountable, the authors propose a pragmatic case orientation as a potential solution to some of the regional and local judging inconsistencies which presently exist. Every good debater, in the pursuit of success, goes through the process of writing and rewriting cases and blocked arguments in search of "the perfect position" which will be both strongly centered on the resolutional conflict and acceptable to all people in all districts. Obviously, differences between districts, as well as judging discrepancies, tend to complicate the issues in a debate round. It is, therefore, difficult to come up with a strategy that appeals to all types of judges and is acceptable in all regions of the country simply because of the inherent individuality of judges and districts. Looking even more specifically, each judge possesses a unique paradigm and, thus, expects different things from any other judge. These factors make it seem as though the variety, openness, and diversity which is cherished in debate argumentation is useless in ensuring *success* in the activity, as it is virtually impossible to know what a given judge from a given area may be looking for. Though this panacea for the inconsistencies of Lincoln-Douglas debate only exists as an ideal, we propose the concept of the pragmatic case as one step towards the goal of universal applicability.

INTRODUCING THE PRAGMATIC CASE APPROACH

What is a pragmatic case? The main component of a pragmatic case is that it *always* considers the real world effects of the resolutional action. Therefore, it must be made clear that pragmatism does not require just using examples, but rather involves analysis of such examples in order to come to holistic and logical conclusions.[8] The starting point for an exploration into the function and creation of a pragmatic case must begin with a definition of pragmatic. As defined from Webster's, once again, pragmatic is an adjective, describing something which is "relating to matters of fact or practical affairs often to the exclusion of intellectual or artistic matters: *practical as opposed to idealistic*." This definition indicates that a pragmatic case is one in which the *practical* applications of an idea supersede its *idealistic* basis. In this sense, the Webster's definition perfectly describes the goal of a pragmatic case: to take the philosophical basis for Lincoln-Douglas argumentation and ground it in reality. It requires examining the resolution *first* from a philosophical standpoint, and *then* considering other real world applications of the resolution. These applications can be extensions of accepted philosophy, as well as other logical considerations which apply to the resolution. In either case, the goal is to have a case which encompasses many different practical, real world ideas. You will notice, however, that this process does not destroy the traditional philosophic basis of Lincoln-Douglas debate. Knowledge of philosophy is a definite asset to case-writing and is essential to the development of a successful Lincoln-Douglas debater. Too many debaters, however, wrongly believe that mentioning and describing the ideas of a given philosopher is enough to make a strong argument. Therefore, the entire purpose of pragmatic case-writing is to allow debaters to escape reliance on mere explanation and begin to *apply* the essential philosophies which are relevant to a values-oriented discussion. Pragmatism questions the strength of merely using philosophically-based premises and adds another dimension to the application of philosophical constructs.

Perhaps an example would make the use of pragmatism more clear. A few years ago, the Lincoln-Douglas debate community focused on the resolution "Resolved: that an oppressive government is better than no government." This resolution, on face, is a philosophical conflict between the existence of an unjust social order and the unpredictability of human nature. Therefore, many affirmatives upheld social contract theory, as well as Hobbes' belief in the selfishness of man. These arguments are definitely strong and certainly apply, but why? In order to apply these philosophies to reality, it is the affirmative's job to examine their place in the functions of a government. Therefore, after a brief explanation of Hobbes, it is desirable that the affirmative give analysis and examples to illustrate the many reasons why people living in modern times require some form of government control. Talking about materialism and greed in modern society would strengthen this, as well as references to the Los Angeles riots or the Oklahoma City bombing. This places Hobbes' theories in the present and makes the argument itself more applicable to the resolution. The negative on this resolution faced a similar task in weighing the realistic harms of a destructive government with philosophies that support the benevolence of human nature. For example, many negatives decided to compare the concentrated, systematic power of an unjust government with the random acts of individuals, saying that it would be easier to deal with one-on-one unpredictable actions than those of a government towards its virtually helpless people. This argument required no philosophical background, just a close analytical look at the actions of a government. Therefore, a pragmatic look at the situation often reveals unique, logical arguments which are stronger and more believable than pure philosophy.

PRAGMATISM IS NOT POLICY ARGUMENTATION

Pragmatic argumentation in Lincoln-Douglas debate, however, merely makes *observations* based on currently existing policies or social conditions upon which to base values-oriented arguments and to provide a realistic contextual framework for the judge. It is true that the use of practical, reality-based arguments sounds like a very policy-oriented idea at first glance. However, application of pragmatism in Lincoln-Douglas debate is inherently different from policy argumentation. In policy debate, the focus is placed on the validity of solving the resolutional proposal through a *specific plan*. The necessity of that plan, therefore, becomes the crux of the round, making it is necessary to argue status quo issues.

To return to the oppressive government example, the reality-based arguments that we have highlighted do not require a plan; they are merely observations taken from resolutional examples. The argument that oppressive governments are more dangerous because they possess more concentrated power that a single individual does not require a plan in order to be entered into the round. It merely asks the judge to examine the danger of a ruling power, like the Nazi regime, which possesses a dangerous amount of control. Based on historic examples and common sense, it is a logical conclusion that the people of Germany stood no chance against Hitler's seemingly indestructible power. This argument is pragmatic because it deals with the practical application of ideas, yet it does not at all deal with a specific method for undermining the power of despots. **Thus, arguments that deal with status quo issues should not be restricted to policy debate because they have valuable applications to L/D philosophy. Rather, introducing arguments that are based on empirical situations provides a refreshing and real-world application of philosophical concepts, adding a new and entirely relevant realm to the debate round.** Therefore, pragmatic argumentation, though it appears to mimic a policy style, is extremely relevant to value debate.

Debaters must be warned not to write cases which rely solely on examples. Examples are meant to be used solely as illustrations to arguments which emphasize the point being made. Examples, therefore, should not be substituted for the actual argumentation. By basing an argument on one example, the debater is only proving the resolution in one particular instance. If an inductive claim is made from that example, the debater commits the fallacy of hasty generalization.[9] Because resolutions focus on universal concepts, proving one example does not mean that the whole resolution is true. In essence, an opponent could merely provide a counter-example which disproves the original example and case would fall. Examples may be used as additional evidence to prove a point, but do not constitute an argument in and of themselves.

ADVANTAGES TO THE PRAGMATIC APPROACH

Enhanced application to the real world

There are several advantages to the use of pragmatic case-writing skills. The first is that it strengthens debate argumentation. If you are able to see a resolution from many different perspectives and create believable, realistic scenarios that are induced by resolutional actions, then your case possesses a broader base of analysis. One of the keys to writing a good case in Lincoln-Douglas debate is the use of a variety of arguments. Cases which are based on one main concept or have only one line of analysis are extremely vulnerable. If your opponent defeats that main underlying point, your entire case falls. Therefore, a case which relies solely on Rawls' analysis or Rousseau's social contract theory risks immediate defeat. Even the brilliant ideas of "great thinkers" possess loopholes, and there are quite a few debaters who are well-versed in locating and exploiting such imperfections.[10] Therefore, mixing philosophy with reality eliminates some of that vulnerability. Rather, if you have one contention which explains the modern-day applications of Rawls' theory and then another which makes a separate, yet realistic and logical argument about the resolution itself, then your case is arguing on two unique, convincing planes. This forces your opponent to cover both arguments and leaves you with more options, should they make strong refutations against one of those points. Thus, your cases will possess more depth and analysis by using pragmatic arguments.

Consequently, pragmatic arguments add depth to the round itself. Many debaters are coached in "how to beat Locke" and "the problems with Kant." Institutes dedicate entire lectures to those topics and debaters are drilled in coaching sessions on the benefits and downfalls of using each philosopher, as well as the common misconceptions which exist about their particular philosophy. Debate rounds which merely regurgitate these lessons can be dry and boring to judge and to debate. However, with each new resolution, fresh possibilities emerge for reality-based argumentation. These arguments do not replace the necessary philosophical basis, but merely steer the debate into new, interesting territory and open up the possibilities for argumentation. This change of pace makes the round enjoyable and unique.

Enhanced comprehension of the arguments

Furthermore, arguments that are grounded in real world issues are more universally understood because most debaters and judges are exposed to their effects. We have established the ambiguity of national districts and, more importantly, the unique debate styles that are attached to each. Despite the fact that some districts focus more on philosophy or rely on a narrative form of explanation, pragmatism is universally appealing because it *applies to all people*. For example, if the resolution at hand deals with euthanasia, one possible route would be to focus your case on philosophical explanations of indestructible nature of life . Your case for euthanasia would, thus, rely on idealistic perceptions of inalienable human rights and freedom. These ideas are definitely useful and necessary to a affirmation of the necessity of mercy killing. However, another approach would be to look at the quality of life of patients who rely on machines to stay alive, or to examine the illegal and unsafe actions that desperate people might resort to if euthanasia were banned. This argument adds a whole new level to the argumentation and encourages debaters to think logically. These ideas can be grasped by anyone because of their applicability to real life. It is because of this universality that the pragmatic case transcends the boundaries of regional differences. As we previously noted, different regions of the country focus on different aspects of L/D debate. The differing uses and over-uses of philosophers can be alleviated by making such practical observations, simply because they are based on common sense. The buy-in required of the judge is more difficult when an unfamiliar philosopher is presented than with a real-world situation. Thus, some of the regional differences and clarity issues in debate rounds can be avoided by focusing on pragmatism.

Broader Appeal of Pragmatic Argumentation

Pragmatic argumentation also appeals to a wide-array of judges. We have established that judges can be grouped into "circuit judges" and "non-circuit judges." Both segments of the judging pool appreciate this type of argumentation, though perhaps for different reasons. First, the "circuit judge" most likely has a good grasp on the philosophers used in L/D debate. Their extensive experience in the activity has provided them with an in depth understanding of the common arguments that Lincoln-Douglas debaters tend to use. They, therefore, know when these concepts are being used properly and how they can be helpful. A debater who shows a deep understanding of such philosophical ideas by accurately applying them to the realistic situation at hand will impress a "circuit judge" immediately. Once the name of a philosopher is dropped by either debater, the "circuit judge" begins looking for clear, accurate explanations of their particular ideas, as well as their proper applieation to the round. Therefore, in focusing on the real world applications of historic philosophies, the debater proves to the "circuit judge" that they are an expert on the resolution. Also, because they are so familiar with the common arguments used in Lincoln-Douglas debate, any experienced judge will appreciate a fresh look at the potential ground for the resolution. Pragmatic arguments, because they differ with each resolution, provide this refreshing alternative to the repetition of the same philosophical jargon that most debaters rely on. This makes the round a much more enjoyable experience for the judge and enhances the debater's chance of pieking up their ballot.

Secondly, the "non-circuit judge," will appreciate the straightforwardness of practical argumentation. Because of their inherent lack of experience, may not understand the applicability of philosophy unless it is clearly explained to them. Many debaters, because they have been conditioned to use the ideas of certain philosophers, explain them in terms which are specific to debate. Esoteric, incomplete explanations will either confuse or anger a judge who has little experiences with particular terminology. When the judge is frustrated, the debater's chanees of winning diminish. Thus, relating philosophical concepts to modern issues makes your argument more accessible to them. Many tournaments use parents or local citizens who have never seen a debate round before to judge L/D rounds. Such judges may not be totally familiar with Locke or Hobbes. However, of you make these ideas seem more real to them, they will understand and believe what you are saying. Arguments that are based on what your judges read in the newspaper or books, or experience in their own daily affairs make your arguments easier to grasp and more appealing as voting issues. Therefore, both the "circuit" and "non-circuit" judge are easily persuaded by pragmatism.

Enhanced Educational Benefits

Finally, because case content and clarity are enhanced with pragmatie case writing, so is the educational value of debate. First, the debater who writes the pragmatic case is forced to look beyond the mere explanation of philosophy and see the real world effects of the resolution. In this sense, case-writing becomes an educational process which both improves the debater's knowledge of current and historical events, as well as refining his or her thinking process. These skills not only help in case-writing and refutation, but also help the debater as a student to learn more about the working of soeiety. Additionally, once he or she has a better grasp of the resolution from a pragmatic standpoint, his or her individual knowledge is passed on to their judge and opponent. Both will benefit from the unique position of the pragmatic case and the round hecomes more pleasurable. It is definitely true that one of the main assets of debate is its educational value. Therefore, in presenting a unique, well-thought, logical set of arguments, the debater fulfills the learning aspect of Lincoln-Douglas debate for both himself, as well as his or her judge and opponent.

SOME SUGGESTIONS FOR SUCCESS

After illustrating the concept and benefits of pragmatic case-writing, the authors provide the following brief suggestions for effectively developing and executing the pragmatic case approach:

(1) **Research** is essential to the development of any pragmatic ease. Primarily, L/D requires a base knowledge of philosophy, which involves an extensive amount of study. However, in order to make the best use of pragmatic arguments, knowledge of both current and historical events is a necessity. In order to provide accurate analysis of modern society or empirical examples from previous eras in history, it is essential to understand as much about the different belief systems and mindsets which exist in today's society. Research, as well as an on-going interest in current happenings, is an incredibly valuable resource which can provide a debater with many, many new ideas for case-writing. Research also ensures a more complete understanding of the examples which are applicable. It is a necessity to have your facts straight, both for fairness purposes and to ensure your understanding of your own arguments.

(2) **The Magic Word is:** **WHY?** Any case, whether or not it is based on pragmatism, should always be as solid as possible. Therefore, after every point that you make in your case, ask yourself, ***"WHY IS THIS IMPORTANT? HOW DOES THIS RELATE?"*** When writing pragmatic arguments, however, you want to make sure that you are exceptionally clear about their applicability to the round. Because status quo argumentation can come across as policy-based, it is the debater's responsibility to ensure that their argument is clear and well-explained. Every argument should be **explained** well by the debater, **impacted** so that it has significance in the round, and, finally, **weighed** against the opposing arguments. Following these three steps creates a solid case.

(3) **Revise and Refine.** It is essential that the concepts within the case are revised and refined to be as clear and persuasive as possible. Remember, what looks good on paper might very well sound awkward and overly formal when delivered verbally, so changes in sentence structure might be necessary. *There is no such thing as a final draft of a debate case!* With each tournament, new arguments should be added or old ones taken out, based on their suecess in rounds. Also, unclear phrases can always be reworded or eliminated. This ensures that your case is in optimal form. Your coach and fellow teammates can give you valuable feedback about the strength of your arguments. Additionally, having a non-debater read and critique your case can be enlightening. They may point out mistakes or unclear points that debaters would miss. Because they are extremely familiar with the arguments, judges, coaches, and debaters often miss key flaws or inconsistencies in wording or explanation, as they subeonsciously apply their own knowledge to what you are saying. However, someone outside of the activity can give you the "non-circuit judge" perspective on incon-

sistencies which those within the debate community might miss.

CONCLUSIONS

Pragmatically-oriented analysis can be a refreshing, educational solution to the differing styles and ability levels within the Lincoln-Douglas debate community. It requires that the debater think beyond the common arguments that seem to apply to most resolutions, and discover new and unique ideas. Too often, debaters get swept up in using the arguments and analysis that are expected to come up on a given topic. The emphasis on just philosophy restricts our vision to esoteric and inapplicable ideas. As we prepare our students for the "real world," let us focus on not only challenging our students with classical theory, but teach them how to apply those ideas and make them real to the other 99.9% of the population. Pragmatism breaks the mold of the "cookie-cutter" Lincoln-Douglas case and introduces challenging new ideas to consider and debate. That is why the authors believe in winning with a practical perspective.[11]

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[1]The term "non-policy" was often used in the debate literature during the late 1970s and early 1980s to mean "value" or "values-oriented" argumentation. Sentiment against policy debate during that period was so strong that nearly every Lincoln-Douglas and early CEDA guideline could be traced back to a particular "evil" regarding policy debate.

[2]See Luong, Minh A. 'Burden of Proof and Presumption in Lincoln-Douglas Debate: A Call for Reform' *Rostrum* 70:3 (November 1995): 15-24.

[3]Several noted debate scholars argued for acceptance of the narrative perspective in academic debate. Early works included Hollihan, Thomas A., Riley, Patricia, and Baaske, Kevin T., "The Art of Storytelling: An Argument for a Narrative Perspective in Academic Debate" Argument and Social Practice: Proceedings of the Fourth SCA/AFA Conference on Argumentation. 807-828. This issue was recently discussed in the *Rostrum*. See McDonald, Kelly and Jarman, Jeffrey W., 'Getting the Story Right: The Role of Narrative in Academic Debate' *Rostrum* 72:5 (January 1998): 5-8, 20.

[4]Former National TOC Champion and NFL L/D Wording Committee Member Jason Baldwin lamented the rise of "technical debating" and ever increasing delivery speeds at the expense of quality of argument. See Baldwin, Jason. 'The State of Lincoln-Douglas Debate' *Rostrum* 68:8 (April 1994) 11-12.

[5]This statement should not be taken as a criticism of debate; rather as a means to contrast formal argument in a controlled environment from persuasive appeals which may be more common in everyday life.

[6]Mr. Luong recalls his days shortly after graduation from high school. Unemployment in Silicon Valley at the beginning of the 1980s was high and it was extremely difficult to find summer work. Based on real-world persuasive skills developed as a Lincoln-Douglas debater, he was able to convince the manager of a local Chevrolet dealer to hire him as a salesperson. He then used his persuasive skills to earn an average of $5,000.00 per month in commissions through the summer and by the time he left for college, Mr. Luong was driving a brand-new Camaro Z-28 and had a new appreciation for lay judges whose ballots now were their checkbook$..

[7]Contrary to popular belief, lay judges are quite intelligent. While they might lack the technical expertise of circuit judges, lay judges bring a wide range of perspectives and experiences to the debate round. When he was a college debate coach, several of Mr. Luong's debaters were approached by a lay judge who owned a local business. Impressed by the ability of the debaters to persuade him using non-technical language, the businessperson offered the undergraduate students part-time sales jobs.

[8]The NFL Lincoln-Douglas Debate Guidelines are clear on this issue. Guideline #5 states: "[A decision should be based on] [d]ebating the resolution in its entirety. Neither the affirmative nor the negative is to debate his or her position exclusively from the standpoint of isolated examples." National Forensic League Official National Tournament Manual (1995) TA-4.

[9]The issue of whole resolution and hasty generalization has been debated in the policy debate community for decades. In that realm, there is a consensus that although parametric analysis might commit a hasty generalization fallacy, the case may be inductively sound if several standards are met. For a general overview of the debate, see: Coburn-Palo, Nicholas J. and Minh A. Luong. 'Resolutional Focus in Policy Argumentation: Theory and Application." *Rostrum* (January 1996) 13-20.

[10]Also consider the fact that these authors have hundreds, if not thousands, of written pages of discourse to support their position while L/D debaters have a scant 13 minutes for their side of the resolution.

[11]The authors thank a number of individuals who assisted with the development of this essay. Timothy Averill (Manchester High School, MA), Cherian G. Koshy (U. of Minnesota), Rebecca S. Jacobsen, Paul Metcalf (The Spectrum Organization), and Melodi A. Morrison provided valuable insights. Any errors or omissions in this essay are the sole responsibility of the authors.

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UTILIZING LEGAL RESOURCES IN VALUE ARGUMENTATION AND ADVOCACY

by Elizabeth I. Rogers and Minh A. Luong

INTRODUCTION

Contemporary Lincoln-Douglas (L/D) debate necessitates a combination of values oriented analysis with application to present-day social issues. Unlike early abstract topics which limited discussion to the philosophical arenas, nearly all of the Lincoln-Douglas debate topics over the past five years have required the debaters to include analysis which spans from the theoretical to the empirical. Indeed, many who remember epic late elimination rounds of major invitationals and national championship tournaments recall that the best debaters utilized a variety of methodologies; selecting the one which was most appropriate to the nature of the resolution.

The authors observe that despite the fact that social issues nearly always have a significant legal dimension, many Lincoln-Douglas debaters as well as coaches laek a sufficient understanding of our legal system and fewer still are willing to introduce legal-based argumentation even when the nature of the resolution calls for legal research and analysis. This situation is truly regrettable because so many in the activity are intimidated by the complexity of our court systems, unfamiliar with legal terminology, and deterred by the seemingly endless number of court decisions.

The goals of this essay are to introduce the reader to the U.S. court system, suggest methods for getting the most out of legal cases and law review articles, identify easily accessible internet-based legal resources which are low-cost or free of charge, and analyze two prospective resolutions from the 1999 NFL Lincoln-Douglas ballot as examples.

BRIEF OVERVIEW OF THE ORGANIZATION OF THE JUDICIAL SYSTEM

The relationship between the federal government and the states is more complicated than it might at first appear. Although there are some instances in which the states are bound by decisions of a branch of the federal government[1], the states are also considered sovereign entities. Just as state legislatures are independent of the United States Congress, the states also have their own courts.

State

There are multiple kinds of courts that hear different types of cases.[2] The particular structure and names of state courts vary because the states are free to organize their own judiciaries; however, there are some similarities across the state systems. There are three main levels of general state courts.[3] New cases are tried at the first level. The losing party has a right to choose to appeal to the second level.[4] In contrast, appealing that decision to a state's third level court is usually not a right; the highest state courts usually have discretionary jurisdiction, meaning they are free to hear or decline to hear such cases. The highest state courts are often called supreme courts; however, this is not universally true. For example, the Supreme Court of New York is actually its lowest level court. Even if what a state refers to as its supreme court really is its highest appellate court, it is important to avoid confusing it with the United States Supreme Court, most assuredly a different body.

As L/D resolutions raise general issues of great importance, it might be tempting to focus on federal decisions – associating bigger with better – but doing so would be a mistake. Researching state decisions can be extremely helpful. First, many moral issues are local issues which are governed by states, not the federal government. For example, education, capital punishment and liquor laws are matters primarily governed primarily by state law.[5] The federal government may legislate in these areas – for example, if they raise constitutional questions or if the government sets conditions on the receipt of federal aid – but much of the debate over these issues occurs at the state level. A second reason to research state court decisions is that the state courts have concurrent jurisdiction over many federal law issues.[6] Therefore even if a resolution involves an area that is governed by federal statutes or the Constitution, state court decisions may directly address it.

After the highest state court has issued a final judgment on an matter of federal law, the decision may be appealed to the United States Supreme Court.[7] Getting a case to the Supreme Court is not as simple as merely qualifying for such review. First, the party desiring it must request Supreme Court review. The request is made by filing a petition for certiorari.[8] Every year thousands of cases apply, but the Court chooses to hear only a tiny proportion of them.[9] Last year the Court accepted fewer than 100 cases. This is significant because although most of the media-hyped cases are those which the Supreme Court has chosen to hear, it is important to remember there are many very important, compelling elaims that did not get the benefit of the publicity which comes when the Supreme Court grants certiorari. Onee the Supreme Court rules on an issue of federal law the decision becomes "the supreme Law of the Land."[10] When that issue arises in future cases, all other state and federal judges are bound by the Supreme Court's decision.

Federal

Although it is more uniform than the state systems, the federal judiciary is no less complex. Just as state courts sometimes hear issues if federal law, federal courts sometimes decide cases involving state law questions.[11] The first level in the federal system consists of district courts. Sometimes district lines may correspond to state boundaries, but more often there are multiple districts within each state. For example, there is the Eastern District of Pennsylvania, the Southern District of New York. Each district belongs to one of eleven federal circuits or the D.C. Circuit. District court decisions may be appealed to the particular Circuit court encompassing the district. For example, a Southern District of New York decision may be appealed to the Second Circuit Court of Appeals, not to the Fifth Circuit Court of Appeals. The first appeal is generally a matter of right, and it is heard by a panel of three circuit court judges. If the losing party wants to continue appealing she must petition for a rehearing, and then a rehearing en banc.[12] It is very rare for a petition for rehearing en banc to be granted. If the petition is denied or if the party does not prevail at the rehearing en banc, she may petition the United States Supreme Court for certiorari.

GETTING THE MOST OUT OF LEGAL RESOURCES

While commentary and public affairs articles which focus on legal matters are among the most commonly cited sources in Lincoln-Douglas debate rounds, often the analysis is diluted due to the fact that journalists are not legal scholars and use secondary sources in preparing their articles for publication. The authors suggest reading actual case decisions and law review articles in order to gain the fullest appreciation for the issues and reasoning behind each side of the cases. Many researchers, including the authors, have found that keeping a both a legal and collegiate dictionary handy can be of great benefit when reading legal material.[13]

Law Review Articles

Professional journals are an excellent source of current discussions by experts in various fields. In law reviews and law journals, the discussions often focus on various political, social, and philosophical issues that mirror or at least parallel those raised by Lincoln-Douglas resolutions. Entire volumes are sometimes devoted to the discussion of one issue. Such volumes are particularly helpful when they include a series of articles and direct responses to them by other law professors, political scientists, legal professionals. Reading along as they grapple with tough questions can be enlightening. It can also be frustrating, which is why we have included the following suggestions. It is always helpful to have a goal before reading an entire article. Reading strategically and for key issues are critical. Will the article likely provide an overview? Affirmative arguments? Examples? Students in research labs at L/D institutes have been known to complain that they were not given enough library time after spending hours reading patently irrelevant material. Discerning what the focus of a particular article will be before reading it in its entirety saves a lot of time. The faet that the title of an article includes a word which is also in the resolution should be insufficient justification for spending hours translating arcane technical language into English. Though there may be some unfamiliar language which should not automatically scare you off, avoid being too generous when deciding if an article is worth reading. The beginning of many artieles will contain an abstract summarizing the article's content. The abstract is the first place to look to determine if the article will be useful. If an article fails to include an abstract, the author will typically "roadmap," or explain in the introduction what the rest of the article does. If the author has failed to clearly communicate something as important as the subject after a page or two, look for a different article.

Clearly written law review articles can be particularly helpful in three ways. First, they can provide an excellent overview of the real-world scenarios where the value conflicts raised by a resolution actually play out. It is undoubtedly true that mistaking a statement of the way the world *is* for an argument about how the world *ought to be* is a logical fallacy.[14] However, that is not license to completely ignore the present state of the world. Values are more than just abstract important things; they are important *to* people. Proving a resolution true or false requires persuading someone that the value implicit in one side of a resolution ought to be important to him. This is a much easier task for debaters who understand judges' assumptions about the state of the world. If a resolution is about the legal system, or if it has implications for which laws ought to govern, law review artieles can provide essential real-world perspective. Such perspective allows understanding of the context in which a resolution's abstract values are truly at stake. Judges are typically aware of that context, so understanding it is necessary in order to effectively communicate to them. In addition to allowing for a richer, more informed debate than when debaters are aware only of the dictionary definitions of the values in conflict, legal perspective can help to expose specious claims. For example, on the resolution: "The spirit of the law ought to take precedence over the letter of the law," many negatives argued that laws must be clearly written in a deterministic fashion and followed to a T or the world would come to a quick and violent end. This destruction would ostensibly be due to conflicts arising from the uncertainty about what conduct would be considered legal in a world where some laws were unwritten or imprecise. Law review articles discussing statutory interpretation indicate, however, that many statutes are interpreted in a manner which is inconsistent with the plain meaning of their text. Though this does not establish that the statutes *ought to be* interpreted that way, it provides a sound basis for discrediting the negative's warning that dire consequences are sure to occur on the affirmative. Additionally, explaining that much of our law is judge-made common law rather than legislatively created statutory law would also assist in demonstrating that this negative scare tactic lacks an empirical basis. The approaches to statutory interpretation which are currently employed, and the fact that not all law is statutory are things you might not realize. Unless you read a law journal article or two.

Second, law review articles can introduce and elaborate upon arguments for both sides of a resolution. Many cases are decided on very specific, technical grounds. Judges consider it their job to apply the law, not to create it out of thin air. Consequently, it is often the case that whereas cases merely discuss the way it is, law review articles following recent cases will criticize the law, encouraging normative change. These articles tend to be extremely helpful sources in L/D argument generation. Many articles objecting to particular laws do so on the grounds that the law contravenes an important principle. Even if the law is only a subset of a more general resolution, analyzing a particular application of the general value might help generate reasons why that value is important. It might also provide a persuasive real-world example to substantiate an argument about the general resolution. A third way law review articles can be very helpful is by providing quotations. These never substitute for arguments, but they can foster credibility when read in support of a well-developed argument. The best quotations are succinct and eloquent. They are best used to express agreement for the controversial premises in a case. For example, everyone agrees that people matter. Consequently, it is unnecessary to quote an expert to reinforce the validity of that claim. In contrast, the claim that people are entitled to rely on the law as it is written, and ought not be punished for actions which are technically consistent with it is much more controversial. That claim surely needs to be supported by premises, but it would also be extremely helpful to quote an expert who agrees. The particular quotations used should be based on reasoning rather than pure emotional appeal. Because lawyers are often accused of having little to no capacity for emotion, law review articles should be an excellent source for such quotations.

Cases

While reviewing dozens of cases in preparation for this essay, the authors were surprised at the wonderful rhetoric employed by many judges and justices to express the clear, sophisticated arguments

contained in their opinions. Quoting them, particularly quoting a supreme court justice, can help build your credibility. However, there are several things you should keep in mind before doing so. First, opinions can be of several different types. Cases are often decided by a panel of judges or justices. On the Supreme Court, there are nine. Unlike the decisions issued by panels in L/D debates, these judges are allowed to confer with their colleagues. However, the decisions need not be unanimous. If a majority of the panel agrees on the proper outcome and the rationale upon which it is based, one judge or justice typically writes the official opinion of the court, and the others join it. However, sometimes there is no official court opinion even if a majority of the court agrees about the proper disposition of a case. This happens when a majority agrees on the outcome but disagrees about the reason why it is correct.

Judges are free to concur in the result reached by other court members but to disagree with all or part of their rationale. Especially in complex cases with lengthy, multifaceted opinions, determining where a judge stands in relation to the other opinions is sometimes difficult. Read majority, plurality, concurring and dissenting opinions carefully to determine whether a judge agreed with the majority or dissented on that particular issue.[15]

Once you have found persuasive arguments and quotations, use them but do not abuse them. Very few L/D resolutions are specifically about the Constitution. Even those that are raising a constitutional question, as opposed to a general moral question, are asking whether the Constitution *ought* to require or prohibit something, not whether it does so now. Consequently, court decisions are not dispositive. L/D judges are not bound by prior precedent, but encouraged to evaluate the strength and quality of the value argumentation in the round. Consequently, "I'm right because the Supreme Court says so" is an especially weak argument.[16] Quoting judges who agree with you can strengthen your arguments, but at the end of the round it is those arguments which will be evaluated on their merit. For this reason, it is very important to read and employ dissenting opinions. They often contain powerful and persuasive objections to the argumentation used by a court majority to justify its legal decision.[17] Furthermore, arguments originating in dissenting opinions are not necessarily destined to remain there; courts revisit issues and sometimes overrule past decisions.[18]

We do not mean to suggest that there is one rigidly formal method for quoting from a court case in L/D debate, but there is some information that should be included. The first time you cite a decision include the name of the judge or justice, the court on which she sits, the name of the case, the year, and whether the opinion is the opinion of the court or a concurring or dissenting opinion. For example, instead of "Posner agrees," say "writing for the Seventh Circuit in the 1998 case GLASS v. KEMPER CORP., Richard Posner argued." If the constructive subsequently quotes from the same opinion, some form of shorthand is appropriate. For example, "in Glass, Posner continued." Without this information the quotation fails to achieve its primary purpose: foster credibility. This information is necessary in order to verify the source. Even if no one ever looks up the opinion to verify that it actually contains the quotation, failing to cite the case properly may rightly cause judges to accord the quotation no more weight than a quotation by you or a common person on the street. This is not to say that the reasoning provided will be ignored. But unless you or that person on the street is a judge or justice, your opinions probably will not command as much weight as a properly cited Posner opinion.

Finding Legal Resources Online

Cases—especially recent Supreme Court and Circuit opinions—are easy to find online. There are multiple websites that have organized legal search engines. Three of the most helpful, user-friendly ones include:

FedLaw, which can be found at **http://www.legal.gsa.gov**

Forensics 2000 which can be found at **http://www.forensics2000.com** (once there, click on the L/D section).

USSCplus, both a web-based search and CD-ROM product updated semiannually, includes complete Supreme Court coverage from 1938 through 1998. Together with selected older leading cases from 1793, the USSC database has a total of more than 8,500 decisions at: **http://www.usscplus.com**

All three websites contain links to other resources, so be prepared to spend some time exploring and evaluating each site. It is slightly more difficult to do a comprehensive search for law review articles online. The FedLaw website listed above contains a section on which publications are listed. However, in order to obtain an article you want, it may be necessary to use Lexis-Nexis, Westlaw, or to go to a law library. If there is no law library near you, or if one near you will not permit access, remember to ask your local library if they can obtain materials through an interlibrary loan system. Often the staff at the law library can photocopy the article you need and send it to your local library, or directly to your home. This process takes some time, so prior planning is essential, but a successful search can yield rich dividends.

DISCUSSION OF CASES PERTINENT TO SOME OF THIS YEAR'S TOPICS

In addition to being extremely important issues in their own right, the relevant case law on capital punishment and First Amendment protection of source confidentiality makes them excellent examples of how legal resources can enhance the substance of L/D debate. Law review articles on both subjects abound, so the following discussion focuses on relevant cases which might be more difficult to come across.

Capital Punishment Is Justified

When it comes to introducing persuasive arguments which are pertinent to the resolution, the most recent cases are not necessarily the best. Instead of simply reading the most recent case, it is better to consider the entire line of cases. In 1972, the Supreme Court in Furman v. Georgia, 408 U.S. 238 (1972) struck down all death penalty statutes in the country as they were then written, but the Court did not say the death penalty itself was unconstitutional. The decision was 5-4. Three of the justices in the majority argued that capital punishment could be instituted in a constitutional manner, but that the statutes at that time allowed for too much arbitrary implementation and consequently amounted to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. The remaining two justices in the majority, Brennan and Marshall, argued that capital punishment is per se unconstitutional.[19] Their concurring opinions are good sources of ideas for negative arguments. Chief Justice Burger wrote a dissenting opinion in which Justices Powell, Blackmun and Rehnquest joined, and Justice Powell wrote a dissenting opinion in which the Chief Justice and Justices Blackmun and Rehnquest joined. They provide arguments that capital punishment is Constitutional. However, the fact that something is constitutional or unconstitutional does not render it neces-

sarily justified or unjustified; for you must make that link. With something like the prohibition on cruel and unusual punishment, that should not be too difficult to do. But do not forget to do it.

A later case, Gregg v. Georgia, 428 U.S. 153 (1976), held that capital punishment is constitutionally acceptable provided it is imposed as the product of a bifurcated trial: one determines the person's guilt, another determines the appropriate punishment. Justices Brennan and Marshall dissented in this case, again arguing that capital punishment is per se unconstitutional. Here, the opinions of the justices who affirmed Georgia's imposition of the death penalty might be useful in arguing that capital punishment is justified, and the dissenting opinions would be helpful to the negative.

More recently, in the 1987 case McCleskey v. Kemp, 481 U.S. 279, the Supreme Court upheld the death penalty despite statistical evidence that it is implemented in a discriminatory fashion. The defendant introduced evidence from the Baldus study, which included empirical support for the statistic that defendants who kill white victims are 4.3 times more likely to be sentenced to death than defendants convicted of the murder of non-white victims. The Court did not question the validity of the Baldus study. The Court held that even assuming the study's truth, the statistics alone were insufficient; evidence of racial discrimination in the particular case was necessary to render imposition of a death sentence unconstitutional. Justice Powell wrote the opinion for the Court. His opinion was joined by Rehnquest, White, O'Connor and Scalia. If you quote from his opinion, be aware that his subsequent comments about the deeision reportedly expressed regret. That fact does not change the law any more than it changes the result of the 5-4 decision, but it may decrease the rhetorical force of quoting from Justice Powell's opinion. The decision also contains forceful dissents written by Brennan, Blackmun, and Stevens, (Justice Marshall dissented too, and joined parts of Brennan and Blackmun's dissenting opinions).

In The United States, A Journalist's Right To Shield Confidential Sources Ought To Be Protected By The First Amendment

Unlike the capital punishment resolution, this resolution poses a question about what the Constitution ought to protect, not merely a general question about whether thc right to shield sources is justified. There are two very important things to note about this resolution. First, a lot more is at stake than a journalist's right to simply publish facts and attribute them to anonymous sources. There is a Supreme Court decision dealing directly with the question posed by this resolution. In Branzburg v. Hayes, 408 U.S. 665 (1972), the Court held that the First Amendment does not relieve a newspaper reporter of the obligation that all citizens have to respond to a grand jury subpoena and answer questions relevant to a criminal investigation, and therefore the Amendment does not afford him a constitutional testimonial privilege for an agreement he makes to conceal facts relevant to a grand jury's investigation of a crime or to conceal the criminal conduct of his source or evidence of such conduct. In Branzburg, Justices Douglas, Stewart, Brennan and Marshall dissented. Stewart, Brennan and Marshall dissented on the grounds that journalists have a constitutional right to protect the confidentiality of their sources. That opinion promises to be as helpful in generating affirmative arguments as the majority opinion will be to the negative. This decision is exactly that: a good place to start. The fact that five justices agreed with the negative does not mean there should be no debate. Arguably, the majority misinterpreted the First Amendment; the four dissenting justices thought so.

Second, notiee that the Branzburg Court did not say that shielding the identity of a source is unconstitutional. Rather, Branzburg stands for the proposition that the *First Amendment* does not afford journalists a right to do so. Consequently, congress or the states could pass laws granting the right to shield sources. Currently, there is no federal shield law, but about half the states have passed shield laws.[20]

CONCLUSIONS

While legal research and argumentation might at first seem unapproachable and intimidating, the authors suggest an approach which combines primary source case readings and legal analysis found in secondary sources such as law review articles. A complete reading of the decision and review is essential, to ensure both comprehension and context of quoted material. Through internet-based resources, legal research has never been more accessible or affordable.

The benefits derived from reading, analyzing, and incorporating legal argumentation in Lincohi-Douglas debates will not only enrich the educational experience of the debaters and judges, but strengthen the activity as a whole and make it an even better pedagogical vehicle for developing active citizens and leaders of the future.[21]

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[1]For example, when Congress passes a law - assuming the law is constitutional - it becomes the supreme Law of the land, as per Article VI [5] of the Constitution. The states are not free to pass their own laws which would directly conflict, making it impossible to abide by that federal law. In Gibbons v. Ogden 22 U.S. 1 (1824), the Supreme Court ruled that a New York law granting a

monopoly to Robert Livingston and Robert Fulton to operate steamboats in New York waters was invalid because the federal government had issued a license to Gibbons allowing him to operate ferries there.

However, the federal government is authorized to arbitrarily issue any order to the state governments. If the constitution doesn't give the federal government power in a certain area then the 10th Amendment reserves that power to the states. In Gibbons, the federal government had the authority to issue the license under the commerce clause, Article 1 &8 [3].

[2]For example, a state may have separate tax, housing, probate, and or family courts.

[3]The general courts tend to hear criminal and civil cases other than those covered by the specialized courts listed in the previous note, and appeals from those specialized courts. In criminal cases the government is one party and the defendant or defendants can be private citizens or entities such as corporations. This is not the case in civil trials, in which both parties are private citizens or entities. Constitutional issues can arisc in both criminal and civil trials; a defamation suite may raise First Amendment issues, for example. Due process concerns are universally present although due process may require different things in criminal and civil cases. For example, the Seventh Amendment guarantees the right to a jury in federal civil trials, but it was not incorporated against the states through the Fourteenth Amendment's due process clause. Consequently, state civil trials are not constitutionally required to be jury trials, although the states can create a right to a jury trial in civil cases through state statutes or constitutions.

[4]The Supreme Court has never held that the states are required to grant appeals as a matter of right, but every state has chosen to do so for the initial appeal.

[5]Just ask your coach. Although the federal government has no general power to govern schools, the receipt of state aid is often conditional. That might explain why you didn't get that last snow day.

[6]Concurrent jurisdiction authorizes states to rule on issues despite the fact that they are matters governed by federal law. State courts even have concurrent jurisdiction over Constitutional matters, (however they are bound by prior relevant Supreme Court decisions; see not seven). Be warned that concurrent jurisdiction is not universal though. For example, the federal courts have exclusive jurisdiction over civil actions arising under federal patent and copyright law as per 28 U.S.C. & 1338.

[7]In Martin v. Hunter's Lessee 14 U.S. 304 (1816), the Supreme Court upheld the constitutionality of a statute granting them the power to review state court judgments that rest on interpretations of federal law. That power was granted by Congress in the Judiciary Act of 1789; the modern counterpart is 28 U.S.C. & 1257.

[8]A petition for certiorari is an appeal to a higher court to review the decision and proceedings of a lower court and determine whether there were any irregularities. When such an order is made, it is said that the court has granted certiorari.

[9]Like other appellate courts, the Supreme Court has *discretionary review*. It is not required to hear all the cases that petition for certiorari.

[10]Article VI [2] of the Constitution.

[11]The rules governing when federal courts may hear state law issues are very complicated. They are the bane of many law students, most of whom acknowledge struggling to understand intricacies which in the end remain shrouded in mystery. The others are probably lying. Needless to say, the heuristic for when federal courts may hear state law elaims in a gross oversimplification. Usually in order for federal courts to have jurisdiction over state law claims, the suit must be civil, and the people suing each other must be citizens of different states. Sometimes federal courts can also hear state law claims that are supplemental to federal law claims.

[12]A rehearing en banc is a request for a rehearing in which all the judges sitting on the Circuit render a decision instead of just a panel. In that sense it is similar to the final round of the Barkley Forum as compared to the previous elimination rounds.

[13]Even words we use in everyday conversation carry different meaning in legal writing.

[14]This error in reasoning is referred to as the naturalistic fallacy. An example is: racism exists, so discrimination is justified. Equally erroneous is the claim: The law says *x* there *x* is what the law ought to say.

[15]This tip may save lots of time: subsequent opinions usually identify the parts of the first opinion - which is eight the opinion of the majority or of the plurality - that they join or dissent from. If the case covers many issues, only one of which is relevant, skimming the first opinion to identify that the issue is discussed in Part three, for example, makes it easier to skip to the relevant portions of the concurring and dissenting opinions.

[16]If this line of reasoning was correct, then the mistakes that were made in the past by the court would never be corrected. Consider the social, moral, and legal ramifications if cases like the Dredd Scott decision were never overturned.

[17]In fact, because dissenting judges know they will be disagreeing with the majority's declaration of the law, they often argue more passionately for their position.

[18]If you don't believe us, perhaps Justice Rehnquest's dissent in Garcia v. San Antonio Metropolitan Transit Authority 469 U.S. 528 (1985) will persuade you that even Supreme Court justices believe the Court will alter its position. He states: "I do not think it incumbent on those of us in dissent to spell out further the fine points of principle that will, I am confident, in time again commend the support of the majority of this Court."

[19]Furman is a good example of a case in which the court arrived at a decision but issued no official opinion because the majority disagreed about the rationale for striking down the capital punishment statutes.

[20]The existence of states that protect journalists' rights to shield the identity of their sources should be useful in responding to negative claims that protecting such a right would yield extreme consequences. This is an example of how empirical knowledge be a vital element of Lincoln-Douglas debates.

[21]Our appreciation to Jim Copeland, Executive Secretary of the National Forensic League, and the staff of the NFL National Offiee for their constant support of this and upcoming projects. Any errors or omissions are strictly the responsibility of the authors.

Elizabeth I. Rogers with Mink

NFL'S TOP 50 DISTRICTS
(December 1, 1998)

Rank	Change	District	Ave. No. Degrees	Largest Chapter	Degrees
1.	- -	Northern South Dakota	146.77	Watertown	378
2.	+2	Kansas Flint-Hills	134.29	Washburn Rural	406
3.	-1	Northern Ohio	112.81	Austintown-Fitch	214
4,	-1	Rushmore	110.44	Sioux Falls-Lincoln	165
5.	+9	East Kansas	100.04	Blue Valley Northwest	223
6.	-1	Heart of America	98.78	Park Hill	286
7.	- -	West Kansas	97.56	El Dorado	246
8.	-2	Florida Sunshine	97.20	Academy of the Holy Names	281
9.	+1	San Fran Bay	95.27	James Logan	360
10.	+1	New York City	91.77	Regis	301
11.	-3	South Kansas	90.75	Wichita-Campus	193
12.	-3	Central Minnesota	90.28	Apple Valley	253
13.	+3	East Los Angeles	89.10	Gabrielino	221
14.	-1	Northwest Indiana	83.15	Plymouth	257
15.	+11	Sierra	82.38	Centennial	306
16.	-1	Hoosier South	81.69	Evansville-Reitz	482
17.	+1	Hole in the Wall	77.93	Cheyenne-Central	218
18.	-6	California Coast	75.76	Leland	320
19.	- -	Florida Manatee	75.36	Nova	240
20.	+18	South Oregon	74.91	Ashland	218
21.	-1	Carver-Truman	74.46	Neosho	269
22.	+6	Ozark	74.05	Springfield-Hillcrest	164
23.	-6	Show Me	72.52	Blue Springs	242
24.	+19	General	71.00	Plymouth Canton Educ. Park	71
25.	+10	Eastern Ohio	69.82	Carrollton	185
26.	-4	Rocky Mountain-South	69.78	Golden	184
27.	+22	Southern Nevada	67.71	Green Valley	187
28.	+4	New England	67.25	Lexington, MA	212
29.	-6	Southern Wisconsin	67.07	Marquette University	147
30.	-6	Northern Illinois	66.42	Glenbrook-North	221
31.	-10	Northern Wisconsin	66.21	Appleton East	195
32.	-5	Northern Lights	66.16	Moorhead	274
33.	-8	Illini	65.12	Downers Grove-South	387
34.	+6	Western Washington	64.27	Auburn Sr.	126
35.	+19	East Texas	61.55	Alief-Hastings	131
36.	-3	Eastern Missouri	61.44	Pattonville	240
37.	+7	Tennessee	60.95	Mars Hill Bible School	205
38.	+13	Southern Minnesota	60.82	Eagan	239
39.	+14	New Mexico	60.50	Albuquerque Academy	114
40.	-4	Valley Forge	59.50	Truman	148
41.	-12	Michigan	59.14	Portage-Northern	135
42.	-11	North Dakota Roughrider	59.10	Fargo-Shanley	101
43.	-6	Deep South	59.07	The Montgomery Academy	174
44.	-14	Nebraska	58.84	Millard-North	233
45.	-3	North East Indiana	58.70	Chesterton	275
46.	-5	Hoosier Central	58.57	Ben Davis	223
47.	+14	Pittsburgh	57.94	Bethel Park	142
48.	-14	New York State	57.61	Iona Prep.	121
49.	-10	Montana	57.45	Great Falls-Russell	179
50.	+13	Western Ohio	54.31	Dayton-Oakwood	185

NFL DISTRICT STANDINGS

Rank	Change	District	Ave. No. Degrees	Largest Chapter	Degrees
51.	-3	Pennsylvania	54.30	McKeesport Area	109
52.	-2	South Carolina	53.94	Southside	204
53.	-6	North Coast	53.71	Gilmour Academy	127
54.	+21	Heart of Texas	51.52	Granbury	118
55.	+4	East Oklahoma	50.67	Tulsa-Washington	159
56.	-10	West Iowa	50.66	Ankeny Sr.	184
57.	+7	Colorado Grande	50.33	Canon City	97
58.	+33	Lone Star	50.25	Plano Sr.	279
59.	-4	South Texas	50.13	Houston-Bellaire	184
60.	- -	West Los Angeles	50.07	Sherman Oaks CES	201
61.	-3	West Oklahoma	49.62	Alva	143
62.	-17	West Virginia	49.60	Parkersburg-South	71
63.	-11	Nebraska South	49.50	Millard-South	98
64.	+2	Big Valley	49.41	Modesto-Beyer	306
65.	+14	South Florida	48.38	Miami-Palmetto	218
66.	-4	Louisiana	47.42	Caddo Magnet	163
67.	+17	Sundance	45.86	Jordan	156
68.	+12	Maine	45.66	Cape Elizabeth	107
69.	-2	Greater Illinois	45.07	Belleville-East	118
70.	-14	Wind River	45.00	Worland	110
71.	+12	Mississippi	44.91	Hattiesburg	125
72.	+5	Idaho	44.60	Hillcrest	116
73.	- -	Central Texas	44.46	San Antonio-Churchill	153
74.	-7	New Jersey	44.27	Montville	110
75.	+6	East Iowa	42.94	Bettendorf	126
76.	-19	Utah-Wasatch	42.53	Ogden	113
77.	+4	Tall Cotton	42.46	Odessa-Permian	146
78.	-4	Big Orange	42.00	Esperanza	227
79.	-9	Sagebrush	41.80	Reno	135
80.	+12	North Texas Longhorns	41.66	Colleyville-Heritage	148
81.	-5	North Oregon	41.29	Gresham-Barlow	157
82.	-13	Colorado	40.62	Cherry Creek	192
83.	+2	Southern California	39.50	Colton	121
84.	-19	Eastern Washington	39.22	Mead	92
85.	+3	Kentucky	38.33	Rowan County Sr.	115
86.	-14	Rocky Mountain-North	37.61	Moffat County	106
87.	- -	Carolina West	37.42	Myers Park	125
88.	-10	Mid-Atlantic	36.88	Blacksburg, VA	148
89.	-18	Great Salt Lake	36.41	Taylorsville	79
90.	-4	Georgia Northern Mountain	34.07	Gainesville	70
91.	-1	Arizona	33.00	Flagstaff	99
92.	+5	Capitol Valley	32.25	Sacramento-Kennedy	80
93.	-4	Gulf Coast	27.90	Gregory-Portland	149
94.	+2	Iroquois	27.30	Mount Mercy Academy	68
95.	-2	Patrick Henry	26.16	Princess Anne	89
96.	+3	Puget Sound	24.88	Kamiak	86
97.	+1	Tarheel East	24.09	South View Sr.	58
98.	-4	Georgia Southern Peach	21.27	Lee County	59
99.	-4	Hawaii	17.63	Kamehameha Schools	64
100.	+1	West Texas	14.18	Montwood	65
101.	-1	Alaska	10.50	Robert Service	21
102.	- -	Guam	3.37	St. John's School	14

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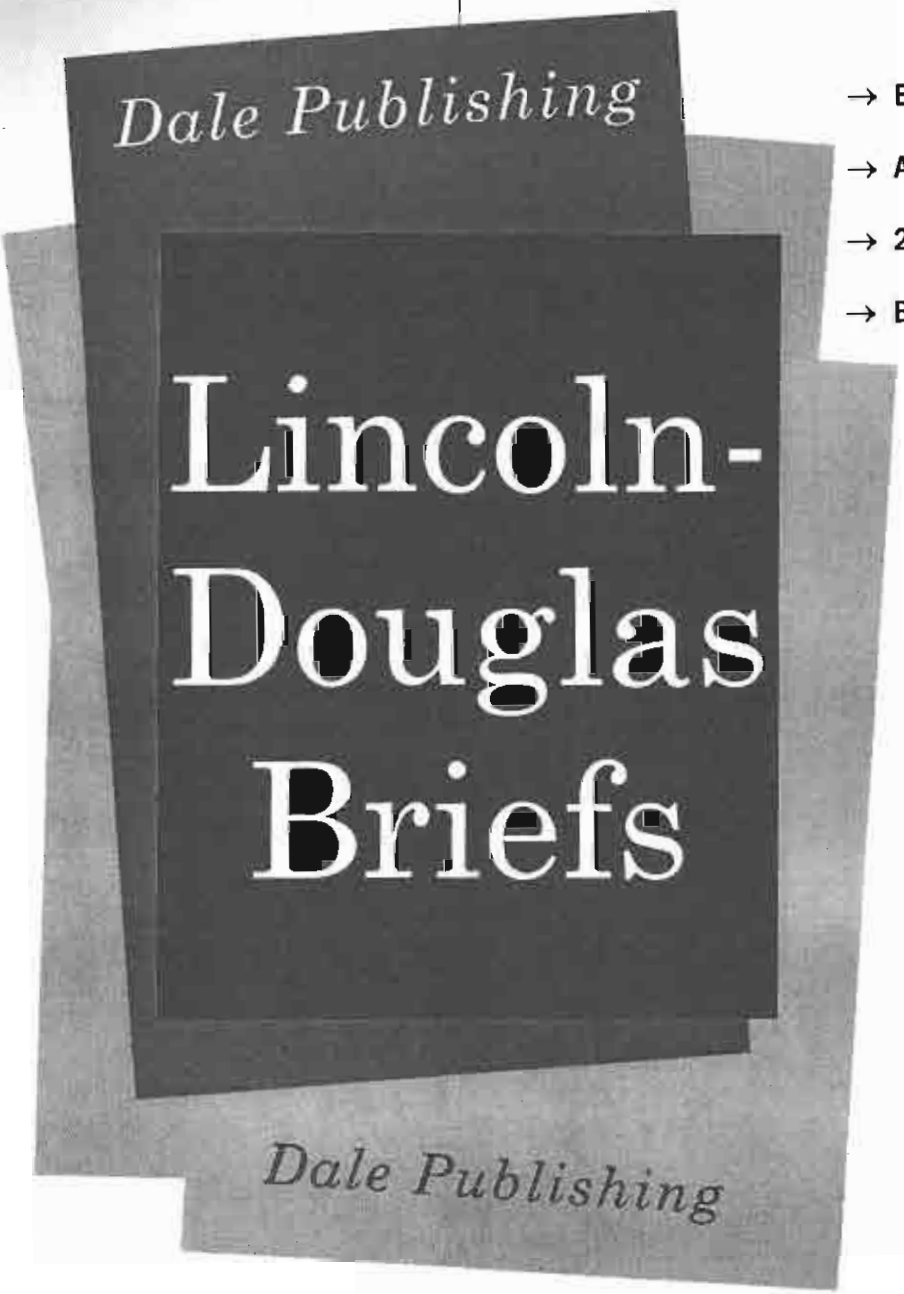

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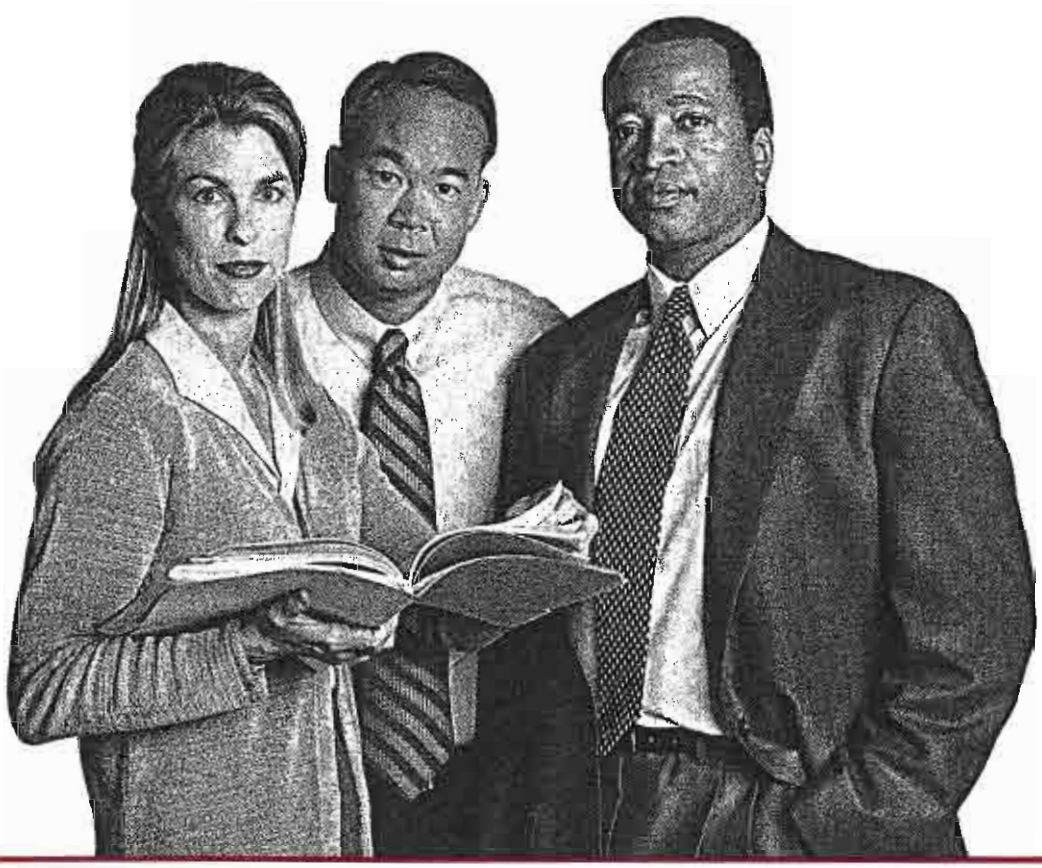
Mar-Apr Topic	LD 1004	$14.00		



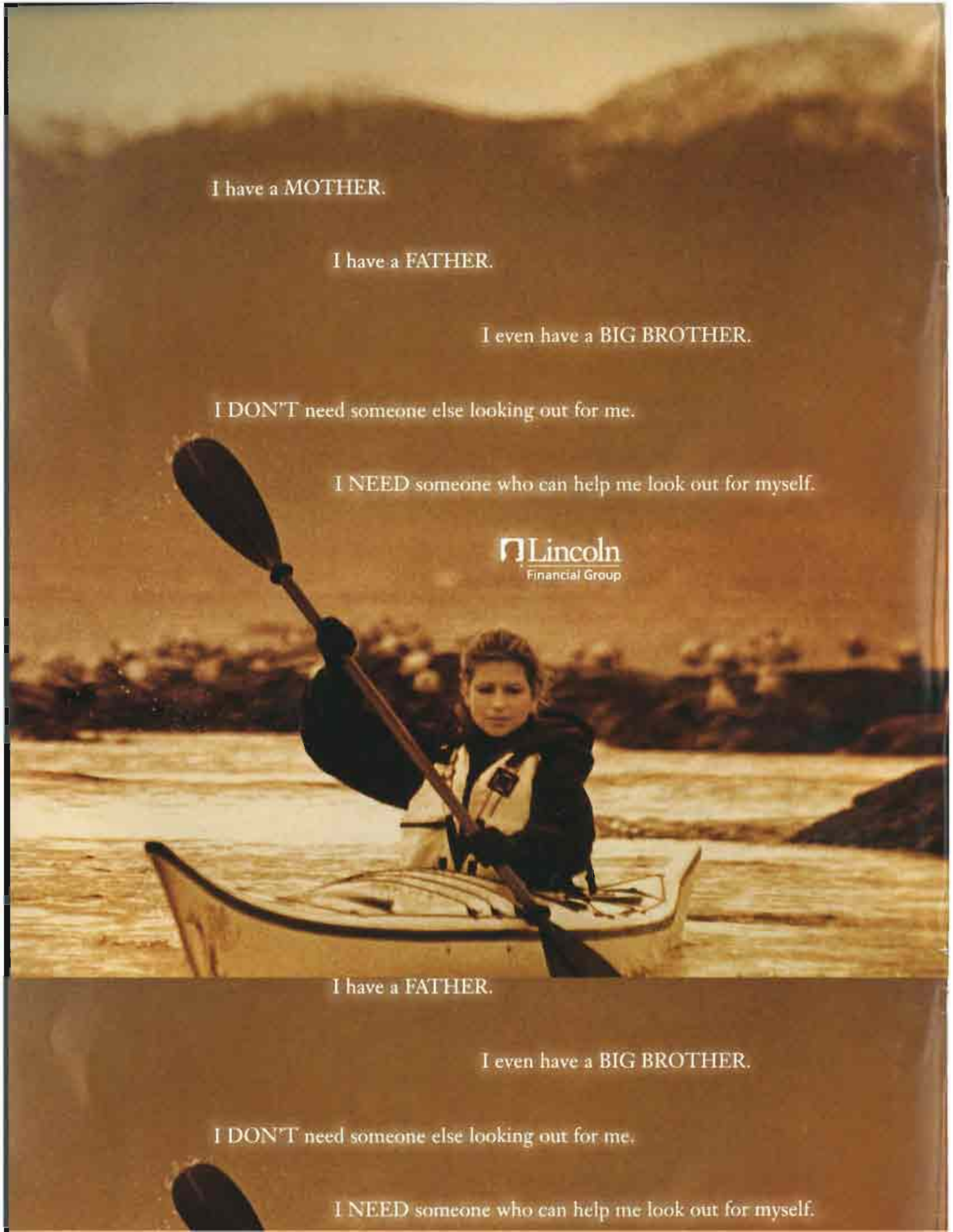
Pop Quiz:

What Do These Professionals Have In Common?

Hint: They Are All Well Spoken.

Every year, 90,000 high school students receive leadership training through the National Forensic League's speech and debate competition. The training helps students become America's future leaders — in the arts, business, government and education. Supreme Court Justice Stephen Breyer, news anchors Jane Pauley and Tom Brokaw, and actor Shelley Long are NFL alums. Lincoln Financial Group has teamed up with the National Forensic League to train our next generation of leaders. Join us in supporting them.

For information about the National Forensic League's speech and debate training program, call 1-920-748-6206.


I have a MOTHER.
I have a FATHER.
I even have a BIG BROTHER.
I DON'T need someone else looking out for me.
I NEED someone who can help me look out for myself.
Lincoln
Financial Group
I have a FATHER.
I even have a BIG BROTHER.
I DON'T need someone else looking out for me.
I NEED someone who can help me look out for myself.