

IMPROVING CROSS-EXAMINATIONS

by David M. Cheshier

Effective cross-examination has long been understood as possessing the potential to transform debates, and perhaps for this reason it is institutionalized at the center of the legal and political process. As Jake Ehrlich, one of this century's most successful litigators, put it in the legal context, "Cross-examination is the most potent weapon known to the law for separating falsehood from truth, hearsay from actual knowledge, things imaginary from things real, opinion from fact, and inference from recollection" (*The Lost Art of Cross-Examination*, Dorset, 1970, p. 18). The drama of cross examination and of a focused given-and -take between smart and well-prepared interlocutors has attracted audience interest since before Socrates questioned his accusers to decimating effect while on trial for corrupting Athens' youth, and as recently as this week's episode of *Law & Order* or *The Practice*.

In the forensics world, the potential of cross-examination was first advocated in 1926 by the University of Oregon and its debate director, Professor Stanley Gray. Gray thought cross-examination (CX) would interest student participants (thanks to the variety it brings to the format) and excite audiences who still watched debates in great number. Gray also thought CX would move the forensics world away from decision debates, which he thought were corrupting the event; in that his wishes were not fulfilled. In 1952 the NFL endorsed the cross-examination format, and from then on it was only a matter of time before CX came to characterize debate. It wasn't until 1976 that cross-ex was introduced at the college National Debate Tournament, but now, of course, cross-ex is ubiquitous, and a part of other individual events as well, especially extemporaneous speaking.

For almost as long, debate coaches have been complaining about the quality of the typical cross-examination exchange. Too often, CX periods are simply backflowing exercises or turn into random conversation periods, unfocused, and apparently unthoughtful. More than twenty years ago James Sayer complained that cross-ex was often producing empty "bickering and avoidance tactics." Some are distressed at so-called "tag team debate," where cross-ex is taken over by the most prepared partner, letting others off the hook for their

own advocacy. But the most common complaint I hear is simply that cross-ex is irrelevant or boring, usually failing to accomplish anything except providing more preparation time to uninvolved colleagues.

What to do? Cross-examination can seem hard to improve, and students are understandably frustrated by the criticisms they sometimes receive after worthless exchanges. You can almost see the reaction right in students' eyes: "Well, yeah, I guess it could have been better. But what could I have done differently? We had prepping to do! What does s/he want, Perry Mason? And who has time to think up complicated questions anyway?" The best debaters, of course, understand that cross-ex is an opportunity to display their intelligence and even their persuasiveness, to establish and reinforce critical points. Here are some tips, all of them easy to implement, that can make your cross-examination more effective:

It's OK to use cross-examination for filling in your flowsheet, but do it as quickly as possible. It is important to use the process of questioning to seek clarification, or to get a better record of arguments you missed. And no one I know will penalize you for using CX in such a way. But the longer this basic questioning continues, the worse you look. As minutes click by, the thought will inevitably enter your judges' mind that you're inept to have missed so much. Remember, the longer you ask for argument restatement, the more you cede the agenda to your opponent: after all, you're just giving them another chance to repeat their claims.

Be willing to spend the entire cross-ex on a single issue. Even when you feel obligated to get to a laundry list of questions, it usually better to pursue a concentrated line of inquiry. Think about where the greatest weakness in your opponent's argument lies, and spend the entire three minutes talking about it. Does their disadvantage link evidence impress you as terrible? Talk through it for the entire time, card by card. Is their topicality violation completely irrelevant given how the plan is written? Talk about topicality for three minutes. Good debaters are adept at covering the real weakness of their evidence in their speeches. They'll stand there and scream about their "five link cards," when they've actually read only one poor link card combined with some

internal link evidence for cover. Use CX to go through the evidence, quote by quote, to reveal the full weakness of their position.

When you have deeply researched an issue, and believe the other debaters are somehow misrepresenting the evidence, talk about it for the whole cross-examination. I'm not speaking of context challenges, which can get dangerously out of control in a cross-ex period, and unproductive too. But if you know their main solvency study really prefers the counterplan, discuss it. The rapid fire exchanges resulting from detailed evidence discussions are among the best cross-ex periods possible: they showcase your work and intellect, often illuminating the issues even for inexperienced judges.

Don't back down too soon. No one wants to be ugly, or to watch ugly exchanges. And there is obviously a point of diminishing returns where illustrating your intellectual dominance simply turns into an act of cruelty. But backing off too soon in the name of niceness is the bigger problem I see today. Their respondent will give a sheepish look that says, "OK, you've got me," and the questioner will just as often back off: "OK, that's cool." Or here's another common situation: the questioner asks, "Why is this link unique given the damage done by the new American commitment to missile defense?" Answer: "Look, I'm not going to answer that. I read my shell. Make your argument, then we'll answer." Questioner: "OK, OK, fair enough."

No, actually, not fair enough. Too often backing off in this way is a mistake. In the name of keeping everyone calm, debaters get off the hook when they shouldn't. Don't fear followup. Seal the deal. If you pin someone into a contradiction, and don't have another overriding tactical reason to drop it, force the respondent to reconcile their competing claims: "So, which is it? Is the inherency answer right, or is your disadvantage unique?" Or, in the instance of the debater who doesn't feel obligated to answer: "Fine, I understand more answers will come in the block. But you've got a basic burden of proof. Why is the DA unique given the missile defense deal? What's the basic uniqueness story?"

Here's a common situation. Q: "I didn't hear a single solvency card that was spe-

cific to the plan." A: "What?! Every card in the 1AC was plan specific!" Q: "OK, OK. Give me the whole contention." Case closed, as the solvency contention is handed to the preparing partner. But this is another situation where extending the conversation can be productive. Better to follow-up: "Well, I guess we don't have any choice but to go through every card. The first card is from Walton. Where in the card does she say anything about your particular plan?"

With experience you will learn where the right limit lies. For example, it can be a mistake to push the discussion all the way to the declaration of a conclusion (as in: "So, your claim is we'll have a nuclear war with Russia as the effect of lending them two missile safety experts?"). By issuing a summary statement, and offering it as a question/challenge, you may only provide your responsiveness with opportunity to revise, retract, or clarify the issue in a manner destructive to your purposes. It also takes some experience to discover when a line of questioning has become unproductive, and when it is appropriate to move on (good clue: when you're hearing the same answer repeated again and again).

Minimize theoretical discussion. Some debaters drift into extended default discussions of theory arguments when they can't think of anything more productive. The problem? Such discussions usually go nowhere and often devolve into "yes/no" contests. If your opponents have obviously contradicted themselves, or if you need a quick theoretical clarification ("what exactly do you mean when you say the counterplan is 'dispositional'"), or if you want a quick laundry list of cases that meet the topicality violation, then fire away. But if you wish to engage in extended conversation about the merits of conditionality, the legitimacy of critiques, even whether topicality should be a voter, you'll usually find such conversations end in an unproductive draw.

One exception to this rule of thumb has to do with so-called "decision rules," claims where your opponent instructs the judge to favor one impact over another. Cross-examination can be the most effective place to interrogate such decision rules. "You say the judge should disregard low level nuclear impacts. Why does that make sense?" Or, "why is liberty really more important than life, especially under circumstances where protecting liberty for some might start a war that would end liberty for everyone?"

When nothing brilliant comes to

mind, ask basic questions. Investigate the basic operations of the plan: "what would happen if Russia refused to participate?" "What happens if the Congress refuses to implement the plan?" Or ask about the stock issue claims: "Exactly how many lives are lost if a limited biological attack occurs?" "Let's talk solvency: Is the solvency author advocating your specific plan? This particular agent of action?: Or review the basics of the first negative argument shells: "Let's just go through the Clinton story -- how much popularity are you claiming will be lost because of the plan? Where is that in the shell evidence?" "What kinds of plans would meet this topicality violation?" "What's the basic story on this Korea argument?" "Is the link based on popularity loss, bipartisanship, or agenda focus?" "What are Tannen's qualifications?" Debaters are often surprised to discover the extent to which such basic questions uncover major flaws in their opponents' arguments.

It is often productive to ask basic questions even about inherency, despite the difficulty in converting inherency into a freestanding argumentative winner. The most basic question of all is something like "If this proposal is such a good idea, why hasn't it happened yet?" Such a question is more constraining for the affirmative than you might think. They have to come up with an inherency answer without giving you a disadvantage link, although nearly every answer produces one anyway. The too-easy answer often goes like this: "Well, some think the plan would undermine US-Russia relations, but they have an exaggerated impression of that." Or, "Everyone thinks it's a good idea, but for now Jesse Helms is holding it hostage to his UN reform proposal." Fine, you've just been given a backlash link. Or the affirmative will say: "The Congress just doesn't know about this proposal." But that answer almost invariably expresses a falsehood. Follow up.

Keep the exchange even. Don't permit the respondent to talk, talk, talk the time away. It can be hard to gracefully interrupt someone who is speaking with passion, but do it if necessary. You won't look evil if you use pleasant interrupter phrases: "OK, OK, thanks. I understand." Or, "I have to interrupt to get to something else quickly, before our time is done." Or, even, under some circumstances (where the debater just won't finish): "Stop! Enough! I get it. One other question..." Try to strike a balance between letting the responsiveness go on forever, and cutting him or her off too quickly or in an

abrupt way. As George Ziegelmueller and Jack Kay put it in their text on debating: "It is important for the cross-examiner to establish early his or her control of the questioning session. Failure to assert reasonable dominance of the situation may result in an unproductive cross-examination... [But] A fine line must be walked. An overly assertive or aggressive manner can be counterproductive."

Connect the cross-examination discussions to the rest of the debate. It is easy to understand why judges are frustrated when a major concession on uniqueness is never applied to the disadvantage in the 2AC. But so often, useful explanations aren't applied at all, which undermines your effectiveness just as insidiously. Make sure to add an answer or reference to the cross-exchange: "5 -- No internal link, established in CX."

An easy way to accomplish this, and to quickly prep for CX, is to circle on your flow the cards or claims you want to pursue in questioning. If you forget what your question was by the time you stand up, simply ask what the claim was; that'll usually jog your memory. As cross-ex proceeds, double circle the issues you've raised. Then, in later speeches, you can drop in fast passing references to the cross-ex as you see the double-circles on your flow: "...as we discussed in CX."

Tell the truth when you know it. Nothing makes you look worse than denying the obvious, lying, or demanding proof for straightforward claims: "Look, I'm not going to answer that question until you establish the sun rises in the east!" The converse: be willing to admit your ignorance. Many of the worst outcomes of cross-exchanges come after someone bluffs or too quickly answers a question without thinking. If you don't know the answer, say so. If they press you, then bring your partner into the conversation, if the judge allows it. And if they won't, simply repeat what you said before: "I said I don't know. Make your argument, and we'll answer it."

Cross-examination should be practiced. Such a comment will either seem blindingly obvious, or completely absurd. After all, how can the completely spontaneous cross-examination exchange be rehearsed? But it can. If you're the first affirmative, practice reading the speech, then have your partner grill you on the details. If you're the 1N, ask your coach to interrogate you after reading the major disadvantage shells: "What's the final impact?"

What's the link?," and so on. The more one talks through positions in advance, the less likely he or she will be caught off guard in a tournament setting.

If you have a history of producing perfunctory cross-examinations, make a commitment to improve your questioning skills. Your work will pay off in the gratitude of judges pleased to see something more than the passing of debate briefs back and forth as the three minute clock winds down.

FOR ADDITIONAL INFORMATION ON CROSS-EXAMINATION: See James Copeland's Cross-Examination in Debate (Skokie, IL: National Textbook, 1982), and an essay by George Ziegelmueller, "Cross Examination Re-examined," in Argument in Transition: Proceedings of the Third Summer Conference on Argument, edited by David Zarefsky, Malcolm Sillars, and Jack Rhodes, 904-17 (Annandale, VA: NCA, 1983). The February 1998 Rostrum focused on cross-examination.

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