

Arguments Against the "Motion for Dismissal"
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The best test of truth is the power of the thought to get itself accepted in the competition of the market.... We should be eternally vigilant against attempts to check the expression that we loathe.

Oliver Wendell Holmes, Jr.

Although Oliver Wendell Holmes was addressing principles embodied in the First Amendment to the United States Constitution, the notion of testing concepts in a marketplace of ideas is largely germane to the role played by parliamentary debate in the world of intercollegiate competitive debate. A potentially conflictual balance exists between the roles of educator, coach, and judge—roles we all play at one point or another. As educators, we have a responsibility to ensure valuable and relevant education. As coaches we steer the practice of debate in one direction or another. And as judges we wish other coaches had steered the practice of debate in one direction or another. The three roles are not inherently incompatible, but in some instances the direction we steer, and the action we take are inappropriate and may violate the marketplace of ideas, which is created by the nature and structure of parliamentary debate.

A growing number of complaints have been developing around parliamentary debate, regarding the nature of the government team's right and obligation to interpret a resolution. In particular, the government's choice to run a case "straight" or

"link" the resolution to some related issue or matter has raised instances where the case choice may detract from the quality and substance of the debates. In response to this growing concern, a suggestion was made at the 1993 Spring Championships for a "motion for dismissal". Once invoked by the Leader of the Opposition, this motion would immediately end the standard debate procedure. Both the Prime Minister and the Leader of the Opposition would have a single allotted time period to either justify the chosen interpretation or prove the interpretation to be invalid. At this point, the debate would cease, and the decision would lie in the hands of the judge or panel.

Although there does seem to exist some problems with the abuse of the government's interpretive right, the suggested motion for dismissal is both contradictory to the debate process and in conflict with the basic pedagogical principles underlying parliamentary debate. In this article, I will identify problems associated with the government's interpretive right; examine the motion for dismissal in light of some underlying values and principles of parliamentary debate; and finally, address the possibility of making "link" a voting issue as an alternative to the motion for dismissal.

Although NPDA is a relatively young organization in the realm of intercollegiate debate, the concepts and structure behind NPDA are far from new. A cornerstone to the uniqueness of the event is the government's role in interpreting a resolution and setting the agenda and tone for the debate. The limited

preparation time allowed, as well as the frequent "off-the-wall" nature of many resolutions, tends to foster an environment where government teams are tempted to run a case which they hope their opposition will be unprepared for, or a case which the opposition team has the least available ground to argue. Although these strategies are common, and in fact rewarded in other forms of debate, the practice of defining the opposition "out of the round" is one which should be addressed by coaches and discouraged in parliamentary debate. The issue before us is the method by which such cases should be discouraged.

There appears to be four main categories of cases available to government teams which we may consider abusive by their opposition: tautologies, truisms, morally indefensible arguments, and "frivolous" arguments. The first two, tautologies and truisms, are specifically addressed in the NPDA constitution (Appendix C, para IV-C and para IV-D, 1993). The NPDA constitution clearly points out that in choosing an interpretation of the resolution, a government team must "define and defend the resolution in a manner which makes it debatable" (Appendix B, para II-A, 1993). Furthermore, the NPDA constitution establishes that any such link must be "reasonable" and must be defined in terms of the "exact wording" of the resolution (Appendix B, para II-A1, 1993).

In defining a case which is a tautology or is a truism, a government team has failed to meet its interpretive responsibilities. As pointed out in the NPDA constitution,

opposition teams encountering these cases should respond by providing a counter case. In doing so, the opposition should make three points clear: first, an explanation as to why the government case is either a tautology or a truism; second, a statement that the NPDA constitution rebukes such practices; and third, that the appropriate response in such a situation, as outlined by the NPDA Constitution, is to provide a counter case. By emphasizing these three points, the opposition has shown through persuasion and logic that the government's case is abusive, and that NPDA does not and will not condone the practice. As we can now see, a remedy, although limited, (which I'll address in the conclusion of this article), is already available to opposition teams faced with tautologies and truisms. Therefore, the need for a "motion for dismissal" in these instances is not necessary.

In defining a case which is morally indefensible for the opposition (forcing the opposition to defend spouse abuse, for example), a government team has again failed to introduce a debatable interpretation and has also failed to find a reasonable case for examination during the debate. The remedy for an opposition team faced with defending a morally indefensible position is the same as with a truism and tautology—a counter case should be introduced with sufficient explanation as to why the opposition, as defined by the government case choice, is morally indefensible.

These points all seem reasonable, even elementary, so then,

we may ask, if these provisions and guidelines have been available, why do problems exist with the government's interpretive right? Upon examination of what has been dubbed "frivolous cases," we shed some light on the problem. Proponents of the motion have pointed to circumstances where government teams have chosen to run cases which, at the time and according to the tastes of a particular audience, seemed inappropriate or frivolous. A classic example arose when a government team was assigned the resolution "Resolved: That the media should act as the fourth branch of government." The team identified media as including mass communication, and included in their interpretation of mass communication were both fables and stories. Entertaining their personal affection for the fable Goldilocks and the Three Bears, the government team developed a time-space case where the debate became a trial of Goldilocks for trespassing on the Bears' property. The government was the prosecution, the opposition the defense, and the judges were to determine the guilt or innocence of Goldilocks. Where in this situation does the problem lie? Does it lie in the government's interpretive right? Should a government team, notably a government team entitled to run a time-space case if they choose, be punished for running a case which a judge considers "frivolous?" Perhaps not. Even in this situation, which most undoubtedly swings wide of mainstream debate, there is merit to the case chosen by the government. The "Trial of Goldilocks" is a practice invoked at even the most prestigious and respected of

law schools. The trial brings to light numerous questions raised in the practice of law and argument. It raises questions of issue relevancy, interpretation of guidelines, exceptions to rules, and emphasizes the need for the use of pathos during a speaker's presentation. The nature of parliamentary debate encourages participants to reach outside of the current mainstream in debate and discover new approaches and subtleties to argument and persuasion, which are not possible in other forms of debate. So again, where does the problem with this case lie? Not with the supposed frivolity, rather, the problem with this case becomes the link the government made to the resolution assigned. This is also precisely where the problem with the government's interpretive right lies, in the nature of the link to the resolution.

When examining the role of the government team as resolutional interpreter, there appears to be three conflictual roles: the government team as competitors, the government team as students, and the government team as "definers" for the debate. As competitors, the team seeks to place themselves in the most strategically advantageous position possible. As students, the team seeks to enter the debate with something to learn and exit having learned something of value. And as "definers", the team seeks to define the roles and nature of the specific debate being participated in. We must ask ourselves which of these three roles the motion for dismissal focus upon and how it impacts the other two roles.

Recognizing first, the motion undoubtedly impacts all three roles played by the government team. However, it most significantly focuses on the "defining" role of the government. This is also the most unique role of the "affirmative" team in parliamentary debate when compared to other forms of debate. Granted, affirmative teams serve defining roles in other debate venues, but not nearly to the extent possible in parliamentary. The point of providing this unusual latitude for definition in a round is to provide spontaneity, creativity, and resourcefulness in choosing the topic area for a debate. By introducing a motion for dismissal, these qualities are impinged. We recognize that when students are given such latitude, both positive and negative results can come about. From the contrast between these results, the students can learn.

It is interesting that in forwarding the motion, proponents have offered three main arguments. First, that the judge is "empowered" to quickly and decisively determine the merit of a government team's interpretation. Realize, however, that the motion does not provide any criteria as to what is a meritorious interpretation and what is not meritorious. The argument also begs the question, when did the judge ever lose the power to determine the merit of a case presented in a round? Is that not the point of judging? And is it not the point of the debate to battle out the merits and defects of a specific case?

This leads into the second main argument offered by proponents of the motion—that the motion will clarify and

separate substantive and procedural issues. Here is how the argument goes: by introducing the motion for dismissal, the debate immediately become one of procedural issues. The opposition is charging that the government has violated a procedure. The government claims it has not. Now the compliment to the motion lies in the event that the opposition team does not introduce the motion. By electing not to truncate the entire debate down to two four minute speeches, the opposition must, by necessity, admit the government's interpretation is valid, and any further debate must be only on substantive issues on the topic chosen by the government. This forces the opposition to "place all of their eggs in one basket." The opposition team must always choose between substantive or procedural issues. So what is the logical action taken by any strategically minded government team? Always introduce a marginal case, one that lies in the grey area of interpretation of "meritorious and un-meritorious" (since we have no criteria), and force the opposition to abandon either procedural or substantive argument, while retaining the strategic advantages of a "marginal" case. Either way, the opposition ground is reduced by half. Furthermore, if you are an educator who subscribes to the opinion that there is merit in **both** procedural and substantive debate, then the motion for dismissal severely limits the opportunity for your students to experience and participate in both.

The third argument forwarded by proponents is that the motion will make resolutorial interpretation a voting issue.

Here the proponents have a point. There exists within the NPDA constitution a glaring contradiction. The government team is mandated to "define and defend the resolution in a manner which makes it debatable" and also that any link to the resolution must be "reasonable" (Appendix B, para II-A, 1993)). However, on the other hand, the NPDA constitution claims, that "judges may count 'Link' arguments against the government, but they should not be the basis of a judge's total decision" (Appendix C, para IV-A, 1993). If on the one hand the government must be reasonable and introduce a debatable topic area, and on the other hand no judgement can be made as to the reasonableness or the debatability of the chosen topic by the adjudicator, then there is a clear problem. However, there is also a clear answer. Rather than adopt the motion for dismissal to alleviate a contradiction in the NPDA Constitution, why not give a judge the authority to determine the validity of a government interpretation? In other words, simply make "Link" a voting issue.

We recognize from the beginning that one of the reasons Parliamentary debate was started was to avoid the microscopic metadefinition on "how to debate". However, we also recognize that the government must have certain responsibilities which must be met in order to make the debate topical and educational. By making the link a voting issue, cases such as the "Trial of Goldilocks" would be severely limited because the government team would be forced each and every time to thoroughly justify their direct and reasonable interpretation of the resolution. The aims

of the proponents for the motion for dismissal are met. The uniqueness of the government role in parliamentary debate is preserved, and the opposition is not forced into an either/or decision between procedural and substantive issues.

I began this article with a quotation from Oliver Wendell Holmes describing the task before us educators. Admittedly, we may not want to sit in a classroom for an hour examining the issues presented in a fairy tale. One might even say that we loathe the possibility. However, by making "Link" a voting issue, we force Goldilocks into the marketplace of ideas and provide the market with the means by which to kick her out of this Honorable House.