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THE PRINCIPLES OF ARGUMENTATION

(REVISED AND AUGMENTED)

BY

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"Using words to convey truth and to arouse emotion" (*Father Damien*). — STEVENSON

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TO

ADAMS SHERMAN HILL

BOYLSTON PROFESSOR OF RHETORIC AND ORATORY
EMERITUS IN HARVARD UNIVERSITY

AS HE WITHDRAWS FROM ACTIVE PARTICIPATION

IN WORK WHICH IS MAINLY HIS CREATION

TWO FORMER PUPILS

GRATEFULLY REDEDICATE THIS BOOK

PREFACE

The study of argumentation has increased so rapidly in schools and colleges during the ten years since the first edition of this book was published that it is no longer necessary to justify the educational importance of the subject. Nor is it necessary now to explain in detail the kind of argumentation taught in this book. For these reasons a large amount of justificatory and explanatory material which filled the early pages of the first edition has been removed. On the other hand, in the ten years since the *Principles of Argumentation* appeared, it has become steadily clearer that the principles of analysis needed restating for greater accuracy and simplicity; that the difficult subject of evidence, especially refutation, should be given fuller treatment; that the material in the chapter on brief-drawing could be simplified and clarified by rearrangement and a different emphasis; that persuasion needed much more detailed exposition; and that, perhaps the most marked need of all, the importance of rhetoric in argumentation should be given insistent emphasis.

The purpose of the editors in their thorough rewriting of the old book has been to represent as exactly as possible the theory of argumentation as they have been teaching

it during the last two or three years. The new book contains no untried theorizing: it is the result of repeated class-room exercises, extensive reading of manuscripts, and consultation with many kinds of students at Harvard University, Brown University, and elsewhere. The authors wish to insist that this book is not meant to be used by the teacher as the basis of lectures on the subject, but should be constantly in the hands of the class. In a subject like argumentation, theory should be but the stepping-stone to practice, and a practice that is frequent and varied. Convinced of this from experience with their classes, the authors have provided a large amount of illustration of the theory set forth, and exercise material which should be ample enough to provide a teacher for two or three years without important repetition. The work of the teacher using the revised *Principles* should be not merely to repeat it to the class, but to amplify, reëmphasize, re-illustrate, and, above all, by quizzes and exercises to make sure that his class can successfully apply the theory expounded. The more the student can be made to do for himself the better: as far as possible the teacher should be only the guide and critic who leads him, or, if necessary, obliges him to grasp by application the principles which he has read in the book. Good argumentation rests ultimately on the ability to think for oneself.

Perhaps the chief weakness to-day of the greatly increased number of courses in argumentation is so rigid an observance of rules that the product is nearly or

entirely lacking in literary value. Such a result shows either that the students are still so hampered by consciousness of principles to be observed as to be unable to combine with them their preceding knowledge of rhetoric, or that the teacher fails to recognize that argument is really good only when, as in other forms of expression, it has attained the art that conceals art. Throughout the present volume the authors have tried to keep before their readers the relation of thought to style and have meant to decry steadily any rigidity or formality of expression when the principles have once been mastered. In good argument, thought must of course precede presentation, but without fitting presentation even good thinking often becomes futile.

It is a pity that in many instances study of argument is regarded only as a stepping-stone to successful debating, the most rigid of argumentative forms. In reality it is a training, often much needed among college students, in habits of accurate thinking, fair-mindedness, and thoroughness. If this new edition helps to instruction in which argument is regarded from the start by teacher and pupil as above all a means to accurate, thorough, formulated thinking, enjoyable to the thinker, presented in a well-phrased and individual style, the chief desire of the authors in their revision will be fulfilled.

Acknowledgment is due the many teachers whose helpful comment and criticism on the old book have helped greatly in reworking its material. The authors wish to

thank also the following students past or present of Harvard, Brown and Yale Universities for work of theirs included among the illustrations: Messrs. J. J. Shepard, H. H. Thurlow, A. W. Manchester, R. D. Brackett, R. W. Stearns, A. W. Wyman, R. H. Ewell, A. Fox, C. D. Lockwood, I. Grossman, and F. B. Wagner. They are indebted to Mr. G. W. Latham, Instructor in English at Brown University, for helpful suggestions as the book has been in preparation; as well as to Assistant Professor W. T. Foster of Bowdoin College for material used in the Appendix; and especially to Mr. R. L. Lyman, Instructor in English at Harvard University, both for aid in preparing illustrative material printed in the Appendix and for constant helpful suggestions.

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CAMBRIDGE, February, 1905

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ARGUMENTATION

CHAPTER I

THE NATURE OF ARGUMENTATION

No man can escape thinking. At times he must face questions on which it is vital to his happiness or success that he should think clearly; at times, too, it will be essential to his own welfare or that of those dear to him to be able so to present the result of his clear and cogent thinking as to make his hearers act as he wishes. Herein lies the importance of Argumentation for all men. But any one who has tried to make another person act in some particular way knows that he has often failed, even when feeling strongly the rightness of what he advocated, because he could not convey to the other person his sense of its rightness, or, even when the desirability of the act was admitted, could not move him to do it. Too often the root of the difficulty is that, though the speaker feels strongly on the subject, he has not thought clearly on it.

What is more common than the sight of grown men talking on political or moral or religious subjects in that off-hand, idle way, which we signify by the word *unreal?* "That they simply do not know what they are talking about" is the spontaneous, silent remark of any man of sense who heard them. Hence such persons have no difficulty in contradicting

themselves in successive sentences without being conscious of it. Hence others, whose defect in intellectual training is more latent, have their most unfortunate crotchets, as they are called, or hobbies, which deprive them of the influence which their estimable qualities would otherwise secure. Hence others can never look straight before them, never see the point, and have no difficulties in the most difficult subjects. Others are hopelessly obstinate and prejudiced, and, after they have been driven from their opinions, return to them the next moment without even an attempt to explain why. Others are so intemperate and intractable that there is no greater calamity for a good cause than that they should get hold of it. . . . I am referring to an evil which is forced upon us in every railway carriage, in every coffee-room or *table-d'hôte*, in every mixed company.[1]

Argumentation is not contentiousness. At the outset it should be understood that argumentation is not what too many people think it, — contentiousness, that is, discussion carried on "with no real expectation of changing anyone's opinion. Such are most of the partisan speeches in legislative bodies: speeches for or against a tariff or other party measure are in most cases merely attempts to put the other side in a hole; to establish such a dilemma as will make the majority or the minority, as the case may be, appear inconsistent or absurd, or to show them up as the foes of honest labor. In such kind of argument the height of success is to make it indecent for the majority to proceed; if the majority is really solid, such success is rare. So the common run of stump speeches, which pass by the name of argument, are argumentative only in so far as they are efforts to rouse the voters from indifference. In short,

[1] *Idea of University*. Newman. Preface, pp. xvii–xviii. Longmans, Green & Co. 1888.

many modes of speech are contentious which are not argument. When you look for the reason why they do not rise to such dignity, you will find that it is because they are not expository. For the essential part of every argument which is worthy of the name is that it offers to the reader an explanation of the facts, a theory or a policy, better, more rational, more thorough, or more for his personal advantage — than that which he or somebody else has maintained."[1]

The following newspaper comment on part of President Roosevelt's letter accepting the presidential nomination, 1904, illustrates contentiousness.

The President has but little to say on changes in our currency laws. It is all covered in six lines, which run as follows: "The record of the last seven years proves that the party now in power can be trusted to take the additional action necessary to improve and strengthen our monetary system, and that our opponents cannot be so trusted." It may be noted that the President goes back only seven years; evidently even he admits that prior to that his party was almost as untrustworthy as its political opponents. His party certainly did not have any leader who could be trusted to labor as diligently and efficiently for the retention of the gold standard as the Democratic President, Grover Cleveland.

The words "improve and strengthen," which the President uses, may, like charity, cover a multitude of sins. He takes no definite stand either for or against the numerous schemes for currency inflation that have been proposed by Republican secretaries of the treasury in the last two administrations. Does "improve and strengthen" mean a declaration in favor of asset currency? If so, the gold standard is far safer in

[1] *The Forms of Prose Literature.* J. H. Gardiner. pp. 61–62. Charles Scribner's Sons. 1901.

the control of Judge Parker. Or does it mean that the President has no views of his own worth expressing on the currency and that he merely included this one sentence in his letter so that he might later adopt the policy outlined for him by the Republican members of the Senate finance committee? Those senators, it may be remembered, labored all through the summer of 1903 to map out a policy that would be acceptable to the banking interests and at the same time not be antagonized by those who do not care to see the government grant further privileges to the banks. We made the prediction at that time that no financial legislation would be enacted prior to the national election of 1904. After that election, however, if the Republicans are continued in power, an attempt will unquestionably be made to change our financial laws, and if the changes should run in the line proposed by the Republican secretaries of the treasury, they might easily prove a serious menace to our currency. Yes, even to the retention of the gold standard.

Compare the contentiousness of the preceding with this strictly argumentative excerpt from a speech of Carl Schurz.

Mark well that all these evil consequences are ascribed to the demonetization of silver in the United States alone — not to its demonetization anywhere else. This is to justify the presentation, as a sufficient remedy, of the free coinage of silver in the United States alone, "without waiting for the aid or consent of any other nation." This platform is amplified by free-coinage orators, who tell us that the act of 1873, called "the crime of 1873," has surreptitiously "wiped out" one half of the people's money, namely, silver; that in consequence the remaining half of our metallic money, namely, gold, as a basis of the whole financial structure, has to do the same business that formerly was done by gold and silver together; that thereby gold has risen to about double its former purchasing power, the gold dollar being virtually a 200-cent dollar;

that the man who produces things for sale is thus being robbed of half the price, while debts payable on the gold basis have become twice as heavy, and that this fall of prices and increase of burdens is enriching the money changers and oppressing the people.

Are these complaints well founded? Look at facts which nobody disputes. That there has been a considerable fall in the prices of many articles since 1873 is certainly true. But was this fall caused by the so-called demonetization of silver through the act of 1873? Now, not to speak of other periods of our history, such as the period from 1846 to 1851, everybody knows that there was a considerable fall of prices, not only as to agricultural products — cotton, for instance, dropped from $1 a pound in 1864 to 17 cents in 1871 — but in many kinds of industrial products, before 1873. What happened before 1873 cannot have been caused by what happened in 1873. This is clear. The shrinkage after 1873 may, therefore, have been caused by something else.

Another thing is equally clear. Whenever a change in the prices of commodities is caused by a change in supply or demand, or both, then it may affect different articles differently. Thus wheat may rise in price, the supply being proportionately short, while at the same time cotton may decline in price, the supply being proportionately abundant. But when a change of prices takes place in consequence of a great change in the purchasing power of the money of the country, especially when that change is sudden, then the effect must be equal, or at least approximately so, as to all articles that are bought or sold with that money. If by the so-called demonetization of silver in 1873 the gold dollar, or the dollar on the gold basis, became a 200-cent dollar at all, then it became a 200-cent dollar at once and for everything. It could not possibly be at the same time a 200-cent dollar for wheat and a 120-cent dollar for coal, and a 150-cent dollar for cotton, and a 100-cent dollar for corn or for shovels. I challenge any one to gainsay this.

Now for the facts. The act of 1873 in question became a law on the 12th of February. What was the effect? Wheat, rye, oats, and corn rose above the price of 1872, while cotton declined. In 1874 wheat dropped a little; corn made a jump upward; cotton declined; oats and rye rose. In 1875 there was a general decline. In 1876 there was a rise in wheat and a decline in corn, oats, rye, and cotton. In 1877 there was another rise in wheat carrying the price above that of 1870 and up to that of 1871, years preceding the act of 1873. Evidently so far the 200-cent dollar had not made its mark at all. But I will admit the possible plea, that, as they say, the act of 1873 having been passed in secret, people did not know anything about it, and prices remained measurably steady, in ignorance of what dreadful things had happened. If so, then it would appear that, if the knowing ones had only kept still about it, the gold dollar would have modestly remained a 100-cent dollar, and nobody would have been hurt. But, seriously speaking, it may be said that when the act of 1873 was passed we were still using exclusively paper money; that neither gold nor silver was in circulation, and that therefore the demonetization would not be felt. Very well. But then in 1879 specie payments were resumed. Metallic money circulated again. And, more than that, the cry about "the crime of 1873" resounded in Congress and in the country. Then, at last the 200-cent gold dollar had its opportunity. Prices could no longer plead ignorance. What happened? In 1880 wheat rose above the price of 1879, likewise corn, cotton, and oats. In 1881 wheat rose again, also corn, oats, and cotton. In 1882 wheat and cotton declined, while corn and oats rose. The reports here given are those of the New York market. They may vary somewhat from the reports of farm prices, but they present the rises and declines of prices with substantial correctness.

These facts prove conclusively to every sane mind that for nine years after the act of 1873 — six years before and three years after the resumption of specie payments — the prices of

the agricultural staples mentioned, being in most instances considerably above 1860, show absolutely no trace of any such effect as would have been produced upon them had a great and sudden change in the purchasing power of the money of the country taken place; that it would be childish to pretend that but for the act of 1873 those prices would be 100, or 50, or 25, or 10 per cent higher; and that, therefore, all this talk about the gold dollar having become a 200-cent dollar, or a 150-cent dollar, or a 125-cent dollar, is — pardon the expression — arrant nonsense.[1]

Conviction and persuasion distinguished. In brief, argumentation is the art of producing in the mind of another person acceptance of ideas held true by a writer or speaker, and of inducing the other person, if necessary, to act in consequence of his acquired belief. The chief desiderata in argumentation are power to think clearly and power so to present one's thought as to be both convincing and persuasive. Conviction aims only to produce agreement between writer and reader; persuasion aims to prepare the way for the process of conviction or to produce action as a result of conviction. In pure conviction one appeals only to the intellect of a reader by clear and cogent reasoning. In persuasion one may produce desired action either by arousing emotion in regard to the ideas set forth or by adapting the presentation of one's case as a whole or in part to special interests, prejudices, or idiosyncrasies of a reader. Pure conviction is best illustrated by the demonstration of some theorem in geometry, — as that the square of the hypotenuse of a right-angled triangle is equal to the sum of the squares of the other two sides. Here all

[1] Speech before American Honest Money League, Chicago, September 5, 1896, Carl Schurz.

the explanation of truth given, that is, all the "proof," appeals solely to the intellect, and rests for its force on truths already known to the reader or acceptable as soon as properly stated. But this kind of demonstration of truth is clearly not argumentation in the ordinary use of the word, for in everyday life it can be duplicated only when the demonstrator moves freely, as in geometry, through a number of related ideas or principles, as true for his reader as for him, to a fresh application of one of the ideas or principles so clearly stated that it is at once convincing. This set of conditions may at times be found in the world of science among a group of men in whom all other interests and emotions are subordinated to eager desire for truth, but ordinarily the people with whom we argue have many prejudices or idiosyncrasies which make it difficult to develop our case unobstructed.[1]

[1] The following illustrates an attempt to use the process of conviction only. "Madame Blavatsky was accused of having forged letters from a mysterious being named Koot Hoomi which were wont to drift out of methetherial space into the common atmosphere of drawing-rooms. A number of Koot Hoomi's *later* epistles, with others by Madame Blavatsky, were submitted to Mr. Nethercliffe, the expert, and to Mr. Sims of the British Museum. Neither expert thought that Madame Blavatsky had written the letters attributed to Koot Hoomi. But Dr. Richard Hodgson and Mrs. Sidgwick procured *earlier* letters by Koot Hoomi and Madame Blavatsky. They found that, in 1878, and 1879, the letter *d*, as written in English, occurred 210 times as against the German *d*, 805 times. But in Madame Blavatsky's earlier hand the English *d* occurred but 15 times, to 2200 of the German *d*. The lady had, in this and other respects, altered her writing, which therefore varied more and more from the hand of Koot Hoomi. Mr. Nethercliffe and Mr. Sims yielded to this and other proofs: and a cold world is fairly well convinced that Koot Hoomi did not write his letters. They were written by Madame Blavatsky." *The Mystery of Mary Stuart.* A. Lang. pp. 278–279. Longmans, Green & Co. 1901.

The way in which prejudice or idiosyncrasy might make it impossible to produce any effect with the paragraph just quoted will be seen if it be

Conviction and persuasion complementary. Though persuasion, in the sense of emotional appeal, may appear alone [1] as a paragraph, division, or even a complete speech

supposed that it is in a letter to a man who has a prejudice against all deductions from handwriting, believing them worthless, or to a person who has the idiosyncrasy that his handwriting has given him trouble because it is so much like that of several friends. In either case, the whole paragraph, if used at all, must be rewritten, with reference to the prejudice or idiosyncrasy.

[1] The following appeal forms part of a speech which is almost entirely persuasive. In the course of the debate on American affairs, November 18, 1777, Lord Suffolk, Secretary for the Northern Department, urged that the Indians should be used in the war on grounds of policy, necessity, and because "it was perfectly justifiable to use all the means that God and nature put into our hands." In protesting, Lord Chatham said: "These abominable principles, and this more abominable avowal of them, demand the most decisive indignation. I call upon that right reverend bench, those holy ministers of the Gospel, and the pious pastors of our Church — I conjure them to join in the holy work, and vindicate the religion of their God. I appeal to the wisdom and the law of this learned bench to defend and support the justice of their country. I call upon the Bishops to interpose the unsullied sanctity of their lawn; upon the learned Judges, to interpose the purity of their ermine, to save us from this pollution. I call upon the honor of your Lordships to reverence the dignity of your ancestors, and to maintain your own. I call upon the spirit and humanity of my country to vindicate the national character. I invoke the genius of the Constitution. From the tapestry that adorns these walls, the immortal ancestor of this noble lord frowns with indignation at the disgrace of his country. In vain he led your victorious fleets against the boasted Armada of Spain; in vain he defended and established the honor, the liberties, the religion — the Protestant religion — of this country, against the arbitrary cruelties of Popery and the Inquisition, if these more than popish cruelties and inquisitorial practices are let loose among us — to turn forth into our settlements, among our ancient connections, friends, and relations, the merciless cannibal, thirsting for the blood of man, woman, and child! to send forth the infidel savage — against whom? against your Protestant brethren; to lay waste their country, to desolate their dwellings, and extirpate their race and name with these horrible hell-hounds of savage war — hell-hounds, I say, of savage war! Spain armed herself with bloodhounds to extirpate the wretched natives of America, and we improve on the inhuman example even of Spanish cruelty; we

or article, conviction, except in paragraphs, very rarely appears without persuasion. Really, as the definition of persuasion already given suggests, the two are complementary, one being the warp, the other the woof of argumentation. He who addresses the intellect only, leaving the feelings, the emotions, untouched, will probably be dull, for his work will lack warmth and color; and he will not produce action, for to accept something as true does not, in nearly all cases, mean to act promptly or steadily on that idea. He who only persuades runs the dangers of all excited action: that it is liable to stop as suddenly as it began, leaving no principle of conduct behind; and is liable to cease at any moment before a clear and convincing statement of the reasons why such conduct is ill-judged.[1] Ideal argumentation would, then, unite perfection of reasoning, that is, complete convincingness, with perfection of persuasive power — masterly adaptation of the material to interests, prejudices, and idiosyncrasies of the audience, combined with excitation of the emotions to just the extent necessary for the desired ends. The history of argumentation shows that usually conviction is preceded or followed by persuasion, and that often the very exposition

turn loose these savage hell-hounds against our brethren and countrymen in America, of the same language, laws, liberties, and religion, endeared to us by every tie that should sanctify humanity." For the whole speech see Appendix.

[1] The first part of the speech of Antony (*Julius Cæsar*, III, 2) is vivid and stirring, and Antony takes care not to cease until the mob has found an object upon which to vent its excitement; but had Brutus, instead of balancing clauses and dealing in vague statements as to Cæsar's wrongdoing, shown cogently wherein his power was dangerous to Rome, Antony's words would have lost a large part of their force. Antony, with nothing against him except vague charges, skillfully turned from these to stirring the hearts of his hearers by bringing out whatever in the life and the fate of Cæsar could move their sympathies.

which convinces is made also to persuade.[1] All argument is really a dialogue; "the other man" is always resisting, trying to block progress. Therefore a writer must remember that his test should not be: Am I stating this matter so that it is clear to me, so that it interests and stirs me? but Am I stating this matter so that my reader cannot fail to see what I mean, and must be stirred by my way of writing because I have so well understood his knowledge of it, his feelings about it, and his personal peculiarities? In brief, let a writer remember "the other man" in his work, and he can hardly forget that conviction and persuasion are not independent but complementary.

For purposes of instruction it will, however, be convenient to treat first the principles which underlie successful conviction and then those which make for effective persuasion; but a reader should never forget that this separation is artificial and made wholly for pedagogic reasons.

The divisions of an argument. An argument normally has three divisions, though they are rarely marked as such. They are the Introduction, the Argument Proper, and the Peroration.[2]

[1] A fine specimen of blended conviction and persuasion is Henry Ward Beecher's Liverpool speech in behalf of the Northern party in the Civil War. A blending of the two methods, with the emphasis on conviction, but so subtle that the persuasion helps to conviction, is Lord Erskine's "Defense of Lord George Gordon." *Specimens of Argumentation*, pp. 154–178, 86–153. Holt & Co. For skillful handling of persuasion, see pp. 90, 94, 130, 151.

[2] Though the adjective "forensic" means connected with courts of law, the noun "forensic" has recently, with teachers, come to mean a special kind of written exercise in argumentation. It is treated as if it could and should drill students only in the principles of analysis, structure, and the selection and the presentation of evidence. Consequently it is likely to be rigid and hard. It differs from everyday work

The work of the Introduction usually is twofold, — to expound and to persuade. It phrases only what both sides must admit to be true, if there is to be any discussion, and states clearly what the question in dispute is. The final test of it as exposition is that it shall give a reader just the information which will make clear to him the development of the Argument Proper. But readers may be indifferent to a subject, hostile to it or the writer, or likely to be made hostile in the development of the argument. In any of these cases it will evidently be helpful at the outset to overcome or decrease the indifference or hostility, or to offset in some way the ill feeling the discussion may cause. Herein lies the persuasive work of the Introduction.

The Argument Proper also has a twofold work,— to convince by giving in literary form the evidence for which the case calls, and to persuade either by appeals to the emotions in regard to the ideas advanced or by relating these ideas to interests, prejudices, or idiosyncrasies of the readers.

The aim of the Peroration is to bring the argument to a full and perfect close. It also has double work to do, — to summarize the argument developed and to make the last persuasive appeals and applications.

Direct proof and refutation. The material with which a writer develops the argument itself divides into Direct Proof and Refutation. The first signifies the material of

in that not the interest of the student but the will of the teacher determines the choice of topic and in that the forensic is written not for a general audience but for the severe, if judicial, criticism of the instructor. It is the work of a teacher, when a student has, by writing forensics, mastered the principles just mentioned, to show him how an intelligent use of the principles underlying persuasion, and a vigorous style, may transmute the rigid forensic into a readable, persuasive address or article successfully adjusted to the peculiarities of some special audience. For methods of transmutation, see Chap. V.

all kinds with which a writer supports his own opinions; the second means the material of all kinds which he offers against ideas urged in disproof of his main thesis or of any of the ideas advanced by him.[1]

The field of argumentation. For clear thinking, the first desideratum in good argumentation, it is imperative to know just what the topic under discussion means. This signifies ascertaining what is the point in dispute, and what ideas must be proved true (direct proof), as well as what ideas shown to be false (refutation), if a conclusion is to be reached. All this rests, first, on a process called analysis, and secondly, on study of the rules of evidence which distinguish good evidence from bad. But when these steps have been taken, appears the equally important second desideratum in good argument, — presentation of what you believe so that it shall be for other people both convincing and persuasive. For success in this it is necessary to understand structure (brief-drawing), the presentation of evidence, and the principles of persuasion. The first step, then, in argumentation is to master analysis.

EXERCISES

1. Contentiousness. Let each student select from a current periodical or newspaper and bring to the class room a brief contentious speech or article.

2. Argumentation. Discuss with the class how some of these selections, or others chosen by the teacher, may be turned into argument.

3. Conviction and persuasion. Discuss with the class parts or the whole of Beecher's Liverpool speech[2] or of Lord Erskine's "Defense of Lord George Gordon,"[3] examining especially those parts in which conviction and persuasion are blended.

[1] For illustration of Direct Proof and Refutation see Appendix.

[2] *Specimens of Argumentation.* pp. 154–178. [3] *Idem.* pp. 86–153.

CHAPTER II

ANALYSIS

SECTION 1 — WHAT ANALYSIS IS

The true stating and settling of a case conduceth much to the right answer of it. — Sir Robert Berkeley, Justice of the King's Bench. *State Trials.* Howell. Vol. III, col. 1090.

Definition of analysis in argumentation. Analysis in argumentation is a process of investigation for a central idea or group of ideas. To analyze well, therefore, one must possess the power to make "an instinctive just estimate of things as they pass." Most men of the past and the present distinguished for argumentative skill have had this power so to grasp a subject as to see quickly and correctly the issues involved.

The importance of analysis. This analytical power was the chief cause of President Lincoln's early success as a lawyer and his later astonishing ability to understand military situations and what they demanded. Mr. Lincoln's mind, it is said, "ran back behind facts, principles, and all things, to their origin and first cause, — to that point where forces act at once as effect and cause. He would stop in the street and analyze a machine. He would whittle a thing to a point, and then count the numberless inclined planes and their pitch making the point. . . . Clocks, omnibuses, language, paddle-wheels, and idioms never escaped his observation and analysis. Before he could form an idea

of anything, before he would express his opinion on a subject, he must *know its origin and history*[1] in substance and quality, in magnitude and gravity. He must know it inside and outside, upside and downside. . . . He was remorseless in his analysis of facts and principles. When all these exhaustive processes had been gone through with he could form an idea and express it, but no sooner. He had no faith and no respect for 'say so's,' come though they might from tradition or authority. Thus everything had to run through the crucible and be tested by the fires of his analytic mind; and when at last he did speak, his utterances rang out with the clear and keen ring of gold upon the counters of the understanding. He reasoned logically through analogy and comparison. All opponents dreaded his originality of idea, his condensation, definition and force of expression; and woe be to the man who hugged to his bosom a secret error if Lincoln got on the chase of it. . . . Time could hide the error in no nook or corner of space in which he would not detect and expose it."[2]

Of Chief Justice Marshall's mind one writer says: "It is not very richly stored with knowledge, but it is so creative, so well organized by nature, or disciplined by early education and constant habits of systematic thinking, that he embraces every subject with the clearness and facility of one prepared by previous study to comprehend and explain it. So perfect is his analysis that he extracts the whole matter, the kernel of inquiry, unbroken, clean, and entire. In this process, such are the instinctive neatness and precision of his mind that no superfluous thought

[1] Italics not in original.

[2] *Life of Lincoln.* Herndon and Weik. Vol. III, pp. 594, 595.

or even word ever presents itself, and still he says everything that seems appropriate to the subject."[1]

Judge Story says of Marshall: "It was a matter of surprise to see how easily he grasped the leading principles of a case and cleared it of all its accidental incumbrances; how readily he evolved the true points of the controversy, even when it was manifest that he never before had caught a glimpse of the learning upon which it depended. Perhaps no judge ever excelled him in the capacity to hold a legal proposition before the eyes of others in such various forms and colors. It seemed a pleasure to him to cast the darkest shades of objection over it, that he might show how they could be dissipated by a single glance of light. He would, by the most subtle analysis, resolve every argument into its ultimate principles and then, with marvelous facility, apply them to the decision of the case."[2]

But it is not only the lawyer and the statesman whose work demands a mind trained to see all that a question or situation involves. In these days of complicated and highly organized finance, of conflicting responsibilities and powers of city, state, and nation, the business man or the public-minded citizen needs training in this habit of close scrutiny of a situation and careful mastery of its elements. The power to analyze such subjects quickly and correctly can be developed by training and practice in the analysis essential in study of the principles of argumentation.

[1] *Sketches and Essays on Public Characters.* F. W. Gilmer.
[2] *Life and Letters of Joseph Story.* W. W. Story. Vol. II, p. 505.

Section 2 — The First Step in Analysis — Phrasing a Proposition

A proposition necessary in argumentation. For a start in description, narration, or exposition, a term, that is, the name of a thing or quality, is enough,[1] and as we regard it from one point of view or another, we describe, narrate, or expound it; but we cannot, in argumentation, start with a term, — for instance, "the Japanese in Korea." We must first formulate a proposition in regard to the term, — that is, make an assertion about it, as "Japanese control of Korea is desirable."[2] A student who has seen frequent mention in newspapers or periodicals of the Japanese in Korea, reciprocity with Canada, the literary influence of R. L. Stevenson, or the style of Robert Browning, becomes enough interested in one of these topics to wish to know more of it. When, therefore, he is asked to offer a subject for argumentation he at once suggests the topic which has attracted him. But each of the topics mentioned is only a term, not, as is essential in

[1] "A logical term may consist of any number of nouns, substantive or objective, with the articles, prepositions, and conjunctions required to join them together; still it is only one term if it points out, or makes us think of a single object or collection, or class of objects" (*Primer of Logic*, Jevons, p. 15). A horse (the animal), the horse (the genus), the Aleutian Islands, the Senate of the United States, — each of these is a term. "When we join terms together, we make a proposition; when we join propositions together, we make an argument or piece of reasoning" (*Primer of Logic*, Jevons, p. 12).

[2] It is often convenient to take as a heading a question, as, "Will electricity displace the horse as a means of locomotion?" for this permits a writer, if he feels there is prejudice against him or desires an appearance of complete impartiality, to hold back his own conclusion, not committing himself until the audience is quite ready. It must be clear that the writer really treats either "Electricity will displace the horse" or "Electricity will not displace the horse," — an assertion in either case.

argumentation, a proposition. The necessity for a proposition becomes clear if it be remembered that the first end of argumentation is to produce in the mind of another person acceptance of ideas held true by a writer or speaker, for not until the student has formulated some statement in regard to the Japanese in Korea or the style of Robert Browning will it be clear what he wishes his reader to believe. When, indeed, he is asked what he intends to prove true or false in regard to his term, it will probably become clear that as yet he knows too little of his subject to say. In order to argue about one of these terms, then, a student must first examine the content of his own mind. On any subject of the hour a student hardly has a vacant mind; but its content is probably as much prejudice, vague opinion and impression, as clear-cut opinion that rests on evidence of his own mind or senses or of the minds and senses of other people. In clearing his mind for action he should regard as immediately useful only what rests on his own evidence or that of others. Vague opinions and impressions he should reserve for verification in his reading; prejudices, so far as he is conscious of them, he should strive to disregard. This process cuts down decidedly the material from which he will start, but will result in a roughly formulated statement or question in regard to the term. His ideas in regard to this statement or question will later be filled out and verified by wide and critical reading. In the course of this reading the roughly formulated proposition will be molded into its final shape. Without such scrutiny of his own mind and such wide reading a student cannot safely write.[1]

[1] This self-scrutiny before beginning debate is fundamental in most of the Socratic dialogues. See *Euthyphro* and *Gorgias*, Jowett's *Plato*, 3d ed., Vol. II, pp. 84–86, 331–339, 356–366.

Dangers avoided by phrasing a proposition. Care to phrase a proposition before rushing into discussion (1) will avoid writing about a term disconnected statements which can prove nothing; (2) may reveal that the article of an opponent — some self-assured person who is gaining credence from an easy-going public — is but a set of statements about the terms, not at all an argument in regard to a proposition; or (3) may show that two people have got into a controversy without any distinct statement of the question they are debating. In the third case each writer probably has in his own mind a proposition which he wrongly assumes is that which his opponent is considering. The debate will be useless until the two men have stated their proposition and discovered that they do not really disagree or that what they wish to debate is a proposition different from either of those with which they started.

In a recent political campaign prohibition was nominally the subject of the speeches on both sides; but, though the speeches of those contending against it could be reduced to the proposition, "Prohibition does not prohibit," the speeches of those who seemed to wish to support it could be reduced only to this statement: "High license is an immoral method of treating the liquor problem." Of course it was impossible for the arguments of one side to refute those of the other, for there was no common meeting-ground.[1]

[1] Three suggestions as to choice of topics:

(1) A student if allowed to select his topic should choose one which interests him. Otherwise his work is sure to be perfunctory and his attempts at persuasion, because of his want of interest, lacking in sincerity.

(2) A college student should, if possible, find his first topics in courses which he has taken, for the subject-matter will not force him to do so

Section 3 — The Second Step — Defining the Terms

The need of definition. Careless or untrained students, glancing at a proposition or question given them, assume because the terms are not without meaning for them that they can dash into discussion at once. Probably the terms of the question recently much discussed: "Would the route for an interoceanic canal through Nicaragua or the route through Panama be more desirable for the United States?" have some meaning for every intelligent collegian, but it is unsafe for him to assume in consequence that he can begin arguing at once. After he has made sure just what is the content of his own mind on the topic as he understands it, he must by investigation ascertain what meaning or meanings the public in its discussion of the question has put on the terms. Readiness to dash into discussion before the speaker or writer has examined his own mind on the question in hand or has found what has been the meaning given the terms in current discussion is the chief reason why "a vague tendency and a loose approximation to what is right is all we can hope for from miscellaneous public opinion."[1]

Few debated questions have but one possible meaning and that unmistakable. "'Is a constitutional government better for a population than an absolute rule?' What a

much research work as topics entirely fresh to him. As a result he can give nearly all his attention to the preparation of his material.

(3) After a student understands the main principles of analysis, structure, and evidence, he should select some topics which for successful treatment depend, not on wide reading, but on his own experience and thinking.

[1] Bagehot's Works, *The Age of Discussion.*

number of points have to be clearly apprehended before we are in a position to say one word on such a question! What is meant by 'constitution'? by 'constitutional government'? by 'better'? by 'a population'? and by 'absolutism'? The ideas represented by these various words ought, I do not say, to be as perfectly defined and located in the minds of the speakers as objects of sight in a landscape, but to be sufficiently, even though incompletely, apprehended, before they have a right to speak. 'How is it that democracy can admit of slavery, as in ancient Greece?' 'How can Catholicism flourish in a republic?' Now, a person who knows his ignorance will say, 'These questions are beyond me'; and he tries to gain a clear notion and a firm hold of them, and, if he speaks, it is as investigating, not as deciding. On the other hand, let him never have tried to throw things together, or to discriminate between them, or to denote their peculiarities, in that case he has no hesitation in undertaking any subject, and perhaps has most to say upon those questions which are most new to him. This is why so many men are one-sided, narrow-minded, prejudiced, crotchety. This is why able men have to change their minds and their line of action in middle age, and begin life again, because they have followed their party, instead of having secured that faculty of true perception as regards intellectual objects which has accrued to them, without their knowing how, as regards the objects of sight."[1]

For students of the Elizabethan drama the terms in "Can the work of Francis Beaumont be identified?" would probably need no definition, but for a general audience there might be need to explain who Beaumont

[1] *Idea of University.* J. H. Newman. pp. 498-499.

was, the nature of his work, and why discussion in regard to it arises. Moreover, how can we hope clearly to discuss "Is Goethe's Egmont a tragic character?" "Is the Utilitarian theory of morals defensible?" "Could the Swiss referendum be advantageously applied in the United States?" "Should the United States have exclusive jurisdiction over Behring Sea?" unless we first decide what is meant by "tragic character," "Utilitarian theory of morals," "Swiss referendum," "exclusive jurisdiction," "Behring Sea," and determine on what grounds we shall judge "defensible" and "advantageously applied"? Examination of these terms will show that vagueness and the possibility of contradictory interpretation lurk in all these terms, traps for the unwary and the hasty.

The faults of definitions from dictionaries. To find satisfactory definitions is, however, by no means an easy task. They are not, usually, to be found in dictionaries. They should be sought, except in special cases, through investigation of the meanings which have been put upon the terms in the course of previous discussion of the question. The faultiness of dictionary definitions becomes clear if, in treating the topic "Should the United States have exclusive jurisdiction over Behring Sea?" a student looks up "exclusive jurisdiction" in a dictionary and finds "entire, supreme control" as its equivalent, for how much is gained in clearness? What are the limits of "entire control"; by what law, common or international, are they applied? Just how much, too, is meant, geographically, by "Behring Sea"? Does the term in this case cover the straits leading into the waters marked on maps with this name? Here are many questions to be answered only after careful examination of the material on the subject.

This frequent insufficiency of a dictionary definition is of three kinds: too often for what was vague the dictionaries substitute only a generality; at times they define only for the specialist accustomed to use a vocabulary incomprehensible to most readers; and many questions of the day give particular terms special or even momentary meanings which not even the most recent dictionaries could be expected to contain. As an illustration of the first fault take a dictionary definition of "justified" — "defensible, warrantable." Does substituting either synonym in the question, "Are the Irish justified in using illegal measures of resistance to English rule?" make the proposition clearer? A student needs to know on what grounds justifiability, defensibility, warrantableness are to be judged. The following illustrate the second fault, definition for the specialist: *Gubernaculum*, "the posterior trailing flagellum of a biflagellate infusorian"; *Network*, as defined by Samuel Johnson: "anything reticulated or decussated at equal distances with interstices between the intersections." So, too, the difference between the dictionary definition and the momentary or special meaning that attaches to terms is illustrated by such propositions as "Is the *Lehmann stroke* well adapted to the conditions of American rowing?" or "Should American colleges adopt Casper Whitney's proposal to substitute a *more open style of play* for the *present close formation?*" When the first question was brought before the attention of those interested, by Mr. Lehmann's efforts to reform rowing at Harvard, nothing except the most recent handbook could have been expected to give a definition of the "Lehmann stroke." On the second question a writer could expect little assistance from any dictionary in defining

what was meant by a "more open style of play" or by the "present close formation." For those terms he had to go to the *Outing* for 1903 and the other periodicals in which Mr. Whitney, Mr. Camp, and others discussed the football of that time.

The following instance of a student's careful effort to find with the aid of a dictionary the meaning of a proposition shows how vague and futile such defining is likely to be.

Was Webster's Attitude on the Slavery Question, in the Seventh of March Speech, Statesmanlike?

In the beginning it is obviously necessary to arrive at some good definition of the word "statesmanlike." In defining it, the dictionary tells us that "to be well versed in the arts of government" is statesmanlike. This definition does not by any means satisfy us. We need a fuller one. The conclusion that we reach is that "statesmanlike" means the man who legislates to the best of his ability for the interest of his country, in a true and consistent manner. That Webster, in his seventh of March speech, does not come within this definition we shall endeavor to prove.

As the student says, when we substitute for "statesmanlike" "to be well versed in the arts of government," we are unsatisfied; not, however, because the definition is not full enough but because it is not clear. We wish to know just what the "arts of government" are, and what is meant by "well versed" in them. The student's next step has several faults. He gives us a longer definition, but will it be easy to determine what is the best of any man's ability or the interest of a country in a time of conflicting interpretations of that interest? Does not the rather vague

word "true" confuse us? Moreover, how the student reaches "the conclusion" that "statesmanlike" means his last definition is not apparent, and we wish to know more about the links of thought which in the student's mind connect the term and the definition.

If we try to better this definition of "statesmanlike," as long as we keep to books not bearing directly on the question in hand we shall not find our task successful. If we look in the Century Dictionary, we find "statesmanlike" means "having the manner or the wisdom of or befitting a statesman," but "statesman" is no clearer than "statesmanlike." A statesman, according to the same dictionary, is a "man who is versed in the art of government" — the student's vague definition — "and exhibits conspicuous ability and sagacity in the direction and management of public affairs." At first sight that last clause seems helpful, for it appears possible to debate "Did Daniel Webster show conspicuous ability and sagacity in the way in which he directed public affairs in his Seventh of March speech?"

Instantly, however, we face this question, What are to be the tests of ability and sagacity in the management of public affairs, what are the tests in this case? If, continuing our search, we come upon this definition by James Russell Lowell, we may feel that we see our way more clearly: "Undoubtedly the highest function of statesmanship is to accommodate by degrees the conduct of communities to ethical laws, and to subordinate the conflicting self-interests of the day to higher and more permanent concerns."[1] The question becomes then: "Did Daniel Webster in his Seventh of March speech do anything to accommodate the conduct of the community to ethical

[1] *Political Essays*, J. R. Lowell. p. 195. Houghton, Mifflin & Co. 1890.

laws, and to subordinate the conflicting self-interests of the day to higher and more permanent concerns?" But what "ethical laws" are we to consider? What is meant here by "the conduct of the community"? What were "the conflicting self-interests of the day"? What are we to take as "more permanent concerns"? We can ascertain only in one way, by studying the history of the question: first, what is the immediate cause for discussion; second, how did the question ever come to be discussed, — that is, the origin of the question; and third, how has the discussion developed, — that is, what has been said pro and con, the clash in opinion.

The safer method; definition from the history of the question. Investigation of these matters in regard to any question in debate will produce, rather than the futile method just illustrated, the desired definition of terms. Discussion of anything except the meaning of a term or terms is possible only when the opponents start in agreement as to what the terms of the proposition mean. We must, for instance, agree on the meaning geographically of the Nicaragua and Panama routes if we are to compare them. Otherwise we must first discuss just what each route does mean, and after two preliminary discussions reach the topic, "Which route is more desirable for the United States?" Even then we cannot discuss the question phrased unless we can agree as to the tests for "desirable."

The immediate cause for discussion; its importance. The conditions, if any, which give a proposition special interest at a given time must always be carefully considered, for in this immediate cause for discussion new or unusual meanings may be placed on one or more of the terms, and

consequently the proposition originally formulated will be seen to phrase only a broad question which has had interest, but not that phase of it which is of immediate interest.[1] Some college students were once eager to write on this topic: "Should there be strict quarantine regulations in New York harbor?" When asked what they meant by "strict quarantine regulations," it appeared that a transatlantic steamship, the *Normannia*, had come into port with some cases of cholera in the steerage and, to the great distress of the cabin passengers, had been detained in quarantine for several days. The students wished to discuss the necessity for the action of the quarantine officials. Clearly, then, the immediate cause for discussion showed at once that what these students wished to discuss was not "Should there be strict quarantine regulations in New York harbor?" but "Was the treatment of the passengers on the steamship *Normannia* unnecessarily severe?"

The origin of the question and the clash in opinion. The students in discussing this latter question must at once ascertain just what was done to the passengers and why. Evidently the immediate cause for discussion will give information on both matters, and show as well that the objectionable measures were taken by quarantine officers carrying out certain health regulations because of the cholera aboard. But just what the quarantine regulations in New York harbor were, and what powers in enforcing them the officers had, must be sought back of the immediate cause for discussion — the incident of the *Normannia* — in the origin of the question, that is the conditions which made possible any question on the enforcement

[1] For the importance in presentation of an exact knowledge of the immediate cause for discussion see pp. 308–312.

of quarantine regulations. While the students learn just what the regulations and the powers of the officers are, they will discover that a clash in opinion arose as to whether the officers in carrying out admitted regulations, within admitted powers, were more severe than the conditions aboard demanded. That is, they will find in these clashing statements a definition of "unnecessarily severe." Four matters, then, the students must understand before they can properly discuss their question: (1) To what extent the passengers had been exposed to cholera; (2) What was done to them; (3) What powers the officers had who detained the ship in quarantine;[1] (4) By what tests the students may decide whether the measures of detention were unnecessarily severe. As has been seen, they may find information as to the first two in the immediate cause for discussion; as to (3) in the origin of the question; and as to (4) in the clash in opinion.[2] By this method of investigation the students have fully defined "treatment of passengers" and "unnecessarily severe."[3]

[1] Sometimes the immediate cause for discussion and the origin of the question are indistinguishable, for only personal interest of a speaker in a time-honored subject, or eagerness in the public to hear what a man of note has to say on the subject, is the immediate cause for discussion. For an illustration of this see note on Professor Huxley's *First Lecture on Evolution*, Appendix.

[2] For a clash in opinion see Huxley's statement of the three hypotheses of creation in his *First Lecture on Evolution* in *Specimens of Argumentation*, pp. 60–85. For a more elaborate specimen see the forensic on "The Elective System in Public High Schools," Appendix. The importance of the clash in opinion is discussed on pp. 58–59 of this book.

[3] See Burke's definition of "party" and the way he arrives at it, in his defense of party in *Thoughts on the Cause of the Present Discontents*, Appendix. For other illustrations see *The Lattimer Case*, and the introduction to Professor Huxley's *First Lecture on Evolution*, Appendix.

"Statesmanlike" and the immediate cause for discussion. If this process is followed in defining the terms of "Was Daniel Webster in his Seventh of March Speech statesmanlike?" the result will be much more satisfactory than in the efforts on pp. 24–26. If it be supposed that Professor McMaster's *Daniel Webster* has just been published, dissent in a review of the book from the opinion in the following paragraph may be taken as the immediate cause for discussion: —

> The purpose of Webster was not to put slavery in nor shut it out of the new Territories, nor make every man in the North a slave-catcher, nor bid for Southern support in the coming election. He sought a final and lasting settlement of a question which threatened the permanence of the Union and the Constitution, and Clay's "comprehensive scheme of adjustment" he believed would effect this settlement. The abolition, the anti-slavery, the Free-soil parties were to him but "Northern movements that would come to nothing." The great debate of 1850 he regarded as idle talk that interrupted consideration of the tariff. Never, in his opinion, had history made record of a case of such mischief arising from angry debates and disputes, both in the government and the country, on questions of so very little real importance. Therein lay his fatal mistake. The great statesman had fallen behind the times.[1]

That is, Professor McMaster does not believe Webster was arguing in favor of slavery *per se*, nor bidding for the presidency, but implies that he failed himself to grasp the real economic and social significance of the problem before him. This the critic sweepingly denies, declaring that

[1] *Daniel Webster.* J. B. McMaster. pp. 323-324. The Century Company. 1902.

history has shown that Webster's course was thoroughly "unstatesmanlike."

"Statesmanlike" and the origin of question. As an implication is hardly a satisfactory definition, it will be well to examine the origin of the question and the clash in opinion in "Was the Seventh of March Speech statesmanlike?"

The South and the North were in bitter strife over the territory wrung from Mexico — the one to open it to slavery, the other to keep it, as Mexico had made it four-and-twenty years before, free. . . . Could the Constitution be spread over the Territories? [Under it slaves were property and once in the Territories must be protected.] Calhoun declared it could be so extended; Webster maintained that it could not. . . . The attempt to extend the Constitution failed; no government was provided for California or New Mexico, and the question went over to the next Congress. At this the South, firmly united on the question of slavery in the new Territories, grew alarmed and angry. The old spirit of disunion again arose. . . . The failure duly to execute the fugitive-slave law, the "underground railroad," the activity of the demand for the abolition of slavery and the slave-trade in the District of Columbia, were now declared unendurable. To make matters worse, a quarrel broke out between Texas and the federal government over the boundary of New Mexico, and the people of California, taking matters into their own hands, made a free-State constitution, established a State government, and asked admission into the Union as a free State. . . . By [Congress it] was to be decided whether the house divided against itself should stand or fall; whether there should be within the limits of what was then the United States one people, one government, one flag, or two republics — one of States where black men were slaves, the other of States where the negro was free. . . . By the middle of January, 1850, [Clay's compromise] was ready, and one cold evening he called on Webster, and went over the

scheme, and asked for aid. This was conditionally promised, and a week later Clay unfolded his plan in a set of resolutions, and at the end of another week explained his purpose in a great speech delivered before a deeply interested audience. . . . Clay having spoken, it was certain that Calhoun would follow, and letter after letter now came to Webster imploring him to raise his voice for the preservation of the Union, and speak as he had never done before. . . . On the 4th of March, while Webster was still at work on his speech, Calhoun, then fast sinking into his grave, attended the Senate. He was far too feeble to bear the fatigue of speaking, so his argument was read, in the midst of profound silence, by Senator Mason of Virginia. The second of the great triumvirate having now been heard, it soon became noised abroad that Webster would reply on March 7; and on that day, accordingly, the floors, galleries, and antechambers of the Senate were so densely packed that it was with difficulty that the members reached their seats.[1]

He dwelt upon the constitutional rights, which, everybody knew, opposed the Wilmot Proviso on the plea that, as slave labor would not pay in the North-West, he would not "irritate" the South or "heedlessly take pains to reaffirm an ordinance of nature, nor to re-enact the will of God." He brought all of his logical acumen to a legal defense of the Fugitive Slave Law.[2]

"Statesmanlike" and the clash in opinion. Evidently the origin of the question provides no definition, but it will be seen that the clash in opinion does.[3]

[1] *Daniel Webster.* J. B. McMaster. pp. 304–314. The Century Co.

[2] *Daniel Webster.* N. Hapgood. pp. 105–106. Small, Maynard & Co.

[3] This clash in opinion is intended rather to represent conflicting statements just as they might come in the way of a student than the result of careful sifting and ordering of the opposing ideas. The class, guided by the instructor, should analyze each quotation to see how many of the issues it supports, and whether directly or indirectly.

The speech did make a great sensation, and for a while every mail brought bundles of letters of praise and requests for copies of it. Said one: "I was highly gratified in reading your admirable patriotic and powerful speech in relation to the new Territories. It was a bold, independent, and dignified discharge of the high duties devolved upon you. The *crisis* required that the ablest men should come forth, in the majesty of their strength, and rebuke the fanatics and demagogues throughout the land who, by their mad and treasonable efforts, have basely attempted to shatter the massive pillars of the Union. . . . A fearless and noble illustration of devotion to the stability, prosperity, and glory of the Republic." Said another: "It bears throughout the impress of one lifted up above the mists of passion, prejudice, and faction, surveying with a clear vision all that is passing below, and truthfully stating it. Divested of sectional feeling, forgetful of the character of a special representative, the words of truth and solemnness fell from the lips of one impelled by a sense of the general good." Addresses of approbation came to Webster from all sides. "The clamor for speeches South and West is incredible," he wrote his son. "Two hundred thousand will not supply the demand." . . . Compromisers, conservative men, business men with Southern connections, those willing to see the Union saved by any means, rallied to his support, and loaded him with unstinted praise. But the anti-slavery men, the abolitionists, the Free-soilers, and many Northern Whigs attacked him bitterly. . . . "By this speech," said Giddings, "a blow was struck at freedom and the constitutional rights of the free States which no Southern arm could have given." . . . In the opinion of hosts of his fellow-countrymen, he was indeed an apostate. He had changed his creed; he had broken from his past; he had deserted the cause of human liberty; he had fallen from grace. . . . When news of the speech reached Boston, the House of Representatives were debating resolutions declaring that Massachusetts could accept no compromise which called on her to abandon principles she had so firmly

held and so often repeated, and here too Webster was condemned in vigorous language. . . . At a great meeting held in Faneuil Hall to condemn the conduct of Webster, the Seventh of March speech was described as "alike unworthy of a wise statesman and a good man." [1]

Emerson said of it: "Nobody doubts that there were good and plausible things to be said on the part of the South. But this is not a question of ingenuity, not a question of syllogisms, but of sides. How came he there? . . . But the question which history will ask is broader. In the final hour, when he was forced by the peremptory necessity of the closing armies to take a side, did he take the part of great principles, the side of humanity and justice, or the side of abuse and oppression and chaos?" [2]

The very attitude taken was that of a statesman who deems it his duty to stand between two highly excited sections of a great and free country, whose institutions are purely popular, and to speak in terms which might disappoint the expectations of his own particular region. There has been no similar example of moral independence exhibited by any other statesman in our annals, under circumstances at all resembling those in which Mr. Webster at this time stood. . . . Mr. Webster was accused of having sacrificed an important principle with which his own fame was identified, because he refused to apply to the new Territories a congressional prohibition of slavery, although he demonstrated that it was totally unnecessary, and because he declared that he would observe the compact that had been made when Texas was annexed to the Union. . . . To impair the influence of Mr. Webster's great speech, by representing him as guilty of extraordinary inconsistencies for the sake of reaching the presidency through the favor of the

[1] *Daniel Webster.* J. B. McMaster. pp. 315–321.

[2] Quoted in *Daniel Webster.* N. Hapgood. p. 107. Small, Maynard & Co. 1899.

South, became one of the ordinary tactics of a new party. . . . The people . . . should calmly weigh the moral probabilities that ought justly to determine the question, whether the present and future welfare, or his own political aggrandizement, was the motive that animated the course of this great man from the 7th of March, 1850, to the close of his life.[1]

A dispassionate examination of Mr. Webster's previous course on slavery, and a careful comparison of it with the ground taken in the 7th of March speech, shows that he softened his utterances in regard to slavery as a system, and that he changed radically on the policy of compromise and on the question of extending the area of slavery. [Mr. Webster] must be judged according to the circumstances of 1850. . . . The crisis was grave and serious in the extreme, but neither war nor secession was imminent or immediate, nor did Mr. Webster ever assert that they were. He thought war and secession might come, and it was against this possibility and probability that he sought to provide. He wished to solve the great problem, to remove the source of danger, to set the menacing agitation at rest. He aimed at an enduring and definite settlement, and that was the purpose of the 7th of March speech. His reasons — and of course they were clear and weighty in his own mind — proceeded from the belief that this wretched compromise measure offered a wise, judicious, and permanent settlement of questions which in their constant recurrence threatened more and more the stability of the Union. History has shown how woefully mistaken was this opinion.[2]

Mr. Webster in a speech at Buffalo, May 22, 1857, said: "I felt I had a duty to perform to my country, to my own reputation; for I flattered myself that a service of forty years had

[1] *Life of Daniel Webster.* G. T. Curtis. Vol. I. pp. 410, 413, 414. D. Appleton & Co. 1870.

[2] *Daniel Webster.* H. C. Lodge. pp. 321-322, 317. Houghton, Mifflin & Co.

given me some character, on which I had a right to repose for my justification in the performance of a duty attended with some degree of local unpopularity. I thought it was my duty to pursue this course, and I did not care what was to be the consequence." Rufus Choate said: "Until the accuser who charges Daniel Webster with having 'sinned against his conscience' will assert that the conscience of a public man may not, must not, be instructed by profound knowledge of the vast subject-matter with which public life is conversant, and will assert that he is certain that the consummate science of our great statesman was *felt by himself to prescribe to his morality* another conduct than that which he adopted, and that he thus consciously outraged that 'sense of duty which pursues us ever' — is he inexcusable, whoever he is, that so judges another?"[1]

"Unstatesmanlike" as defined by this method. Examinations of all these charges and counter-charges in the clash in opinion will show that they may be reduced to this: Webster was unstatesmanlike in the 7th of March speech because (1) inconsistent; (2) not honest, in that he favored the plan only as a bid for Southern support for the presidency; (3) he entirely misjudged the economic and social significance of the great problem before him. Certainly that is a much clearer definition than dictionaries and books of reference gave for "statesmanlike"; it arises from the discussion itself, and consequently does not require adapting to the question to be judged.

The advantage of definition through the history of the question. Dictionary definitions are, then, to be avoided, and definitions may best be reached by this investigation of the history of the question through immediate

[1] Quoted in *Webster's Select Speeches.* A. J. George. p. ix. D. C. Heath & Co. 1893.

cause for discussion, origin of the question, and clash in opinion. The advantage of this method is twofold: the definitions usually arise from the question and need not be fitted to it; and a student can tell quickly whether inability to agree with his opponent on the meaning of a term or terms makes discussion impossible unless he first establish the soundness of the meaning he wishes to give one or more terms as compared with the meaning put upon them by his opponent. It is, for instance, quite conceivable that passengers on the *Normannia* might differ as to what was objectionable in their treatment or as to the extent of the illness aboard. If there was a clash in opinion in either case, before discussion the students must settle just what the treatment was which is to be judged as necessarily or unnecessarily severe, or just what conditions of illness were held by the officers to justify their conduct.

A second class of topics. It may be objected that this process of definition is possible only for topics on which there is much printed matter, and that many topics, though much discussed, do not get into print, or are so new that there has been practically no discussion of them. Really the second group, illustrated by such topics of college life as "Should scholarships be awarded on a basis of academic standing irrespective of need?" "Should daily work in the gymnasium be prescribed for Freshmen?" are not materially different from the first class mentioned. Though little has been printed about them, members of college faculties have often discussed them, and the persons known to be interested in such subjects should be treated as books and publications are for the first class of subjects. Indeed any student of argumentation must early learn that not books only but men and books are equally to be his

sources of information. If, then, he interrogate men known to hold opposing views on the question, more than one on a side, immediate cause, origin, and clash will promptly develop, and, as a consequence, the needed definition.

A third class of topics. Even in the third class — questions not before discussed — definitions may best be reached apart from dictionaries. Suppose that a recent biographer of Chatterton raises for the first time the question whether Chatterton's literary forgeries were not the result of madness. In such a case the immediate cause for discussion and the origin of the question are one. The new book will, however, give the origin of the question in some account of the forgeries which produce discussion, and will state or imply a definition of madness. A reader may feel that the facts do not completely accord with madness as defined, but in that case he has accepted definitions of madness and of Chatterton's conduct given by the biographer. He may feel that the conduct in question is not properly reported, — i.e. defined, — in which case he will go to other accounts of Chatterton's life at the period in question. He may accept the statement of conduct but question the definition of madness. In that case he will consult articles or individuals who have defined madness, not in relation to this case, but in general or in regard to similar cases. In any event he will consult not the dictionaries but specialists. The chief difference between this kind of question and the other two classes is that in it the definitions used may not arise from the question itself.

How much preliminary definition is necessary.[1] In determining how much definition is necessary in any given case it is advisable to remember the essentials of any good

[1] For the need of definition in the Argument Proper see pp. 137–141.

definition: clearness, convincingness, and as much brevity as the other two qualities permit. The definition must be clear and convincing, not merely to the writer but to his audience; for the aim in any discussion is, of course, to make the interpretation of the question by opponent or audience coincide with that of the writer. If at the start this coincidence of interpretation does not exist, it will not be difficult to find the particular term or terms which are interpreted differently, and these are all that must be defined satisfactorily before the argument itself can begin. Even if the controversy is carried on by letter or through the press, one person aroused the other by something he said or wrote. This may readily be reduced to a proposition and the meaning given its terms in the argument ascertained. If the second person differs as to the meaning of a term or terms, he should clearly show why before he begins to argue in reply. If possible, never discuss a topic till you are sure that you and your opponent, or your audience, agree as to the meaning of the terms of the proposition. Common sense and practice are the best guides in determining the amount of defining needed, for evidently clearness, convincingness, and brevity in a definition will vary according to the audience addressed.

The position of the man who launches an article or a speech into the world with no special opponent in mind is that of the man who writes for or addresses a very large audience. His work in determining to what extent he shall define his terms is much more difficult than that of the man writing for or speaking to one other person. Often, as in the case of a magazine article, he writes for an audience of indeterminate size, of many and widely differing points of view, some of which he can hardly foresee. Even if his work be addressed

ıly to an audience of a hundred in some hall, there will ɔ, probably, several grades of intellect in it and various ɔgrees of knowledge of his subject. How is he in either : these cases to determine what terms will need explana-on, what is liable in the proposition to be misinterpreted? utting aside for a moment, as far as he can, the special nowledge of his subject that makes even difficult matters ɔem to him rudimentary and self-evident, he must, for an ıdience of magazine readers, explain those terms which ɔ thinks will be vague to a person of intelligence and lucation who has no special knowledge of the subject but willing to learn. A writer may, of course, range from ı article for children on his specialty in the *Youth's Com-ınion* or *St. Nicholas*, through an essay on it, still simple ıt by no means clear to children, in the *Harper*, the *cribner*, the *Century*, to a discussion in regard to it for is fellow-workers, by no means clear not merely for chil-ren but even for the average reader, in the *Historical 'eview*, the *Psychological Review*, or *Anglia*. Evidently ıe preliminary definition required in treating the same ıbject for these three different audiences will vary ɔcidedly. The third set of readers will need definition ıly of those terms to which the writer gives an unusual ıeaning. The second audience will need more definition, ıe first most of all. Similarly a speaker who addresses ı audience at some charity organization in the slums of city, a large gathering of people in a popular lecture ɔurse, or a meeting of some historical or scientific associa-on, will vary his amount of preliminary definition. As he ıters the hall, or rapidly, as he looks over his audience, ɔ must judge its probable intellectual status, so that when ɔ speaks he may increase or diminish his defining as the

conditions in the audience seem to warrant. Practice in such work will soon give accuracy of judgment as to the amount of definition needed in popularizing his subject.

Advantages of preliminary definition of terms. The advantages of this preliminary examination of the terms of the proposition to be debated are of several kinds. First, it goes a long way to rid the entire discussion of vagueness. Indeed, if a writer can get his readers to accept his preliminary definitions, he is well on the road to convincing them of the truth of his main thesis. All the introductory portion of Professor Huxley's *First Lecture on Evolution* illustrates this. He so states the problem of the creation of the world that every fair-minded man must admit it has at some time thus presented itself to him. Professor Huxley then explains the three possible hypotheses so simply and so judicially that their clearness and his fairness must be granted. Then, because nearly all the proof to be used to refute the old hypotheses and to support the new one will be circumstantial evidence, Professor Huxley carefully explains the difference between it and testimonial evidence and why the popular distrust of circumstantial evidence is unjustified. Consequently, when he begins to argue, every reader must understand just what the question means and will be ready to admit all that he has said thus far. Yet, if these definitions and distinctions be granted, especially the value put upon circumstantial evidence, the reader will find that Professor Huxley's conclusions are well-nigh irresistible.[1]

Secondly, this preliminary examination will also rid the proposition of technical terms. By it topics, both scientific

[1] See Appendix. For the whole lecture see pp. 60–85, *Specimens of Argumentation.*

and literary, which are vague only because technical are cleared by the substitution of terms longer, perhaps, but more generally understood. This literary topic, "Is transverse alliteration in parisonic antithetical or parallel clauses the indispensable criterion of the presence of Euphuism?" —a question based on an affirmation of Dr. Friedrich Landmann, a student of the subject — needs, as a critic has said, "a commentary to make it intelligible." When it is expanded by aid of the origin of the question as given by Dr. Landmann, it becomes clearer. Euphuism is the name given to the style of John Lyly from his novel, *Euphues, His Anatomie of Wit.* The following is an instance of transverse alliteration: "Although hitherto, Euphues, I have *sh*rined thee in my *h*eart for a *tr*ustie *fr*iende, I will *sh*unne thee *h*ereafter as a *tr*othless *f*oe." Are, then, this transverse alliteration and an antithesis not only of well-balanced sentences but also of words, even of syllables, which, when we have a principal and a subordinate clause, balances two, three, or all of the words of the former against an equal number of the latter, indispensable criteria of the presence of Euphuism?

Nor will the objection that, since we must explain these technical terms, it would be better to give the topic originally in the phrasing that we reach when we examine it, usually hold good. These technical terms, as the last illustration shows, often phrase what can be expressed otherwise only by circumlocution both awkward and too cumbersome for a heading. Moreover, it is important the reader should realize that what he understands clearly enough when stated at length is only what the scientist or specialist denotes by a single word or term. That is his first step into his new knowledge. Unless, therefore, the technical

phrasing of the topic is likely to repel a possible reader or hearer because it conveys no meaning to his mind and does not pique his curiosity, it may well be retained, but should be at once, in the introductory work, cleared of all vagueness.

Thirdly, this process avoids any confusion liable to arise from ambiguous terms. When the subject, "Was the treatment of the American Loyalists by the Whigs justifiable?" appeared recently in a list of forensic topics, briefs from two very different points of view were drawn on it. Some students took "Whigs" to mean the Whig party in the Colonies, that is, those who were in armed resistance to Great Britain, while others interpreted "Whigs" to mean the Whig ministry of Lord Shelburne. As far as the mere wording of the question is concerned, each interpretation is justifiable. The trouble lies, of course, in the ambiguousness of "Whig." If we rephrase the question thus, "Was the treatment of the American Loyalists by the English Whigs justifiable?" the danger disappears.

Fourthly, the process prevents use of a question-begging term, as in "Is John Lyly's fulsome flattery of Queen Elizabeth, in his *Euphues and his England*, commendable?" This question evidently takes for granted that the flattery of Elizabeth was "fulsome," and therefore it is important to understand just what "fulsome flattery" means. "Fulsome" is "something offensive from excess, gross, nauseous, disgusting." But anything that deserves these adjectives can hardly be commendable, and therefore the term "fulsome" begs the question.

Section 4 — The Third Step — Finding The Special Issues

The clash in opinion provides the special issues. When an investigator has learned from the immediate cause for discussion that his proposition really phrases the subject of interest at the moment, and from the origin of the question and the clash in opinion has found what its terms mean, he is ready for the two final steps in analysis, finding the special issues, that is, the points upon which settlement of the case depends, and constructing his case by briefing the ideas essential in the discussion but subsidiary to those special issues. These steps he will make by an analytical process of exclusion, within the clash in opinion, for a central idea or group of ideas.

Excluding extraneous ideas. When he examines the statements pro and con which constitute the clash in opinion he will often see that some of them are really extraneous to the question as phrased. For instance, Lord Erskine in his defense of Lord George Gordon against the charge of high treason[1] carefully excluded at the start some

[1] Lord George Gordon, a young Scottish nobleman and a member of the House of Commons, had been chosen president of the Protestant Association, whose object was to procure the repeal of Sir George Saville's bill in favor of the Catholics. He directed the association to meet him in St. George's Fields, and proceed thence to the Parliament House with a petition for the repeal of the bill. Accordingly, about forty thousand persons of the middling classes assembled on Friday, the 2d of June, 1780, and after forming a procession, moved forward till they blocked up all the avenues to the House of Commons. They had no arms of any kind, and were most of them orderly in their conduct.

Lord George presented the petition, but the House refused to consider it at that time. The multitude now became disorderly, and after the House adjourned, bodies of men proceeded to demolish the Catholic chapels at the residences of the foreign ministers. From this moment

matters which, though confused in the public mind with the real issues of the case, were really extraneous.

I trust I need not remind you [the jury] that the purposes of that multitude, as *originally* assembled on that day, and the purposes and acts of him who assembled them, are the sole object of investigation. All the dismal consequences which followed, and which naturally link themselves with this subject in the firmest minds, must be altogether cut off and abstracted from your attention further than the evidence warrants their admission. If the evidence had been *coextensive* with these consequences; if it had been proved that the same multitude, under the direction of Lord George Gordon, had afterward attacked the bank, broke open the prisons, and set London in a conflagration, I should not now be addressing you. . . . But when it has appeared, not only by the evidence in the cause, but by the evidence of the thing itself — by the issues of life, which may be called the evidence of Heaven — that these dreadful events were either entirely unconnected with the assembling of that multitude to attend the petition of the Protestants, or, at the very worst, the unforeseen, undesigned, unabetted, and deeply regretted consequences of it, I confess the seriousness and solemnity of this trial sink and dwindle

the whole affair changed its character. Desperate men, many of them thieves and robbers, took the lead. Not only were Catholic chapels set on fire, but the London prisons were broken open and destroyed; thirty-six fires were blazing at one time during the night. The town was for some days completely in the power of the multitude. The military were at last called in from the country, and, after a severe conflict, the mob was put down.

When order was restored, the magistrates arraigned Lord George Gordon on the grounds that (1) In assembling the multitude around the two Houses of Parliament, he was guilty of high treason, if he did so with a view to overawe and intimidate the Legislature, and enforce his purposes by numbers and violence (a doctrine fully confirmed by the court); and (2) That the overt acts proved might be fairly *construed* into such a design, and were the only evidence by which a traitorous intention, in such a case, could be shown.

away. Only abstract from your minds all that misfortune, accident, and the wickedness of others have brought upon the scene, and the cause requires no advocate. When I say that it requires no advocate, I mean that it requires no argument to screen it from the guilt of *treason*. For though I am perfectly convinced of the purity of my noble friend's intentions, yet I am not bound to defend his prudence, nor to set it up as a pattern for imitation: since you are not trying him for imprudence, for indiscreet zeal, or for want of foresight and precaution, but for a deliberate and malicious predetermination to overpower the laws and government of his country by hostile, rebellious force.[1]

Excluding admitted matter. Usually, too, the clash in opinion contains statements which an investigator may admit and yet maintain the affirmative or negative of the main proposition. For instance, in a discussion on "Should the Canteen be restored in U. S. Army Posts?" one side urged restoring the Canteen because it would better the health of the soldiers since (1) they will drink; (2) they now drink in undesirable places outside the posts; (3) this means debauchery and consequent disease; and (4) under the old conditions both debauchery and disease were less. Their opponents wisely admitted the truth of (1), (2), and (3), maintaining only that the health of the soldiers would not be improved by a return to the old system because there is less drinking and debauchery now than formerly, and consequently their health is better. Daniel Webster in his argument on *The Bank of the United States against William D. Primrose* made effective use of admitted matter.

The Bank of the United States is a corporation created by a law of the State of Pennsylvania. By that act the bank,

[1] *Specimens of Argumentation.* pp. 98, 99.

among other functions, possesses that of dealing in bills of exchange. In the month of January, 1837, having funds in Mobile, this bank, through the instrumentality of its agent, Mr. Poe, purchased a bill of exchange to remit to New York. This bill, drawn at Mobile upon New York, and indorsed by William D. Primrose, the defendant in this case, not having been paid either at New York or by the drawer, the Bank of the United States instituted this suit in the Circuit Court of Alabama, to recover the money due on the bill. In the court below, it was decided that the contract by Poe in behalf of the bank was void, on two grounds: First, because it was a contract made by the Bank of the United States, in the State of Alabama; whereas a bank incorporated by the State of Pennsylvania can do no act out of the limits of Pennsylvania. Secondly, because Alabama has a bank of her own which is owned by the State herself, which is authorized to buy and sell exchange, and from the profits of which she derives her revenue; and the purchase of bills of exchange being a banking operation, the purchase of such bills by others, at least by any corporation, although there is no express law forbidding it, is against the policy of the State of Alabama, as it may be inferred from the provisions of the constitution of that State, and the law made in conformity thereto.

It is admitted that the parties are rightfully in court. It is admitted, also, that the defendant is a citizen of Alabama, and that all the citizens who compose the corporation of the Bank of the United States are citizens of the State of Pennsylvania, or of some other State than Alabama. The question is, Can they, as a corporation, do any act within the State of Alabama? In other words, is there any thing in the constitution or laws of the State of Alabama which prohibits, or rightfully can prohibit, citizens of other States, or corporations created by other States, from buying and selling bills of exchange in the State of Alabama?

In his argument yesterday for the defendant, my learned friend asked certain questions which I propose to answer.

Can this bank, said he, transfer itself into the State of Alabama? Certainly not. Can it establish a branch in the State of Alabama, there to perform the same duties, and transact the same business, in all respects, as in the State of Pennsylvania? Certainly not. Can it exercise in the State of Alabama *any* of its corporate functions? Certainly it can. For my learned friend admits its right to sue in that State, which is a right that it possesses solely by the authority of the Pennsylvania law by which the bank is incorporated.

We thus clear the case of some difficulty by arriving at this point, the admission on both sides that there are certain powers which the bank can exercise within the State of Alabama, and certain others which it cannot exercise.

The question is, then, whether the bank can exercise, within the State of Alabama, this very power of buying a bill of exchange.

Our proposition is, that she can buy a bill of exchange within the State of Alabama; because there are no corporate functions necessary to the act of buying a bill of exchange; because buying and selling exchange is a thing open to all the world, in Alabama as well as everywhere else; because, although the power to buy and sell bills of exchange be conferred on this bank by its charter, and it could not buy or sell a bill of exchange without that provision in its charter, yet this power was conferred upon it, as were other powers conferred by its charter, to place the bank upon the same footing as an individual; to give it, not a monopoly, not an exclusive privilege, in this respect, but simply the same power which the members of the corporation, as individuals, have an unquestionable right to exercise.[1]

Excluding waived and granted matter. Moreover, an investigator may notice in the clash in opinion additional ideas which, for the simplification of the discussion, may

[1] *The Writings and Speeches of Daniel Webster.* Vol. XI, pp. 107–109.

be set aside. In the first place, he may note statements the truth of which for the discussion in question he is willing to grant, or discussion of which he will waive by agreement with his opponent. It must be clear that waiving discussion of a point by agreement puts it wholly out of the discussion, making it for the question in hand extraneous; but that a point granted true by one side may be used by the other in its proof because for this special discussion it has become admitted matter. In many recent college discussions of the question, "Should the United States own and control a canal across the Isthmus of Panama?" both sides agreed to waive discussion of the relative merits of the Panama and the Nicaragua route. Evidently, under this agreement, material on this subject became extraneous. Carl Schurz, in his speech *On the Democratic War Policy*, justifying the use of negroes for military purposes, provides an interesting illustration of granted matter. His treatment of it shows that he knows his opponents will try to use it as admitted matter from which to construct an effective attack on his case.

Your leaders tell you that negro slaves are property just in the same measure and manner as horses and cattle and provisions are property. Granted for argument's sake. As our armies penetrated into the enemy's country, a large quantity of that negro property fell into their hands. What were we to do with the captured negroes? Send them back to their masters? or keep them, feed them, clothe them for the purpose of returning them at some future time? We captured also cavalry horses and beeves. Who would have thought of sending them back to their owners, or of feeding and grooming them without using them? The captured cattle property was butchered and distributed in the shape of rations; upon the captured horse property we mount our cavalrymen;

why, then, in the name of common-sense, should we not put the captured negro property to such use as it was capable of? Do you see how absurd it would be to object to this? And, mark you well, Democrats, this property theory is yours, and I have abstained from discussing the matter from the standpoint of my own principles.[1]

Special issues. By this exclusion from the clash in opinion, of all extraneous, admitted, waived, and granted matter, the investigator reaches a set of statements all of which directly or indirectly are essential to the discussion of the question. Even a cursory examination of these will show that a few are of prime importance and the rest subsidiary. These ideas of prime importance are the Special Issues[2] in the case, that is they involve the points upon which settlement of the case depends. The remaining material will fall under these issues, appearing either as subsidiary heads or, in the argument proper, as evidential support of them.[3]

The formal process of analyzing a proposition for the special issues is well shown in the forensic on "Should the Elective System be applied to High Schools?" printed in the Appendix. Of course, just as we have seen that the immediate cause for discussion and the origin of the question may often be one and the same, so, too, the clash in opinion may be on one or two points only and

[1] *American Orations.* Edited by Alexander Johnston. Vol. III, pp. 199–200.

[2] Students must not confuse this use of these words with *issues* as used in political campaigns, — choices between two planks in party platforms, for instance between free trade and protection.

[3] For illustrations see Webster's partitioning of the main issue, p. 47, paragraph 4, the forensic as to the Elective System, the clash of opinion on professional coaching, and the model briefs printed in the Appendix.

unclouded by all or any of the four classes of matter which should be excluded,— extraneous, admitted, waived, and granted matter. A good specimen of a clear introduction to a question much beclouded by misinformation and misinterpretation is Mr. Sidney Lee's opening of his pamphlet on *The Alleged Vandalism at Stratford-on-Avon.* It shows that the immediate cause for discussion and the origin of the question if skillfully stated may do much to rid a discussion of confusion. In it no exclusion is necessary except of some extraneous matter in regard to Mr. Carnegie and of some matter concerning the relations of the Board of Trustees and the Corporation of Stratford which must be admitted.

At the beginning of this year I was elected a Trustee of Shakespeare's Birthplace, an honour which I highly appreciated. . . . Within a few days of my election as Trustee of the Birthplace, I had to leave England to fulfil a series of long-standing engagements in America, whence I am just returned. Rumours reached me in America that my fellow-Trustees proposed to remove or alter various buildings adjoining Shakespeare's Birthplace, and that public opinion was, on literary and artistic grounds, strongly excited by this course of action.

As soon as I arrived home, I made careful inquiries into the origin of these rumours. I learned that for some months past the Trustees had been constant objects of denunciation by the persons who, from various points of view, claimed interest in the affairs of Stratford.

After due investigation of the circumstances, I have now assured myself that the public has been misled on almost all the essential points. Spasmodic endeavours have been made to remove the misconceptions from the public mind. But they persist in many quarters. I believe it to be to the

public advantage, and in the interests of truth, to set forth clearly the full facts of the case. The public may then be in a position to form a judgment on the subject which shall be final. But it should be understood that I take this step on my sole personal responsibility.

Put briefly, the charges alleged against the Trustees were two. Firstly, it was stated that they were wantonly bent on destroying the historic aspect of Henley Street, in which Shakespeare's Birthplace stands, by arranging for the demolition of houses of historic interest, which had lately come into their possession, in the immediate neighbourhood of the Birthplace. Secondly, the Trustees were accused of conspiring with the Corporation of Stratford-on-Avon to apply to the purposes of a Free Public Library another building of ancient date, which was situated in the same street, in close proximity to the Birthplace. The Trustees' action was described as "iconoclastic" and "barbarous," as a "serious piece of vandalism" involving "desecration" and "spoliation" of historic edifices.

It was made a further ground of objection, that the contemplated changes owed their origin to the intervention of Mr. Andrew Carnegie. That gentleman had not only purchased the houses adjoining the Birthplace, for presentation to the Trustees, but had also undertaken the expense of providing Stratford with a Public Library. It would be an impertinence to dwell on this part of the theme. No right-minded person can fail to resent the introduction of Mr. Carnegie's name into the controversy in other than appreciative terms. Mr. Carnegie's action was taken in characteristically generous response to applications which reached him from the town. He attached no conditions to his gifts, which were manifestly designed to serve the interests of Stratford and its literary associations.

Two separate issues have been raised in the strife, and have not been kept adequately distinct. The Trustees of the Birthplace, as constituted by the Act of Parliament of 1891, form

a body that is quite independent of the Corporation of Stratford. The Act gives the Corporation a large representation on the Board of Trustees, but each body has its own statutory functions. Yet the Trustees have been constantly denounced for action, wholly outside their province, which was taken by the Corporation independently of them.

In regard to the present issues, the Trustees are solely concerned with the fate of the cottages in immediate proximity to the Birthplace garden, which were purchased by Mr. Carnegie for presentation to them. The second issue touches the fate of another building, which, although it adjoins the newly acquired property of the Trustees, belongs to the Corporation and has, in the exercise of that body's exclusive discretion, been appropriated by it to the projected Free Library. But I wish to cover the whole field of the discussion, and therefore am prepared to deal with the Corporation's action in regard to the Library, at the same time as I draw attention to the misunderstanding which lays such action at the Trustees' door.[1]

After five days of preliminary analysis and discussion, Burke knew that his audience would recognize at once the correctness of this statement of the issues involved in the case of Warren Hastings.

I, therefore, charge Mr. Hastings with having destroyed, for private purposes, the whole system of government by the six provincial councils, which he had no right to destroy.

I charge him with having delegated to others that power which the act of parliament had directed him to preserve unalienably in himself.

I charge him with having formed a committee to be mere instruments and tools, at the enormous expenses of £62,000 per annum.

[1] *The Alleged Vandalism at Stratford-on-Avon.* Sidney Lee. pp. 21-26. Archibald Constable & Co. Ltd. 1903.

I charge him with having appointed a person their dewan, to whom these Englishmen were to be subservient tools; whose name, to his own knowledge, was by the general voice of India, by the general recorded voice of the Company, by recorded official transactions, by everything that can make a man known, abhorred and detested, stamped with infamy; and with giving him the whole power which he had thus separated from the council-general and from the provincial councils.

I charge him with taking bribes of Gunga Govin Sing.

I charge him with not having done that bribe service which fidelity even in iniquity requires at the hands of the worst of men.

I charge him with having robbed those people of whom he took the bribes.

I charge him with having fraudulently alienated the fortunes of widows.

I charge him with having, without right, title, or purchase, taken the lands of orphans, and given them to wicked persons under him.

I charge him with having removed the natural guardians of a minor Rajah, and with having given that trust to a stranger, Debi Sing, whose wickedness was known to himself and all the world; and by whom the Rajah, his family and dependants were cruelly oppressed.

I charge him with having committed to the management of Debi Sing three great provinces; and thereby, with having wasted the country, ruined the landed interest, cruelly harassed the peasants, burnt their houses, seized their crops, tortured and degraded their persons, and destroyed the honour of the whole female race of that country.

In the name of the Commons of England, I charge all this villany upon Warren Hastings, in this last moment of my application to you.[1]

[1] *Selections from Burke.* B. Perry. pp. 133–134. H. Holt & Co. 1896.

This letter of President Lincoln's to General McClellan was the result of much consultation and correspondence as to opposing plans and opinions.

EXECUTIVE MANSION, WASHINGTON,
February 3, 1862.

MAJOR-GENERAL MCCLELLAN:

My dear Sir: You and I have distinct and different plans for a movement of the Army of the Potomac — yours to be down the Chesapeake, up the Rappahannock to Urbana, and across land to the terminus of the railroad on the York River; mine to move directly to a point on the railroad southwest of Manassas.

If you will give me satisfactory answers to the following questions, I shall gladly yield my plan to yours.

First. Does not your plan involve a greatly larger expenditure of time and money than mine?

Second. Wherein is a victory more certain by your plan than mine?

Third. Wherein is a victory more valuable by your plan than mine?

Fourth. In fact, would it not be less valuable in this, that it would break no great line of the enemy's communications, while mine would?

Fifth. In case of disaster, would not a retreat be more difficult by your plan than mine?

Yours truly,

ABRAHAM LINCOLN.

MAJOR-GENERAL MCCLELLAN.[1]

[1] "General McClellan had succeeded General Scott on November 1, 1861, as Commander-in-Chief (under the President) of all the armies of the United States. On January 31, 1862, the President had issued his 'Special War Order No. 1,' directing a forward movement of the Army of the Potomac. This order conflicted with plans which McClellan had formed, and he remonstrated." *Little Masterpieces, Lincoln.* B. Perry. p. 109.

Sir Thomas Wyatt, accused of high treason, cut down his case as follows, sure, because the indictment and the evidence had already been heard, that the correctness of his issues must be recognized.

The accusation comprehendeth the indictment, and all these worshipful men's tales annexed thereunto. The length whereof, the cunning whereof, made by learned men, weaved in and out, to persuade you and trouble me here and there, to seek to answer that is in the one afore, and in the other behind, may both deceive you and amaze me, if God put not in your heads honest wisdom to weigh these things as much as it ought to be. So, to avoid the danger of your forgetting, and my trouble in the declaration, it is necessary to gather the whole process into these chief points, and unto them to answer directly, whereby ye shall perceive what be the principals, and what be the effects which these men craftily and wittingly have weaved together, that a simple man might hardly try the one from the other. Surely, but that I understand my own matter, I should be too much to seek and accumbered in it. But, masters, this is more of law than of equity, of living than of uprightness, with such intricate appearances to blind men's conscience; specially in case of man's life, where always the naked truth is of goodliest persuasion. But to purpose. Of the points that I am accused of, to my perceiving, these be the two marks whereunto mine accusers direct all their shot of eloquence. A deed, and a saying. After this sort, in effect, is the deed alleged with so long words: "Wyatt in so great trust with the King's Majesty that he hath made him his ambassador, and for whom his Majesty had done so much, being ambassador, hath had intelligence with the King's rebel and traitor, Pole." Touching the saying, amounteth to this much: "That same Wyatt, being also ambassador, maliciously, falsely and traitorously said, 'That he feared that the King should be cast out of a cart's tail; and that by God's blood, if he were so, he were

well served, and he would he were so.'" The sole apparel of the rest of all this proof pertaineth to the proof of the one or the other of these two points. But if these two points appear unto you to be more than false, maliciously invented, craftily disguised and worse set forth, I doubt not but the rest of their proofs will be but reproofs in every honest man's judgment.[1]

Similarly, because there had been recent widespread discussion of the treatment of Gordon by the Gladstonian government, Lord Salisbury could go at once, in opening his long attack on the Government, to the two main issues.

The Marquess of Salisbury, in rising to move — "That this House, having taken into consideration the statements that have been made on behalf of Her Majesty's Government, is of opinion that — (1.) The deplorable failure of the Soudan expedition to attain its object has been due to the undecided counsels of the Government and to the culpable delay attending the commencement of operations; (2.) that the policy of abandoning the whole of the Soudan after the conclusion of military operations will be dangerous to Egypt and inconsistent with the interests of the Empire," said:[2]

In his Liverpool speech, Beecher cut down a large part of his discussion to one special issue.

The power to create riches is just as much a part of the Anglo-Saxon virtues as the power to create good order and social safety. The things required for prosperous labor, prosperous manufactures, and prosperous commerce are three. First, liberty; second, liberty; third, liberty. Though these are not merely the same liberty, as I shall show you. First, there must be liberty to follow those laws of business which

[1] *The Aldine Poets.* Wyatt. pp. lxx–lxxi. Bell & Co.

[2] *The Forms of Public Address.* G. P. Baker. p. 325. H. Holt & Co. 1904.

experience has developed, without imposts, or restrictions, or governmental intrusions. Business simply wants to be let alone. Then, secondly, there must be liberty to distribute and exchange products of industry in any market without burdensome tariffs, without imposts, and without vexatious regulations. There must be these two liberties — liberty to create wealth, as the makers of it think best, according to the light and experience which business has given them; and, then, liberty to distribute what they have created without unnecessary vexatious burdens. The comprehensive law of the ideal industrial condition of the world is free manufacture and free trade. I have said there were three elements of liberty. The third is the necessity of an intelligent and free race of customers. There must be freedom among producers; there must be freedom among the distributors; there must be freedom among the customers. It may not have occurred to you that it makes any difference what one's customers are, but it does in all regular and prolonged business. The condition of the customer determines how much he will buy, determines of what sort he will buy. Poor and ignorant people buy little and that of the poorest kind. The richest and the intelligent, having the more means to buy, buy the most and always buy the best. Here, then, are the three liberties: liberty of the producer, liberty of the distributor, and liberty of the consumer. The first two need no discussion; they have been long, thoroughly, and brilliantly illustrated by the political economists of Great Britain and by her eminent statesmen; but it seems to me that enough attention has not been directed to the third; and, with your patience, I will dwell upon that for a moment before proceeding to other topics.[1]

In brief, in public address only a few, if any, of the possible formal steps in finding the issues involved in

[1] *Specimens of Argumentation*. pp. 160–161.

a proposition are usually given, but none the less those issues, if correctly stated, have been ascertained through use of just as much of the process as the particular question demands. If a writer gives none of them, it is because he knows that his audience possesses the information which will make it recognize their finality, or that it will take them on his authority. But whether one step or all be represented, to understand how to reach the special issues involved in any given case is essential to good argumentation.

The clash in opinion the most essential part of analysis. It has probably been growing clear that in the process of cutting a question to the special issues, the clash in opinion is the most important part. A beginner in argumentation cannot give it too close attention, for in it he will find at least part of the definition of terms; from it he will draw, first, the ideas essential in the case, and finally, the special issues themselves. The clash in opinion must, then, be made comprehensive, for otherwise, as an argument develops, some idea or ideas will turn up unexpectedly in the hands of an opponent which may rout the student completely. That is, in preparing the clash in opinion a student also lays the foundation for his work in refutation, — his reply to the arguments of his opponent as contrasted with support of his own statements. No argument of consequence offers a clear road to victory. Success lies in determining which of two sets of valid arguments preponderates, for each side in argumentation will have its strong and its weak places. The skillful forensic worker, like the great general, will wish to know not only where all the weak places as well as the strong in his own lines are, but, as far as possible, the weak and the strong places

in his enemy's lines. If he is not to be disastrously surprised, he must know where to expect attack: he must know where he may best concentrate his assault if he is to overcome his opponent. Now, though a student does not ordinarily completely fail to consider an opponent's work, he usually only notes the opposing arguments which he happens to meet in his reading: he by no means tries to master his opponent's case. What is omitted, however, may be just what wins or loses the case. But not even wide reading always provides the whole case, or all the possible cases, of an opponent. One must sometimes consider carefully whether there be any new interpretation of the question, any new argument, which an opponent may try. The clash in opinion[1] rests, then, on wide reading and careful thinking. Essential to it is study not only of all that can be said in one's own behalf, but also all that can be said in behalf of an opponent.[2]

[1] For a simple clash in opinion see Huxley's *First Lecture on Evolution, Specimens of Argumentation*, pp. 64–69; for more elaborate illustrations see the forensic on "Should the Elective System be applied to High Schools?" and the clash of opinion on professional coaching, Appendix.

[2] The importance of a comprehensive clash is shown by the following incident. Some students in a course on debating suggested as a topic, "England's present control of Egypt," a term, not a proposition. It was agreed that two should phrase a question from this term and that the other two should have choice of sides. The resulting question was: "Should England keep her present control of Egypt?" The affirmative fell to those who had phrased the question and they emphasized "should keep," arguing that the control should not be diminished. The negative, however, cut the ground from under the affirmative by maintaining that England should have not only her present control but much more stringent control. Had the affirmative before submitting their question thoroughly worked out the possible clash in opinion on their proposed topic, they must have seen the need of rephrasing it so as not to allow the negative a choice between decreasing and increasing the control. What they really wished to discuss was: "Should England's present control of Egypt be diminished?"

Section 5 — The Fourth Step — Constructing the Case

The essentials of good construction. Even, however, as a student takes the three steps in analysis, — phrasing the proposition, defining the terms, and finding the special issues, he acquires material which may be used to support his views or to combat his opponent's ideas. He must next learn how to value all this correctly, and how to mass it about his special issues so as to give it the strongest presentation. In this construction of a case a knowledge of evidence and a knowledge of brief-drawing are essential. These must be next considered.

THE STEPS IN ANALYSIS

I. Phrasing the Proposition.

II. Defining the Terms by History of the Question.
- *A.* Immediate Cause for Discussion.
- *B.* Origin of the Question.
- *C.* Clash in Opinion.

III. Finding the Special Issues.
- *A.* Clash in Opinion.
- *B.* Excluding Extraneous Matter.
- *C.* Excluding Admitted Matter.
- *D.* Excluding Waived or Granted Matter.

IV. Constructing the Case. (See Brief-Drawing, Chapter IV.)
- *A.* Ordination.
- *B.* Arrangement for Logical Force.
- *C.* Arrangement for Rhetorical Force (Climax).

EXERCISES

1. Phrasing propositions. Let the student phrase propositions on the following terms: College Athletic Association, Fraternity, Democratic or Republican Party, Next Congress, Caucus, City Government.

2. Examining the content of mind. Let the class be given a college topic or a topic of the day,[1] as "Should Freshmen be allowed to play on 'Varsity football teams?" or "Would Japanese or Russian control of Korea better promote the political welfare of the people?" In the class room the student should put on paper at once a statement as to which side he thinks he prefers. Then state under the following heads the content of his mind on this subject: —

1. What has he personally seen, heard, or felt that bears on the proposition?
2. What has he read on it?
3. What opinions does he hold as the result of reading and what as the result of his experience?
4. What prejudices has he on the subject, i.e. feelings that affect his judgment but the soundness of which he cannot prove?

3. History of the question. On some proposition similar to those suggested already let the student state what he knows under the following heads: —

1. What immediate interest has the proposition?
2. How did it originally come under discussion?
3. The opinions which lead him to prefer the affirmative or the negative.
4. What as far as he knows them are the opinions of his opponent in regard to this question?

4. Definition of terms. Let the student define the terms of a similar question by the steps explained in the text.

5. Definition of terms. Let the student after outside study formulate in class definitions of the italicized terms in the following propositions: —

1. Is *Utilitarianism* the *right standard of conduct*?
2. Is Tennyson's characterization of Enoch Arden *convincing*?
3. Is the game of football *brutal*?

[1] This may well be announced for study beforehand.

4. Does the playing for money on *summer baseball teams* in itself make a student less *sportsmanlike?*
5. Would Russian victory in the Russo-Japanese War promote the *interests of civilization?*
6. Would the Income Tax be a *desirable form* of a national system of taxation?

6. Definition of terms. Criticise the following definitions of education in the proposition "Is Governor Vardaman right in assigning education as the cause of negro criminality?"

Governor Vardaman's definition.[1]

1. The startling facts revealed by the census show that those who can read and write are more criminal than the illiterates, which is true of no other element of our population. I am advised that the minimum illiteracy among the negroes is found in New England, where it is 21.7 per cent. The maximum was found in the black belt — Louisiana, Mississippi, and South Carolina — where it is 65.7 per cent. And yet the negro in New England is four and one-half times more criminal, hundred for hundred, than he is in the black belt. In the South, Mississippi particularly, I know he is growing worse every year.

. . . . . .

My own idea is that the character of the education for the negro ought to be changed. If, after years of earnest effort and the expenditure of fabulous sums of money to educate his head, we have only succeeded in making a criminal out of him and imperiling his usefulness and efficiency as a laborer, wisdom would suggest that we make another experiment and see if we cannot improve him by educating his hand and his heart. There must be a moral substratum upon which to build or you cannot make a desirable citizen.

2. In the discussion of this question some of these magazines limit education to the ability to read and write. But we take a broader view of the term. Now we mean by education a special course of training which seeks to discipline and enlighten the intellect, correct the temper, cultivate the taste, and form manners and habits. Thus we intend that education shall include a moral as well as an intellectual instruction.

3. As I shall be using constantly the word "education," a somewhat ambiguous term, I shall try to define it as I shall use it. By "education" is not meant simply the ability to read and write nor, on the other hand, a college training. As it will be used in this discussion it will mean the kind of mental training that broadens the mind and gives the negro self-control and ability to hold his own in the world in competition with other men of both races.

4. In order to meet them on their own ground we must agree with Governor Vardaman and his followers that education among the negroes is at a standard far lower than it is with us. This common agreement, so necessary to our

[1] *Literary Digest*, January 30, 1904.

controversy, demands that we call that negro educated who can read or write, certainly one who can read and write. We cannot insist upon a broader definition of our term "education," because most writers on the negro question build their arguments on statistics of literacy. Thus, we may say that education is that training which is able to stand the test of literacy.

5. Now we understand "education" as that intellectual training which the negro receives in the primary and secondary schools of the South. We must waive, therefore, all question of moral training.

6. By the term "education" as used in connection with the negro problem we mean not the classic culture of high schools, preparatory schools, and colleges, which is to-day beyond the reach of the masses, not the one-sided intellectual training of the industrial and technical schools; but we do mean that broad course in culture and "bread-and-butter" studies found in the lower grades of the public schools which is conducive to an all-round development of the negro race. We are speaking of a training calculated to draw out the best that is in the race — to make of them useful, moral, intelligent citizens.

7. Introductory exposition. Let the student after investigation of one of a list of assigned propositions on topics of the day, hand in an exposition of the reasons why men discuss the subject, of the state of the discussion at the present time, and of the opinions held by each side.

8. Special issues. Let the student cut down to serviceable special issues a broad clash of opinion which the teacher has placed on the board, — such as one of the clashes in the Appendix.

9. Special issues. Let the student state what are the special issues of one or more of the following arguments and how they have been obtained: Mansfield, *Defense of Evans.* Huxley, *First Lecture on Evolution.* Erskine, *Defense of Gordon.* Macaulay, *Copyright Speech.*[1]

10. Special issues. Let the student show how the special issues of the Brief Introductions in the Appendix have been obtained, and whether they are good or not.

11. Special issues. Let the student find the special issues in the brief on Student Government at Wellesley, Appendix.

12. Special issues. Let the student reduce to serviceable special issues one or more of the propositions analyzed in Exercises 1–4.

[1] For all of these see *Specimens of Argumentation.* pp. 22, 60, 86, 179. H. Holt & Co.

CHAPTER III

EVIDENCE

SECTION 1 — ASSERTION AND EVIDENCE

What assertion is. When a student has learned by critical reading what the terms of his proposition mean and knows consequently the general history of the question, that is, the immediate cause for its discussion, the origin of the question, and the broad clash of opinion; when, by analysis, he has cut down this broad clash of opinion to the essential ideas, and finally to the group of ideas which are the special issues, he has probably felt the need of a knowledge of the nature of evidence, the material of proof, and the tests whereby he may accurately estimate its value. Even students who are careful in their preliminary reading and who analyze well often fail in supporting their view of the issue; for, after reading widely, they feel so sure of the correctness of their resulting opinions that they merely state what those opinions are, expecting their readers to accept them without question. But, except under one set of conditions,[1] assertion, that is, unqualified affirmation that something is true or false, wise or foolish, without any statement of the reasons why the writer holds his opinions is in argumentation valueless. For instance, a minister, talking to his congregation on the lessons to be

[1] That is, the argument from authority. See p. 66.

drawn from the war between China and Japan, asserted that the reason for the success of the Japanese was that they keep Sunday and the Chinese do not. Any cautious member of the congregation might well wish proof that the Japanese as a nation keep Sunday. Even if he granted this, he would certainly wish proof that this custom among the Japanese is not only a sufficient cause to lead to so great a result as the overwhelming success of the Japanese army, but the only cause. Had the minister been asked for this proof, the absurdity of his statement would have been laid bare.

The effectiveness of insistence on the valuelessness of assertion is shown in the following from Sir Thomas Wyatt's defense when accused of high treason: —

First you must understand that my masters here, sergeant ——, and other of the King's Counsel that allege here against me, were never beyond the sea with me, that I remember. They never heard me say any such words there, never saw me have any intelligence with Pole, nor my indicters neither. Wherein you must mark, that neither these men which talk here unsworn, nor the indictment at large, is to be regarded as evidence. The indicters have found that I have done. If that be true, what need your trial? but if quests fetch their light at indictments at large,[1] then is a man condemned unheard; then had my Lord Dacres been found guilty; for he was indicted at large by four or five quests; like was his matter avowed, affirmed, and aggravated by an help of learned men; but on all this the honourable and wise nobility did not once look; they looked at the evidence, in which they weighed, I suppose, the malice of his accusers, the unlikelihood of the things hanging together, and chiefly of all, the substance of the matter and the proofs.[2]

[1] "If juries decide after simply hearing the charges."

[2] *The Poetical Works of Sir Thomas Wyatt.* p. lxxii. Bell & Daldy.

How assertion arises. Assertion, the most common fault in argumentation, arises from the fact that the untrained mind forgets that lack of equal knowledge of the subject, differences of temperament, prejudice, any one of many causes, may make one man unable to see a matter as does his neighbor. What to him seems true is true for him, and should, he thinks, be equally true for his fellow-men. For any man, his own experience and his reasoning from that experience are more convincing than the experience and reasoning of another. That is, the moment a statement of a writer is contradicted by the experience or reasoning of a reader, even if the experience or the reasoning or both be unsound, the writer must give reasons for the correctness of his statement.

The argument from authority. There is only one set of conditions in which unsupported assertion is safe. There are men and books which have come to be regarded as authoritative on the subjects which they treat, and their testimony as to facts and as to inferences from facts is unquestioningly accepted. The Puritan of 1620 settled an argument by quoting as indisputable a Biblical text. Our fathers with similar assurance of finality cited an article of the Constitution. These men used the argument from authority, in that they gave not a careful statement of reasons for a belief but another's assertion, which, however, they knew no one would question. Lord Chatham, in his speech on removing the British troops from Boston, believing Benjamin Franklin to be the preëminent authority on American affairs, knew he would be recognized as the source of the following argument from authority: —

I remember, some years ago, when the repeal of the Stamp Act was in agitation, conversing in a friendly confidence with

a person of undoubted respect and authenticity, on that subject, and he assured me with a certainty which his judgment and opportunity gave him, that these were the prevalent and steady principles of America — that you might destroy their towns, and cut them off from the superfluities, perhaps the conveniences of life, but that they were prepared to despise your power, and would not lament their loss, while they have — what, my Lords? — their *woods* and their *liberty*. The name of my authority, if I am called upon, will authenticate the opinion irrefragably:[1]

Its varying convincingness. Any consideration when it is proper to use this argument from authority — in what its strength consists — will show that it must be employed with great care, since it is of variable value. The final judge as to its fitness in any given case is, not the writer, but his readers. The strength of the argument from authority comes ultimately from the fact that people in general may be assumed to admit that on the subject under discussion the book or the person cited cannot state ideas or make judgments incorrectly. With books and men this power comes either from inspirational knowledge of the truth, or from a reputation for probity and an exhaustive study of the subject under discussion. The former is illustrated by the teachings of Christ in the Bible, the latter, by the testimony of experts. Courts, in trials for forgery and murder, have often given much weight to the assertions of such men as to the common authorship of two signatures, or the necessarily fatal effect of the amount of poison found in a body.

The same assertion, however, may in different places, under different circumstances, vary in its degree of convincingness. Suppose that a Christian in discussing with

[1] *Specimens of Argumentation.* p. 14.

a Mohammedan some question of morality quotes some precept of the Bible as final authority. Unless this precept, which for the Christian is a perfect argument from authority, is in the Koran also, the Mohammedan will deny its authoritativeness and ask the Christian to show him why this precept should be unhesitatingly followed. Certainly the Christian would behave in the same way as the Mohammedan, if conditions were reversed. The famous scientist who lectures to an unscientific audience may venture, on the strength of his reputation, to make many assertions. An audience more trained in science, knowing that some of the views to which this man clings are fiercely combated by other scientists, will be less willing to trust his mere assertions. This is true, not because the audience doubts his honesty but rather his complete mastery of the subject.

Clearly, then, the moment that any one genuinely doubts either a writer's honesty or mastery of the subject and asks for reasons why he should accept the statement made, it becomes for him merely assertion in need of all the support that assertion usually requires. The doubt may be entirely unjustified, but if it genuinely exists, the argument from authority is merely an assertion. Evidently, then, the argument from authority must not be used until thought has been given as to its probable authoritativeness for the audience in mind.

Proof and evidence. When a reader asks an explanation of the grounds for an assertion, he calls for *proof*, "*anything which serves, either immediately or mediately, to convince the mind of the truth or the falsehood of a fact or proposition.*"[1] Whatever is offered in support of the opinion or statement

[1] *On Evidence.* Best. p. 5.

— facts, logical deductions, figures, quotations, etc. — is, taken as a whole, proof of its truth. Each portion of this proof is *evidence*, for evidence is "*that which generates proof. Any matter of fact, the effect, tendency, or design of which is to produce in the mind a persuasion affirmative or disaffirmative of the existence of some other matter of fact*," [1] that is, evidence is the material of proof.

Evidence not limited as in the law courts. The study of evidence as it concerns the general art of argumentation is naturally broader than the study of evidence as it is used in the law courts. "Every issue in a cause [in law] presents two questions, either or both of which may be disputed. (1) What were the facts in which the controversy originated? (2) What are the rules of law by which, in view of these facts, the issue is to be determined?" [2] These rules of law necessarily limit acceptable evidence to that evidence which it is wise, as a rule, in the interest of public policy, to receive under all circumstances. It will be seen that (1), "What are the facts in which the controversy originated?" is a matter of investigation, and that the success of the lawyer in it must depend on his ability to analyze keenly and to support so clearly and convincingly his belief as to what the facts are as to convince any rational being that he is correct. The knowledge upon which the lawyer depends for success or failure is of the universal laws of reasoning that apply in every language and in any place.

On the other hand, in (2), "What are the rules of law by which the issue is to be determined?" the lawyer makes use of his knowledge of special rules and conventions, not used by men universally, but only in the courts of his

[1] *Idem.* [2] *Forensic Oratory.* W. C. Robinson. p. 60.

land. In the division of a case made above by Professor Robinson, then, (1), deciding what are the facts in the case, depends wholly on the methods of reasoning that all men use; (2), deciding what are the rules of law by which the issue is to be determined, depends first on a knowledge of rules special to a small area, and secondly on an application of these rules to the facts by the universal methods of reasoning — for the lawyer must convince his hearers that the decisions he holds are such as do really apply. In other words, then, (2), the special knowledge necessary for a lawyer also depends indirectly upon knowledge of the universal methods of reasoning.

The topic, "Was Aaron Burr guilty of treason?" furnishes an illustration of the distinctions just drawn. For a lawyer the case has two interests: (1) What are the facts in the case; and (2) what are the rules by which these facts must be interpreted. He and an investigator will each work to find out the facts in the case, but the lawyer will work with the rules of courts as to the permissibility of hearsay evidence, of the testimony of witnesses closely allied to the prisoner, etc., in mind. For the investigator all of this evidence will be admissible if treated carefully. Moreover, the lawyer knows that by the laws of the country there must be, for conviction of treason, two witnesses to an overt act. Unless he can produce these two witnesses, the case will fail; indeed, it did fail because two witnesses to an overt act could not be found. The investigator is bound by no such rules of the court. For him the question is one of moral guilt, and he will decide the question by the preponderance of evidence for or against Burr, whether there be one or two witnesses to an overt act of treason.

A student of argumentation, except when he is asked to take the legal point of view in treating his case, should clearly understand that he is bound by none of these laws of evidence of the courts.[1] The reasons for this the following quotation sets forth with great clearness: —

No reasonable man, who, for his own satisfaction wished to ascertain what was the conduct of the dock laborers during the recent strike, what were their motives in leaving their work, and how far, by force or otherwise, they intimidated the so-called "black-legs," would ever tie his hands by any rules of evidence [that is, rules of the courts]. Our inquirer would listen to everything said by persons who had, or were likely to have, direct or indirect knowledge of what took place before or during the strike; he would give ear to general report; and, though, if he understood his work, he would in his own mind distinguish carefully between the probative value of different kinds of statements, he would certainly not reject information which weighed upon his judgment, because it was only secondary or hearsay evidence. A judge, on the other hand, occupied in trying laborers on a charge of conspiracy to prevent "black-legs" from entering into the employment of the Dock Company, would reject much evidence which our investigator would receive. He would on principle shut his ears to the effect of certain alleged facts; he would reject all hearsay; he would not pay attention to common report; he would in many cases decline to consider any but the best evidence.

To point out the distinction between ordinary inquiry and judicial procedure does not involve the necessity for censuring either the common-sense customs of every-day life, or the rules of evidence adopted by the Courts. The objects of ordinary

[1] Such laws as he happens to know may, however, help by arousing suspicion of the evidence to which they apply and causing him to subject it to the tests explained in Section 4 of this chapter.

investigation and of a judicial inquiry are different. It is natural, therefore, that each should be conducted on somewhat different principles. In the case, for example, of research into a matter of history, the investigator's sole object is to get as near the truth as he can. His end is knowledge. It is, therefore, better that he should run some risk of error than that he should close his eyes to evidence which, though it may occasionally mislead him, holds out the promise of guiding him, if not to certain, yet to highly probable, conclusions. A judge's object in the conduct of a criminal trial (as, indeed, to a certain extent, in the conduct of any trial) is different. His aim is to come to a conclusion — then and then only — when the conclusion is certain enough to justify the pronouncing of a decision. As against the prisoner, at any rate, he wishes in effect to come to no conclusion at all — or rather, in England, to prevent the jury from coming to any conclusion at all — unless it be one established with what, for practical purposes, we may call certainty. Hence, he deliberately excludes from his view considerations which, though valuable as a guide to probability, involve appreciable risk of error. He is, moreover, compelled to reject evidence of certain descriptions, not so much because it would lead to error as regards the particular case which is before the Court, as because the admission of it would, as a general rule, prevent the production of a better kind of evidence. This is the main reason why a witness is not generally allowed to give verbal evidence as to the contents of a written document.[1]

Ways of removing assertiveness. In avoiding assertiveness, therefore, the student of argumentation, freed from the external limitations of the law courts, has at his command the broad field of evidence — facts, reasoning, and authoritative opinions — governed only by common sense

[1] *The Verdict.* A. V. Dicey, Q.C. pp. 12–13. Cassell & Co. 1890.

and trained discrimination as to the intrinsic value of the evidence for the purpose in hand. Some of the many ways in which assertions may be given evidential support are shown in the following illustrations.

Adam Smith, writing in his *Wealth of Nations* on the advantages of division of labor, makes this assertion:—

> The greatest improvement in the productive powers of labor, and the greater skill, dexterity, and judgment with which it is anywhere directed and applied, seem to have been the effects of division of labor.

He was, however, too wise to let this stand unsupported, and he added illustrations and examples in order to make clear the truth of his statement. The following facts as to one field of labor he knew would be accepted either as generally known or as resting on his authority.

> To take an example, therefore, from a very trifling manufacture, but one in which the division of labor has been very often taken notice of, the trade of the pin-maker; a workman not educated to this business (which the division of labor has rendered a distinct trade), nor acquainted with the use of the machinery employed in it (to the invention of which the same division of labor has probably given occasion), could scarce perhaps, with the utmost industry, make one pin a day, and certainly could not make twenty. But in the way in which this business is now carried on, not only the whole work is a peculiar trade, but it is divided into a number of branches, of which the greater part are likewise peculiar trades. One man draws out the wire, another straightens it, a third cuts it, a fourth points it, a fifth grinds it at the top for receiving the head: to make the head requires two or three distinct operations; to put it on is a peculiar business; to whiten the pins is another; it is even a trade by itself to put them into

the paper; and the important business of making a pin is, in this manner, divided into about eighteen distinct operations, which in some manufactories are all performed by distinct hands, though in others the same man will perform two or three of them. I have seen a small manufactory of this kind where ten men only were employed, and where some of them consequently performed two or three distinct operations. But though they were very poor, and therefore but indifferently accommodated with the necessary machinery, they could, when they exerted themselves, make among them about twelve pounds of pins in a day. There are in a pound upwards of four thousand pins of a middling size. Those ten persons, therefore, could make among them upwards of forty-eight thousand pins in a day. Each person, therefore, making a tenth part of forty-eight thousand pins, might be considered as making four thousand eight hundred pins in a day. But if they had all wrought separately and independently, and without any of them having been educated to this particular business, they certainly could not each of them have made twenty, perhaps not one pin in a day; that is, certainly not the two hundred and fortieth, perhaps not the four thousand eight hundredth part of what they are at present capable of performing, in consequence of a proper division and combination of their different operations.[1]

Here is an assertion from the prospectus of a building company: —

After deducting ten per cent from the estimated income and paying all taxes and expenses of every nature, the net rentals are sufficient to take care of the interest on the mortgage, and pay dividends of five dollars per share, leaving a surplus of eleven thousand eight hundred and seventy dollars, or nearly sixteen per cent of the gross income.

[1] *Wealth of Nations.* The Division of Labor. Specimens of Exposition. H. Lamont. pp. 105–107. H. Holt & Co. 1894.

The assertion is supported by the following figures, which are partly self-evident facts and partly the opinions of would-be authorities.

Income.

Estimated rentals		$74,300
Deduct ten per cent for vacancies . . .		7,430
Net rentals		$66,870
Estimated expenses, including taxes . .		19,000
		$47,870
Interest on $400,000 mortgage at four per cent per annum .	$16,000	
Dividend $5 per share on . . 4,000 shares	20,000	
		$36,000
		$11,870

Macaulay, in his famous review of Croker's *Boswell's Johnson*, said: —

Nothing in the work has astonished us so much as the ignorance or the carelessness of Mr. Croker with respect to facts and dates. Many of his blunders are such as we should be surprised to hear any well-educated gentleman commit, even in conversation.

Macaulay justifies these assertions by reasoning based on a comparison of Croker's contradictory statements.

In one place, Mr. Croker says that at the commencement of the intimacy between Dr. Johnson and Mrs. Thrale, in 1765, the lady was twenty-five years old.[1] In other places

[1] Macaulay carefully gives references to the places in Croker's edition where the misstatements cited occur.

he says that Mrs. Thrale's thirty-fifth year coincided with Johnson's seventieth. Johnson was born in 1709. If, therefore, Mrs. Thrale's thirty-fifth year coincided with Johnson's seventieth, she could have been only twenty-one years old in 1765. This is not all. Mr. Croker, in another place, assigns the year 1777 as the date of the complimentary lines which Johnson made on Mrs. Thrale's thirty-fifth birthday. If this date be correct, Mrs. Thrale must have been born in 1742, and could have been only twenty-three when her acquaintance with Johnson commenced. Mr. Croker, therefore, gives us three different statements as to her age. Two of the three must be incorrect.[1]

Edmund Burke, in his speech on *Conciliation with the American Colonies*, made this assertion: —

But I confess . . . my opinion is much more in favor of prudent management than of force; considering force not as an odious but a feeble instrument for preserving a people so numerous, so active, so growing, so spirited as this, in a profitable and subordinate connection to us.

This he supported with the following explanatory reasoning drawn from common human experience: —

First, Sir, permit me to observe, that the use of force alone is but *temporary*. It may subdue for a moment; but it does not remove the necessity of subduing again: and a nation is not governed which is perpetually to be conquered.

My next objection is its *uncertainty*. Terror is not always the effect of force; and an armament is not a victory. If you do not succeed, you are without resource: for, conciliation failing, force remains; but force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness; but they can never be begged as alms by an impoverished and defeated violence.

[1] *Essays on Croker's Boswell's Johnson.* p. 334. Holt & Co. 1893.

A further objection is, that you *impair the object* by your endeavors to preserve it. The thing you fought for is not the thing you recover; but depreciated, sunk, wasted, and consumed in the contest.[1]

J. S. Mill, in his *Three Essays on Religion*, asserts: —

No one, either religious or irreligious, believes that the hurtful agencies of nature, considered as a whole, promote good purposes, in any other way than by inciting human rational creatures to rise up and struggle against them.

This he supported by deductive reasoning as follows: —

If we believed that those agencies were appointed by a benevolent Providence as the means of accomplishing wise purposes which could not be compassed if they did not exist, then everything done by mankind which tends to chain up these natural agencies or to restrict their mischievous operation, from draining a pestilential marsh down to curing the toothache, or putting up an umbrella, ought to be accounted impious; which assuredly nobody does account them, . . . On the contrary, the improvements on which the civilized part of mankind most pride themselves, consist in more successfully warding off those natural calamities which if we really believed what most people profess to believe, we should cherish as medicines provided for our earthly state by infinite wisdom. Inasmuch too as each generation greatly surpasses its predecessors in the amount of natural evil which it succeeds in averting, our condition, if the theory were true, ought by this time to have become a terrible manifestation of some tremendous calamity, against which the physical evils we have learnt to overmaster, had previously operated as a preservative. Any one, however, who acted as if he supposed this to be the case, would be more likely, I think, to be confined as a lunatic, than reverenced as a saint.[2]

[1] *Political Orations.* Camelot Series. pp. 65–66. W. Scott. London.
[2] *Three Essays on Religion.* J. S. Mill. p. 32. H. Holt & Co.

Section 2 — The Nature of Evidence

Why men argue. We have seen that opinions vary with different individuals as the inheritance and the experience in which they arise. Human beings are so constituted that these opinions not only determine the conduct of a man himself but should, he thinks, determine the conduct of his fellow-men. In order to secure action by others in accord with his own opinions, he betakes himself to argument, and finds himself speaking in opposition to other men who in their turn are striving to embody their ideas in the conduct of their fellows.

The causes of disagreement. The many reasons for disagreement, however, arise in a man's experience and his inferences from it, or in his more or less blind dependence upon an authority from whom he draws his opinion. It may be said, then, that men disagree for one or more of three reasons: (1) because one man's experience is different from that of another; (2) because he draws his opinions from a different authority; (3) because the inferences drawn from the same experience differ. A native of Cuba cannot have the same opinions as a native of Alaska on account of the difference of their experience. They would naturally disagree as to the proper expense for fuel, for instance. When Horace Greeley's powerful individuality was directing the *New York Tribune*, it was said that in the majority of cases an hour's talk would show whether a man was a regular reader of that paper or not, so generally did the paper shape the opinions of its readers. At that time heated arguments often arose between men who blindly accepted Greeley's views and their neighbors who as stoutly defended the views of the editor of the *Sun* or

the *Evening Post*. The men may have known little or nothing on the subject themselves, but they eagerly fought for the opinions of their authority. How differently men interpret the same experience comparison of the evidence given by Hay, Bowen, Anstruther, Middleton, etc. in Lord Erskine's *Defense of Gordon* will illustrate.[1] There was a similar discrepancy in the accounts of the incidents of the death of the Prince Imperial in the Zulu War.

He was out as a volunteer with a reconnoitering party. They had off-saddled at a kraal and were resting, when a band of Zulus crept up through the long grass, and suddenly opened fire and made a rush forward. Our scouts at once took horse, as a reconnoitering party was bound to do, and scampered off, but the Prince was overtaken and killed. At the Court-Martial which ensued, the five troopers gave the most conflicting accounts of particulars which an unskilled investigator would think could not possibly have been mistaken by eye-witnesses of the same event. One said that the Prince had given the order to mount before the Zulus fired: another that he gave the order directly after: a third was positive that he never gave the order at all, but that it was given after the surprise by the officer in command. One said that he saw the Prince vault into the saddle as he gave the order: another that his horse bolted as he laid hold of the saddle, and that he ran alongside trying to get up. . . . It once happened to myself in a London street to see a drunken woman thrown under a cab by her husband. Two cabs were running along, a four-wheeler and a hansom: the woman staggered almost under the first, and was thrown under the second. As it happened the case never got beyond the police station to which the parties were conveyed after fierce opposition from some neighbors, who sympathized entirely with the man. The woman herself, when her wounds were dressed, acknowledged the justice of

[1] *Specimens of Argumentation.* pp. 111–145.

her punishment, and refused to charge her husband. I was all the more willing to acquiesce in this because I found that while I had the most distinct impression of having seen the four-wheeler run over the woman's body, and should have been obliged to swear accordingly, there could be no doubt that it was really the hansom that had done so. This was not only the evidence of the neighbors, which I suspected at the time of being a trick, but of the cab driver, who had stopped at the moment to abide the results of the accident. I afterwards had the curiosity to ask an eminent police magistrate, Sir John Bridge, whether this illusion of memory on my part — which I can only account for by supposing that my eyes had been fixed on the sufferer and that I had unconsciously referred her injuries to the heavier vehicle — would have entirely discredited my testimony in his Court. His answer was that it would not; that he was constantly meeting with such errors, and that if he found a number of witnesses of the same occurrence exactly agreed in every particular he would suspect that they had talked the matter over and agreed upon what they were to say. This was the opinion of an experienced judge, a skilled critic of the defects of personal observation.[1]

To disagree is always to question a judgment or inference. Upon analysis of these three causes of disagreement it may be seen, however, that in each case it is really an inference from experience that is questioned. For instance, we see a man and hear his voice: we say that a man is speaking, and consider that a fact and not an inference. But to be honest we must confess that the only fact is that we have received an impression on our senses which we infer from past experience to mean that a man is speaking. Such inferences from sense impressions we call immediate

[1] *Logic Inductive and Deductive.* Wm. Minto. pp. 287, 288. C. Scribner's Sons. 1894.

inferences. In another case we see a man dead with a bullet-hole in his temple and a revolver lying by his side. Though this might be an hallucination, we, depending upon immediate inferences, regard it as a fact. But when we, relying upon past experiences, interpret these inferences to mean that the man has committed suicide, we are using mediate inferences, that is, interpretations of inferences from sense impressions. When a man says that it is not a man but a parrot that is talking in the next room, he questions our inference or judgment, just as he does when he objects that the man who we suppose killed himself has in reality been murdered. Thus the first and the third causes of disagreement alike arise from doubt as to an inference. So, too, with the second cause, reliance upon different authorities. The facts these authorities used were themselves immediate inferences; the interpretation of these facts, which form the opinion of these authorities, were mediate inferences no less than our own interpretation of facts, and our reliance upon the competency and the honesty of our authority is itself the inference that we draw from our past experience as to the authority. An opponent may question any or all of these inferences. For instance, he might have maintained that Greeley was an incompetent observer and interpreter of facts, that his self-interest was so great in a certain matter that he was actually dishonest in the views he expressed; or he might, without impugning Greeley's general value as an authority, question the facts as facts, or the interpretation Greeley put upon them through ignorance of other facts. All reasoning, then, is but a series of inferences or judgments from experience, and whenever an opponent questions evidence what he really doubts is a judgment by the witness or his authority.

The necessity for sifting evidence. Since all evidence — the material of proof — consists of inferences from experience and is open to disagreement, it is important that students train themselves in selecting and presenting evidence. In this study a knowledge of the classifications of evidence and of the various tests whereby weak evidence may be distinguished from strong is essential. In acquiring such knowledge of evidence, moreover, there is developed a habit of scrutiny which enables the student to notice quickly and accurately distinctions and differences that ordinarily are unheeded.

Such careful scrutiny is necessary in order that the student shall thoroughly understand the strength of both sides, and shall not fail at some important place by overestimating the value of his own proof, or underestimating the strength of that of his opponent. When a writer is seen to give undue value to a bit of evidence he loses more than the point at the moment under consideration; he makes the reader wonder whether this failure comes from trickiness that would palm off evidence as convincing which is not and evidence as unconvincing that is strong, or from failure to understand the case. Under either supposition the reader, becoming suspicious, may doubt the convincingness of all that precedes, or the value of all that follows.

It is especially necessary that any one who gathers material for discussion of some current topic should feel this need of caution in using even evidence which favors his views. He will collect his material from personal interviews, from newspapers, periodicals, letters to the press, and speeches of congressmen. Evidently all of it cannot have equal value, but apparently beginners in argumentation

do not understand how weak much of it necessarily is. Most letters to the press and magazine articles state, not proof through well-selected evidence, but mere opinion. Some of the material is signed only with initials, some of it is not signed. If a student quotes any part of such articles, he uses not only assertion, but also assertion for which no one can be held responsible. What possible value, then, can it have as evidence? Even when the quotation is from a signed article, unless reasons for its opinions be given, it is of value only if there are grounds for considering it as an argument from authority. Indeed, even when the articles give evidential support to their statements, there is need of close examination for personal or political bias.

A student who does not weigh carefully the evidence for, as well as against, him is like a lawyer who, without any previous knowledge of his witnesses, hears their story first on the witness stand, and is forced to let their testimony count for what it will. If they do not prove what he wishes to prove, if they involve him in unexpected difficulties, he must not complain, for it is his own fault. The careful worker will scrutinize, consider, and value every bit of evidence that comes to him, and by throwing out, first, what is plainly entirely valueless, and secondly what, because of other stronger evidence in his possession, is for him useless, will gradually reduce his material to evidence known by his tests to be valuable for his case. Even this evidence, however, must consist of pieces of differing values, and their relative strength must be determined if the student is to construct successfully from them the mosaic of his argument.

Section 3 — The Kinds of Evidence

The classification of evidence. A study of the kinds of evidence is, as has been pointed out, valuable as training. In themselves the classifications may not be important. But though few authorities agree as to the exact nomenclature, and though the divisions often overlap, so that a piece of evidence may be placed in either one of two classes with equal propriety, yet this does not lessen the value of a study of the classifications as an aid to students in acquiring the attitude of habitual scrutiny which is of prime importance in sifting evidence. Moreover, some classification, even if it be imperfect, is very convenient. The following classification seems natural rather than arbitrary, and has decided usefulness as the basis for the application of the tests of evidence.

Testimonial and circumstantial evidence.[1] In the first place, evidence may readily be classified in regard to its source. An argument is made up of statements of what purport to be facts, of statements of reasoning, and of statements of opinions based upon the reasoning of

[1] Some writers prefer the division into Direct and Indirect Evidence. For the most part this corresponds very closely to the division into testimonial and circumstantial. Testimonial evidence is in its nature direct, circumstantial is in its nature indirect. The chief confusion comes in the classification of "real evidence," — the testimony of material objects themselves, — which may be either direct or indirect. A man is sued by his tailor because he refuses to take and pay for a suit which in his opinion is ill-fitting. He appears in court with the suit on that the jury may judge for themselves whether it be ill-fitting or not. That is "real evidence": clearly it is also direct, but is it also testimonial? If so does testimonial evidence rest upon the testimony of human beings? It may be said that this is no exception to the rule that direct evidence is also testimonial, for the argument is really that drawn from the opinion of the jury that the suit is or is not ill-fitting. But fine distinctions like this need not concern us here.

competent authorities. It is obvious that the value of the statements of fact and the statements of opinion depends upon the estimate put upon the human being from whose experience they originate.[1] The value of reasoning, however, depends not only upon the accuracy of the statements of fact or opinion upon which the reasoning is based, but upon the cogency of the reasoning itself. Thus, although all evidence rests ultimately upon human experience it is convenient to classify as Testimonial Evidence that evidence which is drawn from facts and the opinion of authorities, that is, evidence in which we are concerned solely with the competency and the honesty of human beings; and to classify as Circumstantial Evidence all that large class of evidence where we have to draw inferences from the facts or the opinions. Thus if a witness testifies that he saw X kill Y, or if an expert testifies that the death of Z was caused by cyanide of potassium, the conclusions drawn directly that X killed Y and that the death of Z was caused by cyanide of potassium are based upon testimonial evidence, and their value, if they stand alone, depends simply upon the estimate we place upon the competency and the honesty of the witness, and we call it testimonial evidence. When, however, we infer that X in killing Y was guilty of premeditated murder, or that W administered to Z the fatal poison, we are depending upon inferences, and call it circumstantial evidence. That is, when the evidence does not go beyond the statement of fact or opinion of a witness it is testimonial; when the

[1] This, of course, is true only as regards the evidence taken by itself. All evidence is necessarily strengthened or weakened by other evidence, which is corroborating or contradictory. But this result comes from the quantity and not the quality of evidence, and the quality alone is here under discussion.

evidence, however, is extended by an inference as to something not directly testified to, it becomes for our purposes circumstantial evidence. Of course where the inference is from "real evidence," — the testimony of material objects themselves,[1] — where the person making the inference is using evidence given him directly by his senses, the inferential nature of circumstantial evidence is still more marked; as in the following by Professor Huxley.

Suppose that a man tells you that he saw a person strike another and kill him; that is testimonial evidence of the murder. But it is possible to have circumstantial evidence of the fact of a murder; that is to say, you may find a man dying with a wound upon his head having exactly the form and character of the wound which is made by an axe, and, with due care in taking surrounding circumstances into account, you may conclude with the utmost certainty that the man has been murdered; that his death is the consequence of a blow inflicted by another man with that implement.[2]

Professor Huxley has emphasized the distinction between testimonial and circumstantial evidence: the following quotation shows their interdependence.[3]

The two are so interdependent, that it is only by extreme examples that we can dissociate them. All testimonial evidence must be sustained by circumstances, whilst all circumstantial evidence is dependent upon direct facts as stated by witnesses past or present.

Let me give you an example of each, that this may be more clear to your minds. Let us suppose that several boys go to

[1] For an example of Real Evidence that is testimonial rather than circumstantial, see note, p. 84.

[2] *Lectures on Evolution.* Huxley. *Specimens of Argumentation.* p. 71.

[3] For greater clearness, the terminology has been slightly changed.

a pool of water to swim. One of these is seen by his companions to dive into the water, and he does not arise. His death is reported. This is called testimonial evidence. The boy was seen to drown, you are told, and your judgment concedes the fact readily. But is the proposition proved, even though you have these several witnesses to the actual drowning? Let us see. The authorities, later, drag the pool and find a body. The body is taken to the morgue, and the keeper there, an expert in such matters, makes the startling assertion that instead of a few hours, or let us say a day, the body must have been immersed for several days. He concludes this from circumstantial evidence. The keeper has no positive knowledge that this particular body has been under water so long. Still he has seen thousands of bodies, and none has presented such an appearance after so short an interval. How shall we judge between such conflicting evidence? On the one side we have testimonial evidence which is most positive. On the other we have circumstantial evidence which is equally so. Is the original hypothesis proven?[1] Does not the circumstantial evidence raise a doubt? Certainly. Now let us take another step. The witnesses to the drowning are called again, and view the body, and now among ten of them, we find one who hesitates in his identification. At once we find another circumstance wanting in substantiation of the original claim. Now we see, that all that was really proved was, that a boy was drowned; and not at all that it was this particular boy who was found. But is it proved that a boy was drowned when the boys were in swimming? How can it be in the absence of a drowned body which all can identify as their companion's? Now suppose that at the last hour, the original boy turns up alive, and reports that he had been washed ashore down the stream, and subsequently recovered. We find that our testimonial evidence, with numerous witnesses

[1] Students of Argumentation are warned against this word. "Proved" is the past participle. Except in the verdict "not proven," "proven" has no proper use.

to the actual fact, was entirely misleading after all, because we had jumped to a conclusion, without duly considering the attendant circumstances of the case. So it is always. There is no such thing as positive proof which does not depend upon circumstances. The old example may be cited briefly again. If you see one man shoot at another and see the other fall and die, can you say without further knowledge, that one killed the other with his pistol? If you do, you may find later that the pistol carried only a blank cartridge, and that the man died of fright.

It is equally true of circumstantial evidence, that without some direct fact upon which it depends it is worthless. As an example of this I may as well save your time by introducing the case at issue. If we could show you that the prisoner desired the death of this girl; that he profited by her death; . . . that she died under circumstances which made the attending physician suspect morphine poisoning; that as soon as the suspicion was announced, the prisoner mysteriously disappeared, and remained in hiding for several days; that he had the opportunity to administer the poison; that he understood the working of the drug; and other circumstances of a similar nature, the argument would be entirely circumstantial. All this might be true and the man might be innocent. But, selecting from this array of suspicious facts, the one which indicates morphine as the drug employed, add to it the fact that expert chemists testify that they find morphine in the tissues of the body, and you see, gentlemen, that at once this single bit of direct evidence gives substantial form to the whole. The circumstantial is strengthened by the testimonial, just as the testimonial is made important by the circumstantial. The testimony of experts that poison was found in a body, though testimonial evidence as to the cause of death, neither convicts the assassin, nor even positively indicates that a murder has been committed. The poison might have reached the victim by accident. But consider the attendant circumstances, and then we see that a definite conclusion is

inevitable. It is from the circumstantial evidence only that we can reach the true meaning of what direct testimony teaches.

A second classification — direct proof and refutation. A second classification of evidence is based upon the purpose for which the evidence is used. This distinction has been already pointed out on pp. 12–13, where the work of the student was divided into direct proof and refutation. Obviously either testimonial or circumstantial evidence may be used for both purposes, but their handling will be seen to be somewhat different as the purpose varies. This classification will be referred to later in the chapter. At present it is sufficient to point it out before considering testimonial and circumstantial evidence in detail.

Testimonial evidence. Testimonial evidence or direct evidence is so simple and clear in its bearing upon the matter in dispute that its use and its subdivisions need not detain us. It is a flat statement that such and such a thing took place, or that something is so because a recognized authority says it is. We have nothing to do but to test the probability or consistency of the testimony, and decide from this and from our estimate of the witness whether his evidence is to be accepted, rejected, or accepted under protest and with reservation. In a later section we shall consider the tests to apply to witnesses to facts; the tests of recognized authorities have already been given on pp. 67–68.

Circumstantial evidence. Circumstantial or indirect evidence is much less simple. As it is distinguished from testimonial by the presence of an inference too obvious to be disregarded, it may assume as many forms as there are kinds of inference, and admits of various classifications. The only classification that need long concern us here is

the division into inductive and deductive argument. Inductive argument may be broadly defined as inference from particulars to a general statement. Deductive argument, on the other hand, is an inference from a general statement to one less general or to a particular. For example, by induction from our knowledge of an accumulation of particular instances we arrive at the statement that all men are mortal, or that America has won all the races for the *America* cup. By deduction we reach the conclusion that since all men are mortal, and Socrates is a man, therefore Socrates is mortal; or that since all criminals are a menace to society, and some immigrants are criminals, therefore those immigrants are a menace to society.

Obviously in deduction the conclusions are really reached by the use of combined induction and deduction, for the indispensable generalizations, "All men are mortal" and "All criminals are a menace to society," to have any value at all must rest on inductions from particulars. The induction, however, in deductive argument is often so easily made and so readily accepted that the inductive part of the process is not questioned. If the induction be questioned, however, it must be tested in the same fashion in which we should test any other induction.

Certain conclusions, however, arising from induction and deduction combined are conveniently classed and studied not as deductions, but as inductions; for the assailable part of the process lies chiefly in the inductive reasoning. These are conclusions drawn from one particular to another particular. A rapidly falling barometer leads one to the conclusion that there will be a storm. The validity of this conclusion rests upon the generalization that *storms follow the rapid fall of barometers*. Similarly in a certain country

district it is said that rain is expected when a broom-peddler is seen. Here the fallacious conclusion is only as valid as the induction that *rain follows the appearance of a broom-peddler.* Such arguments are often designated as inductive and they can best be studied as such; but it should be remembered that all inferences from particulars to other particulars are really combined induction and deduction, the deduction, however, being so simple that it is almost negligible.

How unimportant is the deductive element in this argument from one particular to another may be seen if we phrase as formal deduction the argument given above. Rapidly falling barometers are reliable signs that there will be a storm; this barometer is a rapidly falling barometer; therefore this barometer is a reliable sign that there will be a storm. Clearly the part of the argument that is important is that by which we know whether or not rapidly falling barometers are reliable signs of storm, and whether this barometer is a rapidly falling barometer; not the argumentative process that shows us how, if these two statements be true, we may argue from them that this barometer is a reliable sign of storm.

The use of deductive argument. Deductive argument, depending as it does for its effectiveness largely upon the assumption that its fundamental generalizations will be accepted without argument, is especially serviceable where there is close agreement between the writer and his readers in regard to the principles underlying the argument; a philosopher or a scientist arguing with those of the same school of thought, a lawyer arguing before a bench of judges, a clergyman trying to convince others who accept his fundamental creed,—all these can make free use of

deductive reasoning based on broad principles accepted by their audience. But in cases where there is wide divergence in views the safer method is to establish the basal generalizations by rapid and well-selected inductive reasoning from significant special instances and to use the deductive process, if at all, chiefly to summarize results.

The great value of deductive reasoning is that when the premises of the syllogism[1] are once accepted, the deduction from them is clear, concise, and cogent. For instance, twenty pages of Joseph H. Choate's argument before the Supreme Court in the Income Tax Case[2] are devoted to the proof of the premises in the following syllogism, which, once the premises are granted, establishes in a few lines the point Mr. Choate was contending for. An unapportioned direct tax is forbidden by the Constitution; the income tax is, in part at least, an unapportioned direct tax; therefore the income tax is, in part at least, forbidden by the Constitution.

This deductive form of reasoning is an accurate expression of truth already known rather than a form of argument whereby we arrive at new truths for ourselves or others, as the syllogism of Mr. Choate clearly shows. Deduction, however, has a very important place in the

[1] Formal deductive reasoning is usually phrased in the syllogism, informal deductions in the enthymeme. The syllogism consists of three statements, the major premise, the minor premise, and the conclusion, as follows: —

Major Premise, — All men are mortal.
Minor Premise, — Socrates is a man.
Conclusion, — Socrates is mortal.

The enthymeme is a syllogism with one or more of its parts implied rather than expressed; for instance, All men are mortal, therefore Socrates is mortal; or, This barometer is falling rapidly, therefore there will be a storm.

[2] See *The Forms of Prose Literature*. J. H. Gardiner. pp. 328–349.

science of logic, for upon it depends the accurate expression of the results of correct thinking. A detailed knowledge of the kinds of deductive reasoning, — that is, the forms and classifications of the syllogism, — is, however, hardly necessary for us in the art of argumentation. Pertaining as this knowledge does to theory rather than to practice, it may well be left to the science of logic to which it rightly belongs.

The use of inductive argument. Inductive argument is more generally used than is deduction by itself, but it moves more slowly, needs more facts to establish it, and is often less certain. It is indispensable where there is not agreement as to general principles between the writer and his readers. It is especially useful in establishing general laws or in showing that matters in dispute really fall under established generalizations. It may most conveniently be studied in three divisions which though not mutually exclusive in theory can yet be readily distinguished in practice: (1) Generalization from particular instances; (2) arguments based on a causal relationship, — from effect to cause or from cause to effect; (3) arguments based on resemblance.

Generalization. The typical form of inductive argument, or as Minto defines it, "argument from the observed to the unobserved," is generalization, — a process whereby from the observation of certain related particular instances a conclusion is reached in regard to a class. For example, such conclusions as "All crows are black," "The sun never sets on the Stars and Stripes," "America has won all the races for the *America* cup," have been reached by generalization. In a perfect generalization all the members of the class have been observed and the generalization

has been seen to be true for each. Obviously in regard to such generalizations dispute seldom arises. Men disagree in regard to imperfect generalizations where the induction is made from the observation of less than all the members of the class, as in the first generalization given, "All crows are black" or in the discarded generalization "All swans are white." The value of an imperfect generalization depends first, upon the relative size of the unobserved part of the class; secondly, upon the degree of probability that such a general law exists; and thirdly, upon the fact that the members observed are fair and sufficient samples of the class, and that no exceptions can be discovered. A summer resident of Mount Desert ventures the statement that for the last forty years the temperature has not exceeded 100 degrees. Upon cross-examination he admits that five summers in that period he spent in Europe. Nevertheless as the relative size of the unobserved part of the class is slight, you are inclined to trust the induction, especially as there is a likelihood that some such general law exists. Much less readily would you accept the induction that the four hundred voters on the island were all named Hall or all had black hair, because the summer resident had observed that to be true of three hundred and fifty of them. In such matters, general laws are hardly likely to exist. Still less would you accept these inductions if the instances observed were not fair and sufficient samples of their class; that is, if the voters were observed in one corner of the island merely, or if you knew that investigation concerning several fair-haired men who appeared to be natives had been neglected by the reasoner. The generalization that swans are white, resting on wide observation of swans throughout the Northern

Hemisphere, seemed tenable when judged by the three tests of induction, until the swans of Western Australia and South America were observed. The likelihood of a general law as to color being less, however, this induction would, by the second test, have been less safe than inductions that swans have wings or web feet. The safest proof of a general law comes when the cause in operation can be clearly seen. That candles will go out if they are blown hard, is a generalization which is very safe because we can readily see the general law there in operation that the wind causes a feeble flame to go out. The argument often heard that scholarly men are not good leaders is an example of that kind of hasty generalization which is most dangerous until it has been tested to see whether the cases on which it is based are really fair and sufficient samples of their class, and whether, as is most likely, the arguer has not, in his enthusiasm, ignored many exceptions which might make the generalization untenable.

Induction based on a causal relationship. A form of argument much more common than explicit generalization is the argument from particulars to other particulars in which the generalization though fundamental is implied rather than expressed. Of these the most cogent are those that derive their force from a causal relationship existing between the particulars, the argument being either from cause to effect or from effect to cause. If the temperature falls to zero and there is a tub of water out of doors it is an argument from *cause to effect* to say that the water will be frozen in a short time. If smoke is seen it is argument from *effect to cause* to say that there has been fire. It is well to note here that whereas the argument from cause to effect is strengthened as the causes increase

that contribute to the same effect, the contrary holds true in regard to the argument from effect to cause, as the more causes there are at work to produce the known effect the harder it is to prove the existence of any one cause. Politicians who assert that good or bad times are due to this or that tariff bill forget this, and ignore the multiplicity of possible causes. Seldom do writers note the presence of different causes as keenly as does Mr. McCall in the following quotation.

I am aware that there is as yet no general agreement as to the cause of the panic of 1893. Some contend that commercial crises are sure to come at certain intervals, as it were by the clock, and that the natural accumulation of business errors during the twenty years that had elapsed since the panic of 1873 made this particular crisis inevitable when it came. There is reason for claiming that it was largely in the beginning a financial panic, in the nature of a penalty for much unwise financial legislation. It is certain that among the first acute symptoms was a money famine, and that, while the wheels of the mills were still turning, the banks of the great financial centres of the East suspended money payments. Others claim that the popular mandate at the election of 1892 for a radical revision of tariff duties was the substantial cause. Perhaps it would not be far from the truth to ascribe it to all three causes combined, with the last-mentioned cause the least natural and the least potent of the three.[1]

The argument from cause to effect. That the argument from cause to effect is not only very common but very important, is due to the universal belief that things do not happen without adequate causes, and the corollary therefrom that if adequate causes are present the effect is

[1] Samuel W. McCall in *Atlantic Monthly*, October, 1904. p. 551.

reasonably to be expected. The typical form of this argument is in trials for murder where the prosecution are at great pains to show that the prisoner's previous character and his motives for the deed are such as to furnish cause for the murder. Daniel Webster is very careful about this method of proof in the following: —

Joseph Knapp had a motive to desire the death of Mr. White, and that motive has been shown. He was connected by marriage with the family of Mr. White. His wife was the daughter of Mrs. Beckford, who was the only child of a sister of the deceased. The deceased was more than eighty years old, and had no children. His only heirs were nephews and nieces. He was supposed to be possessed of a very large fortune, which would have descended, by law, to his several nephews and nieces in equal shares; or, if there was a will, then according to the will. But as he had two branches of heirs, the children of his brother, Henry White, and of Mrs. Beckford, each of these branches, according to the common idea, would have shared one half of his property.

This popular idea is not legally correct. But it is common, and very probably was entertained by the parties. According to this idea, Mrs. Beckford, on Mr. White's death without a will, would have been entitled to one half of his ample fortune; and Joseph Knapp had married one of her three children.[1]

Tests of this argument. The value of this argument from cause to effect depends upon two things: (1) Were the causes adequate to produce the effect alleged? (2) Was the operation of the causes not interfered with by other forces? If a man is known to be upright and good tempered, it takes a great deal to make a jury believe that he

[1] *The Writings and Speeches of Daniel Webster.* Vol. XI, p. 63. Little, Brown & Co. 1903.

committed murder no matter how strong was the motive. To them the cause will seem inadequate to produce the effect. If a man is proved conclusively to have been a hundred miles away when his enemy was shot, all the causes that can be arrayed to show that he did the shooting cannot outweigh the fact that his absence made it impossible. The alibi completely interfered with the operation of all the causes alleged.

The uncertainty that must, as a rule, exist as to whether the causes were really adequate to produce the effect alleged, and whether no interfering force was at work, makes the value of the argument from cause to effect chiefly preparatory and corroboratory. Webster used the fact that Joseph Knapp had a strong motive to commit the murder to prepare the jury for other and more cogent proof, not as in itself conclusive. Important as it is to be able to show that causes were at work that might produce the effect in question, in order to dispose men to admit the possibility of our conclusions, this argument needs to be supplemented by evidence of a less uncertain nature.[1]

[1] Argument from cause to effect is the typical form of what is usually called "Argument from Antecedent Probability," — a good name for a common argument. The chief objection to it lies in its close association with two very confusing classes of argument, "Argument from Sign" and "Argument from Example," — terms used differently by almost every writer on the subject. On account of this confusion and because the classification has little value for purposes of instruction aside from the puzzle it produces, it has been discarded here. This argument from cause to effect is also the typical form of *a priori* argument, or argument from events at one time to events at a subsequent time; and opposed to *a posteriori*, argument from events at one time to events at a preceding time. This classification, though natural and definite, has too little vital connection with the use to which the argument is to be put and the dangers to which it is liable to seem significant in a book of this scope.

The argument from effect to cause. The argument from effect to cause is probably the most valuable of all the forms of circumstantial evidence. It draws its strength from the universal belief in causation and from the fact that it is not usually difficult to ascertain with approximate accuracy what were the causes which produced certain effects. Indeed the very ease with which causes can usually be singled out leads people to attach undue weight to this argument where keen judgment would see that so many causes are at work that it is unsafe to select any as surely present. The venders of patent medicines take advantage of the popular susceptibility to this argument to convince the public that the cause of B's wonderful recovery was the marvelous curative power possessed by a certain patent medicine, despite the fact that many other causes were doubtless contributing to the cure. The value of the argument from effect to cause then depends upon two things: (1) Was the alleged cause adequate to produce the known effect? (2) Can all other possible causes be so far eliminated that you can be sure the one in question was present? You see A discharge a pistol at B and see B fall dead. Forgetful of these limitations, you say that B was killed by a bullet from A's pistol. When you find later that the cartridge was undoubtedly a blank one, you recognize that the cause you assigned was inadequate to produce the result alleged, and you conclude that another cause was operative, namely heart disease. In this you may err, for the physician may prove that death was caused by a powerful poison taken a few minutes before. The argument from effect to cause is not final, then, until all other possible causes have been eliminated. When you see smoke it is not unsafe to argue that there has

been fire, but in the multiplicity of causes for fire it is unsafe to argue that the fire proves friction, spontaneous combustion, an electric spark, contact with another fire, or a sulphur match. However, in spite of these weaknesses that should be guarded against, at its best the argument is decidedly cogent, for it rests upon a fundamental belief of the human mind, — that every effect has its adequate cause.

The strength of this argument from effect to cause is increased if there are found a number of effects all pointing to the same cause. This is seen in the circumstantial evidence of the courts, in which each effect might have been due to several causes, but when a dozen or more effects are noted all of which might have been produced by the same cause it is easy to be convinced that the cause alleged must have been operative. Such a heaping up of the effects of conspiracy Daniel Webster gives in the following paragraph.

Let me ask your attention, in the first place, to those appearances, on the morning after the murder, which have a tendency to show that it was done in pursuance of a preconcerted plan of operation. What are they? A man was found murdered in his bed. No stranger had done the deed, no one unacquainted with the house had done it. It was apparent that somebody within had opened, and that somebody without had entered. There had obviously and certainly been concert and coöperation. The inmates of the house were not alarmed when the murder was perpetrated. The assassin had entered without any riot or any violence. He had found the way prepared before him. The house had been previously opened. The window was unbarred from within, and its fastening unscrewed. There was a lock on the door of the chamber in which Mr. White slept, but the

key was gone. It had been taken away and secreted. The footsteps of the murderer were visible, outdoors, tending toward the window. The plank by which he entered the window still remained. The road he pursued had been thus prepared for him. The victim was slain, and the murderer had escaped. Everything indicated that somebody within had coöperated with somebody without. Everything proclaimed that some of the inmates, or somebody having access to the house, had had a hand in the murder. On the face of the circumstances, it was apparent, therefore, that this was a premeditated, concerted murder; that there had been a conspiracy to commit it.[1]

These two arguments from effect to cause and from cause to effect are often combined to give us an argument from one effect to another effect of the same cause. For instance a low barometer furnishes argument for a storm, not because it causes or is caused by the bad weather, but because the atmospheric condition that causes a low barometer is one of the causes that often result in a storm.

Argument based on resemblance. It is convenient to group all arguments from particulars that do not fall under generalization or under arguments based on a causal relationship, but which are based on the resemblance of past experience to the thing in question, as arguments from resemblance. This resemblance, however, as will be explained shortly, to have probative value must hold in all particulars essentially connected with the point under discussion but not necessarily in other particulars.

Franklin used this argument from resemblance at the Constitutional Convention in support of his contention

[1] *The Writings and Speeches of Daniel Webster.* Vol. XI, p. 62. Little, Brown & Co. 1903.

that there was no necessity of paying salaries to the President and other executive officials of the United States.

It may be imagined by some that this is an Utopian idea, and that we can never find men to serve us in the executive department, without paying them well for their services. I conceive this to be a mistake. Some existing facts present themselves to me, which incline me to a contrary opinion. The high sheriff of a county in England is an honorable office, but it is not a profitable one. It is rather expensive, and therefore not sought for. But yet it is executed, and well executed, and usually by some of the principal gentlemen of the county. In France, the office of counselor, or member of their judiciary parliaments, is more honorable. It is therefore purchased at a high price; there are indeed fees on the law proceedings, which are divided among them, but these fees do not amount to more than three per cent on the sum paid for the place. Therefore, as legal interest is there at five per cent, they in fact pay two per cent for being allowed to do the judiciary business of the nation, which is at the same time entirely exempt from the burden of paying them any salaries for their services. I do not, however, mean to recommend this as an eligible mode for our judiciary department. I only bring the instance to show, that the pleasure of doing good and serving their country, and the respect such conduct entitles them to, are sufficient motives with some minds, to give up a great portion of their time to the public, without the mean inducement of pecuniary satisfaction.

. . . . . .

To bring the matter nearer home, have we not seen the greatest and most important of our offices, that of general of our armies, executed for eight years together, without the smallest salary, by a patriot whom I will not now offend by any other praise; and this, through fatigues and distresses, in common with the other brave men, his military friends and

companions, and the constant anxieties peculiar to his station? And shall we doubt finding three or four men in all the United States, with public spirit enough to bear sitting in peaceful counsel, for perhaps an equal term, merely to preside over our civil concerns, and see that our laws are duly executed? Sir, I have a better opinion of our country. I think we shall never be without a sufficient number of wise and good men to undertake, and execute well and faithfully, the office in question.[1]

In his *Defense of Evans*, Lord Mansfield used the argument from resemblance to previous cases to prove that Allan Evans, the defendant, was probably chosen to the office of sheriff for the very reason that he could not legally serve, but might be fined for his inability.

But, were I to deliver my own suspicion, it would be, that they did not so much wish for their services as their fines. Dissenters have been appointed to this office, one who was blind, another who was bed-ridden; not, I suppose, on account of their being fit and able to serve the office. No: they were disabled both by nature and by law.

We had a case lately in the courts below, of a person chosen mayor of a corporation while he was beyond seas with his Majesty's troops in America, and they knew him to be so. Did they want him to serve the office? No; it was impossible. But they had a mind to continue the former mayor a year longer, and to have a pretense for setting aside him who was now chosen, on all future occasions, as having been elected before.

In the case before your Lordships, the defendant was by law incapable at the time of his pretended election; and it is my firm persuasion that he was chosen because he was incapable. If he had been capable, he had not been chosen, for

[1] *The Works of Benjamin Franklin.* Jared Sparks. Vol. V, pp. 147, 148.

they did not want him to serve the office. They chose him because, without a breach of the law, and a usurpation on the Crown, he could not serve the office. They chose him, that he might fall under the penalty of their by-law, made to serve a particular purpose; in opposition to which, and to avoid the fine thereby imposed, he hath pleaded a legal disability, grounded on two acts of Parliament. As I am of opinion that his plea is good, I conclude with moving your Lordships,

"That the judgment be affirmed."

Tests of this argument. The convincingness of the argument from resemblance is due to the belief, practically universal, that objects which resemble each other in some respects connected with the point in discussion are likely to resemble each other in further respects. That trust in this argument may not be misplaced it is essential that the argument be in reality what it pretends to be, — an argument from a parallel state of things, that is, a state alike in all particulars essential to the point under discussion. To insure this parallelism, however, is by no means easy. In the first place, the resemblance may be not real but specious. "Appearances are deceitful" is an adage that cannot be too firmly kept in mind in dealing with this argument. Only the mind trained in analysis can surely separate the true from the false here, for specious resemblances confront the arguer at every turn. Macaulay in his speech on the Reform Bill lays bare in scathing fashion an apparent resemblance which really established no parallel state of things.

What facts does my honorable friend produce in support of his opinion? One fact only, and that a fact which has absolutely nothing to do with the question. The effect of this reform, he tells us, would be to make the House of Commons more powerful. It was all-powerful once before,

in the beginning of 1649. Then it cut off the head of the king, and abolished the House of Peers.. Therefore, if it again has the supreme power, it will act in the same manner. Now, sir, it was not the House of Commons that cut off the head of Charles the First; nor was the House of Commons then all-powerful. It had been greatly reduced in numbers by successive expulsions. It was under the absolute dominion of the army. A majority of the House was willing to take the terms offered by the king. The soldiers turned out the majority; and the minority, not a sixth part of the whole House, passed those votes of which my honorable friend speaks, — votes of which the middle classes disapproved then, and of which they disapprove still.[1]

In the second place, even if the resemblance be clearly not a specious one, "if the object to which we infer is known to possess some property incompatible with the property inferred, the general resemblance counts for nothing. The moon has no atmosphere, and we know that air is an indispensable condition of life. Hence, however much the moon may resemble the earth, we are debarred from concluding that there are living creatures on the moon such as we know to exist on the earth."[2] That is, the resemblance here breaks down in an essential particular. The argument from resemblance, therefore, even if the resemblance be real, can have by itself no probative value if the resemblance breaks down in a particular essential to the point under discussion. It may, however, be effectively used as illustration.

One form of the argument from resemblance that needs special attention because of its liability to misuse is what

[1] *Representative British Orations.* Vol. III, pp. 84–85. 1884. Lord Macaulay on the Reform Bill.

[2] *Logic Inductive and Deductive.* Wm. Minto. pp. 369–370.

Whately called the "argument from analogy." In these arguments the resemblance is not so much in the things themselves as in the relations in which the things stand to other things. "Thus an egg and a seed are not in themselves alike, but bear a like relation to the parent bird and to her future nestling, on the one hand, and to the old and young plant on the other, respectively."[1] Of this argument Mill says: —

In this sense, when a country which has sent out colonies is termed the mother country, the expression is analogical, signifying that the colonies of the country stand in the same *relation* to her in which children stand to their parents. And if any inference be drawn from this resemblance of relations, as, for instance, that the same obedience or affection is due from colonies to the mother country which is due from children to a parent, this is called reasoning by analogy. Or if it be argued that a nation is most beneficially governed by an assembly elected by the people, from the admitted fact that other associations for a common purpose, such as joint stock companies, are best managed by a committee chosen by the parties interested; this is an argument from analogy in Archbishop Whately's sense, because its foundation is not, that a nation is like a joint stock company, or Parliament like a board of directors, but that Parliament stands in the same *relation* to the nation in which a board of directors stands to a joint stock company. Now, in an argument of this nature, there is no inherent inferiority of conclusiveness. Like other arguments from resemblance, it may amount to nothing, or it may be a perfect and conclusive induction. The circumstance in which the two cases resemble, may be capable of being shown to be the material circumstance; to be that on which all the consequences, necessary to be taken into account in the particular discussion, depend. In the case in question, the

[1] *Elements of Rhetoric.* Whately. Part I, Chap. II, Sect. VII.

resemblance is one of relation; the *fundamentum relationis* being the management, by a few persons, of affairs in which a much greater number are interested along with them. Now, some may contend that this circumstance which is common to the two cases, and the various consequences which follow from it, have the chief share in determining all those effects which make up what we term good or bad administration. If they can establish this, their argument has the force of a rigid induction: if they cannot, they are said to have failed in proving the analogy between the two cases; a mode of speech which implies that when the analogy can be proved, the argument founded upon it cannot be resisted.[1]

In other words, to be a valid argument the analogy must hold true in all particulars essential to the point under discussion. "Carlyle's saying that a ship could never be taken round Cape Horn if the crew were consulted every time the captain proposed to alter the course, if taken seriously as an analogical argument against Representative Government, is open to the objection that the differences between a ship and a State are too great for any argument from the one to the other to be of value."[2] For, to mention merely two of the many essential differences, in the first place the ship is not sailing for the common benefit of the crew as a State is administered for the good of the people, and the crew's inferiority in judgment to the captain is marked, whereas the best representatives of the people are very likely inferior to none in their judgment of the policy of a State.

Macaulay thus pointed out a similar false analogy: —

"If," they say, "free competition is a good thing in trade, it must surely be a good thing in education. The supply of

[1] *System of Logic.* J. S. Mill. p. 332. 1846.
[2] *Logic Inductive and Deductive.* Wm. Minto. p. 373.

other commodities, sugar, for example, is left to adjust itself to the demand; and the consequence is, that we are better supplied with sugar than if the Government undertook to supply us. Why then should we doubt that the supply of instruction will, without the intervention of the Government, be found equal to the demand?"

Never was there a more false analogy. Whether a man is well supplied with sugar is a matter which concerns himself alone. But whether he is well supplied with instruction is a matter which concerns his neighbors and the State. If he cannot afford to pay for sugar, he must go without sugar. But it is by no means fit that, because he cannot afford to pay for education, he should go without education. Between the rich and their instructors there may, as Adam Smith says, be free trade. The supply of music masters and Italian masters may be left to adjust itself to the demand. But what is to become of the millions who are too poor to procure without assistance the services of a decent schoolmaster?[1]

It is because of the great difficulty in securing this resemblance in all vital particulars that Professor Genung gives the following warning even while commenting on the great value of the arguments from resemblance. They "are best applied to those general truths which do not require to be verified so much as to be illustrated; their office . . . is mainly expository. Hence we find them most employed in enforcing the large and cogent principles of conduct, polity, morals, practical life. Of example [resemblance to things past] Burke says that it is 'the only argument of effect in civil life.' Its power . . . is due to the fact that, as Burke asserts in another place, 'example is the school of mankind, and they will learn at no other.'"[2]

[1] Speech in the House of Commons, April 19, 1847. *The Works of Lord Macaulay.* Trevelyan. Vol. VIII, p. 393.

[2] *Practical Rhetoric.* Genung. p. 423. Ginn & Company.

Summary of the kinds of evidence. Evidence, as we have seen, consisting of facts, the opinions of authorities, and reasoning (inferences from the facts or opinions) can be classified as testimonial and circumstantial, facts and opinions being testimonial and inferences being circumstantial. Testimonial evidence needs no subdivision beyond the natural division into facts and the opinions of authorities, since the same tests are applicable to all witnesses and to all authorities. Circumstantial evidence, however, can be more surely tested if we subdivide it into deductive and inductive reasoning. Deductive reasoning, moreover, for our purposes may be tested without considering the subdivisions which formal logic applies to it. Inductive reasoning, on the other hand, it is helpful to separate somewhat arbitrarily into generalizations, arguments based on a causal relationship, and arguments based on resemblance. In the section that follows it will be well to bear these classifications in mind, for they are helpful as guides to the tests to be applied.

Value of this knowledge. "True it is that in the case of the practical inquirer, who is endeavoring to ascertain facts not for the purposes of science but for those of business, such for instance as the advocate or the judge, the chief difficulty is one in which the principles of induction will afford him no assistance. It lies not in *making* his inductions but in the *selection* of them; in choosing from among all general propositions ascertained to be true, those which furnish him with marks by which he may trace whether the given subject possesses or not the predicate in question. In arguing a doubtful question of fact before a jury, the general propositions or principles to which the advocate appeals are mostly, in themselves, sufficiently trite, and

assented to as soon as stated: his skill lies in bringing his case under those propositions or principles; in calling to mind such of the known or recognized maxims of probability as admit of application to the case in hand, and selecting from among them those best adapted to his object. Success is here dependent upon natural or acquired sagacity, aided by knowledge of the particular subject, and of subjects allied with it. Invention, though it can be cultivated, cannot be reduced to rule; there is no science which will enable a man to bethink himself of that which will suit his purpose.

"But when he *has* thought of something, science can tell him whether that which he has thought of will suit his purpose or not. The inquirer or arguer must be guided by his own knowledge and sagacity in his choice of the inductions out of which he will construct his argument. But the validity of the argument when constructed, depends upon principles and must be tried by tests which are the same for all descriptions of inquiries, whether the result be to give A an estate, or to enrich science with a new general truth. In the one case and in the other, the senses, or testimony, must decide on the individual facts; the rules of the syllogism will determine whether, those facts being supposed correct, the case really falls within the formulæ of the different inductions under which it has been successively brought; and finally the legitimacy of the inductions themselves must be decided by other rules." [1]

These tests of evidence, both testimonial and circumstantial, whether deductive or inductive, the student must study in the next section to know when it is safe to use

[1] *A System of Logic.* John Stuart Mill. pp. 172–173. 1846.

each kind of argument and how to select intelligently from the large mass of evidence bad and good that lies before him.

Section 4 — Tests of Evidence

I. TESTING THE STATEMENTS OF WITNESSES

When a man makes an assertion which a student does not understand, or does not wish to believe, what should be his first steps in attacking the evidence? Suppose the student is discussing a football game with a friend who says: "Probably there was unfair tackling in the football game." "I do not believe that. Why do you think so?" the student answers. The friend then says: "Because an unfair tackle at just that point in the game was enough to save the day, and that motive has in past cases caused unfair tackling." The student, unwilling to give in, will first look at these two reasons to see if there is anything in them to attack. Suppose that he grants the second statement, but says that he cannot believe that even an unfair tackle could have saved the game in the crisis named. Then he says: "That does not seem to me in accordance with ordinary experience — you must give me proof that it is." Or he may say: "I cannot believe this, because we already know other circumstances which show that this was not the only hope — what you say does not agree with the other facts already known in regard to this case." Or he may object: "Your statement is in itself contradictory; therefore I cannot believe it." That is, a statement, a bit of testimonial evidence, may in itself be questioned on any one of these three grounds: "*Is it*

consistent with ordinary experience; with the facts already known concerning the case; is it consistent with itself?" [1]

Testimony should be consistent with ordinary experience. When John Mandeville writes of beings who have no heads, but have eyes and mouths between their shoulders, when he talks of dog-faced men, a reader refuses to take his words for more than fairy tales, because they are not consistent with human experience.

The following quotation from *A Roman Lawyer in Jerusalem*, a poetic plea in behalf of Judas,[2] is simply a statement of the details in his career, which seem, if he were a criminal, contrary to ordinary experience.

> *Was* he a villain lost to sense of shame?
> Ay, so say John and Peter and the rest;
> And yet — and yet this tale that Lysias tells
> Weighs with me more the more I ponder it;
> For thus I put it: Either Judas was,
> As John affirms, a villain and a thief,
> A creature lost to shame and base at heart —
> Or else, which is the view which Lysias takes,
> He was a rash and visionary man
> Whose faith was firm, who had no thought of crime,
> But whom a terrible mistake drove mad.
> Take but John's view, and all to me is blind.
>
> Call him a villain who, with greed of gain,
> For thirty silver pieces sold his Lord.
> Does not the bribe seem all too small and mean?
> He held the common purse, and, were he thief,
> Had daily power to steal, and lay aside

[1] *Practical Rhetoric.* Genung. p. 410. Ginn & Company. 1893.
[2] *A Roman Lawyer in Jerusalem.* W. W. Story. pp. 12–14. Colby & Rich, Boston.

A secret and accumulating fund.
So doing, he had nothing risked of fame,
While here he braved the scorn of all the world.
Besides, why chose they for their almoner
A man so lost to shame, so foul with greed?

Or why, from some five-score of trusted men,
Choose him as one apostle among twelve?
Or why, if he were known to be so vile,
(And who can hide his baseness at all times?)
Keep him in close communion to the last?
Naught in his previous life, or acts, or words,
Shows this consummate villain that, full-grown,
Leaps all at once to such a height of crime.

Again, how comes it that this wretch, whose heart
Is cased to shame, flings back the paltry bribe?
And, when he knows his master is condemned,
Rushes in horror out to seek his death?
Whose fingers pointed at him in the crowd?
Did all men flee his presence till he found
Life too intolerable? Nay; not so!
Death came too close upon the heels of crime.
He had but done what all his tribe deemed just:
All the great mass — I mean the upper class —
The Rabbis, all the Pharisees and Priests —
Ay, and the lower mob as well who cried,
"Give us Barabbas! Christus to the cross!" —
These men were all of them on Judas' side,
And Judas had done naught against the law.
Were he this villain, he had but to say,
"I followed Christus till I found at last
He aimed at power to overthrow the State.
I did the duty of an honest man.
I traitor! — You are traitors who reprove."
Besides, such villains scorn the world's reproof.

Or he might say — "You call this act a crime?
What crime was it to say, 'I know this man'?
I said no ill of him. If crime there be,
'T was yours who doomed him unto death, not mine."

A villain was he? So Barabbas was!
But did Barabbas go and hang himself,
Weary of life — the murderer and thief?
This coarse and vulgar way will never do.
Grant him a villain, all his acts must be
Acts of a villain; if you once admit
Remorse so bitter that it leads to death
And death so instant on the heels of crime,
You grant a spirit sensitive to shame,
So sensitive that life can yield no joys
To counterbalance one bad act; — but then
A nature such as this, though led astray,
When greatly tempted, is no thorough wretch.
Was the temptation great? Could such a bribe
Tempt such a nature to a crime like this?
I say, to me it simply seems absurd.

Peter at least was not so sensitive.
He cursed and swore, denying that he knew
Who the man Christus was; but after all
He only wept — he never hanged himself.

The weakness of this test. When the objection is raised to testimony that it is contrary to ordinary human experience, clearly the value of the objection depends upon how nearly complete is the knowledge of experience upon which the objection is founded. Complete knowledge alone can make the test really final, and such complete familiarity with all human experience is extremely rare. Further study, or new discoveries, may suddenly turn what was extraordinary into mere ordinary experience. When Paul

du Chaillu wrote of the pygmies in Africa, and told of other marvels seen in the wilds, many men smiled, called his books entertaining stories, and refused to give them more than a partial credence. That was because what he said seemed to be inconsistent with ordinary experience. To-day, however, the discoveries of Stanley and of later explorers have vindicated M. du Chaillu. Evidently, then, the safe attitude for a student to take in regard to evidence that seems contrary to human experience is to regard it himself, and to insist that his opponent regard it, as untrustworthy until further evidence shows that it is not really at variance with the most reliable human experience. This test, then, when applicable to evidence, shows a probability rather than a certainty that the evidence is incorrect as a whole, the strength of the probability depending on the amount of knowledge which the student has of the question in dispute.

Testimony should be consistent with the other known facts of the case. When, however, testimony given is not consistent with the facts already known concerning the case, it at once becomes suspicious. For instance, in the following case, the theory of Pasteur could hardly stand in the face of what seemed established truths.

When Pasteur was investigating the causes of splenic fever he adopted, very early in the inquiry, the theory of Dr. Davaine, that the disease was due to the presence of a certain parasite in the blood, and that consequently the same disease, showing the presence of the same parasite, could be communicated to other animals by inoculation. On the other side, two professors to whom the theory did not commend itself brought forward, as a triumphant refutation of it, what seemed at first a plainly contradictory fact. They had inoculated some rabbits with the blood of an animal which had died of splenic fever,

and though the rabbits had died very rapidly no trace of the expected parasite had been found in them either before or after their death. Moreover, their blood had been used to inoculate other rabbits, and these too had died in the same rapid manner, but with the same disregard of what the theory further required. Davaine at once disputed the *fact.* That is to say, he insisted that the two professors must have used blood which was not properly infected with splenic fever, but with some other disease. The professors, however, were equally certain of their facts; they had got their materials from the best available source, namely, from the director of an establishment where numerous animals which had died of splenic fever were constantly brought. But in order to convince the stubborn theorist they tried the experiment again, this time obtaining their materials from the most experienced veterinary surgeon in the neighborhood. Exactly the same result followed, and the facts certainly here appeared to be too strong for the theory.[1]

That is, the theory here was not consistent with the known facts in the case.

A danger of this test. Of course the so-called "facts" which are contradicted must be very carefully examined and shown not to be open themselves to any possible doubt, before a writer decides against the new opposing evidence as inadmissible. Because a statement contradicts generally accepted ideas it is not, as has been shown, necessarily false. In the case of Davaine just cited later investigation proved that the so-called "facts" of the professors were not facts at all.

It was some years later when the real weakness of the facts themselves came to light. Davaine's theory had meanwhile been enlarged and improved by the discovery that if

[1] *The Process of Argument.* Sidgwick. pp. 95–96. A. & C. Black. 1893.

the blood used for inoculation has already begun to putrefy, the animals inoculated will die by a form of blood-poisoning, quicker in its operation than splenic fever, and too quick to allow the true splenic fever parasites time to multiply. This suggested a new inquiry into the professors' experiments, and it was found that the blood used by them, although certainly taken from cases of splenic fever, had not been sufficiently fresh. So that the fact on which they relied as contradicting the theory turned out to be wrongly — *i.e.*, incompletely — described. Through merely overlooking the detail that the animals whose blood they used had been dead some twenty-four hours, their description of it as "splenic fever blood" became essentially false.[1]

Testimony should be consistent with itself. The next test of evidence — whether it is self-consistent — is more final. Certainly the following contradictory sentences taken from a schoolbook would hardly be accepted as conclusive evidence in a question on the date of the invention of the magnetic telegraph.

Question 159: What of Professor Morse's invention?
Answer: He invented the magnetic telegraph, which was the grandest event during Polk's administration.
Question 160: What was the first news sent on the wire?
Answer: The announcement of Polk's nomination.

It is by pointing out contradictions that Macaulay, in his stinging review of Croker's edition of *Boswell's Johnson* chiefly convicts Croker of untrustworthiness as an editor.

Mr. Croker tells us in a note that Derrick, who was master of the ceremonies at Bath, died very poor in 1760. We read on; and, a few pages later, we find Dr. Johnson and Boswell talking of this same Derrick as still living and reigning, as

[1] *Idem.* See pp. 13 and 69. p. 97. A. & C. Black. 1893.

having retrieved his character, as possessing so much power over his subjects at Bath that his opposition might be fatal to Sheridan's lectures on oratory. And all this in 1763. The fact is, that Derrick died in 1769.

In one note we read that Sir Herbert Croft, the author of that pompous and foolish account of Young which appears among the "Lives of the Poets," died in 1805. Another note in the same volume states that this same Sir Herbert Croft died at Paris, after residing abroad for fifteen years, on the 27th of April, 1816.[1]

A more thoroughgoing use of this test is seen in the following recent political argument.

Mr. Henry T. Oxnard, chief of the beet sugar lobby at Washington, and Henry T. Oxnard, promoter of beet sugar companies, appear to be separate and distinct persons. At least they hold opposite views as to the stability and security of the beet sugar industry, and its independence of tariffs.

Sunday morning's papers contained a most positive and unequivocal statement from Mr. Oxnard of the beet sugar lobby that the removal of the tariff on Cuban cane sugar would mean the absolute ruin of the American sugar industry — would, in fact, wipe it out completely. "Under existing conditions," he said, "we cannot compete with the Cubans. If conditions as to cost of machinery and labor were equal, we might be willing to take our chances with them; but as things are now, this is impossible." He also asserted boldly that the beet sugar producers are making only 6 per cent. on their investment.

In 1899, Mr. Oxnard, together with his partner, W. Bayard Cutting, signed an extended letter, evidently addressed to prospective investors, in which it was clearly established that neither the annexation of Cuba, nor a return to absolute free

[1] *Essays on Croker's Boswell's Life of Johnson.* Macaulay. pp. 333 334. H. Holt & Co. 1893.

trade in sugar, could check the growth or destroy the profits of the beet industry. In this letter the Cuban question was especially and specifically considered. Mr. Oxnard's statement at that time was:

"There is, however, no fear that, even under annexation to the United States, Cuban production can, in our day, expand to the point where the United States would become exporters of sugar instead of importers, and hence that protection would no longer protect."

He also called attention to the fact that the sugar production of the world consists of 3,000,000 tons of cane sugar from the tropics, and 5,000,000 tons of beet sugar from Europe. Consequently, the security of any given sugar proposition depends on its ability to hold its own with the European product. "The sugar industry," he declared, "is, after all, merely an agricultural one. We can undersell Europe in the production of all other crops, and sugar is no exception."

But the most weighty proposition advanced in the letter was that showing what the beet sugar industry could do under free trade. For demonstration of this Mr. Oxnard and his partner appealed to the statistics of the sugar trade under the McKinley bill, when raw sugars were admitted free. The lowest average price for sugar in any one of the three years under that law was 4 cents a pound. This was a reduction of 2.17 cents a pound from the price prevailing the year before the law took effect; but it didn't dismay Promoter Oxnard a little bit. Indeed, he went on to show how, even at the free trade price, the beet men could prosper amazingly. His experience showed that, conservatively estimated, beets would yield 250 pounds of granulated sugar per ton. This, at 4 cents per pound, meant $10 per ton for each ton of beets worked. The cost of the beets was $4 per ton; the cost of working beets into sugar, $3 per ton. This would leave a net profit of $3 per ton. His factories were then capable of handling 350,000 tons per annum. This meant a profit of $1,050,000 per year. By way of making his case stronger, he pointed out that,

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should sugar go as low as 3 cents per pound — 1 cent lower than the free trade price — the profit would still be $780,000.

Unless Mr. Oxnard, when making prospectuses, was a most studied and statistical liar, it is absolutely clear that his apprehension of ruin for the domestic sugar industry, if Cuba is granted some chance for her life, is either simulated or wholly unnecessary. Perhaps, by reading his letter of two years ago, he might reassure himself, and it is entirely possible that by reading that same letter the sugar beet farmers and the beet sugar manufacturers of Michigan may be able to estimate more accurately the value of what Mr. Oxnard and his colleagues are now attempting to make them believe.

Certainly, if the industry was so secure from any form of attack as Mr. Oxnard claimed in '99, it must be much more so now, since it is better established, more perfectly developed and in much stronger position.[1]

Summary of the first test. When, then, one is asked to accept testimony that states something contrary to ordinary experience, or that contradicts other known facts in the case, or contradicts itself, one has a right to refuse to accept it in proof of the assertion it is intended to support. Testimony of the third kind should be carefully excluded, and the other two kinds as well, unless the witness is prepared to show that ordinary experience in regard to his case has not been heretofore properly reported, or that the "facts" contradicted are not really facts at all.

II. TESTING THE CONDITIONS UNDER WHICH THE STATEMENTS WERE MADE

An objection to throwing out self-contradictory testimony might be raised on the ground that the contradiction may not come from ignorance but from the timidity or the

[1] *Detroit Evening News*, Dec. 17, 1901.

nervousness of the witness. Clearly, however, the testimony is in itself of no value until the contradiction is cleared away. If a student tries to examine how the contradiction arose, he passes to a second test of evidence — the conditions under which the testimony was given.

Does the witness testify unwillingly? It is under this test that a writer should consider whether the witness seems ready or reluctant to give his testimony.

A man stands at the bar on a charge of embezzlement. If he hunts for and produces all his books, bills, and receipts, and is ready to go into the state of his accounts and all his money transactions, then the jury who deliver a verdict of "not proven" may well in the eyes of candid observers show rather the strength of their own prejudices than the guilt of the prisoner. But if the accused refuse to produce his account books or ledgers, or at the moment he finds himself suspected, destroys every scrap of paper which, were he innocent, might establish his innocence, but if he were not innocent, might demonstrate his guilt, then a verdict of "not proven" will not clear his character. Every one will feel that that conduct which has saved the accused from conviction has also left him subject to irremovable suspicion of guilt.[1]

Was the testimony given under compulsion? Plainly testimony given under compulsion, whether physical or moral, is suspicious. It is difficult to write an accurate account of the Salem witchcraft and of Spain in the time of Philip II because in both cases torture forced from agonized men and women much of the evidence now extant. Surely testimony given under such compulsion must be handled very cautiously. Yet students are careless in the matter, if the evidence thus extracted favors their side of

[1] *The Verdict.* A. V. Dicey. p. 19. Cassell & Co. 1890.

a case. For instance, the question "Was Elizabeth justified in beheading Mary, Queen of Scots?" involves consideration of the evidence forced from Mary's secretaries by torture. They confessed only to recant when free. Assigning a value to their testimony on the rack becomes, then, a very delicate matter. It cannot be used against Mary with any force unless other evidence which has been carefully tested points to the same conclusion.

A schoolboy professing ignorance of a prank of his schoolmates which the teachers are investigating may be so influenced by the fear that he will be regarded as a telltale that his testimony must be discredited on the ground that he is speaking under moral compulsion. The law recognizes the danger of this compulsion in its provision that a wife is not compelled to testify against her husband. Obviously her testimony if forced would be given under strong moral compulsion to color her evidence in her husband's favor.

Summary of the second test. Whenever, then, the circumstances under which the testimony is given suggest that the witness did not speak the truth, either because he testified unwillingly or because there was evident physical or moral compulsion, the testimony becomes subject to more or less suspicion and may at times be entirely discredited.

III. EXAMINING THE WITNESS HIMSELF

A third test is to examine, not the statement or the circumstances under which it is made, but the witness himself, to see if anything about the man affects his power or his will to speak the truth.

Is the testimony prejudiced? Does it show personal interest? A student should, first of all, be on his guard against prejudices or personal interest, that may affect the testimony. For example, with most men the love of their own national customs and habits strongly colors their judgments of foreign lands. If, too, a writer is evidently wedded to the theory that he is presenting, or has important interests at stake — his reputation as scientist, lawyer, or inventor, — or is closely connected with the person under trial, his testimony should be well scrutinized. The ardent supporter of the belief that Bacon wrote Shakespeare's plays, a mill-owner pleading for a high tariff, a man defending a brother accused of robbery, may all be prejudiced witnesses and must therefore be regarded with suspicion. Indeed, the Argument from Authority is most often questioned from a recognition of the fact that personal interest produces a strong bias one way or the other, as the growing hesitancy to accept that form of the Argument from Authority known as expert testimony illustrates. The following shows why all the evidence of an expert, most of all his unsupported assertions, must be carefully scrutinized.

Lord Campbell says: "Skilled witnesses come with such a bias on their minds to support the cause in which they are embarked, that hardly any weight should be given to their evidence." These are strong words, but what does Lord Campbell mean? That an eminent scientist would go upon the witness-stand, and perjure himself merely because he has been engaged to substantiate a given proposition? Not at all. . . . But the expert does not give us an unbiased opinion. The reason is plain. . . . His opinion is sought in advance. If favorable he is engaged. When engaged he becomes a hired advocate, as much as the lawyer. Moreover, unlike the witness of facts, his testimony is tinged by a personal interest.

He knows that celebrated experts will oppose his views. His reputation is on trial, as it were. If the verdict is for his side, it is a sort of juridical upholding of his position. He is therefore arrayed against his antagonists, as much as the lawyers of the opposing sides. In short, having once expressed an opinion, he will go to any extreme almost, to prove that he is right. The questions asked by the counsel for his side, the majority of which he prepares or dictates himself, are glibly and positively answered. But when the cross-examination begins, what do we see? An interesting spectacle from a psychological standpoint. We see a man, honest in his intentions, standing between two almost equal forces; the love of himself and of his own opinions, on the one side, and upon the other the love of scientific truth which is inherent in all truly professional men. When a question is asked, to which he can reply without injury to his pronounced opinion, how eagerly he answers. But when a query is propounded which his knowledge shows him in a moment, indicates a reply which his quick intelligence sees will be against his side, what does he do? We find that he fences with the question. As anxious not to state what he knows to be false, as he is not to injure his side of the case, he parries. He tells you in hesitating tones, "It may be so, in rare cases," "Other men have seen and reported such circumstances, but I have not met them," "It might be possible under extraordinary circumstances, but not in this case," and so on, and so on, reluctant to express himself so that he may be cited afterwards.[1]

Is the witness intellectually strong? Another test under this division is to examine the intellectual capacity of the witness. At times the evidence of a writer or thinker must be thrown out because of his mental dullness. Though he may state a desired conclusion, examination may show that he has stupidly misrepresented the experience on which it

[1] *A Modern Wizard.* R. Ottolengui. pp. 157–160.

is based. A careless writer of a critical article unfavorable to Sir William Jones might use Croker's words in the following, but any cautious reader must see that his evidence is valueless because of his stupidity.

All our readers have doubtless seen the two distichs of Sir William Jones, respecting the division of time of a lawyer. One of the distichs is translated from some old Latin lines; the other is original. The former runs thus:

> "Six hours to sleep, to law's grave study six,
> Four spend in prayer, the rest on nature fix."

"Rather," says Sir William Jones,

> "Six hours to law, to soothing slumbers seven,
> Ten to the world allot, and all to heaven."

The second couplet puzzles Mr. Croker strangely. "Sir William," says he, "has shortened his day to twenty-three hours, and the general advice of 'all to heaven' destroys the peculiar appropriation of a certain period to religious exercises." Now, we did not think that it was in human dulness to miss the meaning of the lines so completely. Sir William distributes twenty-three hours among various employments. One hour is thus left for devotion. The reader expects that the verse will end with "and one to heaven." The whole point of the lines consists in the unexpected substitution of "all" for "one." The conceit is wretched enough; but it is perfectly intelligible, and never, we will venture to say, perplexed man, woman, or child before.[1]

Under this subdivision come the witnesses who misunderstand what is self-evident, as in the case just cited; who cannot report intelligently; and who cannot remember correctly. The stupidity in the first and the second cases will be apparent on the face of the evidence; in the third,

[1] *Essays on Croker's Boswell's Johnson.* p. 343. H. Holt & Co. 1893.

past reputation for a bad memory, or conflict between the evidence and that of good witnesses who agree in their story, will show the faulty memory of the witness.

Are the physical powers of the witness sound? Not only may mental dullness make testimony untrustworthy, but physical weakness may have a like effect.

In every statement of a witness is involved the assertion that the sense through which his information was derived correctly represented to him the object he describes, and in the truthfulness or falsity of this assertion is the ultimate and crucial test of his reliability. This is a field of inquiry which the vigilant cross-examiner will never neglect to explore. In ages past it may, perhaps, have safely been assumed that, as a rule, the organs of sensation were in sound condition, but in these modern days no such presumption can be entertained. Whatever be the cause, the proportion of mankind in civilized communities who are known to suffer from the failure of one or more of the great organs to perform their proper functions seems to be increasing; and every witness who professes to have seen or heard, or to otherwise have had a physical apprehension of an object, may well be doubted until the soundness of the sense employed has been established. By a few practical experiments from materials at hand these faculties of the witness may be tested so far as their correctness forms the basis of his evidence, and if they fail to undergo the test the evidence derived from them must fall.[1]

This is the test that must be kept constantly in mind by those who investigate such stories as those which are constantly reported to *The Society for Psychical Research.* Interesting ghost stories have been found, again and again, to rest on nothing except weakness of sight, or hearing, or touch. Inquiries into railroad accidents have dragged

[1] *Forensic Oratory.* Robinson, § 229.

along without placing the responsibility, until the possibility that the switch tender or the engineer, whose testimony seemed open to no one of the tests already explained, might be color-blind suggested itself to some one. A little experimentation soon showed that the disaster was the fault of a color-blind engineer or switchman.

What is the moral character of the witness? Is he naturally truthful? Another test under this subdivision is to examine the moral uprightness of the witness. Is he naturally veracious? Of unveracious witnesses "there are three classes: the innocent liar, whose imaginations are so intimately mingled with his memories that he does not distinguish between the facts and fancies which occupy his mind, but believes and utters both alike as true; the careless liar, whose love of the pathetic or marvelous, or whose desire to attract attention to himself, overcomes his weak allegiance to the truth, and leads him to weave facts and falsehoods together in his common conversation, to round out his narratives by the insertion of invented incidents, to give dramatic completeness to events by supplying with fiction whatever may be wanting in the circumstance itself; the wilful liar, who for some definite purpose deliberately asserts what he knows to be untrue."[1]

Evidently when objection is raised to testimony, not because there is anything wrong with the evidence itself, or with the conditions under which it is given, but solely on the ground that the witness belongs to one of the classes of liars just named, at best only strong doubt is thrown on the testimony in question. A student can say: "It seems very probable that this evidence is untrustworthy," not "It cannot be trusted." Any liar sometimes tells the

[1] *Idem.* § 240.

truth, and the case in point may be one of these rare occasions. Therefore if the only ground of objection is the usual unveracity of the witness, it becomes necessary to apply some of the other tests.

The innocent, the imaginative liar is generally endowed with no remarkable acuteness, and, being honest in his intentions, readily follows wherever a kindly questioner may wish to lead him. Most of the facts concerning which he testifies made, at the time of their occurrence, no powerful impression on his mind, and have not since been verified by personal examination or external authority. When he was called upon to state them, at the instance of the adverse party, the natural desire to serve a friend stimulated his imagination as well as his memory, and the story he related was the net result of fancy and recollection. The cross-examiner may take advantage of the same docility in order to exhibit his liability to self-deception. If circumstances which they know did not occur, but which are in keeping with the other parts of the transaction as narrated by him, are now suggested to him, his imagination is very likely to insert them into the picture which his memory preserves, and he will express his certainty of their existence with as much positiveness as that of any other matter to which he has testified. This process may be indefinitely repeated, until the jury see that he is willing to adopt and swear to any details which are not manifestly improbable, or until his contradiction of other witnesses, or of former portions of his own evidence, destroys their faith in his intelligence or honesty. An alternative, or sometimes an additional, mode of cross-examining this witness is to compel him to narrate the transaction piecemeal, beginning in the middle of its history and skipping from one portion to another, reversing or confusing its chronological order. Variations and omissions will probably result, which, if not significant enough to discredit the witness, can be so easily magnified by the suggestions of the cross-examiner as to make it evident to all

beholders that the witness has no actual knowledge or convictions of his own, but simply reflects impressions created by his fancy from within, or by the promptings of his questioner from without. The exposure of the careless liar is a work of little difficulty. The cross-examiner needs but to apply the goad, and give him rein. The same qualities which mislead him in his statements in regard to one event operate on all the occurrences of life, and in his mouth "a little one" always becomes "a thousand," and "two roistering youths" develop into "eleven men in buckram" and "three in Kendall green." [1] Let fitting incidents, whose details are already accurately known, be but presented to him for description, and his palpable additions and exaggerations will complete his ruin.[2]

Evidently the testimony of these two kinds of liars may, by skillful treatment, be brought under the decidedly final test of self-contradiction.

In handling the evidence of a man considered to be a willful liar it is best to remember that he lies from a definite motive. The point is, then, to apply the test of personal prejudice and personal interest to find out what that motive is. If the evidence cannot be discredited by that test, the witness must be trapped by some other of the tests already given.[3]

Summary. Thus far the following tests have been considered: (1) Three as to the statement itself: (*a*) it must not contradict well-established human experience, or (*b*) the other well-established facts in the case, (*c*) it must not contradict itself. (2) Two as to the conditions under which

[1] Professor Robinson here refers to Falstaff's story of the robbers who set upon him. It admirably illustrates the work of the careless liar. *King Henry IV*, Part I, Act II, Sc. 4.

[2] *Forensic Oratory*. Robinson. §§ 240, 241.

[3] For an illustration of Lincoln's method of trapping a willful liar see p. 175.

the testimony is given: (*a*) the witness should not give evidence unwillingly, (*b*) he should not testify under compulsion. (3) Four as to the witness: (*a*) he must be free from prejudice or personal interest, (*b*) he must be intelligent, (*c*) his senses must be reliable, (*d*) he himself must stand in the community as an honest thinker and liver, who shuns the glosses of imagination.

IV. THREE KINDS OF TRUSTWORTHY EVIDENCE

Even as the kinds of evidence just considered are suspicious or untrustworthy, three other kinds from their very nature commend themselves to a reader or hearer. These are: (1) Undesigned Testimony, — what a writer or speaker gives inadvertently or incidentally, with no thought for its bearing on the point in discussion; (2) Negative Testimony, or the Testimony of Silence, — "the failure of the witness to mention a fact so striking that he must have noticed it had it occurred"; and (3) Hurtful Admissions, — the admission that something which makes against the writer's or the speaker's case is true.[1]

Undesigned testimony. An ardent philatelist is trying to demonstrate to some friend how widespread is the present interest in collecting stamps, and how eager the collectors are to gather specimens. He remembers the following from Henry Norman's *The Far East*, and quotes it: "Whenever Macao desires a lift for its treasury it is able to secure it by abandoning one set of stamps and issuing another, when philatelists from all over the world eagerly add it to their

[1] The divisions given in this paragraph follow roughly those of Professor Genung, *Practical Rhetoric*, p. 410.

inflated collections. Our consul declares that he has 'endless applications from different countries for stamps of this colony.'"[1] Both the philatelist and his friend will feel the convincingness of this testimony, arising from the fact that it was originally given to illustrate, not anything about philately, but what makeshifts Macao uses to gather her revenue. This fact frees it from any suspicion of prejudice on the subject under discussion.

Negative testimony. It is negative testimony, or the testimony of silence, on which a critic depends in the following extract from a review of a book purporting to be founded on the *Journals, Letters, and Conversations of the Princess Lamballe*, a confidential friend of Marie Antoinette: —

> What evidence have we, then, that we are here reading the *ipsissima verba* of Marie Antoinette's friend and confidante? In trying to answer this question one gets but little assistance from the Princess's more important biographers. Two full Lives are known to me . . . These two Lives are, the one by M. de Lescure, published in 1860, and the second by M. Bertin, published in 1888, of which the second edition, published in 1894, is before me. In neither, that I can trace, is there the slightest reference to the Memoirs now in question, though M. Bertin's book, more particularly, is a very careful piece of work. Mr. Austin Dobson, again, who is not only a finished poet, but the most accurate of men, never mentions them in his short monograph. All this silence is ominous.[2]

Hurtful admissions. When a witness gives testimony that is hostile to his interests whatever he says is especially significant. Not long ago, a will was broken largely on account of one witness, a clergyman, who testified in

[1] *The Far East.* Henry Norman. p. 188. T. F. Unwin. 1895.
[2] *The Academy*, July 27, 1895, p. 66.

such fashion as practically to establish the fact that the testator was of unsound mind when she made the disputed will. The testimony was doubly convincing because the clergyman had been left a large legacy in the will which the heirs were trying to set aside. In the following extract, the evidence as to the faulty construction of the building commends itself because it is an admission hurtful to the witness and subjected him to a charge of manslaughter.

"Mr. Hart," he said, clearing his throat and looking gravely at the witness, "I understand that you were the architect for this hotel?"

"Yes."

"You drew the plans and specifications for the Glenmore?"

"Yes, they were prepared in my office."

"Were they the same that you see here?"

The coroner motioned toward the roll of plans that had been taken from the files of the Building Department.

"Yes," the architect answered, readily, merely glancing at the plans, "those were the plans for the hotel as originally prepared by me."

"Now I want to ask you if the Glenmore Hotel was built according to these plans?"

. . . "These plans were very considerably altered." . . .

"By whom? By you? With your consent, your approval?"

The architect hesitated again for a few moments, and then answered rapidly: —

"With my knowledge, certainly; yes, you may say with my consent!" . . .

"Mr. Hart," the coroner resumed, "will you describe to us what those alterations in the plans for the Glenmore were, what was the nature of them?"

The witness considered how he was to answer the question, and then he proceeded to explain the most important discrepancies between the building as it had been erected by Graves

and the plans that had been filed with the Building Department. He described the use of the old walls and foundations, the reduction in the thickness of the bearing-walls and partitions, the chief substitutions of wood for steel in the upper stories, the omitting of fireproof partitions and fire-escapes, etc., — in short, all the methods of "skinning" the construction, in which the contractor was such an adept. He referred from time to time to the plans and used technical terms, which he was asked to explain. But the jury listened with absorbed interest, and he kept on until he had answered the question thoroughly.

"As an architect," the coroner asked, when Hart had completed his explanation, "will you state whether, in your judgment, these changes that you have described, especially the substitution of inflammable material for fireproofing and the weakening of the main walls, were sufficient to account for the great loss of life in the fire?" . . .

". . . Such alterations as I have indicated tended to weaken the walls, and in other ways to bring the building below the danger limit."

"It was what might be called a fire-trap, then?"

"I did not say that!" . . .

"Well, Mr. Hart," a member of the jury finally interposed with a question, "can you say that the Glenmore as it was built conformed to the building ordinances of the city of Chicago?" . . .

"No, the Glenmore violated the ordinances in a number of important particulars."

There was a sudden hush in the room. This point had been established before by different persons who had been examined. Nevertheless, the admission coming from the architect of the ill-fated building was an important point.[1]

The degree of convincingness of these three kinds of evidence. It would seem that the convincingness of these

[1] *The Common Lot.* Robert Herrick. pp. 380–383. The Macmillan Co.

three kinds of evidence is somewhat different. What a man admits, much against his will, may evidently be taken for truth if one is sure that the testimony given is really hostile to the interests of the witness. If, however, a student uses a bit of undesigned testimony, he should assure himself that the witness is generally accurate and veracious, and that he is really testifying as undesignedly as he appears to be. Comparison of the three illustrations just given will show that one witness giving negative testimony is not so convincing as one witness giving undesigned testimony or making a hurtful admission. A writer may be sure that his witness giving negative testimony is veracious, but it is even then perfectly possible that there may have been oversight. If only M. Lescure were cited in the second illustration given above, the negative testimony, though it would commend itself, would not be unquestionable. When, however, the critic shows that several biographers, and these of the best, fail to mention the "Memoirs," the negative testimony becomes practically convincing. Negative testimony, then, to be convincing in itself, should be given by several veracious witnesses. In other words, of these three kinds of evidence, although all three are self-commendatory, only admissions undoubtedly hurtful are convincing without the successful application of one of the other tests of evidence already considered.

External and internal tests. Each of the tests of evidence considered thus far questions the sanity, the good faith, or the good judgment of the witness, sometimes more than one of these. These tests examine the evidence externally. They consider the man who gives the testimony, the conditions under which it was given, whether the evidence as a whole coincides with other testimony known to be true,

whether it is self-contradictory; they do not say: "Is there anything faulty in the process of thought, the reasoning that has produced the opinion, or the inference on which it is based?" If they did, they would be not external but internal tests. It may seem, offhand, that there is one exception to this statement, — the test of self-contradiction. However, this does not analyze the logical process involved in the evidence, but simply, looking at the face of the statement, points out that an assertion made in one place is contradicted in another. Evidently the witness is untrustworthy. No question, however, is at the moment asked as to the process of thought by which he reached the statement. The external tests ask: "Is there good reason to think that the witness who is testifying is unreliable?" The internal tests ask rather: "Just what is the logical unsoundness of the argument?" The external tests are applicable to testimonial evidence; the internal chiefly to reasoning, that large class of inferential evidence that has been classified as circumstantial.

Fallacies and their dangers. The examination of evidence for internal weaknesses is a search for fallacies. By a fallacy is meant "any unsound mode of arguing which appears to demand our conviction, and to be decisive of the question in hand, when in fairness it is not." It is very necessary in argument to guard carefully against such unsound reasoning, for not only may an opponent intentionally try to mislead by unsound methods of reasoning, or — what is far more probable — may use them unawares; but any worker in argumentation with the best of intentions may himself unconsciously slip into them. A fallacy is very often extremely hard to detect, for rarely is it self-evident. Generally it is imbedded in a mass of other entirely

trustworthy material. It is perhaps but part of a sentence in a volume of many pages, yet if it exists it may be fatal to the ultimate convincingness of the argument. The opponents of two recent books of wide circulation, Mr. Kidd's *Social Evolution* and Dr. Nordau's *Degeneration*, insist, not so much that most of the conclusions in each book are wrong, as that each book rests for its force on a fundamental fallacy, which, if not noted, makes all the chapters drawn from it easy of acceptance. Evidently, then, it is important to know what are the chief kinds of fallacies, and how to recognize and avoid them.

Attempted divisions of fallacies. In the past repeated attempts have been made to classify definitely the different kinds of fallacies, but experience has shown that a satisfactory hard and fast division of them has not yet been found. The divisions overlap, some of the fallacies falling into one or another class as the student looks at them from one or another point of view. The rough division used in the following pages is distinctly open to the objection just stated. It is based, however, primarily on the three sources from which fallacies may arise, and therefore should put the student of argumentation on his guard. An arguer must convince by means of words. If through carelessness or perversity he juggle with these words and use them now in one sense and now in another it is clear that his reasoning must be unsound. Lack of definition is, then, the first source of fallacy. But even if his terms are unequivocal he may lead his reader astray by stating as a fact what has come from careless or erroneous observation on his own part or the part of those on whom he relies. Errors of observation thus cause a second class of unsound modes of reasoning. If the observation upon which the

evidence is based has been sound and the terms have been carefully used in well-defined meanings, an arguer can hardly be guilty of fallacious work unless he use these words and facts in a reasoning process which is itself unsound. That is, errors in reasoning furnish the third source of fallacious argument. From one or more of these three causes,—lack of definition, errors of observation, and errors in the reasoning process,—come, then, unsound modes of thought that invalidate both deductive and inductive argument. As in both these forms of argument the same causes produce vicious reasoning, the two will not generally be considered separately in the following discussion. Nor does the detailed classification under the three headings aim to be exhaustive. The student of argumentation does not need to know how to classify in intricate fashion the unsound reasoning with which he meets. His purpose is achieved when once he learns how to recognize and guard against the common fallacious processes to which he is himself liable and which may confront him in current publications. A classification more intricate than is necessary for this purpose falls outside the scope of this book.

V. FALLACIES ARISING FROM LACK OF DEFINITION

The moment a reader begins to consider fallacies, the truth of what was said in Chapter II as to the importance of definition in argumentation is emphasized. A very large class of fallacies arises from an ignorant or a careless use of terms or phrases. The reader saw in Chapter II that careful definition avoids the confusions, the argumentative errors, intentional or unintentional, that may result from using words in themselves ambiguous, ignorantly,

carelessly, or with unfair purpose. Whenever in an argument words or phrases occur which are ambiguous or are used in an incorrect sense, they may, if unexplained, produce confusion, intentional or unintentional, and lead to "unsound modes of reasoning."

Undefined words with more than one meaning. On p. 42 the reader saw that the topic, "Was the treatment of the American Loyalists by the Whigs justifiable?" is liable to lead to much unsound reasoning. The question was meant to ask whether the treatment of the American Loyalists by the English Whigs was justifiable. A student might perfectly well try to prove the affirmative true on the ground that the treatment of certain American Loyalists by certain Whigs was justifiable, and his logic would be unassailable, except on the ground that his Whigs were the Americans in rebellion against Great Britain, not the English Whigs referred to in the question. Naturally the American Loyalists could hardly expect from the rebellious Americans against whom they had taken sides what they had a right to expect from the Whigs in England who were aiding the Government to put down the Revolution. The term "Elizabethan drama" is liable to lead to similar confusion. Literally, and in common use, that term means the English drama during Elizabeth's reign (1558–1603). Students of literature, however, often use the term in an extended sense to designate the dramatic work from 1558 to 1642. In an argument this ambiguity would necessitate explicit definition. The same danger also occurs when a word is used without explanation that has both an everyday meaning and one, more rarely used, from its derivation. We often hear the saying, "The exception proves the rule," given as proof that the exception to the rule is what shows

the rule to be correct—perfect nonsense. Here the speaker takes "proves" for our word *proves*, when in this case it is used in its strictly etymological meaning derived from the Latin *probo*, to test, and the meaning is, "The exception tests the rule." In all these cases a fallacy is very liable to result when an ambiguous term is left undefined.

Using at will different meanings of the same word. Another form of this fallacy which arises from the use of an ambiguous word or phrase, is to employ the same word in different parts of an argument in two different senses. For instance, a student arguing once on the topic, "Should Art Museums be open to the Public on Sunday?" wrote ten to a dozen pages of rather rambling matter, reducible to these statements: "The world consists of a cultivated few and a mob. A mob will generally destroy a work of art. Therefore the Museums should be opened only to the cultivated few. Consequently, since the cultivated few have leisure to attend Museums on week days, it is not necessary to open them on Sundays." Here the student used "mob" in the first sentence merely to signify the mass of the uneducated or partially educated, the majority of humanity; in the second he shifted the meaning to "a crowd of overexcited men whose passions have overcome their better judgments."

Words used as identical because they look alike. Another student recently wrote a theme to prove that college men should vote the Democratic ticket. His six-page argument could be reduced to this: "It is a generally accepted principle in this country that he is the best citizen who is the most democratic. Now he who consistently holds to the principles of one of the two great national parties is a thorough Democrat. Therefore, all men should vote the

Democratic ticket." Plainly the difficulty here is with democratic and Democrat. The adjective means broad-minded, liberal, ready to do one's part for the welfare of the State, and this the writer uses correctly. The noun is commonly used simply in opposition to Republican, to mean one who is a member of the Democratic party, who believes in its platform as formulated at its national convention. This meaning the writer ignores, treating Democrat as if it meant the same as democratic. Here the student has not used just the same word in two different senses, but thinking because the two words looked alike they must mean the same thing, he has treated them as though they were identical in meaning. In our language such confidence in resemblances between words is ill-founded. Many look alike that come from different sources and should carry different ideas.

Unexplained words used with meanings which do not belong to them. Dr. Whately gives as an example of another form of this fallacy what seems even better to illustrate using words with meanings which do not belong to them. He considers the argument sometimes based on the often used word "representative." "Assuming that its right meaning must correspond exactly with the strict sense of the verb 'represent,' the Sophist persuades the multitude that a member of the House of Commons is bound to be guided in all points by the opinion of his constituents: and, in short, to be merely their *spokesman:* whereas, law, and custom, which in this case may be considered as fixing the meaning of the term, require no such thing, but enjoin a representative to act according to the best of his *own* judgment, and on his own responsibility."[1] In discussing

[1] *Elements of Logic.* Whately. p. 197.

the means of remedying an alleged "indifference" on the part of certain college students, a writer fell into this fallacy through the constant use of the word "indifference" as though it was equivalent to *lack of interest in athletics*. Had he carefully defined the term he would have seen that the word unless qualified could not fairly be used in so narrow a significance. In like fallacious fashion students use relative terms, — *improvement*, *increase*, *progress*, etc. — as though they were absolute. One writer argued that a ship-subsidy system was needed only to secure improvement in our merchant marine. Then, proving that our merchant marine was showing steady improvement, he drew the conclusion that no ship-subsidy was needed. Plainly, in such cases, whether the incorrect use be intentional or not, careful definition of the word or phrase on which the argument turns will reveal the fallacy.

Summary of this fallacy. When a reader remembers that these ambiguities of phrase, these incorrect uses, are likely to occur not merely in the main thesis but in any one of the very many sentences that make up an argument, and that they constantly combine with other fallacies still to be mentioned, as question-begging epithets, etc., he must see how important it is that he should be on his guard against the fallacies arising from lack of definition. Let him remember that whenever he uses a word or phrase which may be ambiguous, he should define it; that whenever his opponent or even his ally uses one, he should insist on a definition of it; that he should never use words or phrases in senses which do not belong to them; that he should never allow an opponent or an ally to use words incorrectly. ***Definition is either the prevention or the destruction of fallacies of this class.***

VI. FALLACIES ARISING FROM ERRORS OF OBSERVATION

In order that argument may be sound it is not enough that there should be no juggling with ambiguous terms, but the conclusion must also be derived by accurate logical processes from sound facts and statements, that is, there must be no false assumptions.[1] That the facts may be sound and the statements accurate depends upon observation. If this observation be neglected, carelessly performed, or performed by bad methods it will result in fallacies of observation, that is, in the assumption of facts or statements that are wholly or in part false.

The errors of observation arise, for the most part, from inattention, preconceived opinion, or the confusion of what we have inferred from sense impressions with the sense impressions themselves.[2] If we do not attend to the observation of instances but trust to memory or common report we are very sure to overlook many instances; individual or social memory is much more retentive of instances that make for a generally accepted tenet or superstition than of negative instances. Many persons have vivid recollection of cases where thirteen at table preceded the death of one of the thirteen, and have quite forgotten the more numerous cases where death did not follow, or where it did follow after fifteen or sixteen had been at table together. Students

[1] Throughout this book a student should distinguish carefully between a presumption and an assumption. When a man is said to have a presumption in his favor, this means that his proposition "is assumed to be true in the absence of proof to the contrary." (Hill's *Principles of Rhetoric*, p. 332.) A man makes an assumption whenever he advances without support a statement, the truth of which is not generally admitted.

[2] This division and the illustrations that follow are based generally on Mill. *A System of Logic.* J. S. Mill. Bk. V, Chap. IV.

should carefully note the fact that chance memory is one of the most unsafe kinds of evidence and yet by no means uncommon. Inattention becomes even more dangerous, however, when, as often happens, it is accompanied by a strong preconceived opinion on the part of the observer. It is well established that persons who have thought that they were conscientiously attending to the observation of instances have been completely deceived because their preconceived theories resulted in neglect of the very instances that would have overthrown their theory.

The opponents of Copernicus argued that the earth did not move, because if it did, a stone let fall from the top of a high tower would not reach the ground at the foot of the tower, but at a little distance from it, in a contrary direction to the earth's course ; in the same manner (said they) as, if a ball is let drop from the mast-head while the ship is in full sail, it does not fall exactly at the foot of the mast, but nearer to the stern of the vessel. The Copernicans would have silenced these objectors at once if they had *tried* dropping a ball from the mast-head, because they would have found that it does fall exactly at the foot, as the theory requires : but no ; they admitted the spurious fact, and struggled vainly to make out a difference between the two cases. "The ball was no *part* of the ship — and the motion forward was not *natural*, either to the ship or to the ball. The stone, on the other hand, let fall from the top of the tower, was a *part* of the earth ; and therefore, the diurnal and annual revolutions which were *natural* to the earth, were also *natural* to the stone ; the stone would, therefore, retain the same motion with the tower, and strike the ground precisely at the bottom of it."

It often happens, moreover, that the error of observation is not in regard to instances but to circumstances and conditions that vitally affect the argument. Here again the

error may arise from careless inattention or from preconceived theories that blind the eyes of the observer. Moreover, when the circumstances are commonplace they are especially likely to be disregarded while the attention is fixed on what is striking and picturesque. The following examples from Mill illustrate the dangerousness and the prevalence of this form of the fallacy.

Cures really produced by rest, regimen, and amusement, have been ascribed to the medicinal, or occasionally to the supernatural, means which were put in requisition. "The celebrated John Wesley, while he commemorates the triumph of sulphur and supplication over his bodily infirmity, forgets to appreciate the resuscitating influence of four months repose from his apostolic labors; and such is the disposition of the human mind to place confidence in the operation of mysterious agents, that we find him more disposed to attribute his cure to a brown paper plaster of egg and brimstone, than to Dr. Fothergill's salutary prescription of country air, rest, asses' milk, and horse exercise."

Take, for instance, the vulgar notion, so plausible at the first glance, of the encouragement given to industry by lavish expenditure. A, who spends his whole income, and even his capital, in expensive living, is supposed to give great employment to labor. B, who lives upon a small portion, and invests the remainder in the funds, is thought to give little or no employment. For everybody sees the gains which are made by A's tradesmen, servants, and others, while his money is spending. B's savings, on the contrary, pass into the hands of the person whose stock he purchased, who with it pays a debt he owed to his banker, who lends it again to some merchant or manufacturer; and the capital, being laid out in hiring spinners and weavers, or carriers and the crews of merchant vessels, not only gives immediate employment to as much industry at once as A employs during the whole of his

career, but coming back with increase by the sales of the goods which have been manufactured or imported, forms a fund for the employment of the same and perhaps a greater quantity of labor in perpetuity. But the careless observer does not see, and therefore does not consider, what becomes of B's money; he does see what is done with A's: he observes not the far greater quantity which it prevents from being fed: and thence the prejudices, universal to the time of Adam Smith, and even yet only exploded among persons more than commonly instructed, that prodigality encourages industry, and parsimony is a discouragement to it.

As inattention and preconceived opinion are responsible for the first two fallacies of observation, ignorance and weak analytical power are the causes of the third. At first sight it may seem easy to distinguish between what we see, hear, or feel and the impressions that these produce on us; but reflection will show that it is a danger to which we all are liable. For instance, how often a train moving in the opposite direction has convinced us that our train has started, or a trailing bit of white mist in low ground has made a credulous person declare that he has seen a ghost. Obviously here the error lies not "in the fact that something is unseen but that something seen is seen wrong."

"One of the most celebrated examples of an universal error produced by mistaking an inference for the direct evidence of the senses, was the resistance made, on the ground of common sense, to the Copernican system. People fancied they *saw* the sun rise and set, the stars revolve in circles round the pole. We now know they saw no such thing: what they really saw were a set of appearances, equally reconcilable with the theory they held and with a totally different one."

"In proportion to any person's deficiency of knowledge and mental cultivation, is generally his inability to discriminate between his inferences and the perceptions on which they were grounded. Many a marvelous tale, many a scandalous anecdote, owes its origin to this incapacity. The narrator relates, not what he saw or heard, but the impression which he derived from what he saw or heard, and of which perhaps the greater part consisted of inference, though the whole is related not as inference, but as matter-of-fact. The difficulty of inducing witnesses to restrain within any moderate limits the intermixture of their inferences with the narrative of their perceptions, is well known to experienced cross-examiners; and still more is this the case when ignorant persons attempt to describe any natural phenomenon."[1]

VII. FALLACIES DUE TO ERRORS IN REASONING

The third class of fallacies arise not simply from ambiguity or from errors of observation but from an actual error in the reasoning process, an error which a trained critic could detect without any previous knowledge of the subject, and on account of which he would be justified in saying not that the conclusion is false but that the conclusion is unsound because the method of reasoning is fallacious. Here as elsewhere, however, it often happens that the fallacy might have been classified in one of the earlier divisions, for ambiguity or erroneous observation is often at the root of the difficulty. Of these fallacies of reasoning there are four chief forms: hasty generalization, begging the question, *non sequitur*, and ignoring the question.

[1] *A System of Logic.* J. S. Mill. p. 483. Harper & Bros. 1846.

Hasty generalization. In the fallacies to which inductive reasoning is liable none is more common or more dangerous than that of hasty generalization[1] either from insufficient or improperly selected samples or from undue assumption that a general law exists and hence careless observation. Such errors are especially likely to occur in generalizations as to human beings and their actions. Most of us can recall instances in which travelers in a foreign country have generalized as to the quality of hotels or the character of the natives — their honesty, for instance — on patently insufficient evidence. A hasty generalization subjected the Populist orator of the following anecdote to embarrassing questions. "A Populist orator in western Kansas was painting in lurid colors the down-trodden condition of the people when a lanky young man obtained permission to ask this question: 'You say we are all poor out here in Kansas. Well, I have just sold my wheat for enough to pay off the three thousand dollar mortgage on my farm and to get my woman a new dress besides. Am I suffering?'"

Begging the question. A second form of the fallacies due to errors in reasoning is Begging the Question, technically called *Petitio Principii.* This fallacy, by no means uncommon in the work of beginners in Argumentation, occurs whenever a student, consciously or unconsciously, either (1) makes an assumption which is the same as or results from the conclusion he is to prove true, or (2) asserts unqualifiedly the truth of a premise which itself needs support.

1. Arguing in a circle. The crudest form of begging the question is that in which the reasoner assumes the truth

[1] Other instances of this fallacy are given on p. 94.

of an assumption which is equivalent to the conclusion or results from it, commonly called arguing in a circle. A student trying to prove that Mr. Kipling was not a great poet wished to establish the point that many of Mr. Kipling's poems were in grossly bad taste. His attempt was as follows: "Many of these poems are in grossly bad taste, for they are so condemned by critics of refinement, inasmuch as if they do not condemn them they cannot be called men of refinement."

In similar way a writer on the question, "Are the enjoyment and the cultivation of the Fine Arts essential to the highest type of civilization?" begs the question in a premise which defines his use of "civilization," — "The sum of the material and moral acquisitions of a race, these qualities being embodied in the Fine Arts." Grant this definition, and you grant the conclusion sought, for if there can be no civilization without Fine Art, it is clear that in the highest type of civilization the enjoyment and cultivation of the Fine Arts must be present.

The following illustrates begging the question by taking as a premise what is true only if the conclusion has already been granted to be correct. A reader of the book mentioned p. 131, which purports to be the "Memoirs" of the Princess Lamballe, argues that it is genuine because it records such and such facts, the reality of these facts resting on the evidence of the "Memoirs" in question. Such argument is by no means uncommon when college students treat questions like these: "Was John the Author of the Fourth Gospel?" "Did Moses write the Pentateuch?"

2. Fallacies of assertion. The commonest forms of begging the question, however, are those in which a reasoner unqualifiedly asserts the truth of a premise which itself

needs proof, either because it is false or merely because the reader has no reason to accept it as true and therefore has a perfect right to reject it as a reason why he should change his belief. If an assumption is actually false this falsity should usually be determined by application of the tests for witnesses or by discovering the ambiguity or the error of observation which has occasioned the false statement. In order, however, that the student may realize the many forms that bad evidence may take it seems well to consider here the chief varieties of assertiveness to which his work is liable. These important varieties are four in number: (1) Arguing from a false assumption; (2) Arguing from ambiguous evidence; (3) Stating without support what should be proved true; (4) Unwarranted assumption of a causal relationship.

Arguing from a false assumption. The worst form of the fallacy of assertion is to base an argument on something not true, the fallacy of a false assumption. For instance, if some one trying to prove the skill of the Swiss with the bow in past times used the story of Tell and the apple as proof, he would fall into this fallacy, since this story of our childhood has been proved false. A form this fallacy often takes in works of history, economics, and philosophy, is the following. Early in the book the writer makes a shrewd guess at past conditions, at probable causes, or develops a theory that he says is possible. Later he refers to his guesses as facts, the possible theory as an established fact. Consider what pitfalls an unwary student might have found in basing argument on either of the statements whose erroneousness is laid bare in the two following quotations. The second is especially dangerous, moreover, because the errors occurred in a book of reference,

and in such a work, the falsity of stating as a fact what is merely a guess is no less misleading than a direct untruth.

Hume says: "It is in vain at present to seek improbabilities in Nicholas Hubert's dying confession, and to magnify the smallest difficulty into a contradiction. It was certainly a regular judicial paper, given in regularly and judicially, and ought to have been canvassed at the time, if the persons whom it concerned had been assured of their own innocence." They never saw it: it was authenticated by no judicial authority: it was not "given in regularly and judicially," but was first held back, and then sent by Moray, when it suited his policy, out of revenge on Lethington. Finally, it was not "a dying confession." Dying confessions are made in prison, or on the scaffold, on the day of death.[1]

The notice of Shakspere's *Macbeth* is largely made up of a tissue of conjectures which no one, so far as I know, accepts. We are informed in large type at the beginning of the article that this tragedy was "first played in Scotland about 1601, but revised by Shakspere and produced at court about 1606, and on the public stage in 1610." A greater number of unverified statements could scarcely have been juggled into so few words. If there be any evidence that *Macbeth* was first played in Scotland, that it was afterwards revised by Shakspere, that it was produced at court about 1606, or at any time, that a term of years elapsed between its revision for production at court and its public representation, all the recent editors, including Furness, Furnivall, and Wright, must have entered into a conspiracy to suppress such evidence.[2]

Another form of this fallacy of false assumption is the use sometimes made by students of metaphors, similes, invented illustrations. These may, of course, be rightly used to make clearer the meaning of a writer, but he should

[1] *The Mystery of Mary Stuart.* Andrew Lang. p. 166.

[2] Melville B. Anderson in a review of a cyclopedia of names.

never use them as facts upon which he can base an argument. For instance, a student writing on the question, "Is Weismann's theory of Heredity sound?" proved it to be untrue by using numerous examples of acquired characteristics in parents transmitted to their offspring. When asked to state where he found these extremely valuable data, he said that he had concocted them, and that what he meant to say was: "If in children we should find a case like this, and that — and considering the remarkable cases we do see, why might not this happen? — then Weismann's theory would be unsound." Students of argumentation should not forget that though metaphors, similes, imaginary cases, are admirable in showing what a writer means, they should never be used as proof of the truth of anything. If a student does use them as proof, he at once begs the important question, "Are what you take as facts really facts?" and falls into the fallacy of false assumption.

Arguing from ambiguous evidence. Another phase of begging the question is a favorite with careless reasoners, — that of broad references to evidence that under one interpretation may prove their point but that does not *necessarily* imply what the reasoners assume that it does. Often a college student refers to some writer, to some chapter, paragraph, or sentence, which certainly may be so interpreted as to support his ideas, but is equally open to other interpretations. Plainly, then, he leaves unsettled just the point for the moment most demanding decision, whether his interpretation or another is the more correct. Unless the passage referred to can have but one meaning, he should either not use it, or as he uses it should show why his interpretation of it is preferable to any other.

A common form of this fallacy is to offer an analogy between two cases as proof that the result found in the first case may be expected in the second. There are two possible dangers in this. In the first place, the analogy may be false, not real; in the second place, until it is shown that the point of similarity is connected with the point in question, the so-called argument is ambiguous and should not be used to prove anything true or false. Here is an attempt to use the argument from analogy as if in itself it had probative force: —

The history of the Standard Oil Company is known by everybody from Maine to California. It is the greatest money-making industry in the world. The X.Y.Z. Company does not expect to achieve such great financial success as the Standard Oil Company, but it is in the same line of business — *REFINING* — and therefore its stock should be purchased for the very great profits that seem to be assured for those who invest now in its treasury stock.

In such a case the analogy is clearly worthless, but even in an instance like the following there must be ambiguity until the analogy is shown to be true for all points vitally connected with the point under discussion.

The ground upon which Her Majesty's Government justifies, or at least defends, the course of the Canadian vessels rests upon the fact that they are committing their acts of destruction on the high seas, viz., more than 3 marine miles from the shore line. It is doubtful whether Her Majesty's Government would abide by this rule if the attempt were made to interfere with the pearl fisheries of Ceylon, which extend more than 20 miles from the shore line and have been enjoyed by England without molestation ever since their acquisition.[1]

[1] *Behring Sea Tribunal.* p. 52. Washington, D.C. 1893.

In this example Senator Morgan did not find a past case of seal-fishing from which to draw an argument, but pointed out in pearl-diving and catching seals a likeness, an analogy, in that both are called fishing. This is correct, but for the analogy to have any probative force, Senator Morgan must show some necessary connection between the mere existence of so-called fishing in both cases and his desired conclusion that both must have the same limitations. It is perfectly possible that the conditions of pearl-fishing differ sufficiently from those of seal-fishing to make it impossible to show this connection. In that case the analogy, though it exists, proves nothing true or false. An analogy at best, then, shows only resemblance, unless it can be proved to have some necessary connection with the result in question.[1]

Stating without support what should be proved true. The simplest form of begging the question by undue assumption of a premise is to leave without evidential support a statement which should be *proved* true because it is neither self-evident nor generally known, and therefore cannot be convincing, however true, until the truth is established satisfactorily.[2] A student defending the policy of the Beaconsfield ministry toward Russia, after showing that whatever may be considered the "Key to the East" should not be in hands hostile to England, asserted triumphantly: "Lord Beaconsfield" (certainly a prejudiced witness) "said that Constantinople is the Key to the East," and then drew the conclusion: "Therefore it should not pass into the

[1] For another illustration of an ambiguous analogy see p. 191. In this case the analogy was turned against the man who used it.

[2] This fallacy of assertion has been fully discussed in Section 1 of this chapter. For further illustration see the assertive forensic in the Appendix.

hands of Russia, a power hostile to England's interests." What at the moment demanded proof was that Constantinople is unquestionably the "Key to the East," and until the writer showed this, he made an undue assumption and begged the question.

Unwarranted assumption of a causal relationship. Among the most insidious fallacies are those technically called *non causa pro causa* and *post hoc ergo propter hoc* which arise from mistaking for a cause an effect or something habitually connected with the result — perhaps by mere coincidence — or a usual antecedent. It is necessary for the human mind to search for causes for known results and where the cause is not unmistakable there is a natural tendency to assume some cause. This is especially likely to be the case in inductive reasoning[1] where many arguments rest upon at least a probable causal relationship. It often happens that a mere sign of the presence of the result in question is mistaken for a cause of it (*non causa pro causa*). For instance, a large part of the recent discussion about free silver rested on the idea that since there is usually much silver when there is wealth in a country, much silver is the cause of wealth. Really, it is not the silver that makes the wealth, but the wealth that demands much silver as a convenient medium of exchange.[2] Another very common form of this unwarranted assumption is to consider that, since two phenomena follow one another, one must be cause and the other effect. This form of fallacy is a stock-in-trade of the demagogue. Pointing to desirable economic or political conditions which have just begun to appear, he names some recent legislative measure of his

[1] See Section 3, pp. 93–108.

[2] *Elements of Logic.* Whately. p. 224.

party, and declares that the desirable results come from it. A college student, debating the question, "Is civilization harmful to the Indian?" developed this line of argument: "The Zuñis are the most civilized of the Indian tribes; the Zuñis are dying off fastest; therefore civilization is destructive to the Indian." Recently, one of the Boston daily papers gave considerable space to a discussion of the value of vivisection and the extent to which it is practiced in this country. At this time the following illustration of this fallacy appeared in one of its columns:

> And that animals are systematically stolen for this purpose [vivisection] there is some ground for belief. In one day the advertising columns of a single daily paper had six advertisements of lost dogs. An Irish setter was lost from Dorchester; another Irish setter from Winthrop; a little fox terrier from Hingham; a large smooth-coated St. Bernard from Roxbury; a small Skye terrier from Watertown, and a brindle and white bull terrier from West Roxbury. Of course these advertisements could have represented but a proportion of the dogs "lost" in and around Boston on that day.

Many of our common superstitions rest on the fallacy that what happens after an event is probably caused by it. What child has not heard some one say, after a day of petty annoyances: "Well, what could I expect? I got out of bed on the wrong side this morning," or, "It is always the way. After I started from home I went back three times for things I had forgotten. That always brings bad luck." All these illustrations show what logicians have called the fallacy *post hoc ergo propter hoc.*

In this fallacy and the closely allied form illustrated just before it, *non causa pro causa*, thinkers fail to remember two ideas that should never be forgotten when a cause for

a result is named: they must make sure (1) that there is some causal connection between the two; and (2) that the cause assigned is sufficient to produce the result named. Since they assume just what they should prove true, they really beg the question. These writers should have remembered, also: (1) that because there seems to be some possible connection between two phenomena, it does not necessarily exist, and if there is some connection, it is not necessarily causal; (2) that it is very rare indeed that any phenomenon is the result of one cause only; and (3) that when many causes are at work, some may negative others, and the cause assigned for the result may not be at all the reason for it.

The illustration from common superstitions given above shows that because there seems to be a possible connection between two phenomena, it need not exist. That if a connection does exist between two phenomena it is not necessarily causal, the illustration in regard to wealth and silver proves. It should need little illustration to show that very few phenomena result from one cause. Battles have doubtless been won simply by the splendid fighting of the men on one side, but far more often several reasons have combined to produce the victory, — the superior strategy of one general, the better training of his men, the failure of ammunition among some of the opposing troops, etc. Were the intermingling, the complexity of causes less, we should not have so many different opinions as to historical events and their causes. In the case of the lost dogs it is possible that the desire to sell dogs to vivisectors caused some men to steal, but the carelessness of masters, the vagrant tendency of dogs, a half-dozen causes doubtless underlay the disappearances. Moreover, since the disappearance of the

dogs went on at about the same rate even when the papers were full of outcries against the vivisectors, it is possible that though the first cause had been at work, fear for a time deterred the thieves from taking the dogs, while the other causes held good. That is, it is very possible that of the illustrations given in the newspaper not one resulted from the cause assigned. In the complexity of causes, then, at work to produce or to prevent a particular act, the cause fastened upon by an observer may have been counteracted and be really not a cause at all.

In considering the theories of historians, economists, politicians, a student should keep constantly in mind the complexity, the multiplicity of causes behind events, and be on his guard for the fallacy just considered. When causes for results are assigned, readers should be made to see that (1) there is a necessary connection between the result and the assigned causes, and that (2) the causes are by themselves sufficient to produce the result in question. Unless this is done, evidently two matters that must be settled before discussion can be continued are left without proof.

Non sequitur. A third class of the fallacies of reasoning consists of conclusions that are illogically drawn from the facts or premises. In this fallacy, often technically called *Non Sequitur*, the difficulty lies not in the facts or premises themselves, as hitherto, nor in the conclusion in itself, but in the illegitimate inference from one to the other. "All men are mortal, Xanthippe is a woman, therefore Xanthippe is mortal" is, so far as its form of expression goes, a *non sequitur*, for there is nothing to show that women are really included in the term "men" as used in the first premise. Until the form of statement in the first premise is changed,

therefore, the conclusion is not a legitimate inference from the given premises. Likewise it is a *non sequitur* to argue that because all criminals are a menace to society, and some immigrants are criminal, therefore all immigrants are a menace to society. To prove something true of one or two members of a class and therefrom assume that it is true of the whole class is, so far as it goes, a *non sequitur*. Obviously, many of the fallacies already cited are themselves the result of *non sequitur*. There is one distinct form, however, against which the student should be especially on his guard. It is always fallacious to assume that because one of the statements (premises) from which a man draws his conclusion is clearly false or true his conclusion is necessarily false or true, or to assume that because the conclusion is false or correct a premise is. Between a premise and its conclusion may lie so many opportunities for error that it is unsafe to assume anything about the truth or falsity of the one from the truth or falsity of the other. Only when examination has shown that a premise is correct, and that a conclusion is the necessary consequence from its premises, should statements be made about their truth or falsity and their relations to one another. Much of the firm adherence of each religious sect to its particular ideas rests on its knowledge that though it holds different views from other sects it bases its conclusions on premises common to and admitted by all. Each sect assumes, however, that since a premise of its argument is correct the conclusion must be also. This fallacy underlies much charitable work. People have too often believed that because some charitable scheme was based on the unimpeachable premise, "We should aid the poor and needy in times of trial," their particular scheme, their

conclusion from the premises, should be carried out. It is, however, no uncommon experience for a man to hold an absurd opinion which he has drawn from entirely correct premises, or a perfectly correct opinion drawn from absurd premises. That is, his argument is a *non sequitur*. A writer should be content in such cases simply to point out that the conclusion does not follow from the premises or that one or more of the premises are incorrect. By merely pointing out the fallacy in his opponent's work, he renders it worthless, and avoids slipping himself, from excess of zeal, into the fallacy just mentioned.

Ignoring the question. A fourth kind of fallacy and one that has several subdivisions is Ignoring the Question, *Ignoratio Elenchi*. In this a writer, either intentionally or by mistake, discusses not the real but an allied or entirely disconnected question. For instance, a recent topic for forensics read: "Was General Winslow's treatment of the Acadians justifiable?" A large number of students wrote careful arguments to prove that the English were justified in removing the Acadians from their homes. The question had been carefully worded to exclude discussion of this practically settled matter, and to suggest consideration of the justifiability of the details of Winslow's treatment of the Acadians when carrying out the general order for their removal. Another topic was, "Should Japan be given equal treaty rights with the great civilized nations?" Many students argued to prove that it would be best for civilization if Japan should win in the war with China.

In the following extract Macaulay points out what he holds to be a very widespread use of this fallacy.

The advocates of Charles, like the advocates of other malefactors against whom overwhelming evidence is produced,

generally decline all controversy about the facts, and content themselves with calling testimony to character. . . .

And what, after all, are the virtues ascribed to Charles? A religious zeal . . . and a few of the ordinary household decencies which half the tombstones in England claim for those who lie beneath them. A good father! A good husband! Ample apologies indeed for fifteen years of persecution, tyranny and falsehood!

We charge him with having broken his coronation oath; and we are told that he kept his marriage vow! We accuse him of having given up his people to the merciless inflictions of the most hot-headed and hard-hearted of prelates; and the defence is, that he took his little son on his knees and kissed him! We censure him for having violated the articles of the Petition of Rights, after having, for good and valuable consideration, promised to observe them; and we are informed that he was accustomed to hear prayers at six o'clock in the morning! . . .

We cannot in estimating the character of an individual leave out of our consideration his conduct in the most important of all human relations; and if in that relation we find him selfish, cruel, and deceitful, we shall take the liberty to call him a bad man, in spite of all his temperance at table, and all his regularity at chapel.

Shifting ground. Another form of ignoring the question is the very exasperating fallacy, Shifting Ground. In this a writer, when pressed hard, shifts from the original thesis he started to support; and when pressed hard in his new position, shifts to still a third. Usually the different theses are so closely allied, so strongly resemble one another, that the shifting is not easily seen, and the writer may, by proving something true of one of his theses which he could by no means prove true of the original question, seem to establish the truth of the original thesis. Many of the chance

arguments one hears on English composition as a prescribed part of a college course illustrate this fallacy. An English instructor is told: "You should not force students to study English composition. You have a subject which cannot be taught. To write well is a God-given power." When the instructor shows that the critic is here making no distinction between inborn literary genius that may express itself forcibly, though crudely, without training, and instruction in correct usage, in force, clearness, and elegance, the critic says, shifting his ground slightly: "But you know a student can just as well pick up style from contact with good books, by browsing in a fine library." When he is shown that such an opportunity is rare, and that there are serious objections to such a method, he answers: "I feel sure that method is the best, for some boys cannot learn to write well." When the instructor points out that, though this is true of a very small number, most boys can learn to write well, and that many, under the system of prescribed English, do become proficient who otherwise would not learn, his opponent answers: "Yes, that is, those who have the inborn power, though they were not aware of it." By this the critic triumphantly reverts to his original position, shifting his ground a third time. Clearly, such work as this ignores the real question for discussion, constantly substituting for it another topic very similar, but not the same.

Proving something true of a part only, not of the whole. Still another phase of ignoring the question is proving something true of a part when it should be proved true of the whole, as in the case of the man who said, "You will never find a Quaker who is a thief, for I have known many and all are honest." The topic, "Should the Australian

Ballot System be adopted in the United States?" has given instances of this fallacy. Many students, after considering advantages to be expected from it, and overcoming objections to it, decided that the system should be adopted. What interfered with the conclusiveness of their opinions was that each student wrote only of those political conditions which he knew best. The New Englander, the Ohioan, forgot that New England, the Middle States, the South, the Northwest, the Pacific Slope, all have different political problems which the system of balloting affects. After proving, not that the differing needs in all these sections would be met better by the new than by the old system, but that the section best known to them would be benefited, they stated their conclusion as holding good for the whole country. Their conclusion, if it was not to be fallacious, should have read, not "The system would be beneficial to the United States," but "The system would be beneficial to New England, or to the New England and the Middle States." It is clearly no less a fallacy to state as true of a part what is true of the whole, but not necessarily true of every part of the whole. This fallacy is committed when it is argued that railroad magnates are the richest men in the country and that John Smith must be very wealthy because he is a railroad magnate. In the following chain of reasoning the fallacy occurs three times before the conclusion is drawn, even if statements 1–4 are accepted as correct.

1. New York is the most fertile state in the United States.

2. Cayuga County is the most fertile county in New York State.

3. Ledyard is the most fertile town in Cayuga County.

4. My farm is the most fertile farm in Ledyard.
5. Therefore my farm is the most fertile farm in the United States.

The fallacious use of the argumentum ad hominem. Another form of this fallacy closely allied to the last is the improper use of the so-called *Argumentum ad Hominem.* This argument "is addressed to the peculiar circumstances, character, avowed opinions, or past conduct of the individual, and therefore has a reference to him only, and does not bear directly and absolutely on the real question."[1] That is, not the rightness or the wrongness of the issue is proved, but its rightness or wrongness for one individual, or those only among men whose circumstances, character, past conduct, or avowed opinions are like his. The fallacy comes in using this argument which can be convincing only for this small class of men as if it must be convincing for humanity in general. For instance, most of our appeals to friends to be consistent in their actions are *argumenta ad hominem.* A friend has, for example, turned away a beggar from his door, and we urge that he should have given in this case because we have never seen him refuse alms before, and have heard him say repeatedly that a man who has enough, as he admittedly has, should always be willing to spare a little to the needy. Another friend has often declared in our presence that our system of free public schools is the strength of the nation, and that every citizen should give it all possible support. When, however, his child reaches the age for entering the grammar school he sends him to a private school. We tax him with inconsistency, and use the *argumentum ad hominem.* It is

[1] *Elements of Logic.* Whately. p. 237.

by an *argumentum ad hominem* that the Signorina Nugent, in the last sentence but one of the following, gets the better of Mr. Martin: —

She said nothing, but stood there, biting the rose.

"Give it to me," I said; "it shall be my badge of service."

"You will serve me, then?" said she.

"For what reward?"

"Why, the rose!"

"I should like the owner, too," I ventured to remark.

"The rose is prettier than the owner," she said; "and, at any rate, one thing at a time, Mr. Martin! Do you pay your servants all their wages in advance?"

My practice was so much the contrary that I really could n't deny the force of her reasoning.[1]

In all these cases the *argumentum ad hominem* has been correctly used. If, however, the successful arguer in any one of the cases given should assume not that he has proved that his friend should give to all beggars, but that beggars should always be given aid; or, not that the friend should send his child to the public schools, but that all good citizens should send their children to the public schools; or, not that Martin should not expect a full reward till his service had been done, but that no one should expect a full reward till his service is done, — that is, if he attempts to make a universal application of an argument that has force only for a special case, — he thereby falls into the fallacy now under discussion. Evidently, doing this, he fails to see what is the work he should do, — establish the general truth of the principle, not its applicability in a special case, — and so ignores the question.

[1] *A Man of Mark.* Anthony Hope. pp. 46, 47. H. Holt & Co. 1895.

The *argumentum ad populum* is a form of ignoring the question closely allied to the *argumentum ad hominem.* In this argument a speaker uses before a given audience a statement which he knows they will heartily agree to on account of their special prejudices and partisan views, but which would be vigorously challenged elsewhere. A student should clearly recognize that this is only legitimate within certain limits and that this method of argument is fallacious when it assumes to prove the matter true for all men.

The fallacy of objections. Still another form of ignoring the question is to raise objections of any kind to a plan, theory, or system, and then to infer that it must be rejected. When, however, objections are raised two important questions at once arise: (1) Are the objections raised essentially connected with the point in question? (2) Granted that in nearly all cases there must be both advantages and disadvantages, do the objections in this case outweigh the advantages? It is not, for instance, difficult to point out, in cases where the argument from resemblance is used, some differences between the two or more cases in question, but unless the cases differ in something that was an essential part of the process producing the result in question, the objection can have no force. There have been few plans and systems, even if the great legislative measures, political acts, and humanitarian movements be included, to which valid objections could not be raised. There has, for instance, been much discussion as to the wisdom of the Fourteenth Amendment to the Constitution, which enfranchised the negro. It is not difficult to point out ways in which it works badly. No doubt in ante-bellum days men were right in saying that there were strong objections to

the theories of the abolitionists. In treating the topic, "Should the Australian Ballot System be adopted in the United States?" it is easy to point out real objections to it. Those who argue fallaciously on the subjects just mentioned decide that because they have shown real objections to the Fourteenth Amendment, to Abolition, to the Australian Ballot System, therefore the plans should not be adopted. They ignore the real question: Do the valid objections outweigh the proved advantages? Unless, then, an argument from objections can stand the two tests mentioned, it must fall.

Summary. A student must see, therefore, that a fallacy springs from one of three sources: (1) lack of definition, (2) non-observation and erroneous observation, (3) erroneous reasoning. Lack of definition results in equivocation, ambiguity, and confusion of various sorts. Non-observation and erroneous observation result in errors due to inattention or to preconceived theory, in the neglect of significant circumstances, and in the confusion of an incorrect inference with a direct sense impression. Erroneous reasoning results in hasty generalization; in begging the question, whether from arguing in a circle or assertion in one or more of its many forms, — false assumption, ambiguous evidence, simple assertion, or the unwarranted assumption of a causal relationship; in *non sequitur;* and in ignoring the question, directly, or indirectly by proving something true of a part when the whole should be considered, by fallacious use of the *argumentum ad hominem*, by shifting ground, or by raising irrelevant or insignificant objections that do not outweigh the proved advantages. Against all these fallacies the careful arguer must be continually on his guard.

A further subdivision of fallacies not necessary here. The three main possible sources of fallacy — ambiguous or incorrect uses of words, erroneous observation, and bad reasoning — should be carefully kept in mind by a student of argumentation. Little by little he will recognize, in his work of sifting evidence, the divisions of these three already explained. Very probably he will find other divisions and subdivisions, but these are so unimportant, if the main divisions are clearly recognized, that it has not seemed wise to do more here than show the most common aspects of the big divisions. Moreover, the divisions of fallacies run into one another, and it is often difficult to say that a fallacy belongs more to one class than to another. For instance, the man who argued against prescribed English composition (p. 161) not only shifted his ground but argued in a circle. Let a student remember, therefore, that what has been said has been given, not for the purpose of helping him to classify definitively every fallacy he sees, but merely to help him to recognize unsound modes of reasoning. If he can place an argument in any one of the classes of fallacies, that should be enough, for he has disposed of it. If — to use the example of the critic of prescribed English composition — he recognizes first the shifting ground, let him throw out the argument as that kind of fallacy. If he sees first the circular argument, let him put aside the argument on that ground. Whether it is more one than the other need trouble logicians only.

Analysis the great foe of fallacy. If fallacies were as directly and simply stated in all cases as, for the sake of clearness, they have been in the above illustrations, they would not be difficult to remove. As has been said, however, they hide themselves away in a mass of other matter

that may be wholly true, and, thus imbedded, they are difficult to recognize. The simplest method of finding them is to cut the long argument down to its simplest proportions, to find just what its main thesis is, and on what subordinate theses that rests. That is what was done in nearly all the illustrations given from the work of college students. But what is this except analysis — "the exclusion of ideas for a central idea or group of ideas"? Analysis is the preventive or the destroyer of fallacies, for let a reader cut an argument down to its simplest proportions — that is, make a brief of it — and he will find very shortly whether there is any fallacy in it. Surely the importance of analysis in argumentation must once more be evident.

Presentation follows investigation. It is not enough, however, to distinguish good from bad evidence; one must be able to present well the evidence selected. Indeed, one part of presenting evidence, handling it in relation to the case of one's opponent, Refutation, may best be considered by a student before he proceeds to brief-drawing, for any brief, to be adequate, must present the writer's case in relation to the case of his opponent.

Section 5 — Refutation

Refutation essential but complementary. Refutation is of two kinds: general refutation, the reply that a writer makes to direct attack on the main proposition; special refutation, the reply to actual or possible objections to details of proof. Refutation can hardly be mastered early in study of argumentation, for its effectiveness depends on a thorough understanding of the principles of analysis and evidence already explained, somewhat on the principles of structure and presentation yet to be treated, and on much practice.

Students usually wholly neglect it at first, contenting themselves with a statement of their own ideas more or less adequately supported with evidence, but entirely ignoring any opposing views as to the main proposition or minor ideas. Later, when the importance of refutation in argumentation is recognized, these same students overestimate it, developing their cases as if the one aim in discussion should be, not ascertaining the truth about a mooted matter, but merely breaking down the case of an opponent. For two reasons, however, this ignoring of the need of a positive case of one's own is as futile as the original ignoring of any case but one's own. In the first place, except when it has been conclusively shown that only a certain number of theories or statements are possible in regard to the matter under discussion and all but one have been refuted, refutation is purely destructive, and does not prove anything true or to exist. In all cases but that excepted it merely clears the ground for proof of the truth of a different theory. In the exception named, when it has been shown that all possible theories but one do not hold, a strong presumption at least has been established in favor of that one. So difficult is it, however, to be sure that all possible explanations of a phenomenon, all the theories in regard to it, have been named, that careful workers — for example Professor Huxley in his *First Lecture on Evolution* — are usually not content with this strong presumption, but go on to show why their theory or plan should be adopted. Professor Huxley, after stating the three hypotheses which have been advanced as to the creation of the world, refuted two, and then devoted a second and a third lecture to showing the agreement between circumstantial evidence and the third theory.

The second reason why ignoring the need of a positive contrasting case is futile is that in most topics widely discussed neither side is wholly in the right, and judgment must be rendered on the comparative merits of two or more contrasted schemes or theories. For instance, we do not discuss: "Is the Elective System unsound?" but "Is the Elective System less sound than the Group System or than a prescribed course of study?" Recently we did not consider simply: "Should the United States build a canal across Panama?" but "Is the Panama route preferable to the Nicaragua route for the proposed canal?" The larger part of legislative discussion is of this comparative kind.

Ignoring the comparative nature of a case should be impossible if the question is phrased after a careful analysis has produced the special issues, for they must make clear the really comparative nature of the discussion.[1]

[1] In a recent college debate on "Should immigration from Southeastern Europe be further restricted?" the affirmative maintained that it should because many who become diseased or paupers, or who are criminals, are let in, and that present laws, even if rigidly enforced, cannot shut out the undesirable. The negative contended that immigration laws, no matter how restricted, must let in persons who after their coming to this country will become undesirable, alleging that conditions in the slums are responsible for a change for the worse and that better citizenship cannot be hoped for till we improve the tenement-house conditions. The negative seemed, however, to think that it was enough to prove incorrect the contention of the affirmative in regard to the condition of many immigrants on landing and merely to state its theory as to the effect of the tenements. Of course, it had on it, from its interpretation of the question, the burden of a constructive case, — to show the truth of its theory. If this is not clear, consider the position of the negative, had the affirmative, after hearing the interpretation put upon the question by the negative, said: "We grant, for the sake of argument, your contention that it is conditions in the tenements rather than inherent and well-developed traits of character evident when the immigrants land which are responsible, but insist that if we greatly restrict immigration we shall have none of

The first essential of good refutation — preparedness. For strong refutation such analysis as has been already explained is essential. To refute well one must understand not only one's own case, but the whole case: — what one thinks about it; what one's opponent has said about it; what other people have said or written about it of which the opponent may have informed himself since he last wrote. Usually what an opponent is likely to say in answer to an article offers not one but many possibilities. He is not likely to say all that one can find for his case or against one's own, but in order to be able to meet the little he chooses to say one must know how to meet anything he may say. The first principle of refutation is, then: Know all the ramifications of the discussion in which you take part. Preparedness on both sides of the case is the first essential of strong refutation. Recently, after an intercollegiate debate in which the negative had won easily, the six contestants were overheard in amicable reconsideration of the question. The speakers on the negative were expressing surprise that the affirmative had chosen what seemed to the negative by no means their strongest possible case. As two or three other plans for presenting the question were outlined by the negative, an affirmative speaker said: "Why, we never thought of those plans; ours seemed to us the only interpretation. It 's a pity we did n't see our chance with one of your plans, for then we should have had you." "Not at all," cried one of his

these people to develop under undesirable tenement conditions." Had the opponents met and sifted the material on their question to the real issues, they would probably have rephrased their question in comparative form, for instance: "Are large numbers of the immigrants from Southeastern Europe undesirable at landing or do they become undesirable from conditions in the great cities?"

opponents, rapidly outlining an intended plan of refutation in each case. "Well," exclaimed another affirmative speaker, "I guess you had us beaten before we came on that platform!" He was right, for it was this superior preparedness which had given the negative speakers their victory. Such superiority, however, is not often possible, but one may often know as well as one's opponent the possible cases for his side. It is in guessing which case he will choose and where in that case he will place his emphasis that uncertainty arises.

Importance of analysis in refutation. This preparedness rests on analysis. We refute under two conditions: we may try to forestall objections which we think will be made, anticipatory rebuttal; we may answer objections already made. The simplest form of anticipatory rebuttal is when one is proposing some plan so new that the objections to it can only be guessed at. Evidently only the really obvious objections, general and special, should be taken up, for we must be careful until possible opposers of the scheme have been heard from not to provide our enemy with ammunition or to give him a chance to make a point by granting the larger part of what we have contended for in rebuttal, throwing his emphasis on other ideas, or wholly on one or two only of the ideas which we have tried to refute. Imagine some politician, in 1792, when controversy was rife on assumption of the state debts by the United States, assuming that Hamilton's motive for advocating such action was to square the accounts outstanding among the individual states, and proving by elaborate figures that this object could have been more cheaply and more thoroughly accomplished. A supporter of Hamilton replies that he grants all this,

but urges assumption on the ground — that really urged by Hamilton — of making the Union stronger. The first speaker has not only wasted time but has revealed his unpreparedness on his topic. Even when we reply to an article which is supposed to embody the ideas of our opponent, it is possible that additional objections in his behalf which have been elsewhere printed or which have suggested themselves to us have now become his also, and, if he is to have a chance to reply we must anticipate as many of these objections as may seem wise. But how are we to determine what the objections to be anticipated are except by analysis? Moreover, when we reply to an opponent, analysis shows us just what is his case; whether he represents our views correctly; whether he meets us squarely; whether he tries to force in matter not really needed; just where the two cases touch or miss each other; whether his case can be reduced to a few clear statements at which we can strike; and the value of these statements or of the broader case if it cannot be simplified.

When Jeremy Collier, in 1698, attacked the plays of his day in *A Short View of the Immorality and the Profaneness of the English Stage*, he urged (1) the theater of the Ancients was not dishonorable; (2) the present stage is given to oaths; (3) it holds the clergy up to ridicule; (4) it is immoral; (5) there are general unfavorable criticisms to be made on it; and (6) the testimony of the Church Fathers is against the drama. Though the book provoked a succession of answers, one and all were ineffective, mainly because the authors did not take the trouble to analyze Collier's somewhat confused presentation of his case and so missed its real nature. Filmer, for instance, replied by proving that the stage of the Ancients was

decidedly objectionable; but in refuting only Collier's first point, proved only what Collier might well grant and yet rest triumphantly on the evidence as to the existing viciousness of the stage. Vanbrugh in his reply made some corrections of details, and weakened some of Collier's statements, but left the case in its essentials undisturbed. Dennis, who made the best answer, did not defend the particular plays attacked or the existing stage, but deprecated Collier's exaggeration and the effect on drama in England if his ideas spread. For an effective reply, the book should have been stripped of its verbiage, redundancy, and extraneous material. Had that been done, the amount left requiring serious answer must have been greatly reduced. From these illustrations it must be clear that analysis is fundamental in the first essential for good refutation, namely preparedness.

The second essential of good refutation — selection. Analysis, as has just been said, makes it possible to reduce an opponent's case to its simplest proportions, to divest it of illustration and rhetoric, to grasp the real subordination of ideas treated by him as of primary value, to seize and hold up to your reader what is central in your opponent's case. Not everything which your opponent says is surely worth answering, probably not any large part of it. Refutation is not a Donnybrook Fair: don't hit at every head you see, but aim at the leaders. Just as in reaching the special issue we grant, admit, waive, and exclude as extraneous, we may take part or all of these steps with the case of our opponent when it is before us and by subordinating what is less important in it strike at central ideas. By just this process Demosthenes in his oration *On the Crown* selects the part of the case of Æschines to which he

replies.[1] In the discussion of the Canteen question on p. 45 it was possible to grant three out of four of the contentions of the affirmative and yet make a stand by attacking the fourth idea strongly. But select not only in your opponent's case. In using your own material, do not waste time in marshaling all the evidence you can find on a particular objection. Hit it as hard as you can with the one or more pieces of evidence necessary for your effects; let all other evidence on the point go. Don't fling battalions of thought at your enemy's center when a strong company will do.

What a combination of analysis and selection may do for a case is shown by a story of President Lincoln as a lawyer. Defending a client against the charge of murder, he made the jury see that the apparently complicated case against the accused really rested for its conclusiveness on the testimony of one witness. He had testified that a full moon made it possible for him to see the fatal blow. Then, producing an almanac, Lincoln showed that on the night of the murder there was no moon.

The third essential of good refutation — emphasis. This selection must not, however, be arbitrary. Too often a writer merely says: "The case of my opponent amounts to this" or "In the case of my opponent we may waive all except his third point." Never forget in argumentation that you must carry "the other person" steadily with you, that you should not work for yourself but for and with your audience. When you select, let your reader or hearer see the steps by which you cut down the opposing case and, above all, your right so to cut it. Do not dictate; expound.

[1] See pp. 201–203.

The following from a reply to an educational article of President Eliot shows a well-emphasized selection of the ideas to be refuted.

President Eliot's estimate of the Jesuit system is expressed in the following passage in his paper: "There are those who say that there should be no election of studies in secondary schools. . . . This is precisely the method followed in Moslem countries, where the Koran prescribes the perfect education to be administered to all children alike. The prescription begins in the primary schools and extends straight through the university; and almost the only mental power cultivated is memory. Another instance of uniform prescribed education may be found in the curriculum of the Jesuit Colleges, which has remained almost unchanged for four hundred years, disregarding some trifling concessions to natural sciences. That these examples are both ecclesiastical is not without significance. Nothing but an unhesitating belief in the divine wisdom of such prescriptions can justify them; for no human wisdom is equal to contriving a prescribed course of study equally good for even two children of the same family between the ages of eight and eighteen. Direct revelation from on high would be the only satisfactory basis for a uniform prescribed school curriculum. The immense deepening and expanding of human knowledge in the nineteenth century, and the increasing sense of the sanctity of the individual's gifts and will-power have made uniform prescriptions of study in secondary schools impossible and absurd."

Aside from the derogatory insinuations contained in this passage, the average reader will carry away from the perusal of it two main assertions: (1) that the Jesuit system of education implies a uniform prescribed curriculum of Moslem-like rigidity; (2) that the natural disparity of the individual student in gifts and will-power, the finite wisdom of the educator, and the increase of human knowledge are such as to necessitate the widest application of the elective system.

The first proposition enunciates what is claimed to be a fact, the second asserts a theory. These propositions, as we shall see, are extreme, and certainly not correlative. The negation of one does not infer the other. But in the truth of either the Jesuit system is condemned, not necessarily as a system of education, but as a system adapted to modern requirements. If the Jesuit system is as rigid in its prescribed matter as the system attributed to the Moslem, then it has failed to keep up with the modern development of knowledge, and to utilize modern sciences that possess educational values. If on the other hand all uniform prescriptions of study are "absurd and impossible," if no two individuals even of the same family can be submitted to the same uniform course of study, if only unlimited "electivism" is wise and possible, then undoubtedly the Jesuit system, and the system of many colleges wholly independent of the Jesuits, are condemned.[1]

Secondly, no fault is commoner in argumentation than failure to keep the reader clear as to the significance for the case of each part as it develops. It should be remembered that when a reader does not make each step understandingly, he must either take what is said as an argument from authority or refuse to follow what he does not understand. He is more likely to choose the second than the first course. In a recent discussion of the question, "Was the treatment of Colombia by the United States in its recognition of the Republic of Panama justifiable?" one speaker contended that the recognition was in accord with international law and pointed to some instances of swift recognition by the United States of a new government, notably in the case of Brazil. An opponent replied by naming even more instances of slow and cautious recognition

[1] *President Eliot and Jesuit Colleges.* Rev. T. J. Brosnahan, S.J. pp. 5–6. Review Publishing Co., Boston.

of new governments. In the face of this contradictory evidence a hearer could only suspend judgment. The second speaker should have shown the relation of his cases to those of his opponent and why his opponent's did not really apply, that is, he should by emphasis have made clear the value of his evidence as contrasted with that of his opponent.

Finally, emphasis is much needed when the process of rebuttal is ending. Do not pass to something else, secure that your opponent's case is hopelessly weakened or is demolished. If doubt be in the least possible, emphasize, showing briefly just what you take to be the effect on your opponent's case of what you have done and the consequent result for your own views; in other words, make clear the exact state of the two sides of the case as you finish a piece of rebuttal. Many a process of refutation, especially if long and involved, has missed its effect on a reader for lack of this clear emphasizing of the work accomplished.[1]

This summary from the closing argument of the petitioners for a dam on the Charles River, Boston, not only emphasizes clearly where the case of the protestants against the dam is left by the preceding argument, but admirably leads into the next division of the case.

When we reflect upon the facility with which the United States engineers abandoned the doctrine of compensation in kind, previously held by them to be a necessary corollary of their theory of tidal scour; when we consider that no

[1] A fourth essential in good refutation, mobility, will be treated in the chapter on Debating, for ability to shift one's plan of attack instantly or to give a piece of rebuttal a different emphasis from that planned is required in the rapid give and take of oral rather than in written work, in which one's whole case exactly as planned may be developed before reply is possible.

injurious results followed the occupation of the South Boston flats without compensation either in kind or in dredging, notwithstanding the predictions of the commissioners; that the equally emphatic opinions of the commissioners against the utilization of the Upper Mystic Pond as a source of water supply, and in favor of extensive excavations in the Lower Mystic tidal reservoir, were wholly disregarded without perceptible injury to the channel; when we consider this conflict between opinion and results, and between the opinions expressed by the same engineers in 1866 and 1871, we can readily understand the hesitation of the scientific men of the present day — even if ignorant of the results of recent investigations — to accept the reasoning and conclusions of the commissioners who considered the subject between 1835 and 1866. Nor will the most careful perusal of their arguments help their case, for, without taking account of the assumptions of fact which later experience proves to have been unwarranted, their conclusions, as already noted (*supra*, pp. 510–512), were based on data admittedly inadequate and on factors conceded to be insignificant. Their theory was formed without regard to many facts of admitted importance which told against it; much of their reasoning was, to say the least, unscientific; and no attempt was made to test the applicability to this harbor of experiments made in other harbors of totally different conformation.

Their methods seem unscientific, their data insufficient, their conclusions paradoxical; and in the light of present information, we submit that the question is not so much whether the theory of tidal scour is applicable to the ship channels of Boston harbor, as how the many eminent engineers who served on the various commissions between 1835 and 1866 came to think that it was.

The confidence with which conclusions were drawn by these gentlemen from premises so inadequate has been a mystery to every one who has read their reports; and the mystery deepens when we contemplate their rejected recommendations, their unverified predictions, the change in the opinions

of some of them, and the present state of the harbor, — so different from what it ought to be if their theory had been correct.

The answer to these questions, the solution of this mystery, is, we submit, beyond doubt to be found in the erroneous geological theories which were current in the early and middle parts of the nineteenth century, and which were accepted without suspicion by the engineers.[1]

Refutation and structure. The relation between refutation and structure is vital. Indeed, there are certain definite principles of arrangement that should be observed in regard to both general and special refutation. For the position of general refutation — the reply that a writer makes to direct attack upon not details of proof, but his proposition — no one principle can be laid down. One or more divisions of general refutation may be taken up at any point in the argument at which logical or persuasive conditions make this advantageous. Usually the divisions of general refutation will appear together, but by no means always. The attitude of the audience and the conditions of the argument must determine which one of three or four arrangements should be adopted.

The initial position. If a man is writing in favor of some entirely new or unpopular idea, to which his readers have well-defined objections, he will often best win a hearing by using his most cogent reasoning at the outset to weaken or destroy one or more of the fundamental ideas on which the old theory rests. By so doing the writer not only arouses his readers to respectful attention, but clears from

[1] *The Proposed Charles River Dam and Water Park. Closing Argument for Petitioners.* N. Matthews, Jr. and W. S. Youngman. pp. 517–518. 1902.

his way ideas which might have led his readers silently to controvert his arguments as he developed them. The first principle, then, for the placing of General Refutation is: — If the audience disagree with a writer and are familiar with the arguments of an opponent, the refutation should be placed first in order to remove the objections that the audience surely have in mind and to put them into a more favorable attitude toward the writer's direct proof.[1]

The final position. When, on the other hand, an audience is unprejudiced, or knows scarcely anything about either side of the question, a writer may first develop his own case and then at the end consider the general objections. Of course, if he follows this method, he must be sure that his answers to the general objections are, either by themselves or taken with his preceding direct proof, conclusive, for he cannot afford to give his reader just at the end of the argument the feeling that important objections of the other side have not been satisfactorily met.[2]

The normal position. The usual place, however, for General Refutation is somewhere in the middle of the case, between cogent divisions of direct proof, for in the majority of cases refutation does not destroy an opponent's argument, but merely weakens it to a greater or less extent. The position at the beginning attracts attention at once and is a direct challenge to the opposition. The position at the end is effective but most dangerous, for it is there that the strongest effort should be made to secure the agreement of readers, and this can rarely be found except in positive proof. To make an attempt at refutation at the close that is not generally effective and, for the special

[1] See Illustration 12, in Chap. IV.
[2] See Illustration 13. in Chap. IV.

audience, well-nigh conclusive, is then bad tactics. The middle position leaves the attention of the reader at the beginning and the end, two critical places, centered not on what opponents can say against the writer, but on what he himself can prove true. In that position whatever he can say to controvert in any degree the contentions of the other side counts for just what it is worth, and then the writer may proceed, after weakening his opponent's case somewhat, to emphasize his own strongest arguments.[1]

A combination of the three positions. Of course it is evident that the divisions of general refutation need not in all cases stand together. It is not uncommon to find that some divisions of the general refutation are needed as preparatory, whereas other divisions would be out of place in the initial position; certain other divisions may be cogent enough to deserve the final position, whereas it would be injudicious and even reckless to mass the whole general refutation at the close. The writer must employ the principles of persuasion[2] in determining which of the three positions to use or whether to employ a combination of two or three.[3]

Arrangement of special refutation. The principle of arrangement that applies to Special Refutation is very simple. Special Refutation is the defense made against actual or probable objections to details of proof. Therefore a writer cannot safely leave any heading in his direct proof until he has answered objections which unless cleared away might block the movement of the argument. For example, when Lord Chatham urged removing the British

[1] See Illustration 14, in Chap. IV.
[2] For Persuasion as it relates to the placing of Refutation see Chap. V.
[3] See Illustration 15, in Chap. IV.

troops from Boston, he advanced in support of his idea that the measures of Parliament had failed, not merely proof that the army of General Gage was penned up ingloriously inactive, but refutation of the objection that at least the army provided protection. He said it was really powerless and irritating to the Americans, and declared the objection that the army was needlessly inactive unsound because any activity would bring on civil war. Evidently, he could not hope to leave his point as to the failure of Parliamentary measures till he had met the first objection, and could not hope to dispose of the first objection till he had disposed of the second. Refutation of objections, not to the proposition, but to details of proof, should meet such objections where they arise.

Recurrent refutation. Sometimes an opponent raises the same objection to several parts of a case. If so, he simply scatters the presentation of a general objection. For instance, when Carl Schurz argued in behalf of a general rather than a special amnesty for ex-Confederates, he found the same objection facing him at a number of places in his speech, namely that he was forgetting the position in the South of the freedmen.[1] Whenever he felt the objection could arise, he answered it. When one's opponent appears to mistake his recurrent general refutation for special refutation, it is certainly effective to point this out by refuting the recurrent cases early in the case as one general objection. Certainly, if the general objection can be disposed of once for all, an early treatment of it is desirable. On the other hand, if reply at the outset can only weaken it, the special conditions under which the objection presents itself in each case may offer additional chances to

[1] *The Forms of Public Address.* pp. 358, 359, 379.

weaken it, and there may be cumulative force in the group of replies or in the repetition of the one or two answers which can be made. There is, too, persuasive effect at times, as in Mr. Schurz' speech, in showing that one knows each point at which the objection may be held to apply and is prepared for it. But whether such an idea be taken up once for all or recurrently it is really a general objection.

Refutation and evidence. Just as analysis in refutation shows what is to be selected and where it should be placed in the case, so the laws of evidence show with what the well-selected and well-placed ideas may be made good. To refutation applies all that has been said as to evidence in the earlier sections of this chapter, and for convenience in refutation a table is added of the opportunities for attacking the various kinds of arguments already discussed. The chief point to remember in the use of any or all of these answers is: *In refutation and direct proof alike one's evidence must be valued not by itself but in relation to opposing evidence already adduced or likely to be adduced.*[1] If this persistent need to handle evidence comparatively be borne in mind, a student will avoid some of the worst pitfalls of argumentation.

Opportunities for refutation

1. Is the testimony of the witness inconsistent with human experience, the known facts in the case, or with itself?

2. Is there anything in the conditions under which the witness testifies which renders his evidence suspicious?

[1] See the illustration from the Panama Case, p. 177.

3. Is the witness incompetent to testify because of prejudice, or mental, physical, or moral weakness?

4. Has your opponent argued from a resemblance that does not hold in some particular vitally connected with the point under discussion?

5. Has your opponent used undefined or misleading terms?

6. Is your opponent's reasoning based on careless or faulty observation?

7. Has your opponent assumed the truth of a premise which you have evidence to disprove?

8. Can you show that the conclusion of your opponent does not follow from his premises?

9. Has your opponent in any way ignored the question really under discussion?

10. Are the generalizations of your opponent based on faulty induction, in that the instances observed are too few, or are obviously selected for the special point in dispute?

11. Has your opponent used as cause something which is merely a coincidence or an attendant circumstance?

12. Has your opponent relied on a cause inadequate to produce the result alleged?

13. Is such a multiplicity of causes involved that the one alleged to be effective cannot be known to have been operative?

Method of residues. There are, too, certain special devices for presenting one's reply to an argument or a group of arguments, and among these one of the most effective is the Method of Residues. In this a writer shows what are all the theories held in regard to some disputed matter, for instance further restriction of immigration, and then, by excluding one after the other for convincing reasons,

leaves at least a strong presumption in favor of his own plan. Proof is usually given, as was explained on p. 169, for the theory left after the fall of the others because until that theory has been shown to be sound, it is of course possible that some other hypothesis or plan not yet evolved may be the best. This is the method used by Professor Huxley in his *Three Lectures on Evolution.*

The dilemma. In the Dilemma a writer reduces his opponent's case to an alternative; shows that the first part does not hold true; then that the second part does not; and concludes that his opponent has no valid case. Plainly a writer does not through the Dilemma necessarily prove the truth of his own ideas, but only clears the ground for his own constructive case. Huxley used this argument effectively in disproving the Miltonic hypothesis in regard to the creation of the world — the theory that it was created in seven days, the birds on one day, the fish on another, etc.

The Miltonic hypothesis contains assertions of a very definite character, relating to the succession of living forms. It is stated that plants, for example, made their appearance upon the third day, and not before. And you will understand that what the poet means by plants are such plants as now live, the ancestors, in the ordinary way of propagation like by like, of the trees and shrubs which flourish in the present world. It must needs be so; for, if they were different, either the existing plants have been the result of a separate origination since that described by Milton [first horn of dilemma], of which we have no record, nor any ground for supposition that such an occurrence has taken place; or else they have arisen by a process of evolution from the original stocks [second horn of the dilemma, the strength of which is not admitted by holders of the Miltonic hypothesis]. . . . And, again, if it be true

that all varieties of fishes and the great whales, and the like, made their appearance on the fifth day, we ought to find the remains of these animals in the older rocks — in those which were deposited before the carboniferous epoch. Fishes we do find, in considerable number and variety; but the great whales are absent, and the fishes are not such as now live. Not one solitary species of fish now in existence is to be found in the Devonian or Silurian formations. Hence we are introduced afresh to the dilemma which I have already placed before you: either the animals which came into existence on the fifth day were not such as those which are found at present, are not the direct and immediate ancestors of those which now exist [this is contrary to the belief of those holding the theory]; in which case either fresh creations, of which nothing is said, or a process of evolution must have occurred; or else the whole story must be given up, as not only devoid of any circumstantial evidence, but contrary to such evidence as exists.[1]

Reductio ad Absurdum. In the Reductio ad Absurdum a writer, assuming for the moment the truth of his opponent's statement, shows that it proves too much and leads to absurdity. Beecher, when part of his Liverpool audience favored the South because it must always sympathize with "the weaker people, the minority," answered by showing the absurdity of any attempt to carry out this theory in all cases.

You cannot help going with the minority, who are struggling for their rights against the majority. Nothing could be more generous, when a weak party stands for its own legitimate rights against imperious pride and power, than to sympathize with the weak. But who ever sympathized with a weak thief, because three constables had got hold of him? [Hear, hear!] And yet the one thief in three policemen's hands is

[1] *Specimens of Argumentation.* pp. 80, 82–83.

the weaker party. I suppose you would sympathize with him. [Hear, hear! laughter, and applause.] Why, when that infamous king of Naples, Bomba, was driven into Gaeta by Garibaldi with his immortal band of patriots, and Cavour sent against him the army of Northern Italy, who was the weaker party then? The tyrant and his minions; and the majority was with the noble Italian patriots, struggling for liberty. I never heard that Old England sent deputations to King Bomba, and yet his troops resisted bravely there. [Laughter and interruption.] To-day the majority of the people of Rome is with Italy. Nothing but French bayonets keeps her from going back to the kingdom of Italy, to which she belongs. Do you sympathize with the minority in Rome or the majority in Italy?[1]

In the following, from the speech on *Conciliation with the American Colonies*, Burke showed the absurdity of the statement, "We should impoverish our colonies in order to make them obedient": —

To impoverish the colonies in general, and in particular to arrest the noble course of their marine enterprises, would be a more easy task. I freely confess it. We have shown a disposition to a system of this kind. . . . But when I consider that we have colonies for no purpose but to be serviceable to us, it seems to my poor understanding a little preposterous to make them unserviceable in order to keep them obedient.[2]

Enforcing the consequences. Another method, analogous to the Reductio ad Absurdum, is to show that an opponent's theory or statement if carried to its ultimate conclusions leads to conditions generally held undesirable or known to be unacceptable to the audience addressed. In the first instance the theory or statement refutes itself, but

[1] *Specimens of Argumentation.* p. 170.
[2] *Political Orations.* Camelot Series. p. 77.

in the second case care must be used to avoid the fallacy of arguing from a part to the whole. For instance, a political speaker might well argue before an audience of stanch Republicans that some statement if pushed to its ultimate conclusions would thwart the policy of Protection, but he cannot, of course, conclude that this refutation will hold good for the country at large. J. S. Black, in his speech on *The Right to Trial by Jury*, thus enforced the consequences of the position of his opponents: —

This, therefore, must be their position: That although there was no war at the place where this commission sat, and no actual necessity for it, yet if there was a war anywhere else, to which the United States were a party, the technical effect of such war was to take the jurisdiction away from the civil courts and transfer it to army officers.

General Butler: We do not take that position.

Mr. Black: Then they can take no ground at all, for nothing else is left. I do not wonder to see them recoil from their own doctrine when its nakedness is held up to their eyes. But they *must* stand upon that or give up their cause. They may not state their proposition precisely as I state it; that is too plain a way of putting it. But, in substance, it is their doctrine — has been the doctrine of the Attorney-General's office ever since the advent of the present incumbent — and is the doctrine of their brief, printed and filed in this case. What else can they say? They will admit that the Constitution is not altogether without a meaning; that at a time of universal peace it imposes some kind of obligation upon those who swear to support it. If no war existed they would not deny the exclusive jurisdiction of the civil courts in criminal cases. How, then, did the military get jurisdiction in Indiana?

All men who hold the Attorney-General's opinion to be true answer the question I have put by saying that military

jurisdiction comes from the mere existence of war; and it comes in Indiana only as the legal result of a war which is going on in Mississippi, Tennessee, or South Carolina. The Constitution is repealed, or its operation suspended, in one State because there is war in another. The courts are open, the organization of society is intact, the judges are on the bench, and their process is not impeded; but their jurisdiction is gone. Why? Because, say our opponents, war exists, and the silent, legal, technical operation of that fact is to deprive all American citizens of their right to a fair trial.

That class of jurists and statesmen, who hold that the trial by jury is lost to the citizen during the existence of war, carry out their doctrine, theoretically and practically, to its ultimate consequences. The right of trial by jury being gone, all other rights are gone with it; therefore a man may be arrested without an accusation, and kept in prison during the pleasure of his captors; his papers may be searched without a warrant; his property may be confiscated behind his back, and he has no earthly means of redress. Nay, an attempt to get a just remedy is construed as a new crime. He dare not even complain, for the right of free speech is gone with the rest of his rights. If you sanction that doctrine, what is to be the consequence? I do not speak of what is past and gone; but in case of a future war, what results will follow from your decision indorsing the Attorney-General's views? They are very obvious. At the instant when war begins, our whole system of legal government will tumble into ruin, and if we are not all robbed, and kidnaped, and hanged, and drawn, and quartered, we will owe our immunity, not to the Constitution and laws, but to the mere mercy or policy of those persons who may then happen to control the organized physical force of the country.[1]

Turning the tables. It is a particularly effective device in refutation for a writer to take up an argument as if to

[1] *American Oratory.* R. C. Ringwalt. pp. 162–164. H. Holt & Co. 1898.

refute it and then to show that it makes not for but against his opponent, — to turn the tables. Carl Schurz in his speech on *General Amnesty* used this method in answering the objection to general amnesty that under it the law against treason would lack vindication.

The senator from Connecticut [Mr. Buckingham], whom I am so unfortunate as not to see in his seat to-day, when he opened the debate, endeavored to fortify his theory by an illustration borrowed from the Old Testament, and I am willing to take that illustration off his hands. He asked, if Absalom had lived after his treason, and had been excluded from his father's table, would he have had a just reason to complain of an unjust deprivation of rights? It seems to me that story of Absalom contains a most excellent lesson, which the Senate of the United States ought to read correctly. For the killing of his brother, Absalom had lived in banishment, from which the king, his father, permitted him to return; but the wayward son was but half pardoned, for he was not permitted to see his father's face. And it was for that reason, and then, that he went among the people to seduce them into a rebellion against his royal father's authority. Had he survived that rebellion, King David, as a prudent statesman, would either have killed his son Absalom or he would have admitted him to his table, in order to make him a good son again by unstinted fatherly love. But he would certainly not have permitted his son Absalom to run at large, capable of doing mischief, and at the same time by small measures of degradation inciting him to do it. And that is just the policy we have followed. We have permitted the late rebels to run at large, capable of doing mischief, and then by small measures of degradation, utterly useless for any good purpose, we incited them to do it. Looking at your political disabilities with an impartial eye, you will find that, as a measure of punishment, they did not go far enough; as a measure of policy they went much too far. We were far

too generous to subjugate the hearts of our late enemies by terror; and we mixed our generosity with just enough of bitterness to prevent it from bearing its full fruit. I repeat, we can make the policy of generosity most fruitful only by making it most complete. What objection, then, can stand against this consideration of public good?[1]

Refutation and persuasion. Persuasion, too, plays its part in refutation, for not only, as has been explained on pp. 180–182, does the relation of the audience to the subject affect the position given general refutation, but the attitude of a writer toward his opponent may have positive persuasive effect. For instance, men skilled in argumentation have always recognized the value of granting to an opponent as much as possible of his case, for when a writer so treats an opponent he produces at the outset belief in his fairness, sureness, and mastery of his task. Secondly, one should never intentionally misrepresent an opponent, saying, for example, that he has committed himself to an idea perhaps like his statement but not it exactly. Evident intentional misrepresentation is liable to have the effect it deserves, — to destroy a reader's confidence. Misrepresentation, even when it comes as honest error, is ineffective, for to a reader who sees the mistake it suggests that the writer is neither keen nor just. Moreover, keep your temper. Righteous indignation is justifiable, for of course there are times when the palpable trickery or dishonesty of an opponent deserves excoriating, but irritability is always petty, and anger is safe only when one is sure that a reader must share heartily in it. The

[1] *The Forms of Public Address.* pp. 367–368. H. Holt & Co. 1904. For another illustration of this method see *Specimens of Argumentation*, pp. 15–16, l. 25 *et seq.*

underlying facts in all this are that leadership must rest largely on a constant effect of perfect control of one's self and one's material, and that both anger and irritability mean lack of self-control.

Summary of Refutation. It is now clear, probably, why refutation is not easily mastered. Depending as it does on analysis, structure, evidence, knowledge of certain methods of presentation, and some persuasion, it can be used with sureness only by him who has mastered all these divisions of argumentation. Practice in it may and should begin early in study of the subject, but mastery of it inevitably comes late.

The relation of analysis, evidence, and structure. In actual practice there is, of course, no such sharp division between analysis and the use of evidence as has been made in the preceding discussion, for even as any one reads widely in order to inform himself correctly on the history of a question in order ultimately to find the issues involved in the case, he must meet much evidence. In practice he does not thrust it aside, pressing on with an eye only for the issues, but values it roughly even as it appears and stores it away for use if, when the issues have been determined, it shall really prove serviceable to his case. This double and time-saving process is, however, possible only for a person who understands what has just been pointed out in regard to evidence and assertion and the kinds and the tests of evidence. When, too, analysis has done its work, a knowledge of all the matters treated in this chapter becomes essential, for the outline of the case given by the issues and the related ideas, both found through the history of the question and the clash in opinion, can be developed only with evidence, and

thoroughly developed only with evidence well selected and valued. Therefore, again, the division between evidence and the next subject to be treated, Brief-Drawing, is pedagogic, not actual. Really a good brief is a framework provided by analysis made firm and solid by evidence.

EXERCISES

1. Assertion and evidence. Rapidly analyze some college question before the class to its issues. Ask the class to consider one or more of the issues carefully and to come next time with evidence supporting the opinion they have formed as to the issue. Discuss this evidence with the class.

2. Assertion and evidence. Let the class prepare evidential support for the assertive forensic in the Appendix. Let them arrange it outside or in the class room. Discuss their work with them. As an alternative the forensic may be discussed without any outside preparation by the class. In the discussion, under either plan, contrast with the assertive forensic that on Home Rule in Ulster (cf. Appendix).

3. Kinds of evidence. Let the students gather from newspapers and periodicals specimens of the different kinds of evidence. Discuss these with the class.

4. Kinds of evidence. Ask the class to read Lord Mansfield's speech in behalf of Allan Evans, *Specimens of Argumentation*, pp. 22–40, and one other of the selections in that volume. Let them, in the class room, point out in writing at least two cases of induction and two of deduction occurring in the selections studied, and one specimen each of generalization, argument from cause to effect or effect to cause, argument from resemblance, and analogy.

5. Kinds of evidence. Let the students classify the following arguments, good and bad, under the three divisions of inductive argument: generalization, argument based on causal relationship, and argument based on resemblance.

1. It seems plain, then, that Jefferson, were he alive to-day, would be pre-eminently qualified to deal with the problems that confront us, by the breadth and penetration of his mind, by his subordination of formulated principles to the aims for which they were devised, and by the tenacity of his adherence to the paramount purpose of all government, to wit, the salvation of the nation.

2. There is just one difference which, in my judgment, gives Yale the advantage. Rockwell runs his plays with the smooth speed of an automobile, while Marshall, Harvard's quarterback, slows them up. He keeps the formation waiting on its toes in its anxiety to be off, and there are frequent false starts. The result is its direction becomes evident to the other side and the necessary steps are taken to stop it. I believe, therefore, that Yale will do more ground gaining than Harvard in the running game.

3. With sixty-five thousand nine hundred and forty-five votes cast in this State at the recent election it does not look as if Rhode Island had lost much interest in affairs political. Never before were so many ballots cast within her borders.

4. Now, it is n't necessarily tuning a piano to have a tuner tune it, any more than it is necessarily repairing a watch to have a watch repairer repair it.

5. Walter McMillan will serve as a good illustration of a young man who "woke up." He was employed as a clerk by the Armour Packing Company of Kansas City, with nothing in prospect but the desk with its endless drudgery. He read the signs correctly, and after careful investigation decided that the Chicago College of Advertising could give him the thorough, practical advertising education he craved. Almost immediately after completing the course he was referred by the college to the *Kansas City Journal*, where he started at just four times the salary he was receiving in his former position. He is there to-day and has been still further advanced.

What Mr. McMillan has done you can do.

6. "My new play is sure to make a hit," said the eminent actress; "it gives me an opportunity to show twenty superb gowns."

7. No, Colombia will not fight. No country whose credit is quoted at fourteen cents on the dollar goes to war with an enemy bigger than itself. It lacks the sinews.

8. The business outlook for the present year is not encouraging because it is the year of a presidential election and previous presidential elections have caused unsettled business conditions.

9. After the electric current had been turned on for a few minutes, Mr. Helberger noticed that, out of the ground adjacent to the mold, worms were coming hurry-skurry. In his opinion, these actions on the part of the worms could only be attributed to the influence of the electric current.

10. Mrs. Winslow's Soothing Syrup has been used for over fifty years by millions of mothers for the children, while teething, with perfect success. All mothers having children which are teething, should use it.

11. From the dispatches covering the matter we learn that Mr. Clarence Darrow, the lawyer who won great distinction as counsel for the United Mine Workers' Union before the Anthracite Coal Strike commission, is representing the street car employees in the Chicago trouble. And it is, therefore, not surprising that an amicable settlement is a prospect of the future.

12. Three times within the past two years collisions between train and electric car have occurred at the same crossing. Records of each investigation show that the cause of the accident was the slippery condition of the tracks and not the carelessness of the motorman. Since, then, the conditions of the present accident are similar to those of the past we argue that the blame for the accident cannot fall upon the motorman.

13. Senator Hoar makes it known in his autobiography that President McKinley offered to him the post of Ambassador to England and that he refused, partly because he wished to remain in the Senate and partly because he could not afford to live in London in the way in which it is necessary for our representative to live there. Thus we have a specific instance of the well recognized truth that the miserable salaries which we pay our foreign ministers render it necessary for the Presidents to choose from wealthy men.

14. Wisest of beasts the serpent see,
Just emblem of eternity,
And of a State's duration;
Each year an annual skin he takes,
And with fresh life and vigor wakes
At every renovation.

Britain! that serpent imitate.
Thy Commons House, that skin of State,
By annual choice restore;
So choosing thou shalt live secure,
And freedom to thy sons inure,
Till Time shall be no more.[1]

15. Of the time and place of persons, and things, and events and customs, he appears to have been quite regardless. He knew that such great men as Galen, and Alexander, and Cato, once lived, that Galen was a celebrated physician, Alexander, a famous conqueror, and Cato (the Censor), an eminent patriot, and soldier, and statesman; but he introduces them all into one of his greatest plays,—perhaps the most perfect as a work of dramatic art,—*Coriolanus!* The period of the legendary Coriolanus was the 5th century before Christ; his victory over the Volscians, at Corioli, being placed at 450 B.C. Alexander was born nearly 150 years later; Cato, more than 250 years later; and Galen, more than 600 years later.

The Winter's Tale exhibits false geography, and a jolly jumble of times and events and persons. The great poet was too much occupied with his dramatic creation, to trouble himself with the mere matters of scholarship. Accordingly, Bohemia is made a maritime country (as it is, also, in the original novel, "Pandosto, or the Triumph of Time," by Robert Green); Whitsun pastorals and Christian burial, and numerous other features of the Elizabethan age, are introduced into pagan times; Queen Hermione speaks of herself as daughter of the Emperor of Russia; her statue is represented as executed by

[1] *Logic Inductive and Deductive.* William Minto. p. 373.

Julio Romano, an Italian painter of the 16th century; a puritan sings psalms to hornpipes; and to crown all, messengers are sent to consult the oracle of Apollo, at Delphi, which is represented as an island![1]

16. As to the position, pursuits, and connections of Junius, the following are the most important facts which can be considered as clearly proved: first, that he was acquainted with the technical forms of the Secretary of State's office; secondly, that he was intimately acquainted with the business of the war-office; thirdly, that he, during the year 1770, attended debates in the House of Lords, and took notes of speeches, particularly of the speeches of Lord Chatham; fourthly, that he bitterly resented the appointment of Mr. Chamier to the place of Deputy Secretary of War; fifthly, that he was bound by some strong tie to the first Lord Holland. Now, Francis passed some years in the Secretary of State's office; he was subsequently chief clerk of the war-office; he repeatedly mentioned that he had himself, in 1770, heard speeches of Lord Chatham, and some of those speeches were actually printed from his notes; he resigned his clerkship at the war-office from resentment at the appointment of Mr. Chamier; it was by Lord Holland that he was first introduced into the public service. Now here are five marks, all of which ought to be found in Junius. They are all five found in Francis. We do not believe that more than two of them can be found in any other person whatever.[2]

17. Sir, there are two passions which have a powerful influence in the affairs of men. These are *ambition* and *avarice;* the love of power and the love of money. Separately, each of these has great force in prompting men to action; but when united in view of the same object, they have in many minds the most violent effects. Place before the eyes of such men a post of *honor*, that shall at the same time be a place of *profit*, and they will remove heaven and earth to obtain it. The vast number of such places it is that renders the British government so tempestuous. The struggles for them are the true source of all those factions which are perpetually dividing the nation. . . .

And of what kind are the men that will strive for this profitable preëminence, through all the bustle of cabal, the heat of contention, the infinite mutual abuse of parties, tearing to pieces the best of characters? It will not be the wise and moderate, the lovers of peace and good order, the men fittest for the trust. It will be the bold and the violent, the men of strong passions and indefatigable activity in their selfish pursuits. These will thrust themselves into your government, and be your rulers. And these, too, will be mistaken in the expected happiness of their situation; for their vanquished competitors, of the same spirit and from the same motives, will perpetually be endeavoring to distress their administration, thwart their measures, and render them odious to the people.[3]

[1] Professor Corson. *Shakspere-Bacon Controversy.* Quoted in *The Forms of Discourse.* William B. Cairns. p. 278.

[2] Macaulay. *Essays; Warren Hastings.* Quoted in *Principles of Rhetoric.* p. 374.

[3] Benjamin Franklin. *Speech before the Constitutional Convention.* Quoted in *The Forms of Discourse.* William B. Cairns. p. 272.

6. Tests of evidence. Assign for study in the *Specimens of Argumentation*, p. 111 ("The first witness") to p. 145 ("Gentlemen, you have now — "). Discuss, or require a written exercise on Erskine's use of the tests of evidence. The tests used by Mr. Collins in his argument on the relations of Swift and Stella (cf. Appendix) may be studied instead of the Erskine.

7. Tests of evidence. Classify and discuss the following fallacies: —

1. Philip VI was justified in his opposition to the Papacy, for
   III. According to his lights he thought the Pope's demands unjust, for
      C. Philip thought the Pope was officious, for
         I. Being a devout Catholic, he would not have resisted him had he not thought so.

2. Intercollegiate athletics should be discouraged, for they take time that might be spent in study.

3. When thirteen sit together at table some one always dies within the year.

4. Naturalness is always preferable to artificiality. Therefore the natural method of teaching the languages must be the best.

5. When the election of Mr. McKinley seemed probable, wheat went up several points. Therefore the election of Mr. McKinley must be for the best interests of the Western farmers.

6. "They [the Boers] have actually no idea of civilization," says Professor Smith. The Professor must have failed to read the following:
"General Joubert at once despatched a letter to me offering a safe conduct to doctors and ambulances to remove the wounded." So wires General White to the English home office after the disaster before Ladysmith.

7. Night must be the cause of day, for it invariably precedes it.

8. All criminal actions ought to be punished by law. Prosecutions for theft are criminal actions. Therefore, prosecutions for theft ought to be punished by law.

9. It is argued that the proposed method of cultivation will increase the fertility of the soil; but the fertility of the soil is already increasing, therefore the proposed method is unnecessary.

10. The works of Shakspere cannot be read in a day. *Hamlet* is one of the works of Shakspere. Therefore *Hamlet* cannot be read in a day.

11. I heard him say "That scoundrel of a D—— has been communicating plans." Dreyfus' name begins with D. He is under suspicion. Therefore, Dreyfus communicated the plans.

12. No designing person ought to be trusted. Engravers are by profession designers. Therefore, engravers ought not to be trusted.

13. He who calls you a man speaks truly. He who calls you a fool calls you a man. Therefore, he who calls you a fool speaks truly.

14. Kipling is not a great English poet, for all the great poets are dead.

15. "But a man must live" was the excuse made to Dr. Johnson for a very sharp business transaction. "Sir, I do not see the necessity," the Doctor replied.

16. The English system of training for track athletics is superior to the American because the over-estimation of victory in the American system is a bad state of the mind.

17. We cannot regard copying as an occasional fall from grace, because
a. What a man does once he will do again.
b. "Once a thief always a thief."

8. Tests of evidence. Separating the class into groups, divide among these the thirteen tests of evidence tabulated on pp. 184–185. Let each group bring into class for discussion specimen arguments which may be answered by the methods of attack named in the tests assigned it.

9. Refutation. Let the class familiarize itself with the brief, printed herewith, of part of the speech of Æschines *vs. Ctesiphon*, and with the citation from the reply of Demosthenes to it.[1] In class

[1] "After the battle of Chæronea . . . nothing less was expected than an immediate invasion of Attica by Philip; and strong measures were taken, under the advice of Hyperides, to put the city in a posture of defense. One of the most important was the repair of the walls and ramparts. Demosthenes at this time held the office of conservator of walls, having been appointed by his own tribe at the end of the year B.C. 339. The reparation, which had been commenced before, but suspended during the late campaign, was now vigorously prosecuted. He himself superintended the work, and expended on it three talents of his own money, beyond what was allowed out of the public treasury. . . . Not many months after the battle, Ctesiphon introduced a bill to the Council of Five Hundred, proposing to reward Demosthenes for his gifts of money to the public, and for his general integrity and good conduct as a statesman. It is not unlikely that the very object of this measure was to stop the attacks upon Demosthenes [by the party favoring the Macedonians], and to give him the opportunity, in case it should be opposed, of justifying the whole course of his political life. With that view was inserted the clause eulogizing his general character as a statesman. The Macedonian party naturally regarded this clause as a reflection upon themselves, and

let the students answer these questions: (1) Does Demosthenes reply to all the charges of Æschines? (2) If not, has he good cause to omit? (3) Does he keep to the order of ideas of Æschines? (4) If not, is there justification for his change of order, and does he gain by it? (5) What is the probative value of the answers he makes?

SUMMARY OF THE LEGAL CHARGES OF ÆSCHINES AGAINST DEMOSTHENES

The Decree granting a crown to Demosthenes breaks the law, for

A. Demosthenes cannot make the excuse that he was to be crowned after the accounts had been examined.

B. His office cannot be called a commission or agency, rather than a magistracy, for

a virtual condemnation of the policy which they had for so many years espoused. . . . They resolved upon a course, which was open to them according to the Athenian laws, of indicting Ctesiphon as the author of an illegal measure. His bill, having been approved by the council, and then brought before the popular assembly, was passed in the shape of a decree, by which it was declared to be the will of the council and people of Athens, 'that Demosthenes should be presented with a golden crown, and that a proclamation should be made in the theatre, at the great Dionysian festival, at the performance of the new tragedies, announcing that Demosthenes was rewarded by the people with a golden crown for his integrity, for the good-will which he had invariably displayed toward all the Greeks and toward the people of Athens, and also for his magnanimity, and because he had ever both by word and deed promoted the interests of the people, and been zealous to do all the good in his power.' This decree, as the opposite party conceived, was open to three objections, two of which were chiefly of a legal nature; the other, while it equally assumed a legal form, called in question the real merits of Ctesiphon's motion. An indictment, embodying all the objections, was preferred before the archon, the chief magistrate of Athens, to whose cognizance a criminal proceeding of this kind appertained. The prosecutor was Æschines, the second of Athenian orators, the deadly enemy of Demosthenes, who would not only be considered by his party as the fittest person to conduct the cause, but was stimulated to it by every motive of rivalry and revenge. . . . The indictment of Ctesiphon was, however, suffered to lie dormant for more than seven years, and was not brought to trial till the year B.C. 330." Condensed from pp. 1–3 of *The Oration on the Crown of Demosthenes.* C. R. Kennedy. Hinds & Co.

1. It is not true that those only are magistrates who are appointed by lot by proper officers, or elected by the people in proper assemblies.

C. He cannot say that he needed to give no account for spending his own money, for
1. A public officer must account for the smallest of public money expended.
2. Trierarchs, for instance, are expected to account even if they have not spent public money.
3. The objection that he cannot render any account for a gift is false, for
   a. The law provides a form for such cases.

D. He is accountable, for
1. He was the manager of public theatrical funds.
2. He was inspector of fortifications.
3. His objection as to the form of elections (cf. *B*) does not hold.

E. The place of presentation is wrong, for
1. The law names a different place.
2. The objections as to the festivals do not hold, for
   a. It is odd that contradictory laws should exist side by side.
   b. It is impossible that they should so exist, for
      x. The people would have changed one or the other.
   c. It is true only of crowns presented by Athenians to foreign states.

ANSWER OF DEMOSTHENES TO THE CHARGES OF ÆSCHINES

I conceive it remains for me to speak of the proclamation and the accounts: for, that I acted for the best — that I have throughout been your friend and zealous in your service — is proved abundantly, methinks, by what I have said already. The most important part of my policy and administration I pass by, considering that I have in regular course to reply to the charge of illegality; and besides — though I am silent as to the rest of my political acts — the knowledge you all have will serve me equally well.

As to the arguments which he jumbled together about the counter-written laws, I hardly suppose you comprehend them — I myself could not understand the greater part. However I shall argue a just case in a straightforward way. So far from saying that I am not accountable, as the prosecutor just now falsely asserted, I acknowledge that I am all my life accountable for what as your statesman I have undertaken or advised; but for what I have voluntarily given

to the people out of my own private fortune, I deny that I am any day accountable — do you hear, Æschines? — nor is any other man, let him even be one of the nine archons. For what law is so full of injustice and inhumanity as to enact, that one who has given of his private means, and done an act of generosity and munificence, instead of having thanks, shall be brought before malignants, appointed to be the auditors of his liberality? None. If he says there is, let him produce it, and I will be content and hold my tongue. But there is none, men of Athens. The prosecutor in his malice, because I gave some of my own money when I superintended the theatre fund, says — "the Council praised him before he had rendered his account." Not for any matters of which I had an account to render, but for what I spent of my own, you malignant!

"Oh, but you were a Conservator of Walls!" says he. Yes; and for that reason was I justly praised, because I gave the sums expended and did not charge them. A charge requires auditors and examiners; a donation merits thanks and praise: therefore the defendant made this motion in my favor.

That this is a settled principle in your hearts as well as in the laws, I can show by many proofs easily. First, Nausicles has often been crowned by you for what he expended out of his own funds while he was general. Secondly, Diotimus was crowned for his present of shields; and Charidemus too. Again, Neoptolemus here, superintendent of divers works, has been honored for his donations. It would indeed be cruel, if a man holding an office should either, by reason of his office, be precluded from giving his own money to the state, or have, instead of receiving thanks, to render an account of what he gave. To prove the truth of my statements, take and read me the original decrees made in favor of these men.

A DECREE

"Archon, Demonicus of Phlyus. On the twenty-sixth of Boedromion, with the sanction of the council and people, Callias of Phrearrii moved: That the council and people resolve to crown Nausicles, general of foot, for that, there being two thousand Athenian troops of the line in Imbrus, for the defense of the Athenian residents in that island, and Philo of the finance department being by reason of storms unable to sail and pay the troops, he advanced money of his own, and did not ask the people for it again; and that the crown be proclaimed at the Dionysian festival, at the new tragedies."

ANOTHER DECREE

"Callias of Phrearrii moved, the presidents declaring it to be with the sanction of the council: Whereas Charidemus, general of foot, having been sent to Salamis, he and Diotimus, general of horse, after certain of the troops had in the skirmish by the river been disarmed by the enemy, did at their own expense arm the young men with eight hundred shields: It hath been resolved by the council and people to crown Charidemus and Diotimus with a golden crown, and to proclaim it at the great Panathenaic festival, during the gymnastic contest, and at the Dionysian festival, at the exhibition of the new tragedies: the proclamation to be given in charge to the judges, the presidents, and the prize-masters."

Each of the men, Æschines, was accountable for the office which he held, but not accountable for the matters in respect of which he was crowned. No more then am I; for surely I have the same rights, under the same circumstances, as other men. Have I given money? I am praised for that, not being accountable for what I gave. Did I hold office? Yes; and I have rendered an account of my official acts, not of my bounties. Oh, but I was guilty of malpractices in office! And you, present when the auditors brought me up, accused me not?

To show you that he himself bears testimony to my having been crowned for what I had no account to render of, take and read the whole decree drawn up in my favor. By the portions of the bill which he never indicted it will appear that his prosecution is vexatious. Read.

THE DECREE

"In the archonship of Euthycles, on the twenty-second of Pyanepsion, in the presidency of the Œneian tribe, Ctesiphon, son of Leosthenes of Anaphlystus, moved: Whereas Demosthenes, son of Demosthenes of Pæania, having been superintendent of the repair of the walls, and having expended on the works three additional talents out of his own money, hath given that sum to the people; and whereas, having been appointed treasurer of the theoric fund, he hath given to the theoric officers of the tribes a hundred minas toward the sacrifices, the council and people of Athens have resolved to honor Demosthenes, son of Demosthenes of Pæania, with public praise, for the goodness and generosity which he has shown throughout on every occasion toward the people of Athens, and to crown him with a golden crown, and to proclaim the crown in the theatre, at the Dionysian festival, at the performance of the new tragedies: the proclamation to be given in charge to the prize-master."

These were my donations; none of which have you indicted: the rewards which the council says I deserve for them are what you arraign. To receive the gifts then you confess to be legal; the requital of them you indict for illegality. In the name of heaven! what sort of person can a monster of wickedness and malignity be, if not such a person as this?

Concerning the proclamation in the theatre, I pass over the fact, that thousands of thousands have been proclaimed, and I myself have been crowned often before. But by the Gods! are you so perverse and stupid, Æschines, as not to be able to reflect, that the party crowned has the same glory from the crown wherever it be published, and that the proclamation is made in the theatre for the benefit of those who confer the crown? For the hearers are all encouraged to render service to the state, and praise the parties who show their gratitude more than the party crowned. Therefore has our commonwealth enacted this law. Take and read me the law itself.

THE LAW

"Whensoever any of the townships bestow crowns, proclamations thereof shall be made by them in their several townships, unless where any are crowned by the people of Athens or the council; and it shall be lawful for them to be proclaimed in the theatre at the Dionysian festival."

Do you hear, Æschines, the law distinctly saying — "unless where any are voted by the people or the council; such may be proclaimed"? Why then, wretched man, do you play the pettifogger? Why manufacture arguments? Why don't you take hellebore for your malady? Are you not ashamed to bring on a cause for spite, and not for any offense? — to alter some laws, and to garble others, the whole of which should in justice be read to persons sworn to decide according to the laws? And you that act thus describe the qualities which belong to a friend of the people, as if you had ordered a statue according to contract, and received it without having what the contract required; or as if friends of the people were known by words, and not by acts and measures! And you bawl out, regardless of decency, a sort of cart-language, applicable to yourself and your race, not to me.[1]

10. Refutation. After assigning the brief on Capital Punishment (cf. Appendix) for study, ask the class to state, orally or on paper, (1) whether the introduction is complete, and if not what should be added; (2) whether in rebuttal all the ideas given as main headings must be answered, and if not, why not; (3) whether all the sub-ideas within a division must be treated, and if not, why not; (4) whether any different ordering of the ideas in rebuttal will help, and why; (5) what reply the class will attempt to make to the case as rearranged and condensed.

11. Refutation. It is helpful to divide the class into groups of two, giving one student the affirmative, the other the negative of some proposition. When the forensics come in, let each man criticise his opponent's manuscript on the following matters: (1) Is your opponent's approach to the case the one you expected? (2) Has he advanced essential ideas for which you are unprepared? (3) Is the order of his ideas what you anticipated, better, or one which you wish to shift in refuting his case? (4) Can you justify changing his order? (5) Do you need to take up all his ideas? (6) If not, what can you subordinate or cut out, and why? (7) What effect on your case has his attack? (8) Have you provided him in your manuscript with ideas not treated by him, and if so, how much are these likely to affect his rewriting of his work? (9) What answers must you now make to his case as rearranged and condensed? These criticisms should be read in connection with the argument commented on. They may be returned to the writers with their own arguments, and students should be required in rewriting their first drafts of the arguments to show profit from their criticism of their opponent's work and from the instructor's comments on that criticism.

[1] *Demosthenes on the Crown.* Kennedy. David McKay. Philadelphia.

CHAPTER IV

BRIEF-DRAWING

SECTION 1 — WHAT THE BRIEF IS

The purpose of the brief. In the process of investigation the student has become generally familiar with his subject through his preliminary reading, and in his special issues has obtained a definite statement of the nature and extent of what he wishes to prove. Through his knowledge of what constitutes evidence, from what sources it may be derived, what forms it assumes, and by what tests it should be judged, he is prepared to collect intelligently the necessary material for his argument. Before, however, he can present that material in the fashion best adapted for convincing, he should master the principles of brief-drawing. Such mastery will give him a definite and convenient form in which he may present his case in its full logical force for the examination and criticism of a second person before he undertakes the presentation of his argument in literary form. But his brief will do more than this. It will aid him in coördinating and subordinating accurately, for it will necessitate careful discrimination between material that is primary and material that is subsidiary; it will aid him in arranging effectively the ideas so distinguished; and it will offer him a convenient device for sorting and grouping his evidence, that is, the facts and reasons which he is to make use of in convincing his readers. To accomplish

these ends the brief must be a summary that combines clearness and conciseness of exposition, and is especially adapted for the ordination, arrangement, and grouping of evidence. In this chapter will be explained one system of brief-drawing that has proved useful in securing these ends.

The origin of the brief. A student can hardly have analyzed his question without having formed in his own mind a rough plan of his argument. He must at least know the main arguments by which the question has been discussed in the past, and he must have determined in his special issues the lines upon which his own argument is to be conducted. The letter from Lincoln to McClellan shows admirably such special issues in a complicated case. An outline of the investigation and preliminary analysis which must have preceded, and of McClellan's answer, — if he tried to convince Lincoln of the superiority of his plan, — would give a complete brief of which these keen special issues would be the corner stone. Given these clear and definite issues, a student of the campaigns of the Civil War could construct an elaborate argument.

Illustration 1

President Lincoln to General McClellan

EXECUTIVE MANSION, WASHINGTON,
February 3, 1862.

MAJOR-GENERAL MCCLELLAN:

My dear Sir: You and I have distinct and different plans for a movement of the Army of the Potomac — yours to be down the Chesapeake, up the Rappahannock to Urbana, and across land to the terminus of the railroad on the York River; mine to move directly to a point on the railroad southwest of Manassas.

If you will give me satisfactory answers to the following questions, I shall gladly yield my plan to yours.

First. Does not your plan involve a greatly larger expenditure of time and money than mine?

Second. Wherein is a victory more certain by your plan than mine?

Third. Wherein is a victory more valuable by your plan than mine?

Fourth. In fact, would it not be less valuable in this, that it would break no great line of the enemy's communications, while mine would?

Fifth. In case of disaster, would not a retreat be more difficult by your plan than mine?

Yours truly,

ABRAHAM LINCOLN.

MAJOR-GENERAL MCCLELLAN.[1]

Instead of such an outline, however, which although fragmentary is good as far as it goes, the beginner in brief-drawing too often tries to give some clew to the nature of the evidence to follow, in some such way as do the writers of the two following sets of speaker's notes. However serviceable these may have been for the purpose for which they were intended, as briefs they are of little value, for they are not written with the needs of the reader continually in view, as a brief should be.

[1] "General McClellan had succeeded General Scott on November 1, 1861, as Commander-in-Chief (under the President) of all the armies of the United States. On January 31, 1862, the President had issued his 'Special War Order No. 1,' directing a forward movement of the Army of the Potomac. This order conflicted with plans which McClellan had formed, and he remonstrated." *Little Masterpieces, Lincoln.* B. Perry. p. 109.

Illustration 2

A brief by Abraham Lincoln in a case to recover for the widow of a Revolutionary veteran the sum of $200 which a rascally agent had retained out of $400 of pension money.[1]

"No contract. — Not professional services. — Unreasonable charge. — Money retained by Def't not given to Pl'ff. — Revolutionary War. — Describe Valley Forge privations. — Pl'ff's husband. — Soldier leaving home for army. — *Skin Def't.* — Close."

Illustration 3 — A student's notes for debate

That Political Union with Cuba would be Desirable for the United States

INTRODUCTION

A. Origin of the Question in Spanish War.
B. Definition of Political Union.
C. Tests of Desirability.
D. Clash in Opinion. Aff. Neg.
E. Matter to be ruled out.
F. Special Issues.

BRIEF PROPER

A. Undesirable on Military grounds.
B. Undesirable on Political grounds.
C. Undesirable on Social grounds.
D. Independence of Cuba.

CONCLUSION

Even the following skeleton brief has little usefulness except for the writer or some one fully informed as to the arguments in the case and the evidence at the writer's disposal.

[1] *Specimens of the Forms of Discourse.* E. H. Lewis. p. 233.

Brief A 1

Japanese Control would be better than Russian Control for the Political and Economic Interests of Corea

I. The outcome of the present war.
II. Agreement of both sides that
  A. Corea cannot be independent.
  B. Will be controlled by Japan or Russia.
  C. Other nations will keep out.
III. Agreed economic interests: mining, agriculture, commerce.
IV. Agreed tests of political interests: adaptability, efficiency, and progressiveness.
V. The affirmative contentions.
VI. The negative contentions.
VII. The special issues are twofold:
  A. Which government would be better for the industrial development of Corea in mining, agriculture, and commerce?
  B. Which government would give Corea the greater political benefit in the adaptability, efficiency, and progressiveness of its government?
VIII. Japanese control would be better for Corea politically, for
  A. The government would be better adapted to it, for
    1. It would be more acceptable.
    2. It would have greater powers of assimilation.
  B. The Japanese government is fully as efficient as the Russian, for
    1. Japan has shown financial ability of the first order.
    2. Against the stupendous progress of Japan, Russia can only show the Trans-Siberian Railroad.
  C. The government would be more progressive under Japanese control, for

1. Japan would do more to foster education.
2. Japan would do more to foster self-government.

IX. Japanese control would be better for Corea economically, for

A. Japan would develop more the Corean industries of agriculture and mining, for

1. She would give Corea a better market.
2. Japan would fill the country faster with settlers.
3. Japan would furnish more capital for Corean development.

X. Therefore Japanese control would be better than Russian control for the political and economic interests of Corea.

Helpful as one can see that Brief A 1 might be as a guide in speaking, as a brief it is very defective. In the first place, because it is not divided into Introduction, Brief Proper, and Conclusion, it is not clear at once what the writer is doing or where his argument really begins, though the good phrasing of VII and VIII minimizes the difficulty. I is hopelessly vague and gives only the information that at the outset the writer intends for some purpose or other to make a reference to the Russo-Japanese War. II is phrased more clearly and is definite. III and IV, while they are definite, are clumsy and obscure in their phrasing. V and VI are vague notes and simply state the writer's intention to give in his speech some useful information which readers cannot at present even guess at. VII, however, gives an inkling that the two sides are to take issue squarely, each contending that the control which he favors will be better in respect to all the economic and political interests agreed upon. VIII and *A*, *B*, and *C* under VIII are satisfactory; but when we come to 1 and 2 under *A* we feel that the brief has again become sketchy, for we

demand proof that the Japanese government would really be more acceptable, and that it would surely have greater powers of assimilation. So under *B* we wish evidence of Japan's financial ability and some reasoning to show that there has been anything like "stupendous progress." Indeed throughout this skeleton of a good brief the subheadings of the third rank (1, 2, 3, etc.) are mere assertions which beg the very questions the writer has undertaken in VII to argue, but which if proved will go far to make his case a strong one. The reader's position, then, must be one of suspended judgment, because he cannot be sure that the special issues represent exactly the points under contention and because much evidence upon which a judgment might be based is omitted.

Its relation to the outline. Such outlines as these, therefore, are of slight value to one who though unfamiliar with the evidence on the question yet wishes to form a just estimate of the value of the argument outlined. Their usefulness is limited to the writer himself in supplying him with a memorandum of the general structure and with pockets, so to speak, into which he may put evidence bearing on the several ideas. An outline does not become a brief until it does very much more than this. The first distinguishing mark of a brief is that, whether it be written for the teacher or the judge, it shall supply him with a basis for an intelligent estimate of the convincingness of the argument to follow. To accomplish this the brief must make clear the results of analysis. It must state the proposition at the outset; if the needs of the audience require, give the immediate cause for discussion, the origin of the question, and the clash in opinion; and state clearly what are the special issues which proof of the proposition

involves, showing why those issues are legitimately selected. Not until then can the writer safely advance to his proof. In presenting this in clear and concise form for the judgment of the reader, the writer meets with the second distinguishing mark of the special form of outline, called a brief; for he finds that while he is presenting his proof clearly and concisely to his critic he successfully ordinates, arranges, and groups his evidence.

A brief, then, is that subdivision of the genus outline which furnishes to a critic a clear and concise exposition of the convincingness of the argument, and at the same time aids the writer in the ordination, arrangement, and grouping of evidence.

The three divisions of a brief. This specialized form of outline called a brief has ordinarily three divisions corresponding to the divisions which we shall later find convenient in the literary argument: the Introduction, the Brief Proper, and the Conclusion.

The Introduction should state very concisely in short, correlated sentences whatever is necessary to an understanding of the discussion: namely, what is significant in the history and definition of the question; what matter, if any, is admitted by both sides, or for the purposes of the argument is waived or granted; and, by the exclusion of what is irrelevant or unimportant, should make definite the group of ideas upon which the decision of the question depends (the special issues).

The Brief Proper should make clear to any intelligent reader by a series of concise headings and subheadings the development of the argument by which the writer expects to prove what he has undertaken in his special issues. The writer should first select the main ideas of his

proof, which will rarely vary from those already selected for the special issues. These ideas he should so arrange that his brief presents first the ideas that logically come first, and last those that are logically last, and that in its structure the rhetorical principles of coherence and climax are observed. Under these main ideas, in accurate subordination, should be arranged the evidence by which the truth of these main headings is to be established. For greater clearness the coördination and the subordination of all the ideas should be distinctly correlated by numbers and letters.

The Conclusion usually is no more than a concise summary of the argument, in order to show at a glance the main ideas which have led to the decision, as in Brief C.

A brief should be divided into three parts, marked "Introduction," "Brief Proper," "Conclusion." (Rule I.)

The following revision of part of Brief A 1 shows what is gained by observance of the foregoing principles.

Brief A

RESOLVED: *Japanese Control would promote the Political and Economic Interests of Corea more than would Russian Control*

INTRODUCTION

I. The outcome of the present war between Japan and Russia presents many interesting possibilities.
II. For the purpose of this debate it is agreed that
  A. Corea is too weak to remain independent.
  B. It will become a province completely controlled by Japan or by Russia.
  C. Other nations will not object.

III. It is agreed that the economic interests to be considered are mining, agriculture, and commerce, in that
A. They are the most important interests of Corea.

IV. It is agreed that the political interests of a dependent nation are to be judged by the adaptability, efficiency, and progressiveness of the government imposed upon them.

V. The affirmative make the following contentions:
A. Japanese control would be better for the economic interests of Corea (mining, agriculture, and commerce) in that
1. Japan would maintain the Open Door.
2. Japanese control would furnish more capital for Corean development.
3. Japan furnishes the best and most natural market for Corean products.

B. Japanese control would be better politically in that
1. The government would be more adapted to Corea in acceptability and assimilating power.
2. The government would be more efficient in respect to financial management and the development of farming and navy.
3. The government would be more progressive in respect to education and the development of self-government.

VI. The negative maintains that Russian control would be better than Japanese control in the respects mentioned above.

VII. The issues are:
A. Which government would be better for the industrial development (mining, agriculture, and commerce) of Corea?
B. Which government would give Corea the greater political benefit in the respects mentioned in V, *B* (adaptability, efficiency, progressiveness)?

BRIEF PROPER

I. Japanese control would be better for Corea politically, for
  A. The government would be better adapted to Corea, for
    1. It would be more acceptable, for
      (*a*) The Coreans are already accustomed to Japanese methods and institutions, for
        (1) Japan has had a dominant political influence in Corea for many years, for
          (*x*) This is instanced by the fact that during the recent insurrections and disorders in Corea (1895) Japan was called in to establish order and to remodel Corean institutions.
      (*b*) Russia has nothing in common with the Coreans, for
        (1) There have been no previous relations between the two peoples.
        (2) They are opposed in temper and character, for
          (*x*) The Coreans are an Eastern people.
          (*y*) The Russians are a Western people.
    2. It would have greater powers of assimilation, for
      (*a*) The Japanese and Coreans are nearly related peoples.
      (*b*) The Russians and Coreans are not.
      (*c*) Corea is familiar with the Japanese, for
        (1) The countries are near neighbors.
        (2) There are large numbers of Japanese settled in Corea.
        (3) The Japanese have important commercial interests in Corea, for
          (*x*) The railroad and telegraph lines were built by Japan.
          (*y*) Three-fourths of the coastwise trade is carried under the Japanese flag.

(4) The Japanese established the present Corean judicial and police systems.

(*d*) The Coreans have had nothing to do with the Russians.

B. The Japanese government is fully as efficient as the Russian, for

1. Japan has shown financial ability of the first order, for

(*a*) She did fine work in Formosa, for

(1) In five years (1895–1900) she reduced her subsidies to Formosa from 9,000,000 yen (1 yen = $.60) a year to about 2,000,000 yen a year, and increased the income of the Formosan government from 2,000,000 to between 13,000,000 and 14,000,000 yen a year.

(*b*) She has been doing fine work in Yezo, for

(1) She "civilized" this "wilderness" in a very few years, building roads, factories, and cities.

(*c*) She has managed her own government institutions well, for

(1) This fact is instanced by the 300 miles of railroad which belong to the government and which pay $2,500,000 net profit annually.

(*d*) She showed great ability in the transition of 1870, for

(1) She developed, in a very short time, a sound financial administration out of the scattered elements of her old feudalism.

2. Against the stupendous progress of Japan, Russia can only show the Trans-Siberian Railroad.

C. The government would be more progressive under Japanese control, for

1. Japan would foster education more in Corea, for

(*a*) Japan has shown wonderful progress in this respect, for

(1) Japan now has 26,856 primary schools, 297 technical schools, 54 normal schools (besides many others of different character — blind, etc.), and 2 universities.

(*b*) It is a well-known fact that Russia has no public educational system to transplant into Corea.

2. Japan would foster self-government more, for

(*a*) Japan's policy is in this direction, for

(1) She elevated herself in eighteen years (1871–1889) from a mediæval absolutism to a modern constitutional democratic government.

(*b*) Russia's policy is repression, for

(1) Her whole empire shows this.

(*c*) If Russia obtained Corea she would not become more enlightened, for

(1) The acquisition of Corea would strengthen her military absolutism, for

(*x*) It would be a victory for that policy.

II. Japanese control would be better for Corea economically, for

A. etc., etc.

If now the three customary divisions of a brief are examined in detail, the work that each should do and the faults in each to which unskilled writers are liable will become clear.

Section 2 — The Introduction

Its expository purpose. The test of a good introduction is that it shall supply the reader with whatever information will be needed by him before he can read the brief proper

understandingly. If through carelessness or an inability to understand accurately the reader's ignorance of the subject the writer fails to give the necessary information, the significance of the headings of the brief proper will not be at once apparent and confusion will result. For example:

Brief B 1

The Lodge Bill is the Best Method for Excluding Undesirable Immigrants

INTRODUCTION

I. Origin of question.
II. Definition of the Lodge Bill.
III. Definition of the three classes of undesirable immigrants.
IV. The negative's proposal.
V. The extraneous and admitted matter.
VI. The special issue is which measure excludes the greater number of those belonging to the three classes of undesirable immigrants.

BRIEF PROPER

I. The South Italians, Hungarians, Poles, etc., would be the nationalities largely excluded by the Lodge Bill.
II. These nationalities are just the ones which belong to the three undesirable classes.
III. Even if the negative measure would have shut out more of these under the conditions of 1902, still the negative measure would be easy to evade in future.

The introduction to Brief B 1 is unworthy of the name, for a reader cannot begin to understand even the main headings of the brief proper until he knows at least what the Lodge Bill is and what is the substitute which in the opinion of the other side is to be more effective. Even

with this information he will want to know what classes of immigrants he is to consider undesirable, and II suggests that it may be very important that he know what is the extraneous and admitted matter. Clearly this introduction does not introduce.

The writer should exercise care not to make the introduction a preliminary argument,[1] and especially to avoid provoking discussion involving directly the proposition under dispute. A writer cannot too soon realize that he is writing his argument not for those who agree with him but for those who need to be convinced, and that for such the clearest introduction is one that does not produce disagreement until the argument proper is reached. Moreover a writer should be careful not to put into the introduction unessential details which will be needed later in the brief proper, for this renders the introduction heavy and makes the evidence less effective when it is used the second time. The following illustrates these faults.

Illustration 4

Was it Wise for Adams to send the Envoys to France in 1799?

INTRODUCTION

I. The relations between France and the United States in 1799 were as follows:
   A. France had held the United States in contempt, and had insulted the nation.
      1. She had done so by the conduct of her own ministers in the United States.

[1] At times argument in regard to the meaning of terms or the proper basis for discussion may be wise, but a skillful writer will usually conduct such argument as though it were merely exposition.

(*a*) In 1793 Genet had acted in a presumptuous and overbearing manner, trying to fit out ships and recruit men for France, as if the United States were a dependent province.

(*b*) Adet had tried to influence the election of 1796.

2. She had done so by her treatment of our envoys,

(*a*) The recall of Gouverneur Morris had been demanded because he did not favor the excesses of the French Revolution.

(*b*) C. C. Pinckney was not received, because the Directory were angry at the recall of Monroe and at the result of the election of 1796.

(*c*) The disgraceful X.Y.Z. demands for a bribe were a direct insult.

3. Her depredations on our commerce, contrary to treaty and neutral rights, showed contempt for the United States.

B. 1. Adams in 1798 declared diplomatic relations broken off.

2. An army and a navy were organized, merchants' vessels were armed, and several successes gained at sea.

C. France became alarmed, and in an indirect way signified a desire to renew negotiations.[1]

The writer of this brief begs the question entirely before he reaches the brief proper. What a reader needs to know is that after the United States had, in 1798, for reasons which seemed to it good, broken off diplomatic relations with France and prepared for war, it sent, in 1799, envoys to France to negotiate with her. The general grounds for the original breaking off of diplomatic relations and the reason stated for sending envoys should be given, but

[1] This Introduction not only does much that it ought not, but evidently fails to give much that is needed.

evidently the writer must not in starting commit himself as to the justice or the injustice of the reasons for which the United States broke off diplomatic relations or the satisfactoriness of the way in which France asked for negotiations. Proof in regard to these matters must settle the question one way or the other. This writer, however, has no compunctions about treating these matters, and in the heading I. *A* with its subheads 1 (*a*), (*b*), 2 (*a*), (*b*), (*c*), and 3 asserts as facts the very matters which must be debated and which he ought to have saved as very effective proof in the argument proper. If we challenge these statements, he must argue before he has put before us the necessary introductory material, — for most of that is in *B* and *C*. Such a method means confusing, ineffective work. If we do not challenge his statements, we have granted him more than half his case; namely, that the United States was entirely justified in breaking off diplomatic relations and, unless a spirit of great repentance and conciliation was shown by France, was not justified in sending envoys. When the writer adds in *C* that France, after all this evil-doing, signified her desires only in an indirect way, we feel more strongly still that the United States could not have been justified in sending envoys. That is, here the writer really begs the rest of the case.

If this brief is compared with Brief A, the superiority of the impartial introduction, that is, one which does not mingle expository matter with matter that produces disagreement, will be evident. The prejudice in an introduction is not usually difficult to detect, for some phrase like "presumptuous and overbearing manner," "the disgraceful X.Y.Z. demands," of this writer will show the reader that he is dealing with a man whose vocabulary is not

impartial, and who, therefore, is probably not impartial in his opinions.

Its analytical purpose. Besides furnishing the reader with an explanation that prepares him to read the brief proper intelligently, the task of the introduction is affected by the desirability of putting before the reader at this early point some of the results of the analysis to which the proposition has been subjected and by which the question is narrowed to the discussion. It is usually this analysis, indeed, that gives the form to the explanatory material of the introduction.[1] A writer can hardly define and analyze properly without affording a clear basis for discussion (see Brief A); but without these he might give an introduction which would be apparently adequate but which would neglect matters that are of great logical importance and would fail properly to narrow the question. The work of the introduction centers in the special issues. In the brief, at least, these issues and what leads to them should be definitely stated, as in Brief A. We may therefore sum up the work of the introduction, both explanatory and analytical, by the two following rules: —

The Introduction should contain all the information necessary for an intelligent reading of the Brief Proper. (Rule VI.)

The Introduction should always contain a statement of the special issues. (Rule VII.)

The length of the introduction. The introduction naturally varies in length. It sometimes gives, when the question is unusual or intricate, all the information suggested

[1] It is a simple task to introduce the necessary explanation while stating the history of the question, the immediate cause for discussion, the origin of the question, the definition put upon it, and the points that from the clash in opinion seem the vital issues.

as possible in analysis. Often, however, so much detail is not needed. The immediate cause for discussion and the origin of the question may be known to all, as in any discussion on some topic of the hour. For instance, when Lord Chatham spoke in the House of Lords in favor of the removal of the troops from Boston there was no need, at a time when all British eyes were on the American colonies, to explain the origin of the question or its immediate cause. Often, too, in the reduction of the clash in opinion to the special issues there is nothing to be admitted by both sides beyond the definitions, or nothing really extraneous that has been connected with the discussion. Sometimes there is no need to define terms, for they clearly convey their own meaning. Plainly, then, the introduction to a brief may vary from something that does little more than state the exact issues to be discussed, as in Lincoln's letter to McClellan, to a more elaborate plan that embodies two, three, four, or all of the possible steps of an introduction. What shall be included and what omitted depends upon the character of the audience and its knowledge of the subject.

The phrasing of the introduction. A writer may conscientiously perform the necessary work of the introduction without phrasing his material in such fashion that it is most serviceable to himself and his reader. To insure this, certain rules for brief-drawing have been formulated. By another consistent scheme an intelligent writer may secure both clearness and conciseness; but by observing these rules he will attain his results surely and quickly.

The fundamental rule for brief phrasing is that the ideas should be phrased as complete statements arranged in headings and subheadings. Even in an ordinary outline the safe

principle is to use sentences only and not phrases. A sentence must mean something and it usually means approximately what the writer has in mind. A phrase, on the contrary, may have no meaning, or its meaning to the reader may be quite foreign to the writer's intention.[1] Moreover, if these ideas are accurately correlated by means of numbers and letters so that the reader can see at a glance what ideas are coördinate and what are subordinate, it is obvious that the brief will gain greatly in clearness.[2]

By deft phrasing the writer can do much to obviate the danger of argumentative introductions already referred to. Almost any statement can be introduced as the opinion of another in such fashion that immediate discussion is not provoked. As a further safeguard to insure the explanatory nature of the introduction it is helpful for the writer to observe the rule insisted upon by many lawyers and judges, that "for" and "because," as the signs of formal argument, shall not be used to connect headings and subheadings in the introduction. To substitute "since" or "in that" when the relation of ideas demands such a connective keeps a writer on his guard and is no less clear. In Illustration 4 the writer encounters serious difficulty by provoking argument before he gets to the brief proper.

The clear phrasing of the introduction depends then upon an observance of the following rules: —

Ideas should be phrased in complete statements arranged in headings and subheadings. (Rule II.)

[1] With great care and good luck a writer who has his reader always in mind may write in notes and phrases a brief that will serve his purpose; but if teachers of rhetoric insist that outlines should properly be written in complete sentences, is it not more important in the brief, where every step may affect the whole?

[2] Compare Illustrations 2, 3, and 4 with Brief A.

In the Introduction ideas bearing upon the truth or the falsity of the proposition in dispute should be so phrased as not to produce immediate discussion. (Rule VIII.)

In the Introduction the connectives "for" and "because" should be avoided. (Rule IX.)

The correlation of the introduction. In order that the brief may clearly mark the ordination of the material, it is very necessary that some consistent and lucid scheme be adopted to connect coördinate matter and to differentiate from it subordinate matter. An uncorrelated brief may be perfectly intelligible, but it can never be so quickly and surely read as one in which the proper relation of ideas is indicated by indentation and by the accurate use of numbers, letters, or other symbols. The practice of giving a distinct mark to every complete statement is not difficult to acquire and greatly increases the serviceableness of the brief. The following example shows the advantages of correlation.

Illustration 5

Does the Gorge of the Niagara River Afford a Sufficient Index of the Duration of Post-Glacial Time?

INTRODUCTION

It is admitted by all that the gorge, as we now know it, has been cut since the close of the ice age, that it is increasing in length at the cataract end, and that the cataract is the cause of the increase. In attempting to estimate the duration of post-glacial time, certain geologists like Wright, Spencer, and Lyell state that it is merely necessary to determine the rate at which the length of the gorge is now increasing, and then to compute from the known length of the gorge the time it has taken to form the whole. Other geologists such as Gilbert and Shaler assert, however, that the rate of erosion has varied

for several causes, and also that there was a period of unknown duration between the close of the ice age and the birth of the river, and that, therefore, the methods and results of Wright, Spencer, and Lyell are inaccurate.

Correlating the foregoing material, which, though good as far as it goes, lacks a narrowing of the rather broadly stated clash in opinion to the special issues, will make the ideas clearer and save the reader's time. Certainly it is easier to understand the origin of the question, the facts admitted by both sides, and the broadly stated clash in opinion in the following correlated form.

INTRODUCTION

I. The following facts are admitted by all geologists:
   A. The gorge of the Niagara River, as we know it, has been cut since the close of the ice age.
   B. It is increasing in length at the cataract end.
   C. The cataract is the cause of the increase.

II. Certain geologists, — among them Wright, Lyell, and Spencer, — in attempting to estimate the duration of post-glacial time, think only two things are necessary.
   A. They would determine the rate at which the length of the gorge is now increasing.
   B. And then compute from the known length of the gorge the time it has taken to form the whole.

III. Other geologists — among them Gilbert and Shaler — think that the methods and the results of Wright and the others are inaccurate in that
   A. The rate of erosion has varied for several causes.
   B. There was a period of unknown duration between the close of the ice age and the birth of the river.

If correct correlation be of great service, it is clear that incorrect correlation is worse than useless. Confusion is

worse confounded if the writer change from the symbol of one order to that of another when there is no change in the logical relation of ideas, or if he fail to change wherever the logical relations demand it. The following bits of bad briefing show the pitfalls to which careless correlation leads.

Correlation not expressing logical relations

Illustration 6

A. Mr. Pullman was right in refusing to submit to arbitration the demands of his employees, because

1. A capitalist has a right to manage his business as he will, so long as he does not injure any one or violate any law.
   (*a*) Mr. Pullman's business is a private matter; no disinterested person has any right to dictate to him.
   (*b*) No man is obliged to work for Mr. Pullman; if he is dissatisfied he may seek for work elsewhere.
   (*c*) The private business of any one is not a matter for arbitration.

Illustration 7

Does Lamb Rightly Estimate the "Artificial Comedy of the Last Century"?

INTRODUCTION

I. Congreve's comedies are those we should consider, and they are licentious.
II. Lamb maintains that they are, nevertheless, inoffensive, because unreal to us.
III. Yet reality is the chief quality of good dramatic work.

BRIEF PROPER

I. A conventional world of bad manners may be inoffensive to us;
II. But Congreve's is not an inoffensive conventional world.
III. And there must be some morals in the "conventional world of Comedy."
IV. The characters are not unlike ourselves.

CONCLUSION

I. Lamb probably did not mean all that he said.

In this brief, III in the introduction, as it implies that Lamb was wrong in ascribing unreality to these plays of high dramatic order, is the beginning of the argument, and should be in the brief proper. Moreover, the transition from it to the headings of the brief proper is by no means clear. I in the brief proper is really granted matter, and belongs in the introduction. II would be clear if the introduction properly prepared for it; but III is vague and does not develop from II. IV also comes in loosely, and does not at all advance the argument; it seems really part of the proof of II. In three of these headings, then, the correlation does not express the true logical relation, and in one other the phrasing or correlation results in vagueness.

Another fault in correlation is that of marking twice one logical idea, or splitting one logical idea into two or more parts and marking each fragment separately. The beginner in brief-drawing who now omits logical steps and again disregards the logical relations of what he gives finds this fault of double marking difficult to avoid, as is shown by the following extracts from students' briefs.

Double marking — Illustration 8

I. The relations between France and the United States in 1799 were as follows: —
   A. France had held the United States in contempt, and had insulted the nation in that, etc.
   B. 1. Adams in 1798 declared diplomatic relations broken off.
   2. An army and a navy were organized, etc.

Illustration 9

II. We have not sufficient data for measuring the effect of the inconstancy of the hardness and relative thickness of the materials eroded, for
   A. We cannot estimate
      1. How far above the Whirlpool the ancient gorge was cut.
      2. How deep into the plateau it was cut.
      3. How much the hardness of the limestone has varied.
      4. The effect of a change in its thickness on the rapidity of erosion.

In this case two fragments of the first reason for the truth of II are marked separately; one *A* and the other 1. Each is meaningless without the other, and the two form one statement. Evidently, then, the correct correlation would be as follows: —

II. We have not, etc.
   A. We cannot estimate how far above the Whirlpool the ancient gorge was cut.
   B. Or how deep into the plateau it was cut.
   C. Or how much the hardness, etc.

Thus in the introduction we find it well to observe three fundamental rules for brief-drawing which apply no less to every division of the brief.

The relation of each idea to every other should be indicated by means of numbers, letters, or other symbols. (Rule III.)

A change of symbol should always denote a change of relation. (Rule IV.)

Headings or subheadings should never be marked twice. (Rule V.)

Section 3 — The Brief Proper

Its logical purpose. The purpose of the brief proper is fundamentally logical. There the argument is given for which the introduction was a preparation and of which the conclusion is to be a summary. It is the division that secures for the writer the agreement of the reader, if that agreement is to be obtained at all. It must therefore give a complete presentation of the logical force of the argument. In the brief proper, then, a writer not only phrases succinctly the ideas which he thinks must be proved true if his proposition is to be admitted; but for the support of these ideas he gathers proof and conveys to his reader an intelligent idea of the nature and the value of the evidence for the truth of the contentions in the brief proper.

It is a mistake to consider that the brief fulfills its function if it merely outlines the case for future evidential support, or if the evidence is suggested but not stated, — as in Briefs A 1 and B 1. A brief is to show the convincingness of the argument as it exists apart from literary presentation. Everything, therefore, that has probative value for the finished argument should be included, and

only illustrative, transitional, summarizing, and purely persuasive material omitted, — as in Briefs A and B.[1]

Arrangement to secure logical and rhetorical force. As a device for structure and for the grouping of evidence, however, a brief offers certain opportunities to prepare for the literary presentation of the case, especially in the matter of arrangement. For purposes of conviction there may be one arrangement which is more effective than any other form; but more often the writer is free to arrange his ideas according to the rhetorical principles of coherence and climax.

Direct proof. To lay down many detailed rules for this important matter of the arrangement of direct proof would be extremely dangerous. It must be settled by the tact of the writer as he considers the nature of his subject and the character and temper of his readers.[2] The judgment of a trained mind as to what to do in each given case is more useful than pages of theory. Under normal circumstances, as we have already seen, an argument should open with direct proof rather than with refutation. This direct proof should be strong and cogent in its effectiveness for the audience addressed; sometimes it may well be startling. As a principle, preparatory arguments — as an argument of probability or of need — should come very early in the work. For instance, in trying to prove that a certain person committed murder, an effective opening argument would show forcibly that the suspected person had strong motives for desiring the death, or even, if the

[1] For illustration of the difference between the finished argument and the brief compare the brief from the Chatham speech, Appendix, with the speech itself. *Specimens of Argumentation*, pp. 7–21.

[2] For a full discussion of these see the chapter on Persuasion.

matter were disputed, cogent proof that the accused could have done the deed. So, too, in arguing for reform, it is often helpful to show at the outset the general need for reform in directions that are not likely to arouse violent disagreement. By this means the writer secures agreement in a small matter, and makes easier agreement in the more hotly contested divisions of the argument; that is, takes advantage of the powerful principle of inertia. General arguments more effectively precede particular, whereas arguments that are in their nature conclusive should be placed late in the argument, — as an appeal to examples in verification of a theory proposed, or the use of an argument on a high moral plane after an argument based upon expediency.

The following are extracts from briefs in which a change in arrangement would greatly lessen the effectiveness of the argument. In the first, for instance, it is important to prepare readers for a justification of the Irish by showing that there are circumstances in which illegal measures are defensible before proceeding to the justification of concrete cases in Ireland.

Illustration 10

Are the Irish justified in using Illegal Measures of Resistance to English Rule?

BRIEF PROPER

I. Under special conditions measures not strictly legal may be defensible, for —

II. All these special conditions exist in Ireland as grounds for resistance, for —

Illustration 11

Did the Council of Constance Maintain the Principle that it was Unnecessary for the Church to Keep Faith with a Heretic?

BRIEF PROPER

I. There is antecedent probability that the Council would maintain this principle, for, etc.
   A. Religious intolerance just prior to and during the fifteenth century was very great and widespread, for, etc.
   B. The Council must have expressed the feeling of the time, for, etc.

II. The Council had strong motives for holding this principle, for, etc.
   A. They desire to punish heresy, in person of one John Huss, despite his royal safe-conduct, for, etc.

III. There is strong historical proof that the Council did maintain this principle, for, etc.

Arrangement of refutation. It has been seen that refutation is of two kinds, general and special. There are certain definite principles of arrangement which have been made clear in the preceding chapter of which the most important for brief-drawing is the rule: —

Refutation of objections, not to the proposition, but to details of proof, should meet such objections where they arise. (Rule XV.)

The following illustrations show instances in which the four different arrangements have been employed advantageously and in which another arrangement would have been less effective.

Illustration 12 — The initial position

Boards of Arbitration with Powers of Compulsory Investigation and Decision should be Instituted in this Country

BRIEF PROPER FOR THE AFFIRMATIVE[1]

I. The objection that compulsory arbitration is an unjust encroachment on the personal liberty of employers and employed is untrue, for

A. The public have a right to interfere, for

1. They are profoundly concerned as a state, for, etc.
2. They are concerned as individual producers and traders, in other industries dependent on the one in which the strike occurs, for, etc.
3. They are concerned as consumers, for, etc.

B. The proposed plan of compulsory arbitration is a protection of individual liberty, for

1. It gives a man the chance of having the right to sell his own labor, and
2. This right is now denied him by labor unions, for, etc.
3. This right is half denied him by the public, for, etc.

C. That the public have a right to interfere, and that this secures individual liberty in important respects are considerations serious enough to outweigh the unfairness of any encroachments on individual liberty involved in the plan, for

1. Such encroachment is not serious, for, etc.

[1] In the introduction to this brief, both sides in the debate agreed that

I. Some form of arbitration is desirable as a means of preventing strikes.

II. Compulsory arbitration will prevent strikes.

2. The liberty of the public at large is more to be considered than that of any class or classes, for, etc.

II. Voluntary arbitration is inadequate in settling labor disputes, for, etc.

III. The interference of the voluntary board can be effective, usually, only when there is a very strong public sentiment, for, etc.

IV. Public sentiment is roused only after a great deal of inconvenience and harm has been caused, for, etc.

V. Agreements to abide by the decision of a board are often broken, for, etc.

VI. Mr. C. F. Adams, Jr., one of the most ardent advocates of forced investigation and voluntary arbitration, admits that his method cannot prevent all strikes, for, etc.

VII. Boards with power to investigate have failed to prevent important strikes, for, etc.

Illustration 13 — The final position

RESOLVED: *That Convicts should be Productively Employed, even though they come into Competition with the Outside Market*

BRIEF FOR THE NEGATIVE

I. Direct competition of convict labor with free labor is unjust, for, etc.

II. Convicts can be employed without coming into direct competition with free labor, for, etc.

III. The contention that productive employment is better than manual training is untrue, for

A. Manual training insures the convict a living in after life.

1. It enables him to become self-supporting in a variety of employments.

2. It develops not only his hands but his head.

B. That kind of productive employment (making brooms, shoes, etc.) coming into direct competition with free labor is bad for the convict.

1. It does not make him self-supporting when free again.

(*a*) It does not discriminate according to the age, needs, and ability of the convicts.

2. The lack of headwork fosters crime only less than idleness.

(*a*) Unskillful ways of working taught in prison encourage evil habits.

IV. The contention that productive employment is better for financial considerations is unimportant, for

A. The correction and instruction of the convicts should be the first consideration.

1. Most crime is due to ignorance and resulting poverty.

B. They lead to political corruption.

1. The selling of convict products is a great temptation for prison officials.

(*a*) By manipulating the sales they can reap great personal profits.

Illustration 14 — The normal position

Brief drawn from Lord Chatham's Speech[1]

BRIEF PROPER

I. It will show the willingness of the English to treat amicably.

II. The resistance of the Americans was necessary.

[1] For this brief in full see Appendix.

III. The means of enforcing the measures of Parliament had failed.

IV. If Parliament tries by the aid of the army to enforce its measures, the result will be bad.

V. The statement that "the union in America cannot last" is untrue.

VI. The statement that the Americans should be punished for illegal violence is untrue.

VII. The removal of the troops must precede any other step.

VIII. The views of Congress are moderate and reasonable.

IX. It is an old maxim that the first concession comes most fitly from the superior.

X. While every policy urges withdrawal of the troops, every danger warns the English from keeping to the old course.

Illustration 15 — The combined method

RESOLVED: *That the System of Bank-note Issues based on General Assets, as Recommended by the Indianapolis Monetary Commission, is Preferable to the Present System based on United States Bonds*

BRIEF FOR THE NEGATIVE

I. The security of the notes under the new scheme must be demonstrated, for, etc.

II. Even if safe, the plan proposed would work injustice to depositors, for, etc.

III. The new plan would be very costly, for, etc.

IV. The contention that the present system is inelastic is unimportant, for

A. The rigidity of the bank-note issue is counterbalanced by the complete elasticity of deposit currency.

B. The law of March 14 has made the bank-note circulation more elastic by allowing issue up to par value of the bonds.

C. The comptroller recommends that the present scheme be slightly amended by allowing uncovered note-issue subject to a heavy tax in time of emergency.

V. The plan proposed is not elastic.

A. Issue above 80 per cent of capital is prevented by a heavy tax.

VI. The contention that the new plan will diffuse currency is unsound.

A. Poor banking facilities in West and South are due to lack of capital.

B. Temporarily the law of March 14, 1900, furnishes a considerable remedy.

1. Banks with $25,000 capital may become national banks.
2. Over two hundred small banks have already applied for charters.

C. Greater equalization of wealth will equalize banking facilities.

Clear and easy transitions. That the brief may furnish the structure for a coherent argument it is necessary that thought be given to transition from division to division and from subheading to subheading. Bad transitions are due to careless phrasing, incorrect correlation, or more often to an analysis originally weak. If the arrangement is logical, this easy transition from point to point is chiefly a matter of careful phrasing and accurate correlation. The phrasing should make evident to the reader that each division has developed from that preceding and leads to that to follow. To gain this development the writer must study the relations of the parts of his argument to see just how one grows out of the other, and carefully correlate them.

When a writer finds that the transitions in his brief are criticised, and is convinced that the trouble is not in the phrasing or correlation, he should reanalyze the division criticised and make sure that he masters the relations of the ideas each to each, and then arrange them according to the correct relations.

Illustration 16

Should Boston Adopt a System of Underground Transit?

I. The following statements show that Boston's transit facilities are inadequate: —
   A. An insufficient number of cars are run.
   B. As a result passengers often have to stand in cars.
   C. Progress in the so-called "congested district" is very slow, as is shown by the facts that
      1. There are only surface cars to take.
      2. The crowded streets delay surface cars.

II. Two facts prove that Boston greatly needs more rapid transit: —
   A. The lack of rapid transit checks its growth, in that[1]
      1. A city grows fastest in its suburbs.
      2. Suburbs cannot grow without rapid transit to the city.
   B. Rapid transit diminishes the number of tenement houses,[2] in that
      1. It makes it possible for workingmen to live in the suburbs.

In Illustration 16 strong analysis would have shown that I, *B* was in reality proof of *A* rather than of I and should be so correlated. The transition from *C* to its subheadings would have been much firmer if *C* had been

[1] Report of Rapid Transit Commission. p. 229.
[2] *Ibid.* p. 16.

phrased so that 1 and 2 would actually prove its truth. II, which now reads like a poor rephrasing of I, ought to have been made to advance the case by building upon the idea brought out in I, as is done in the revision that follows.

I. The transit facilities of Boston are inadequate, for
  A. An insufficient number of cars are run, for
    1. Passengers often have to stand in cars.
  B. Progress in the so-called "congested district" is necessarily slow, for
    1. There are only surface cars to take.
    2. The crowded condition of the streets must delay surface cars.

II. This inadequacy in its transit facilities is highly injurious to Boston, for
  A. The lack of rapid transit tends to check its growth, for
    1. A city grows fastest in its suburbs.
    2. Suburbs cannot grow without rapid transit to the city.
  B. Adequate transit facilities would diminish the number of tenement houses, for
    1. It would make it possible for workingmen to live in the suburbs.

Illustration 17

The Students of Wellesley College should have Self-Government

BRIEF PROPER

I. To adopt this method of self-government would benefit the college as an institution, for
  A. It would give it the greatest strength, since
    1. It would give more unity. "In unity is strength."

a. Faculty and students united by
(*i*) Same aim: The greatest good of college and students.
(*ii*) Increase of mutual confidence, for
w. Without unity between faculty and students there is lack of confidence. See state of confidence between faculty and students at Lasell Seminary.
x. Trust of students by faculty underlies this government.
y. The students appreciate the trust.
z. Students and faculty would consult each other on important matters.

B. It is the only just method of government, for
1. All would share in government, and "legislation without representation is tyranny"; see
a. Attitude of English towards this.
b. Attitude of Americans towards it.

In Illustration 17 the transitions are utterly confused. I, *A*, 1 and *B*, 1 are very badly analyzed, phrased, and correlated; *A*, 1, *a*, and (*i*) are blind in phrasing and correlation; *w* is the result of fallacious analysis and must probably be abandoned; finally, *B*, 1, *a* and *b* are not phrased to show their logical relations to what precedes.[1]

Climax. Finally, in arranging ideas, the student should give heed to climax, the rhetorical principle of going from weaker to stronger. This principle applies in argument much less rigidly than in other forms of composition; but within certain limits it is indispensable for forcible argumentation. In the arrangement of the ideas the logical demands of the case must first be considered: — the opening

[1] Illustration 17 is not revised here, because it is given as the basis of an exercise on p. 63.

argument of the forensic must be a very cogent one, the opening point of each main division in direct proof and in refutation must have special effectiveness, etc.: — but except when these principles must be observed, climax may be obtained. In the arrangement of the smaller subheadings there is little to interfere with the rigid observance of climax.

In refutation it is usually advisable to begin with attack upon the strongest argument of an opponent which can be successfully controverted. The writer's aim is to weaken sympathy with his opponent promptly, to lessen the force of his adversary's case as quickly as possible. If he begins with his opponent's weakest argument and works slowly to the strongest, he produces but half the effect that he will if at the outset he attacks the strongest argument of his opponent which he can overcome. In the first case he probably considers needlessly arguments so dependent on the stronger objections that they must fall if the latter fall; therefore he wastes time. In the second case he can show that some of the minor arguments have gone down with the strong argument refuted. Moreover, every argument he does answer after the strong argument has been overcome counts. Climax, then, is to be sought for in arranging the headings and subheadings of a brief with due regard for the necessities of logical arrangement, for the importance of opening arguments, and for other persuasive conditions.

Subheadings should be arranged in the order of climax unless this order violates the logical order. (Rule XII.)

Phrasing of ideas in the brief proper. When the ideas that constitute the structure of the case have been carefully arranged, the matter of phrasing becomes very important.

The fundamental rule is that each idea is to be phrased so that it has actual probative bearing on the main proposition or one of its supporting headings. Explanation and illustration are not to be phrased as a logical part of the brief proper. *Every heading, then, should read as proof of the truth of the proposition, and every subheading as proof of the truth of the heading to which it is subordinate, never as mere explanation.* (Rule X.) It is the insistence upon representing the logical relations of ideas which particularly distinguishes a brief from other forms of outline. The following examples of careless and illogical phrasing show the faults to which a writer is liable and the gain in clearness which would result from a phrasing that shows exactly the logical relation between ideas.

Illustration 18 — Poor main headings[1]

Does Lamb rightly Estimate the "Artificial Comedy of the Last Century"?

INTRODUCTION

I. Congreve's comedies are those we should consider, and they are licentious.
II. Lamb maintains that they are, nevertheless, inoffensive because unreal to us.

BRIEF PROPER

I. Reality is the chief quality of good dramatic work.
II. A conventional world of bad manners may be inoffensive to us.
III. Congreve's is not such a conventional world of bad manners.

[1] See also Illustration 6, p. 227.

IV. And there must be some morals in the "conventional world of Comedy."
V. The characters are not unlike ourselves.

CONCLUSION

I. Lamb probably did not mean all that he said.

In the foregoing very faulty brief it is clear that II does not and cannot prove the proposition. Indeed it seems to be admitted matter that belongs in the introduction. V certainly is not phrased so that it proves the proposition, even if we accept III and IV as so phrased. V seems more properly to prove III. Such confusing phrasing in the main headings is likely to result in fallacious work and waste of good evidence.

Illustrations as proof. In the following from the fragment of a bad brief on p. 241, *a* and *b* have no probative force whatever, but are merely persuasive illustrations, and should have been omitted or used in different fashion as the argument from example.

B. It is the only just method of government, for
1. All would share in government, and "legislation without representation is tyranny"; see
a. Attitude of English towards this.
b. Attitude of Americans towards it.

Explanatory subheadings

V. She (France) wished to make them (the United States) a dependency of France, for
A. She wanted to surround them on all sides by foreign powers of whose aggression they should always stand in fear.

Here, evidently, the clause introduced by *for* is not a reason to prove the truth of the statement that France wished to make the United States dependent, but an explanation of that statement. A proper subheading for V would read: —

A. Her conduct in the negotiations for peace between Great Britain and the Colonies shows this, for, etc.

This should be followed by subheadings showing how Vergennes intrigued, during these negotiations, to keep the power of France and even of Spain dominant in the New World.

The following is another illustration of the explanatory subheading.

A. Students do not consider it wrong to "crib" under the present system, for
1. Proctors are there to see that they don't.

Danger of "hence" and "therefore." It follows that the brief proper is a series of propositions supported by proof, which in its turn is phrased as propositions. To connect headings by *hence* or *therefore* is, then, to invert the proper relationship, and to use the order of proof proposition, which though logical is hopelessly confusing when used in connection with the other. *For* and *because* are the proper connectives to express the relation that should exist between heading and subheading throughout the brief proper; and it is just because they so nicely phrase these relations that they seem out of place in the unargumentative introduction.

The relation between subheadings or series of subheadings and the preceding heading is never expressed by "hence" or "therefore" but by "for" or "because." (Rule XI.)

Illustration 19 — Wrong connectives

Will the New Rules in Football Improve the Game?

I. The game will be improved from the player's point of view, for
  C. The players will not have so much heavy work to do, for
    1. It is an admitted fact that the game has more of the kicking element in it, hence
      (*a*) Continuity of the rushing is broken, and
      (*b*) Players have a breathing spell.

II. The game will be improved from a spectator's standpoint.
  B. For the game is admittedly more open by the new rules, hence
    1. He can see the players to better advantage.
    2. He can follow the ball better.

When this phrasing seems necessary a student may be sure that the order of the parts of his brief is wrong. If he tries to put *for* and *because* in the place of his *hence* and *therefore*, the trouble will be clear. *C*, 1 in the above illustration is not true because of (*a*) and (*b*). Instead, they are true because it is to be accepted as a correct statement. In the same way, *B* under II in this illustration is not true because 1 and 2 are, but they are true because the statement in *B* must be believed. That is, the writer has missed *the correct order for the divisions of the brief proper, — always proposition, proof, —* and has used instead proof, proposition. A student will find that the use of *for* and *because* will always throw his ideas into the correct relationships, that *hence* and *therefore* will reverse the correct order. Revised, the divisions just cited would read: —

I. The game will be improved from the player's point of view, for
   C. The players will not have so much heavy work to do, for
      1. They will have breathing spells, because
         a. The continuity of rushing of the old game is broken, for
            (*i*) It is admitted that the new game has more kicking in it.

II. And the game will be improved from a spectator's standpoint, for
   B. He can watch the game to better advantage, both as to players and as to the ball, because
      1. The new game is admittedly more open by the new rules.

Crowded headings. A very common source of confusion and illogical work is the careless crowding of several ideas of logical force into one heading, as in the following: —

I. Matthew Arnold's poetry will live, not only because its style is masterly, but also because its thought must strongly interest future generations,
   A. Since it best expresses the wavering between faith and uncertainty of the present day;
   B. Since it best, in poetry, phrases the skepticism of to-day.

In such a heading it is difficult for the reader to tell at once which of the statements in I is proved by the subheadings, and it is very easy for the writer to overlook the fact that while he has proved that "its thought must strongly interest future generations," he has neglected to prove that "its style is masterly," which is really of greater logical importance than what he has proved.

Each heading or subheading should contain but a single proposition. (Rule XIII.)

Crowded headings

Will Matthew Arnold Live as a Poet?

BRIEF PROPER

II. The only poet of significance who truly expressed the wavering and skeptical mood of his day. In later times men will turn to him to see the intellectual spirit of our day balancing between faith and uncertainty.

Here main ideas and subordinate are thrown together confusingly. We can make this clear by restating it with careful correlation.

II. Matthew Arnold's poetry will live because its thought must strongly interest future generations, for
   A. It best expresses the wavering between faith and uncertainty of the present day.
   B. It best, in poetry, phrases the skeptical mood of his day.

Are the Irish Justified in Using Illegal Measures of Resistance to English Rule?

BRIEF PROPER

III. Moreover, history shows that compliance, pleading, arbitration, will not make England do Ireland justice; every gain she has made she has forced by violent measures from England, for
   1. Mr. Butt, as a leader pleading in Parliament, produced little or nothing.
   2. Mr. Parnell and Mr. Biggar with their method of obstruction gained speedy results.
   3. The terror aroused in Ireland by the illegal acts already done has aided the condition of the people.

Vague phrasing. As the brief proper is intended to furnish an accurate basis for an estimate of the convincingness of the argument to follow, it is especially important that all vagueness in the presentation of evidence should be avoided,[1] and that each idea should be so phrased that its argumentative value is unmistakable. Vagueness of this sort is often produced if a writer brings in the names of persons or events as significant or generally understood when they are not well known to a reader.

Illustration 20 — Vague phrasing

Was Swift Married to Stella?

A. The evidence against Swift is not good, for

3. Though it is said that Mrs. Dingley did not express the belief that Stella was married to Swift, yet

3′. Mrs. Dingley's answer is not clear, etc.

4. Though Mrs. Bent and Mrs. Ridgway did not believe Swift was married to Stella, yet

4′. They were only servants, and Swift would not have been likely to communicate his secrets to them.

5. Though Dr. Lyon did not believe that Swift was ever married, yet, etc.

[1] The question as to what extent references in the brief may take the place of quotations must depend on the subject treated and the purpose for which the quotation is to be used. If the quotation contains a definition upon which the question turns, even in part, or if it contains important evidence, the quotation should be given or concisely summarized. In either case a careful reference to its source should be given at the bottom of the page. The extent to which other references as authorities for facts and opinions should be given in the brief must be determined by individual teachers. Where it is feasible, the citation of references in briefs trains students in habits of accuracy, and makes the reader rely more on the writer.

Here Mrs. Dingley, Mrs. Bent, Mrs. Ridgway, and Dr. Lyon appear as if they and their significance as witnesses were known to the reader. If the writer wishes to impress their significance on his reader he may do as the writer of another Swift-Stella Brief has done and say: —

A. The evidence which is used to prove that Swift was not married to Stella is not good, for
  3. Though it is said that Mrs. Dingley, Stella's companion, did not express the belief that Stella was married to Swift, yet —
  4. Though Mrs. Bent and Mrs. Ridgway, Swift's housekeepers, did not believe that Swift was married to Stella, yet —
  5. Though Dr. Lyon, a personal acquaintance of Swift, having access to all of Swift's papers, did not believe that Swift was ever married, yet —

It will be seen that the clauses added give the necessary information.

A brief on student self-government at Wellesley College provides another instance of vague phrasing.

II. Self-government will benefit the students,
  C. Since it has benefited those that have attempted it.
    1. Contrast Lasell Seminary and Bryn Mawr.
    2. Tendency toward this method in Wellesley a success.
    Compare first years of college with present time.

Phrasing of refutation. Clearness and logical effectiveness can be gained in refutation if a writer will take pains in phrasing to make evident not only the fact that he is refuting, but also the exact objection, special or general, which he is trying to controvert. Vague reference to

objections or a slurring over of the fact that the writer is refuting produces in the mind of a reader who knows that objections are raised at these points the suspicion that the writer is either a careless or somewhat tricky workman.

Refutation should be so phrased as to make the objection perfectly clear. (Rule XIV.)

In the following cases the writer has objections in mind, but does not state them clearly.

Illustration 21

C. The means of enforcing the obnoxious measures have failed, for
  2. The army in America is not a safeguard, for —

D. If Parliament tries to enforce its measures, the result will be bad, for
  3. Persecution of those men whose fathers, etc., should cease, for
    (*a*) The Americans should be heard.

E. The union in America will last.

The following from the brief of Chatham's speech in the Appendix shows different useful phrases: —

The troops should be removed, for

C. The means of enforcing the obnoxious measures have failed, for
  2. Though it is said that the army in America is a safeguard, yet this is untrue, for
    (*a*) It is powerless and contemptible, and
    (*b*) It is irritating to the Americans,

or 2. Though it is said that the army in America is a safeguard, yet
  2.′ It is powerless and contemptible, and
  2.″ It is irritating to the Americans.

D. If Parliament tries to enforce its measures, the result will be bad, for

3. Persecution of those men whose fathers fled to escape it should cease, for

(*a*) The objection that the "Americans must not be heard" is wrong, because —

E. The statement that the union in America cannot last is not true, for —

Correlating in the brief proper. The principles of correlation for the brief proper do not vary from those already laid down for the introduction. A writer will have little difficulty if he see to it that the relation of each idea to every other is designated by means of a number, letter, or other symbol, that a change of symbol always denotes a change of relation, and that headings or subheadings are never marked twice.

Correlation of refutation. If at first a writer finds a little difficulty in applying these principles to refutation, the following devices will prove helpful. When one unsupported objection is to be answered, a statement that the objection quoted is "weak," "irrelevant," or "untrue" is best. When, however, two or more related objections have to be answered at once, or where the objection is supported by subheadings that themselves need refutation, the device must be more complicated. Then it is convenient to state the objections in one or more headings, with subheadings if needed, introduced by the words "Though it is said," — the answer made being introduced by "Yet," and the refutation connected with the exact objection answered by the use of primes and seconds.

Illustration 22 — Badly correlated refutation

1. Though it is said that the army in America is a safeguard, yet
   (*a*) It is powerless and contemptible, and
   (*b*) It is irritating to the Americans.

and

1. Though it is said that the army in America is a safeguard, yet this is untrue, for
1′. It is powerless and contemptible.

The first illustration should read: —

1. Though it is said that the army in America is a safeguard, yet
1′. It is powerless and held in contempt, and
1″. It is irritating to the Americans.

The second illustration should read: —

1. The objection that the army in America is a safeguard is untrue, for
   (*a*) It is powerless and contemptible, and
   (*b*) It is an irritation to the Americans.

Section 4 — The Conclusion

Its purpose. The third division of a brief, the Conclusion, sums up very concisely the argument of the brief proper, and shows clearly the steps by which the decision for the affirmative or negative has been reached. This decision, as a matter of form, should always be given at the outset of the Conclusion, whether or not the writer wishes to state it at just this place in the peroration of the finished argument.

No new evidence. The conclusion is the place for recapitulation, not for argument; consequently no new evidence bearing upon the decision should be included. Such evidence could have been more effectively used at the proper place in the brief proper, and its insertion out of place simply calls attention to the carelessness of the writer.

Qualifying conclusions. A writer who has undertaken to prove more than he has the ability or the industry to prove is often tempted at the conclusion to state as his decision something weaker than that which he started out to prove, that is, to use a "qualifying conclusion."

The student who undertook to prove that "Lamb's Estimate of the Artificial Comedy of the Eighteenth Century was Incorrect," and whose headings were evidently arranged with this in mind, closed his brief with the weak conclusion: —

VI. Lamb did not mean what he said.

In this case the conclusion pretty accurately summed up what the writer really thought, and the proposition should have been rephrased with that in mind. Another student wished to show that "Walt Whitman was *the* Representative American Poet," and after a few pages of very slight evidence, and still slighter reasoning, he came to this conclusion: —

I. Walt Whitman was thoroughly American.
II. He was a true poet.

In this case the writer's conclusion was fully as strong as his weak argument justified, and accurately phrased the deduction to be drawn from the evidence presented; but

a more painstaking student would have found evidence that made it not unreasonable to ask a reader to accept the proposition taken at the outset.

When a student is tempted to qualify a conclusion in this way, he may be sure of one of two things: either as in the latter instance he has not supported his case as strongly as he could, and revision will make qualification unnecessary; or, as the first instance shows, he has asserted more than he really believes, that is, his analysis of the work to be done is faulty and he must start anew, carefully pointing out to a reader in his introduction why he can treat only the modified form of the original question. A writer should never, of course, under any circumstances, if he feels that the work done calls for qualification, state a conclusion unqualifiedly. He should face the unsatisfactoriness of his work and searching, in the two ways suggested above, for the place where his fault lies, remedy it by supplying evidence or by undertaking to prove less.

Study of the conclusion, then, has shown that: *The Conclusion should state concisely the steps by which the decision is reached.* (Rule XVI.)

The Conclusion should never contain new evidence. (Rule XVII.)

The decision should never qualify the proposition but should be an affirmation or denial of it in its original form. (Rule XVIII.)

Rules for Brief-Drawing[1]

The rules for briefing already given may be conveniently tabulated as follows: —

[1] These rules should be memorized and in the class room may be referred to by number.

General

I. A brief should be divided into three parts, marked "Introduction," "Brief Proper," and "Conclusion" (p. 213).

II. Ideas should be phrased in complete statements, arranged in headings and subheadings (p. 224).

III. The relation of each idea to every other should be indicated by means of numbers, letters, or other symbols (p. 230).

IV. A change of symbol should always denote a change of relation (p. 230).

V. Headings or subheadings should never be marked twice (p. 230).

Introduction

VI. The Introduction should contain all the information necessary for an intelligent reading of the Brief Proper (p. 222).

VII. The Introduction should always contain a statement of the Special Issues (p. 222).

VIII. In the Introduction ideas bearing upon the truth or the falsity of the proposition in dispute should be so phrased as not to produce immediate discussion (p. 225).

IX. In the Introduction the connectives "for" and "because" should be avoided (p. 225).

Brief Proper

X. In the Brief Proper every main heading should read as proof of the truth of the proposition, and every subheading as proof of the truth of the heading to which it is subordinate, never as mere explanation (p. 243).

XI. The relation between subheadings or series of subheadings and their headings is never expressed by "hence" or "therefore," but by "for" or "because" (p. 245).

XII. Subheadings should be arranged in the order of climax, unless this order violates the logical order (p. 242).

XIII. Each heading or subheading should contain but a single proposition (p. 247).

XIV. Refutation should be so phrased as to make the objection perfectly clear (p. 251).

XV. Refutation of objections, not to the proposition, but to details of proof, should meet such objections where they arise (p. 233).

CONCLUSION

XVI. The Conclusion should state concisely the steps by which the decision is reached (p. 255).

XVII. The Conclusion should never contain new evidence (p. 255).

XVIII. The decision should never qualify the proposition but should be an affirmation or denial of it in its original form (p. 255).

Brief C

RESOLVED: *That the Annexation of Canada by Treaty with Great Britain would be Economically Advantageous to the United States*

INTRODUCTION

I. The question as to the desirability of annexing Canada is one of great interest in many quarters, in that

A. There is much apprehension that the commercial conditions now existing between the two countries do not tend to bring about the best possible results, in that

1. The Alaskan Boundary dispute was attended by considerable ill feeling on both sides.
2. The Atlantic Fisheries have been the cause of constant dispute and much ill feeling.

3. Canada recently established a preferential tariff in favor of Great Britain.

II There have always been people who have thought that annexation would be advantageous, in that

A. Two attempts were made by early New England settlers to acquire Canada.

B. The combined forces of English troops and Colonists, under Wolfe, captured Quebec and annexed Canada in 1759.

C. Annexation sentiment has been shown on both sides at different periods since that time, in that

1. In 1849 a large number of leading Canadians signed a manifesto in favor of annexation.
2. It is certain the matter of annexation was brought up at Washington the following year.
3. It was hastily considered then only because the more vital question of slavery was also under discussion.
4. It is now asserted by many writers that the abrogation of our Reciprocity policy with Canada in 1866 and the substitution of a high protective tariff was for the purpose of facilitating annexation, in that
   a. It would foster a desire for annexation.
5. Annexation was much discussed in one form or another during the eighties.
6. As late as 1891 the Liberal party of Canada made an open issue of annexation.

III. In brief form, the contentions of the two sides are these:

A. Those who favor annexation hold the following views:

1. Our tariff is unfair to Canada, in that
   a. A comparison of our tariff with Canada's shows our average tariff on Canadian goods to be 49% while her average tariff on our goods is only 26%.

b. Statistics show that free imports into Canada from the United States exceed free imports into the United States from Canada by over 400% annually.

2. Our tariff is really harmful in many cases, in that
   a. It tends to keep out iron, coal, fish, lumber, etc.
   b. These articles are very extensively used in the United States.
3. Annexation, by removing all tariff, would remove all evils caused by tariff.
4. Annexation would increase our home trade and our foreign trade.
5. Annexation would give us the vast wealth of Canada.

B. Those who oppose annexation hold the following views:

1. The tariff is not unfair to Canada, in that
   a. It is necessary to equalize the difference in cost of production in the two countries.
2. The tariff as a whole is not harmful, in that
   a. There are many cases where it is absolutely necessary.
3. Allowing that the tariff is harmful in some cases, annexation is not the proper remedy, in that
   a. In removing these evils it will bring greater evils, in that
      i. By removing all tariff it will hurt our producers in many cases.
   b. There are better remedies than annexation.
4. The argument that annexation would increase the wealth of the United States is faulty, in that
   a. The wealth of developed Canada is only in a fair proportion to our own, when considered on the basis of population.
   b. The vast natural wealth of Canada, as yet undeveloped, is counterbalanced by an enormous national debt.

IV. We can limit our argument somewhat, in that

A. Any argument as to the possibility of annexation, devolving upon the desire of the United States and Canada for annexation and upon the willingness of Great Britain to give up Canada, is extraneous, in that

1. Our discussion is on the advantages and not at all on the possibility of annexation.

B. Any argument where annexation is considered on any other than a treaty basis is extraneous, in that

1. Our discussion is on an express treaty basis.

C. Any argument regarding possible Canadian Independence or Imperial Confederation is extraneous, in that

1. Our question deals with the advantages to the United States only.
2. Canadian Independence could not benefit the United States.
3. Imperial Confederation, which looks to one all-powerful central government to include Great Britain and all her dependencies, could not benefit the United States.

D. All other arguments regarding advantages to Canada are extraneous, in that

1. They are entirely outside of our discussion.

E. All arguments as to social or political advantages are extraneous, in that

1. Our question deals with the economic advantages only.

F. Any argument against the assumption that our protective tariff policy will be maintained is extraneous, in that

1. It must be admitted that all indications point to its maintenance, in that
   a. Trade statistics show that since 1861 our policy has continued to be protective.

b. The people desire protection, in that
i. Since 1861 they have always elected a majority of Republicans in the Senate.
ii. The Senate virtually controls our trade policy.
2. It is essentially the ground of difference in our argument.

G. We might grant, for the sake of argument, that either Reciprocity or Free Trade — commercial union only — with Canada would have all the advantages of annexation, in that
1. An argument merely to the effect that Reciprocity or Free Trade with Canada would be economically advantageous, even if conclusively proved, would not disprove one fact in our present discussion.
2. In fact it would admit to a large extent the truth of these facts, in that
a. It is evident that these three methods — annexation, Reciprocity, and Free Trade — have much in common, in that
i. They all deal largely with the tariff.
ii. They all tend to remove tariff.
3. Moreover, we are in no way discussing the comparative advantages of annexation — or its advantages relative to trade policies other than that now existing.

H. Yet if it can be proved that annexation offers not only all the advantages of Reciprocity or Free Trade but additional ones as well, our case will be thereby strengthened.

V. Then our special issues are these:
A. Does our present tariff make our commercial relations with Canada precarious?
B. Is our present tariff harmful to ourselves as above?
C. Will the annexation of Canada remove existing tariff evils?
D. Will the annexation of Canada benefit our home trade?

E. Will the annexation of Canada increase our foreign trade?

F. Can we consider the wealth of Canada as an advantage of annexation?

G. Will the annexation of Canada, by removing all tariff, hurt our producers?

H. Is a comparison of the advantages of annexation with those of Reciprocity and Free Trade in favor of annexation?

Brief Proper

From an economic standpoint Annexation would be advantageous, for

A. Our present tariff makes our commercial relations with Canada precarious, for

1. The tariff in itself is unfair, for
   a. Our tariff averages 49% to Canada's 26%.
   b. Our free list is much smaller than Canada's.
2. Trade figures show it to be unfair, for
   a. In 1903 free imports into Canada from the United States amounted to $69,066,872, while free imports from Canada into the United States amounted to only $15,991,684.
   b. In the same year our total exports into Canada amounted to $123,266,788, while her total exports into the United States amounted to only $71,784,000.
3. The Canadians evidently realize this unfairness, for
   a. The preferential tariff on British goods, which was placed at 25% in 1897 and raised to 33⅓% in 1900, was aimed at us, for
      i. Great Britain and the United States practically monopolize Canadian trade.
4. It is in Canada's power to equalize these tariff and trade conditions, for

a. She can cut down her generous free list.
b. She can make her tariff as prohibitive as ours, for
i. The argument that Canada dares not put a prohibitive tariff on our goods because she needs them is untenable, for
t. Our principal Canadian exports are cotton, iron and steel, farm products, tropical fruits, tobacco, coal, and lumber.
v. Great Britain could supply her with iron and steel in every form, as well as with all manufactures of cotton.
w. Cuba and other of the West Indies could supply her with tobacco and tropical fruits.
x. Great Britain could supply anthracite coal in abundance.
y. Canada herself has all the bituminous coal, farm products, and lumber she needs, as her export trade in these articles shows.
z. Raw cotton alone Canada actually needs.

B. Our tariff is harmful in many cases, for
1. It is almost prohibitive on many articles which are really needed in the United States, for
a. The bituminous coal of Nova Scotia is needed by hundreds of factories in New England, for
i. It would be far cheaper than our coal, for
x. The important item of transportation would be greatly reduced, for
m. Nova Scotia is nearer than our own mines to almost all New England points.
n. There is a short and direct ocean route to New England ports.
y. This is shown by the fact that practically all of the Canadian coal exported, amounting in 1903 to 1,785,720 tons, was used in New England, in spite of our high tariff on coal.

b. The duty on bituminous coal is practically prohibitive, for

i. It costs at our mines at the present time about $1.04 per ton.

ii. Our duty is now 67 cents per ton.

iii. In 1903, as an instance, only 1,785,720 tons, or less than 1% of our own production of 238,877,182 tons, entered the United States from Canada.

c. Canadian fish are needed in the United States, for

i. A comparison with other countries shows that even after allowing for our high protective tariff we are paying two or three times too much for our fish.

ii. Canadian fish would tend to lower our prices, for

x. Our fishermen as well as Canadian fishermen now suffer from high tariff, for

m. Three-quarters of our fish product comes from the New England Fisheries.

n. Their only reliable bait grounds are in Canadian waters.

o. Canada now sells this bait to our fishermen.

p. She also imposes licenses which it is estimated amount to $150 to even our smallest fishing vessels.

y. It naturally follows that the people have to pay for this extra cost of production.

z. Canada would throw her bait grounds open to our fishermen for the privilege of selling in our markets.

d. The tariff on fish is practically prohibitive, for

i. It amounts to 30% or over in all cases.

ii. As an instance, in 1903 $2,859,225 worth of dutiable Canadian fish, or about 7% of our own product of $40,000,000, entered our markets.

e. Canadian lumber is needed in the United States, for

i. Our forests are rapidly thinning out under the present demand upon them, for

x. Taking one year at random, in 1899 there were cut from our forests 40,000,000,000 feet, or over 100,000,000 tons.

y. Our Bureau of Forestry states that our supply of the more useful kinds of timber is becoming exhausted under the heavy demand.

z. It calls attention to the fact that our supply of white pine, in particular, is now practically exhausted.

f. Our tariff on lumber is practically prohibitive, for

i. It amounts to $2 per 1000 feet.

ii. Our dutiable lumber imports from Canada in 1903, as an instance, amounted to 4,211,866 tons, or about 4% of our own production of 100,000,000 tons.

iii. Statistics show that over one-half of this was white pine, our supply of which is exhausted.

iv. A large part if not all of the remainder was only possible because of much nearer supply points with their correspondingly lower freight charges.

C. These tariff evils would be removed by annexation, for

1. The tariff would be removed altogether, for

a. Canada would then be part of the United States.

b. The constitutional law of the United States prevents any interstate tariff.

D. Thus, with tariff removed, our home trade would increase naturally, for
1. Our markets would have the preference on all Canadian products.
2. We should get all of Canada's trade now coming under the head of imports into Canada, for
   a. We could supply them with practically everything they require, for
      i. Our present exports show that our producers compete with foreign producers on all articles needed by Canada.
   b. Foreign competition would be slight, for
      i. There would be no preferential tariffs to foreign countries, for
         x. Our policy is one of protection.
      ii. All of our great industries now compete with the world, for
         x. Our export trade conclusively proves this.

E. The wealth of the United States would be very materially increased by annexation, for
1. Developed Canada has a very considerable wealth, for
   a. She has two of the greatest railroad systems of the world, for
      i. She has the Grand Trunk Railway with its 3000 miles of road.
      ii. She has the Canadian Pacific Railway with its 6000 miles of road.
   b. She has great developed industries, for
      i. The industries of a country are shown by her export trade.
      ii. Canadian exports in 1903 amounted to $225,849,724.
      iii. From the latest figures obtainable, Canada's manufacturing industry in 1891 had a total paid capital of $353,000,000, with an output of $475,445,705.

c. The argument that the net debt of Canada is very large in proportion to her population is not a strong objection, for

i. Although it amounts to about $50 per capita, for

x. Her net debt in 1901 was $266,054,711 and her population 5,338,883,

i'. Yet we deny that it is a strong economic argument against annexation, for

x. Our own debt amounts to about $20 per capita, for

m. Our population in 1900 was 76,149,386.

n. Our net debt in 1902 was $1,524,773,389, for

1. We have a right to add to our national net debt of $1,524,773,000 in 1902 the net debt of the different states, approximately $235,000,000 in 1902, because the net Canadian debt includes the Dominion and the Province debts.

y. If added to our own debt, this $266,054,711 Canadian debt would only make our debt $22 per capita for an increased population of about 81,400,000.

z. Moreover, this large national debt is a definite liability which would be considered and allowed for in the terms of the treaty, for

m. We are discussing this question on an express treaty basis.

2. The vast undeveloped natural wealth of Canada, in lumber, minerals, fertile soil, and in natural water ways for transportation, is beyond even the possibility of doubt.

3. This natural wealth would be developed by our capital and enterprise, for

a. Our own country may be taken as a parallel case.

b. No one can deny the marvelous growth and development of the United States.

F. As far as the export trade of a country shows the economic wealth we should not lose by annexation, for

1. Our export trade would be increased, for
   a. Our export trade with Canada, amounting in 1903 to $123,266,788, would become interstate trade.
   b. Of Canada's total export trade in 1903 of $225,849,724, only $71,784,000 which came into the United States would become interstate trade.
   c. As the figures above are indicative of the general trade, we may assume an annual gain in exports of about $31,000,000, the difference between $154,000,000 and $123,000,000.

G. The argument that annexation, by opening our markets to Canadian competition, would hurt our manufacturers and producers, is worthless, for

1. Iron, coal, lumber, fish, and farm products are the principal products of Canada.
2. Canadian iron could not hurt our producers or our manufacturers, for
   a. Our iron industry leads the world, for
      i. Our export trade in 1899, as an instance, on all iron and steel and manufactures of iron and steel, amounted to $96,642,467.
      ii. This shows that we underbid our foreign competitors in their own markets.
3. Canadian coal could not injure our producers, for
   a. Although they would lose the bituminous coal trade in New England, yet
   a'. They would make this up in Canadian trade, for
      i. Our coal centers are much nearer to many points in Canada than are Canadian coal centers.
      ii. The heavy freight charges, which lost New England to our producers, would thus give them new trade in Canada, for

x. In this case it would act against the Canadian producers.

4. Canadian lumber cannot hurt our producers, for
   a. We are able to compete against Canadian lumber, for
      i. In 1903 we imported lumber into Canada amounting to $6,110,351.
5. The argument that our producers would be unable to compete against Canadian farm products and Canadian fish does not hold in case of annexation, for
   a. In 1903 our exports of farm products to Canada amounted to $19,380,458.
   b. As we have shown, our fishermen could produce more cheaply than now, for
      i. They would have free access to Canadian bait grounds.
      ii. Canada would put no obstacles in their way as now.
   c. Canadian fishermen could not produce as cheaply as now, for
      i. The present bounty on fish, amounting to $160,000 annually, would be removed.
   d. Moreover, the cost of production on fish and farm products, as well as all other articles, would be approximately the same, for
      i. The United States and Canada would then be one country.
      ii. The economic conditions — the trade and currency laws, the cost of living, etc. — which determine the cost of production largely, would be the same in both countries, for
         x. They must be practically the same in the same country.

H. We can strengthen our argument for annexation by comparing annexation with Reciprocity and Free Trade, for

1. Such a comparison will show that all of these methods improve trade conditions through the tariff, for
   a. They all aim to remove or partly remove the tariff.
2. It will show that in some cases any one of these methods would prove equally effective, for
   a. In all cases where the tariff is harmful it could be remedied by any one of them.
3. It will show that our export trade would be increased by any one of these methods, for
   a. By Reciprocity or Free Trade our export trade with Canada would be increased.
   b. By annexation we should have all the export trade of Canada, while our present export trade with her would become home trade.
4. It will prove that only annexation would make all tariff conditions fair to both countries, for
   a. Of these three methods only annexation — political union — could ensure the economic conditions being approximately the same in both countries.
   b. Only with equal economic conditions would Canadian competition be entirely fair to our producers in all cases.
5. It will prove that only by annexation could the vast wealth of Canada benefit the United States.
6. It will prove that all the advantages of either Reciprocity or Free Trade would be realized by annexation, for
   a. Reciprocity or Free Trade could be advantageous only through change of tariff, for
      i. They both aim exclusively at the tariff.
   b. All advantages through change of tariff are among the advantages of annexation, for
      i. By removing all tariff, as I have shown, annexation would eliminate all tariff evils.

ii. By equalizing conditions which control the cost of production, as I have shown, annexation would not develop other trade evils.

CONCLUSION

I. The annexation of Canada by treaty with Great Britain would be economically advantageous to the United States.
   A. Better commercial relations are needed between the United States and Canada, since
      1. Our present tariff is both unfair to Canada and harmful to ourselves.
   B. Annexation would establish better commercial relations between the two countries, since
      1. By removing all tariff it would remove all evils.
   C. Annexation would be advantageous in other ways, since
      1. It would increase our economic wealth.
      2. It would bring no new trade evils, since
         a. It would equalize economic conditions.
      3. It would increase our home trade and our foreign trade.
   D. Moreover, it would be the most advantageous method to better our trade relations with Canada, since
      1. A comparison with the two other methods proposed — Reciprocity and Free Trade — is altogether in favor of annexation.

Brief D

Can a Voter better Serve his Country by Consistently Supporting one Party than by being an Independent Voter?[1]

INTRODUCTION

I. The election of 1904 provoked considerable discussion regarding the independent voter.

II. There have always been some independent men in our country who have preferred not to ally themselves permanently with any party.

III. Since the Civil War certain evils arising from the parties have become very apparent.

IV. These evils have resulted in an increase in the number of independents.[2]

V. With this increase has come a discussion of the advisability of being an independent or a party man.

VI. In the discussions that have arisen the party men have upheld the following three contentions:

A. That party fealty results in better policies, in that

1. Independents are mere critics, not actual political workers.
2. Party men are more influential than independents in determining the policies of the parties.

B. That party fealty results in better officials, in that

1. Independents throw away their nominating power.
2. Independents lose their opportunity of serving their country in official positions.

[1] Brief C and Brief D are printed for their excellence in briefing, and are not in all respects perfect in their evidential treatment. However, this brief, which depends for its force on cogent reasoning, may well be compared with Brief C, the force of which comes from its convincing presentation of facts.

[2] *North American*, Vol. 144, p. 553.

3. Party men are more influential than independents in electing good officials.

C. That party fealty is more likely to result in consistently efficient conduct of the government, in that

1. Our government is carried on by parties.
2. Men within the parties are better fitted than men outside to make the parties honest, efficient instruments of government.
3. The withdrawal of independents leaves the leadership of the parties to men of lower standards.
4. Independents are responsible for the blocking of legislation by officials who are striving to gain votes.

VII. Independents have maintained the following four contentions:

A. That independents are more influential than are party men in securing the election of good officials.

B. That independents can more powerfully influence public opinion than can party men.

C. That independents are more influential than party men in securing good legislation.

D. That independents do more than party men to maintain a high level of civic virtue, in that

1. The political attitude of party men lowers the standard of political society.
2. Continued support of one party deadens the voter's feeling of responsibility for the government.
3. Their position is more honest than that of party men.
4. Their position is more inspiring than that of party men.

VIII. The following points should not enter into the discussion:

A. Any discussion of the attitude of men who belong to parties other than the two great parties, in that

1. Such men possess characteristics of both party men and independents.
   a. Although they are members of parties, such parties usually endure but a little while and their members must frequently change parties.

B. Any discussion of the desirability of abolishing parties, in that
1. Such a discussion is impractical, in that
   a. There is no prospect that parties will be done away with in the near future.

IX. Both sides admit the following three points:
A. That parties will exist for a long time.
B. That a large part of the work of government is carried on by these parties.
C. That these parties often do not completely fulfill their purposes, in that
1. They frequently do not express the will of the majority.[1]
2. They often put bad men into office.
3. They frequently do not pass salutary and necessary laws.[2]
4. They sometimes harbor political corruption.

X. The question of whether it is advisable for a voter to be a party man or an independent can only be settled by determining in which capacity he can better serve his country, inasmuch as
A. The highest justification for any political action is the value of the service which it renders to the country.

XI. It is necessary to know what political services to his country a voter should perform.

[1] *North American*, Vol. 144, p. 552.
[2] Ostrogorski. *Democracy and the Organization of Political Parties.* Vol. II (hereafter designated by Ostrogorski), p. 261.

A. Political speakers emphasize two duties.
1. To select the right policies of action for the government to pursue.
2. To elect the best officials to carry out these policies.

B. Experience of the forcing of the action of officials by the parties,[1] and of the malpractices of evil officials, teaches another duty.
1. To enable honest officials to act to the best of their ability and to force dishonest officials to act honestly.

C. Men skilled in government teach us that there is still another duty.
1. To maintain a high level of public spirit and justice, which shall incite the citizen to keen interest in public affairs and cause him to act in political affairs honestly even when such action involves self-sacrifice,[2] in that
   a. The life of republics depends upon the maintenance of these qualities.[3]

XII. These four duties comprise at least a major part of the political duties of a citizen.

XIII. That voter is better serving his country who does more effectually than his fellow four things.
A. Selects the right policies for the government.
B. Elects good officials.
C. Promotes good action by officials.
D. Maintains a high level of civic virtue.

[1] *Idem.* p. 140.
[2] Bryce. *American Commonwealth*, Vol. II (hereafter designated by Bryce), p. 450.
[3] *Idem.* p. 450.

Brief Proper

The independent voter can better serve his country politically than can the party man, for

I. The contention that the party man can more effectually aid the government to adopt right policies than can the independent is untrue, for

A. The independent can see more clearly what policies are best, for

1. He looks at political matters from an unbiased standpoint.
2. The party man is prejudiced, for
   (*a*) He is influenced by the past policy of the party.
   (*b*) He fears non-conformity with the party.
3. The party man becomes incapacitated for forming judgments, for
   (*a*) He forms a habit of deferring personal judgment to the judgment of the party.

B. The independent can better agitate for new policies, for

1. He is hampered by no partisan considerations.
2. The party man is hampered by partisan considerations, for
   (*a*) He fears to proclaim beliefs which might injure the party, for
      (*i*) He is influenced by the desire for party success at elections.

C. The independent's ability to see what governmental policies are necessary and to arouse public interest in these policies is of great political importance, for

1. Many of our great political measures have sprung up and gained power through such individuals, for
   (*a*) The agitation against slavery began in this way.
   (*b*) The agitation for the intervention of the United States in Cuba had such an origin.
   (*c*) Civil service reform started thus.

2. The public opinion aroused by such agitation often forces parties to take up the policies.
3. Public opinion can often force the government to adopt policies which are not contended for by parties.

D. The contention that party men are more influential than independents in determining the party policies is not of great significance, for

1. The party policies, as expressed in the platforms, are inadequate bases for legislation, for
   (*a*) They frequently ignore the most important questions of the time, for
      (*i*) In 1840 the Whig party ignored the question of Texas.
      (*ii*) Before the Civil War both parties dodged the question of slavery for some time.
      (*iii*) In 1880 and 1884 the Democratic party ignored the tariff question.
   (*b*) The most important questions are frequently treated in such a way as to commit the party to no real action, for
      (*i*) The parts of the platforms dealing with trusts and monopolies in the last few years have been phrased in practically meaningless language.
   (*c*) The nominees are often not expected to carry out the provisions of the platforms.
2. It is largely untrue that a party man can have more influence than can the independent in determining the party policy, for
   (*a*) The ordinary party man has no share in making the platform, for
      (*i*) Platforms are made out in conferences of the party leaders.
   (*b*) The wishes of independents are influential in determining the platforms, for

(*i*) Party platforms are largely designed to catch votes, because

(*x*) The parties desire primarily success at the polls.

(*ii*) In making these platforms the independent vote is largely considered, for

(*x*) The independent vote is the unknown quantity in elections.

(*c*) The wishes of party men are not particularly influential, for

(*i*) The only fear that political leaders entertain concerning party men at elections is lest they shall fail to vote, for

(*x*) Party men will not oppose the ticket.

(*ii*) Platforms are not especially designed to make indolent voters vote, for

(*x*) Parades and political rallies are expected to do this.

3. The contention that by gaining a position of leadership an honest, able party man can greatly influence the policy of his party is largely untrue, for

(*a*) It is difficult for such a man to become a leader, for

(*i*) The parties are largely in the hands of politicians who are simply manipulators of votes.

(*ii*) Such leaders naturally try to keep scrupulous men out of commanding positions, for

(*x*) They must fear such men in power, for

(I) Such men are liable to oppose their schemes.

(II) Such men may urge vote-losing measures upon the party.

(III) Such men may reveal dishonest dealing.

(*b*) If a scrupulous man reaches a position of leadership, he is harmful in his actions, for
(*i*) The "practical" politicians oppose him.
(*c*) Scrupulous men who gain positions of leadership tend to become themselves "practical" politicians, for
(*i*) The overmastering desire to win elections is liable to overcome them.
(*d*) Influence in determining policies is now exercised more by the press than by party leaders.

E. The independent has more opportunity than has the party man to give control of the government to the party with the better platform,[1] for
1. He has more real political power at elections, for
(*a*) He can vote for the party with the better platform when the party man must refrain from voting, or support his own party whether its platform be good or bad.

II. The contention that party men are more influential than independents in securing the election of good officials is untrue, for
A. Party men are not more influential than independents in securing the nomination of good men for office, for
1. The wishes of independents strongly influence the selection of candidates, for
(*a*) Candidates are selected by the parties for the purpose of gaining votes, for
(*i*) The personnel of former candidates shows that this is true, for
(*x*) Candidates are commonly chosen from doubtful states.
(*y*) Candidates are frequently chosen whose reputation is not chiefly political, for

[1] In the inadequate proof of this heading and a few similar cases lies the weakness of what is otherwise an excellent brief.

(I) General Taylor was chosen because of his war record.
(II) General Grant was chosen because of his war record.
(III) General Garfield was largely chosen because of his war record.
(IV) President Roosevelt's war record forced upon the Republican party his nomination for Governor of New York, and thus for Vice-President.

(*b*) There is a strong tendency for parties to try to gain the independent vote by nominating good men, because
(*i*) The independent vote is the unknown quantity in elections.
(*ii*) Victory or defeat often depends upon the support or non-support of independents, for
(*x*) In doubtful states the independents frequently hold the balance of power.
(*y*) In presidential elections the independents frequently hold the balance of power, for
(I) Cleveland's first and second elections were due to independents.
(*iii*) Where the result is certain, a party's gain or loss depends upon the independent voters.

2. Ordinary party men cannot exert so strong an influence upon nominations, for
(*a*) The only thing that party leaders need to do with regular party men is to get out the stay-at-home voters, for
(*i*) They know that party men will not oppose their party.

(*b*) The selection of good candidates is not commonly the means that parties employ to get out the stay-at-homes, for

(*i*) They use excitement to do this.

(*ii*) They use free conveyances to do this.

3. The contention that the independent is excluded from caucuses is unimportant, for

(*a*) It is largely untrue, for

(*i*) In states where primaries are in effective operation an independent can vote, for

(*x*) In some of these states he can vote without any conditions, for

(I) He can do so in Minnesota.

(II) He can do so in Wisconsin.

(*y*) In others he can vote upon taking oath that he has not voted for candidates of another party in a general election within one year and that he intends to support the candidates of the party at the next general election, for

(I) He can do this in Massachusetts.

(II) He can do this in New York.

(*b*) In states where nomination is by caucus it is unimportant, for

(*i*) The nominations are commonly determined by leaders, outside the caucus.

(*ii*) A party man may be excluded from caucus in many such states if he is liable to oppose the party leaders, for

(*x*) The eligibility of voters to vote in caucus is determined by the party leaders.

B. The independent has a better chance to vote for the better nominee at the elections, for

1. He can choose between nominees of different parties.

2. The party man can vote only for the nominee of his party.

C. The contention that independents cannot become officials and give the government their service in official capacity is unimportant, for

1. The country does not need their services as officials, for

(*a*) It is evident that there are in the parties plenty of able, honest men, ready to hold office, for

(*i*) Lincoln, Cleveland, and Roosevelt among Presidents are admittedly such men.

(*ii*) Evarts, Hoar, Platt of Connecticut, and Caffery of Louisiana among Senators are admittedly such men.

(*iii*) Reed, Littlefield, and McCall among Representatives are admittedly such men.

(*iv*) Russell and Wolcott among Governors are admittedly such men.

III. The independent can more effectually induce officials to work to the best of their ability, for

A. He can better remove hindrances to good officials, for

1. He is more able to intimidate the corrupt politicians into decency, for

(*a*) The politicians fear the loss of power through the transference of the independent vote, for

(*i*) Such fear compelled the passage of the "Pendleton" civil service reform bill in 1882.

(*ii*) The Committee of Seventy compelled in this way more decent administration in New York City.

(*b*) The politicians fear that the independent will investigate and reveal their guilt.

(*c*) But the politicians do not fear the party men, for

(*i*) The politicians know that the party men will continue to support the party.

(*ii*) They know that the party men will hesitate to reveal corruption in their own party, for

(*x*) Party men fear that such revelations would result in lack of prestige of the party.

(*y*) Before the investigation of the postal frauds under Roosevelt, a large number of influential party men knew of the existence of fraud, but endeavored to keep the matter secret.

B. Independents can better enable a good official to win against politicians,[1] for

1. They can create a strong public opinion in favor of the right,[2] for

(*a*) Their position gives them prestige, for

(*i*) They cannot be accused of agitating from partisan motives.

2. Such an opinion is very powerful, for

(*a*) It is very hard for an official to succeed when opposed by public opinion.

3. Party men cannot so well create such a public opinion, for

(*a*) They are distrusted, for

(*i*) They are open to the charge of being actuated by partisan motives.

C. The independent can defeat the bad official, for

1. He can reveal impartially the malpractice and mistakes of the bad official.
2. He can arouse public opinion against the bad official.

D. The party man cannot so well defeat the bad official, for

1. The party man, if the bad official is in his own party, is hampered by his own partisanship.

[1] *North American*, Vol. 144, p. 553.
[2] Bryce. p. 287.

2. If the bad official belongs to the other party, the party man's statements are liable to be discredited, for
   (*a*) They are open to the charge of being inspired by party feeling.

IV. The independent can more effectually aid in maintaining a high level of public spirit and justice than can the party man, for

A. The independent himself maintains a higher standard, for
1. His continual alertness and political watchfulness increase his public spirit.
2. The continued submission of individual will to that of the party, by the party man, deadens the party man's sense of personal responsibility.[1]

B. The independent's example is an inspiration to patriotism, for
1. He gives up the probability of holding any office for which his abilities fit him.
2. He presents himself as a mark for violent attacks by the politicians, for
   (*a*) Politicians attack independents more violently than they do members of the opposing party, for
   (*i*) Carl Schurz has been thus violently attacked.
   (*ii*) G. W. Curtis was thus attacked.
3. Such subordination of private to public ends is always inspiring.

C. The party man's example is not so inspiring, for
1. His continual following of one party has the appearance of servility.
2. He may be accused of acting from false motives, for
   (*a*) He is always open to the charge of being an office-seeker.
3. A charge of servility or ambition, whether it be true or false, weakens the inspiring power of example.

[1] Ostrogorski. p. 567.

Conclusion

I. A voter can better serve his country by being an independent voter than by consistently supporting one party, for
   A. The independent is not less powerful than the party man in determining the policy of the government.
   B. The independent is not less powerful than the party man in electing officials.
   C. The independent is more influential than the party man in inducing officials to do their best work for the government.
   D. The independent can do more to help sustain a high level of public spirit and justice than can the party man.

EXERCISES

1. Incorrect briefing. Point out, either orally or in writing, the errors in the following bits of bad briefing. Where possible correct the errors in form.

1. III. The Democrats contend that
   A. All men are free and equal, with equal powers, hence
   1. The Filipino is capable of immediate self government and
   a. He should have it.

2. *B.* The Philippine Islands are at the gateway of Asia, hence
   1. They form a convenient and necessary coaling place for vessels.
   2. They hold the pivotal situation in the commerce of the East.

3. VII. The abandonment will mean the giving up of a naval base and a commanding position in Asiatic waters.
   A. And we need a position in Asiatic waters.

4. 1. The United States in assuming control of Philippines has assumed a duty
   a. To Filipino.
   b. To mankind in general for
   i. The good of the islands.
   ii. For the amelioration of their inhabitants.

5. 2. Benedict Arnold protested to Congress disrespectfully, because
   a. Congress refused to reprimand Colonel Hazen.

6. 1. Arnold committed two grievous offenses, for
   a. They were recognizable by court-martial, for

1. While in the camp at Valley Forge he, without the knowledge of the commander-in-chief, had granted a written permission for a vessel belonging to disaffected persons to proceed from the port of Philadelphia, then in possession of the enemy, to any port of the United States.

7. 2. After the battle, Gates refused to mention Arnold in his report to Congress, for
   a. Arnold ignored Gates's authority.
   b. He was too impatient of command.

8. *B.* A reservation for the Seminole Indians in Florida was impracticable, for
   1. It had been tried and had failed, for
      a. There were no natural boundaries in Florida.

9. (1) The majority of the football players never become members of the three upper classes, for
   (*a*) They either do not return to college after their first year or they are not allowed to play on the team.

10. *A.* A careful inspection of the injuries received in the season of 1902 shows that more freshmen than upper classmen have been injured, for
   1. In the big games the freshman plays against men of greater age, experience, and weight.

11. II. We should not argue that it is fair to cheat in examinations because we do not believe in them, for
   C. Seeing that we enjoy innumerable privileges from a board of education whose standard is high, and which only wishes our welfare, it is our duty to uphold its rules and regulations.

12. *F.* The remains of all varieties of fish and of great whales which made their appearance on the fifth day should be found in rocks deposited before the carboniferous period; but
   I. Though fishes are found in great number and variety yet the great whales are absent and the fishes are not such as now live.
   II. The position is untenable, for
      a. Only two views are possible.
         1. The animals which came into existence on the fifth day were not such as those found at present. (They were such as those from which the present animals might be developed by evolution.)
         2. The whole hypothesis must be given up.
            x. 1 is not true, for it is devoid of any circumstantial evidence and is contrary to such evidence as exists.
            y. 2 is acceptable, as otherwise there must have been new creations of which nothing is said.[1]

[1] See *First Lecture on Evolution.* Huxley. *Specimens of Argumentation.* p. 83.

13. IV. The "Miltonic doctrine" is weak, for
    A. 1. Lack of evidence.
    2. What evidence there is, is contrary to hypothesis.
    B. Many animals, such as large whales, which are said by Milton to have come into existence at the beginning, are not to be found in any bed rock or other formations, such as coal, etc., therefore
    1. They could not have existed, for
    a. If they had, they must have died and been deposited somewhere.

14. II. Milton says that fishes (whales) and birds appeared on the day before the terrestrial animals yet this is proved untrue by circumstantial evidence, for
    a. We find traces of terrestrial animals in the Carboniferous rocks whose formation far antedates that of the Jurassic formation in which we first find traces of birds, therefore
    1. Either the animals which came into existence on the fifth day were not the direct ancestors of those of the present time, in which case there must have been fresh creations of which nothing is said or a process of evolution must have occurred; or else the Hypothesis 2 must be given up as devoid of circumstantial evidence and contrary to such as exists.

15. *It is the right and duty of the State to supervise and control primary and secondary education*

BRIEF FOR THE AFFIRMATIVE

I. The welfare of the State depends upon the intelligence and virtue of its people.
   A. This is especially true in a republic.
   1. Where universal suffrage prevails.
   2. Where there is heterogeneous population.

II. The State, for its own safety, has the right to promote these qualities
   A. By providing schools for intellectual and moral training.
   B. By compelling attendance upon them.
   C. Such compulsion is exercised
   1. In Germany.
   2. In France.
   3. In many states of the Union.

III. It is the right of the State to supervise and control the education of its youth
   A. By presenting certain branches as necessary to an education.
   B. By fixing qualifications for teachers.
   C. By requiring proper provision for health of pupils.
   D. By providing a system of instruction to secure adherence to the laws.

IV. There is a necessity for the exercise of such supervision and control on the part of the State
  A. Of schools where all teaching is done in a foreign language as in
    1. Wisconsin.
    2. Illinois.
    3. Other western states.
  B. Of parochial and private schools.
V. Therefore for its welfare and safety the State has the right and is under a necessity to supervise and control primary and secondary education.

16. *Do saloons conducted upon the plan of the "Subway Tavern" in New York promote temperance?*

INTRODUCTION

I. There has long been a feeling among reformers in America that the evils of the present saloons in our great cities ought to be bettered.
  A. Many systems of reform have been agitated, such as the Gothenburg system, the Dispensary system, and the Earl Grey system.
  B. The City Club in New York has started a system modeled somewhat after the Earl Grey plan and has called it the "Subway Tavern."
  C. By "promoting temperance" we mean that the "Subway Tavern" will be the cause of a marked decrease in the use of intoxicating drinks.
  D. The supporters of this system have maintained that the creation of high-grade saloons will tend to decrease the amount of drunkenness, while those who oppose it hold that the creation of this special kind of saloon will tend to increase the moderate drinking, and will not tend to decrease intemperance among the lower classes.
  E. The question distinctly refers to the promotion of temperance, and does not touch upon the evils attendant upon intemperance.
  F. The question now becomes, Do saloons of this sort promote temperance?

17. *A.* Mrs. Dingley was convinced that no marriage had taken place, for
    1. She was Stella's inseparable friend and companion for twenty-nine years.
    2. It was understood that Swift and Stella were to have no secrets apart from her.
    3. Whenever they met, they met in her presence.
    4. What they wrote passed through her hands.

18. 1. This Tavern consists of a saloon of two or more rooms. In the room next the street, beer and soda water are on sale, while in the rear rooms all sorts of strong drinks can be had at regular prices. Food is served with the drink if desired, but not alone. The

management intend to serve the best liquors at the regular prices. The profits above five per cent are to be used in establishing similar places in other parts of New York. The bartender receives a small percentage on soft drinks sold and no percentage on the hard drinks.

19. CONCLUSION

I. Therefore the saloons conducted upon the plan of the "Subway Tavern" in New York do not promote temperance for they do not differ essentially from other respectable saloons which do not promote temperance. They will not tend to decrease drunkenness among the lower classes of society. They will tend to increase the number of moderate drinkers.

2. Poor briefs. Criticise in class, or make over outside of the class room, one of the poor briefs in the Appendix.

3. Brief-drawing. From the material in the Appendix or from one of the speeches in the *Specimens of Argumentation* draw a brief representing fully the argument of the original.

4. Brief criticism. Let the students criticise in class each other's briefs.

CHAPTER V

PRESENTATION

SECTION 1 — PERSUASION

The relation of presentation to investigation. In studying analysis and evidence one learns how to investigate a question thoroughly, but in studying brief-drawing one passes from investigation of a question to presentation of it for some group of readers or some audience. Nor will one stop when a good brief has been constructed, but will clothe it in language, and that language may, of course, either help or hinder the effect of the case successfully mapped out. Therefore, in presentation, whatever rhetoric has taught one as to clear, forcible, and attractive writing will be invaluable. Yet a case has been planned and put into language for some desired end, in order to produce some desired action, and consequently it must be presented with a knowledge of the principles of persuasion. Indeed the rhetoric of argument, no matter how well understood, — and it is too often neglected, — cannot offset ignorance of the principles which govern the relations of an individual to his readers or his audience. Presentation may, then, be best studied under Persuasion and the Rhetoric of Argument.

The work of persuasion. Beginners in argumentation rarely totally neglect persuasion, but they place their persuasion at the beginning, at the end, or spottily throughout

their work. But the definition, "Conviction aims only to produce agreement between writer and reader; persuasion aims to prepare the way for the process of conviction and to produce action as a result of conviction," shows that the two work more often together than alone. This is true for three reasons. First, in the face of prejudices and long-established habits the methods of conviction can sometimes gain a hearing only when persuasion breaks a way for them. If a writer or speaker knows that his subject is technical or difficult to grasp; that it is for any reason — for instance, because of the mass of detail necessary in treating it — likely to be somewhat dull; that he is unknown to his audience, or new to the conditions under which he speaks; or if he fears that his audience is already hostile, or likely to be made so by his words; it will be very helpful in all these cases, perhaps indispensable in the last, to win at the outset the sympathy of the audience. If this is not done, a reader or hearer may for any of the reasons mentioned put aside the article, or leave the room, before the case can be opened.

Secondly, to be convinced of the truth of a principle, theory, or fact only in rare cases means acting promptly or persistently in accordance with the conviction. Doubtless many citizens who do not vote would readily admit that it is the duty of all good citizens not to waste their ballots, but it is quite another matter for them, only because of this admission, to overcome their indifference to politics, to travel some distance to the polls, or to take trouble to decide between two candidates alike distasteful.

Thirdly, the means of persuasion are so numerous and varied that they permeate all parts of an argument

rather than confine themselves to any special places. Before a speaker[1] writes out his speech or final plan, he must consider: (1) Why should my audience care at all for my subject? (2) How shall I keep them interested in my case as I develop it? and (3) What final impulse in regard to my main idea do I wish to leave with the audience? A little thought will show that though, in answering (1), the speaker will probably plan mainly for material with which to open his discussion, he may in his introduction start a train of persuasion which he will carry throughout; that though, in answering (3), he will probably think mainly of his peroration and the last blows to be struck persuasively, he may be unable to strike those blows unless he has led up to them by successive steps in the argument itself. It is self-evident that, in answering (2), the speaker

[1] Throughout the preceding chapters it has been possible to address the writer rather than the speaker because, as far as convincingness is concerned, the word "writer" may include any speaker who writes out his argument before he meets his audience. He must obey the same laws of analysis, evidence and presentation. So, too, must even he who only plans his work in his mind, not writing it out. The man called on to speak extemporaneously is at a disadvantage, of course, for he has no time to plan his speech, but just in so far as that speech has method and convincingness it conforms to those principles. The conditions surrounding a writer — his comparative leisure in developing his work, his opportunities to plan carefully and to readjust — are those favorable for study of convincingness, but as a man, in order to persuade to the best advantage, must be face to face with his audience, the conditions of the speaker are best for study of Persuasion. He who only prints his argument, addressing an unseen audience, cannot apply those suggestions as to persuasion which require the man and his audience to be face to face. No speaker can give his final persuasive touches to his work till he is before his public and feels its mood toward him and his subject. If the conditions are not those for which he prepared, he must change his plan to meet the unexpected circumstances. Clinging to his plan may mean losing admirable but unlooked-for opportunities.

must plan so to relate all the divisions of his case and even the separate bits of evidence to his audience as to minimize disadvantageous conditions and to make the most of any advantages offered. That is, a student may best plan his persuasion for a definite audience by (1) determining as fully as circumstances permit what will be the nature of that audience; (2) considering just what interest his topic has for that audience; (3) deciding what is his own relation to them, and, in their minds, to his topic; (4) settling how each part of his brief may be given special significance for the particular audience.

When a man tries to rouse his fellows to action, it may be to a single act, to a series of acts, or even to forming a habit. Evidently it should be easier to persuade to a single act than to a series of acts, — to get the drunkard to forego some particular glass of liquor rather than to renounce liquor. So well recognized is this that those who have charge of the morals of the people try first to produce only the single beneficial action, and then, by oft-repeated appeals and arguments, to maintain them in the right path. It is also easier to persuade people to continue conduct to which they have become accustomed, to maintain habits already formed, than it is to persuade them to entirely new acts, and either is easier than to persuade them to give up old habits. Yet all three kinds of work are Persuasion. Hard and fast rules for Persuasion it is impossible to give, for, though the rules for Conviction, depending as they do on logical or mental processes, will hold good whenever rational beings meet, men differ widely on the emotional and ethical sides of their natures — those with which Persuasion concerns itself. However, to consider whence Persuasion arises is certainly helpful.

The three sources of persuasion. Broadly speaking, the means by which a speaker aims to produce action is by winning sympathy for himself or his subject, — usually both. Need to establish and maintain such a sympathetic relationship between speaker and audience may come from any one or all of three sources: the nature of the subject; the relation of the audience to it; and the relation of the speaker to subject or audience. Beginners in argumentation are too ready to put all their persuasive trust in emotional appeals. As will be seen, this is but one of many means to persuasion, and by no means the surest or safest. Moreover, beginners — and too many others — fail to distinguish between fair and unfair creation and use of prejudice in their favor. When briefs were discussed, students were warned against introductions which state as true something really disputable. Sometimes in developing work from the brief into the speech or article, a student lets this unfairly prejudicial matter slip in — something not easy to forgive. In what was said of introducing conviction by means of persuasion it was not at all implied that a student should make assertions in regard to matters in need of evidential support, but that he should find in undebatable matters suggested by the question what will prejudice an audience in his favor or against his opponent.

Persuasion vs. unfair prejudice. The whole effect of the following introduction to a forensic is unfairly prejudicial against the Jesuits, for he who passes without challenge the phrases "by clever strategy," "many of whom returned to paganism later," "such charges, not satisfactorily explained," is well on his way to grant the writer's conclusion that Clement XIV was justified in suppressing the Jesuit

order. Such a method, if not detected, really begs the question, and if detected defeats its own ends, for it creates suspicion of the speaker's fairness.

Was Clement XIV justified in Suppressing the Jesuits in 1773?

In order that we may have clearly in mind the subject in hand, let us consider in outline the history of the Jesuits from their organization by Ignatius Loyola in 1540 to their suppression by Pope Clement XIV. in 1773. From almost the day of their organization they increased in numbers and influence with astonishing rapidity. In 1549 they were ten in number, while in 1762 they numbered twenty-two thousand; and their gain in influence is even more remarkable. By clever strategy they gained control of the educational system of continental Europe, filled most of the offices in the Inquisition, became the confessors and confidential advisers of kings, and were the most eloquent and influential pulpit orators. Very large numbers of Jesuits went as missionaries to India, China, North and South America, and the islands of the sea, and their labors were rewarded with immense numbers of converts (many of whom, however, returned to paganism later). In Europe the Jesuits were most prominently identified with the political events of their times. Hundreds of charges have been brought against them. They are accused of complicity in the various attempts on Elizabeth's life, the Gunpowder Plot, the murder of William of Orange, and the Massacre of St. Bartholomew's Day, and of causing the Thirty Years' War and the French Revolution. As the natural result of such charges, not satisfactorily explained away, they came into extreme unpopularity and disfavor, which led to their expulsion from Portugal in 1753, from France in 1764, and their suppression by Clement XIV. in 1773.

I. PERSUASION ARISING FROM THE NATURE OF THE SUBJECT

Unpopular subjects. Subjects may be unpopular because there is strong prejudice against them or because they look so technical as to necessitate dullness of treatment. The secondary school teacher who wishes to maintain that the Kindergarten has been a failure or the scientist with a new and revolutionary theory may face prejudice so strong that it must be at least lessened before either can present his case. The introduction to the first of Professor Huxley's *Three Lectures on Evolution*[1] illustrates the value of persuasion when a speaker feels that he has a subject that may be dull because of the detail and technicality necessary in treating it. Professor Huxley first pointed out the significance for every man of the problems to be considered, and made each of his hearers recognize that he had at times considered the very problem to be discussed. Thereafter the lecture could hardly be dull, for each hearer felt that the details gradually developed were significant, not in a purely scientific problem, but in a question which, if not settled, would in the nature of things recur to trouble him.

Popular subjects. On the other hand, the very nature of some subjects wins sympathy at the start. This may happen for either of two reasons or both: because the audience, wholly unprejudiced toward a topic, is eager to know anything about it, or because the topic offers a presumption[2] in its favor. The interest for the public of lectures on Manchuria, on Arctic exploration, on Shakespeare,

[1] See Appendix.

[2] For the distinction between presumption and assumption see note, p. 142.

illustrates the first condition. When a speaker treats such a subject, everybody is ready to aid him with interest and applause. When, too, a long-accepted theory, such as the Monroe Doctrine, is attacked, he who defends it has a presumption in his favor from the fact that the theory has so long prevailed. The audience, sharing from the start the speaker's belief, will be thoroughly in sympathy with his effort to overthrow those attacking the theory. The position of those who have, at different times, defended long-accepted beliefs against so-called heretics in religion or science, illustrates the persuasive value of a subject which at the outset offers a presumption in its favor. A speaker's approach to his case must, then, be largely determined by the attitude of his audience to his subject.

II. PERSUASION ARISING FROM THE RELATION OF THE SPEAKER TO HIS AUDIENCE OR SUBJECT

In Persuasion a man should feel his subject so intensely that the desire to share his ideas and feelings about it with his audience should dominate everything else. He should regard himself as merely an instrument for transmitting the important message, yet as a thinking instrument which takes advantage of everything in its favor, skillfully does away with what is not, and changes its methods as the needs of the moment require. Such absorption in a subject is possible only for a speaker who sincerely believes what he is saying.

Sincerity. Avoid anything which suggests self-seeking, self-consciousness, or intellectual pose. For a time the demagogue working for his own ends, the reformer who

seeks his own advancement, the preacher who is really ambitious and self-seeking, may palm themselves off on their audiences for better men than they are, but sooner or later their insincerity becomes known. Never afterwards will the old-time power over audiences be theirs. Nothing in phrase, voice, gesture, or bearing should suggest to an audience that the speaker is thinking more of himself or of his presentation of his subject than of the message he has to convey. Rough-and-ready men, listening to a speech on some subject which cries for redress, will feel that he who evidently pauses to select and to polish his phrases cannot recognize as he should the full significance of his subject. What they want is a few sincere words, rough and ill-selected perhaps, but straight from the heart of a speaker stirred through and through with the importance of his message. He who calls hesitatingly on his hearers will never take them with him. The man, too, who tries to assume an air of belief in his appeal when he has it not is likely to be detected, as an experience of Lord Erskine's shows. In his defense of Lord George Gordon he quoted his client's words to the king: "The multitude pretend to be perpetrating these acts under the authority of the Protestant petition; I assure your majesty they are not the Protestant Association, and I shall be glad to be of any service in suppressing them," and then, carried out of himself by the strength of his feelings, he cried: "I say, *by God*, that man is a ruffian who shall after this presume to build upon such honest, artless conduct, as an evidence of guilt." It is said that "the effect produced on the jury and spectators by this sudden burst of feeling, is represented by eye-witnesses to have been such as to baffle all powers of description. It was wholly unpremeditated,

the instantaneous result of that sympathy which exists between a successful speaker and his audience. In uttering this appeal to his Maker, Mr. Erskine's tone was one of awe and deep reverence, without the slightest approach toward the profane use of the words, but giving them all the solemnity of a judicial oath. The magic of his eye, gesture, and countenance beaming with emotion, completed the impression, and made it irresistible. It was a thing which a man could do but once in his life. Mr. Erskine attempted it again in the House of Commons, and utterly failed."[1] That second attempt was a failure because it was not the result of the emotion of the moment, but a premeditated dramatic effect. As the audience felt this, the desired effect was lost.

A speaker must also consider whether his audience know anything about him which may make them doubt his sincerity. Even though there be no serious charge against a speaker, such as a sudden change of party or contradictory views previously expressed, reputation as a humorist, for instance, may trouble him if he have a very serious subject. Unless in treating his topic he can persuade, at least partly, through laughter, his work will be very difficult, for the audience is accustomed to laugh with or at him and will find it difficult to believe that he is really in earnest. Sydney Smith used to complain that his audience smiled at parts of his sermons where nothing was farther from his thoughts than to provide amusement.

How difficult any doubt of a speaker's sincerity may make his task is illustrated by Cardinal Newman's struggle in

[1] *Select British Eloquence.* C. A. Goodrich. p. 652, note 26. Harper & Bros. 1852.

the preface to the first edition of his *Apologia pro Vita Sua* to overcome a strong prejudice which he felt his adversary, Charles Kingsley, had developed against him in the mind of the public.

. . . "*What proof have I, then, that by 'mean it? I never said it!' Dr. Newman does not signify, 'I did not say it, but I did mean it'?*"

Now these insinuations and questions shall be answered in their proper places; here I will but say that I scorn and detest lying, and quibbling, and double-tongued practice, and slyness, and cunning, and smoothness, and cant, and pretence, quite as much as any Protestants hate them; and I pray to be kept from the snare of them. But all this is just now by the bye; my present subject is my Accuser; what I insist upon here is this unmanly attempt of his, in his concluding pages, to cut the ground from under my feet; — to poison by anticipation the public mind against me, John Henry Newman, and to infuse into the imaginations of my readers, suspicion and mistrust of everything that I may say in reply to him. This I call *poisoning the wells.*

"I am henceforth in *doubt and fear*," he says, "as much as any *honest* man can be, *concerning every word* Dr. Newman may write. *How can I tell that I shall not be the dupe of some cunning equivocation?*". . .

Well, I can only say, that, if his taunt is to take effect, I am but wasting my time in saying a word in answer to his calumnies; and this is precisely what he knows and intends to be its fruit. I can hardly get myself to protest against a method of controversy so base and cruel, lest in doing so, I should be violating my self-respect and self-possession; but most base and most cruel it is. We all know how our imagination runs away with us, how suddenly and at what a pace; — the saying, "Cæsar's wife should not be suspected," is an instance of what I mean. The habitual prejudice, the humour of the moment, is the turning point which leads us to read

a defence in a good sense or a bad. We interpret it by our antecedent impressions. The very same sentiments, according as our jealousy is or is not awake, or our aversion stimulated, are tokens of truth or of dissimulation and pretence. There is a story of a sane person being by mistake shut up in the wards of a Lunatic Asylum, and that, when he pleaded his cause to some strangers visiting the establishment, the only remark he elicited in answer was, "How naturally he talks! you would think he was in his senses." Controversies should be decided by the reason; is it legitimate warfare to appeal to the misgivings of the public mind and to its dislikings? Anyhow, if my accuser is able thus to practice upon my readers, the more I succeed, the less will be my success. If I am natural, he will tell them "Ars est celare artem;" if I am convincing, he will suggest that I am an able logician; if I show warmth, I am acting the indignant innocent; if I am calm, I am thereby detected as a smooth hypocrite; if I clear up difficulties, I am too plausible and perfect to be true. The more triumphant are my statements, the more certain will be my defeat.

So will it be if my Accuser succeeds in his manœuvre; but I do not for an instant believe that he will. Whatever judgment my readers may eventually form of me from these pages, I am confident that they will believe me in what I shall say in the course of them.

I have no misgiving at all, that they will be ungenerous or harsh toward a man who has been so long before the eyes of the world; who has so many to speak of him from personal knowledge; whose natural impulse it has ever been to speak out; who has ever spoken too much rather than too little; who would have saved himself many a scrape, if he had been wise enough to hold his tongue; who has ever been fair to the doctrines and arguments of his opponents; who has never slurred over facts and reasonings which told against himself; who has never given his name or authority to proofs which he thought unsound, or to testimony which he did not think

at least plausible; who has never shrunk from confessing a fault when he felt that he had committed one; who has ever consulted for others more than for himself; who has given up much that he loved and prized and could have retained, but that he loved honesty better than name, and Truth better than dear friends.[1]

One has only to examine the great speeches from Demosthenes to Webster to see how earnestly the orators have in all parts of their work impressed their sincerity on their audiences: one has but to study the wrecked careers among orators to realize that sincerity is the chief essential in persuasion. Without it all else, in the long run, goes for naught. Much is said nowadays of personal magnetism in speakers and actors. There is undoubtedly in certain persons something which, the moment they appear on the stage or platform, establishes a bond of sympathy between them and their audience, but it would be difficult to determine how much of this is inborn and how much comes from the self-reliance of the speaker and the confidence of his audience in him based on his reputation for knowledge, sincerity, and skill.

Tact. Tact is another great requisite in a speaker — the ability to do or say the right thing at the right moment, or better, to avoid doing or saying the wrong thing. It implies self-control, absence of self-assertion, constant study of men and manners in order to understand how a subject may present itself to a mind wholly different from one's own, and a readiness to do or say what shall put other men at ease. Tact marks the *First Philippic* of Demosthenes (see p. 335). Very tactless is this opening of an

[1] *Apologia pro Vita Sua.* J. H. Newman. pp. xiii–xv. Longmans, Green & Co. 1893.

argument before the American Protective League on "Should the Hundred Dollar Clause of the Dingley Bill be Abolished?"

Unless I were well armed, I should not dare to step up to your president and say: "Sir, your favorite son's a rogue and a scamp." Unless I were well armed with arguments which must convince, I should not tonight stand before you and say: "Gentlemen, your pet measure is foolish and unpatriotic." [1]

Skill. The third great requisite in a speaker, skill, is broadly inclusive: it signifies knowledge of all the means and methods of effective conviction and persuasion, and a use of rules so intelligent as to distinguish in persuasion between the ninety-nine cases in which the rule applies and the hundredth when it may best be broken. A skilled speaker always produces the feeling that he is master of his subject and of the situation. To be master of a subject means good structure; a clear, forcible development of the case, free from fallacies; doing full justice to the case of an opponent, yet overcoming him; and warding off disadvantageous as well as using advantageous conditions arising from one or more of the three sources of persuasion.

An unknown speaker. The extreme importance to an unknown speaker of winning sympathy at the outset of his work is recognized even in the well-known lines: —

> You'd scarce expect one of my age
> To speak in public on the stage.

The modesty and the close friendship of the opening to a case in the Athenian law court would make it hard for any fair-minded audience to refuse its sympathy to the speaker.

[1] For another illustration of tact study Beecher's *Speech at Liverpool*, *Specimens of Argumentation*, pp. 164–178; for tactlessness see the speech of Brutus, *Julius Cæsar*, III, 2.

I think, judges, I must first tell you of my friendship with Pherenicus, lest some of you should wonder why I, who have never been any man's advocate before, am his now. His father, Cephisodotus, was my friend, judges; and when we were exiles at Thebes I stayed with him — I, and any other Athenian who would; and many were the good offices, public and private, that we received from him before we came home. Well, when he and his son had the like fortune, and came to Athens banished men, I thought that I owed them the fullest recompense, and made them so thoroughly at home in my house that no one coming in could have told, unless he knew before, whether it belonged to them or to me. Pherenicus knows, as well as other people, judges, that there are plenty of better speakers than I, and better experts in affairs of this kind; but still he thinks that my close friendship is the best thing he can trust to. So, when he appeals to me and asks me to give him my honest help, I think it would be a shame to let him be deprived, if I can help it, of what Androcleides gave him.[1]

This opening of a speech of Abraham Lincoln at Columbus, Ohio, shows a similar effort to win sympathy because the speaker was not well known to his audience: —

Fellow-citizens of the State of Ohio: I cannot fail to remember that I appear for the first time before an audience in this now great State, — an audience that is accustomed to hear such speakers as Corwin, and Chase, and Wade, and many other renowned men; and remembering this, I feel that it will be well for you, as for me, that you should not raise your expectations to that standard to which you would have been justified in raising them had one of these distinguished men appeared before you. You would perhaps be only preparing a disappointment for yourselves, and, as a

[1] *Attic Orators.* R. C. Jebb. Vol. II, pp. 279–280. Macmillan & Co. London.

consequence of your disappointment, mortification for me. I hope, therefore, that you will commence with very moderate expectations; and perhaps, if you will give me your attention, I shall be able to interest you in a moderate degree.[1]

It is noteworthy that in both these illustrations the persuasive effect comes in part or wholly from the sincerity of the speaker.

The speaker's knowledge of his subject. At times a speaker finds it advantageous to impress upon his audience his special fitness to treat his subject. Often as a part of this amplifying of his own fitness, he shows directly or indirectly the unfitness of his opponent.

Dryden in the following extract from the opening of his *Defence of an Essay of Dramatic Poesy*, by ironic praise and mock self-depreciation, makes a reader feel the probable incompetence of his opponent and his own competence.

But while I was thus employed about this impression, there came to my hands a new printed play, called *The Great Favourite, or The Duke of Lerma;* the author of which, a noble and most ingenious person, has done me the favour to make some observations and animadversions upon my *Dramatique Essay.* I must confess he might have better consulted his reputation, than by matching himself with so weak an adversary. But if his honour be diminished in the choice of his antagonist, it is sufficiently recompensed in the election of his cause: which being the weaker, in all appearance, as combating the received opinions of the best ancient and modern authors, will add to his glory, if he overcome, and to the opinion of his generosity, if he be vanquished: since he ingages at so great odds, and, so like a cavalier, undertakes

[1] *Complete Works of Abraham Lincoln.* Vol. I, p. 538. Nicolay and Hay. Century Company.

the protection of the weaker party. I have only to fear on my own behalf, that so good a cause as mine may not suffer by my ill management, or weak defence; yet I cannot in honour but take the glove, when 't is offered me: though I am only a champion by succession; and no more able to defend the right of Aristotle and Horace, than an infant Dimock to maintain the title of a King.

For my own concernement in the controversie, it is so small, that I can easily be contented to be driven from a few notions of Dramatique Poesie; especially by one, who has the reputation of understanding all things: and I might justly make that excuse for my yielding to him, which the Philosopher made to the Emperor, — *why should I offer to contend with him, who is master of more than twenty legions of arts and sciences?* But I am forced to fight, and therefore it will be no shame to be overcome.[1]

The following shows a speaker unknown to most of his audience skillfully making a confession of seeming unfitness create sympathy for his cause.

Mr. Toastmaster, Graduates of Phillips Exeter Academy, Friends: —

As I look up and down the rows of faces which line the table to my right, and to my left, and note the half incredulous expression which my subject has aroused upon some faces with which I am very familiar, I am irresistibly reminded of an experience similar to this which I once had in Exeter. There, as now, youth and uncalculating earnestness were my sole weapons. My only listener was that honored teacher to whose memory we have heard so many tributes tonight, — Bradbury Longfellow Cilley. I was a middler; Professor Cilley was my pilot through the mazes of Asia

[1] *A Defence of an Essay of Dramatic Poesy.* Dryden. pp. 101–102. Clarendon Press. 1889.

Minor with Xenophon. Having been induced, one day, by athletic friends whose time was limited to the running track, to help them out in their campaign of subscriptions to the track team, I went to Mr. Cilley after the class and diffidently asked him if he would not contribute. Mr. Cilley seemed a bit puzzled, at first. He said,

"Why, you are not an athlete, are you?"

"No," I replied.

"Are you interested in athletics?"

"Not personally," I stuttered, "but I think it's a good thing for us all."

I soon felt that I was talking better than I had hoped, and that my plan really promised excellent results, so I argued long upon the merits of my appeal. Mr. Cilley, after vigorously clearing his throat, finally pulled a dollar from his pocket and put it in my hand, saying,

"Well, B——t, if you are the best man the track team can get to solicit subscriptions, I think they must be in need of help. I'll help them."

Although Mr. Cilley tempered the sweet of a contribution with the bitter of a justifiable judgment, subscriptions came easily afterwards, and the track team met Andover that spring and defeated it 64–31. The memory of my failure to make a satisfactory plea before Mr. Cilley has often recurred to me in the past in connection with my final good luck in securing funds. So, when your toastmaster asked me to speak before you this evening on one of the great needs of the Academy, to revive and increase the athletic interests of its students, I reflected that although I was not an athlete at Exeter, and have not been since I left there, perhaps my very weakness in acting as the advocate of such needs would induce you to regard the subject in a favorable light and say as did Old "Brad":—

"Well, if you are the best man the athletes can get to solicit our interest, they must be in need of help, and I'll help them."

Audience hostile to speaker. An audience may be hostile to a speaker either because of his record apart from his subject of the moment or because he is known to be advocating a detested cause. In either case only persuasion, and not always even that, can win the speaker a chance to present his views. Without persuasion Henry Ward Beecher could never have given the argumentative part of his *Speech at Liverpool.*[1] He got a hearing from a very

[1] "When Mr. Beecher went to England in 1863, English friends of the North urged him to speak publicly for Northern interests. They felt that as champions of the North they had been treated with contempt and vilification, and that unless he, as a prominent Abolitionist, should recognize their efforts, they were lost. . . . Liverpool was the headquarters of the Southern sympathizers, and a great many Southern men were in the city. The feeling was very strong that if Mr. Beecher should succeed there, he would win the day; and a determined and desperate effort was to be made to prevent the delivery of the speech. The streets were placarded with abusive and scurrilous posters, urging Englishmen to 'see that he gets the welcome he deserves.' On the morning of the 16th the leading papers came out with violent and false editorials against Mr. Beecher. It was openly declared that if he should dare to address the meeting, he would never leave the hall alive. It was well known that the mob was armed: not so well known that a small armed band of young men were in a commanding position at the right of the stage, determined, if any outbreak occurred, to protect Mr. Beecher.

"The great hall was packed to the crushing point. For some moments before the time fixed for the commencement of the proceedings there were cat-calls, groans, cheers, and hisses, and it was evident that a strong force of the pro-Southern (or at least of the anti-Beecher) party had congregated in front of the gallery and at the lower end of the body of the hall. . . . Mr. Beecher was evidently prepared for some opposition; but he could hardly have expected that his appearance at the front of the platform would rouse one portion of the audience to a high state of enthusiasm, and cause the other portion to approach almost a state of frenzy. For some time it was doubtful whether he would be allowed to speak; but those who sat near him and observed his firmly compressed lips and imperturbable demeanor, saw at once that it would require something more than noise and spasmodic hisses to cause Mr. Beecher to lose heart. He stood calmly at the edge of the platform, waiting for the noise to cease. At last there was a lull, and the chairman made an appeal to the

turbulent and hostile audience by letting his opening words show that he was undaunted, sincere, determined, — three qualities sure to win sympathy from a British audience. He managed to make the conduct of those who were disturbing him, and of those who should later try to interrupt, prejudicial to their cause. He appealed to his hearers for "fair play," — something every Britisher is supposed to grant any one. Lastly, the imperturbability of his manner won respect and sympathy, and the easy good nature of his "I and my friends the Secessionists will make all the noise" won him sympathetic laughter. Here is the persuasion which precedes his real case.

For more than twenty-five years I have been made perfectly familiar with popular assemblies in all parts of my country except the extreme South. There has not for the whole of that time been a single day of my life when it would have been safe for me to go south of Mason and Dixon's line in my own country, and all for one reason: my solemn, earnest, persistent testimony against that which I consider to be the most atrocious thing under the sun — the system of American slavery in a great free republic. [Cheers.] I have passed through that early period when right of free speech was denied to me. Again and again I have attempted to address audiences that, for no other crime than that of free speech, visited me with all manner of contumelious epithets; and now since I have been in England, although I have met with greater

meeting for fair play. His assurance that Mr. Beecher, after his speech, would answer any questions which any one might care to ask was not very favorably received, and a series of disturbances followed. When the scuffling had partly subsided, the chairman expressed his determination to preserve order by calling in, if necessary, the aid of the police. This announcement produced something like order, and Mr. Beecher took up the advantage and began his address." Condensed from *Biography of H. W. Beecher*, by W. C. Beecher and Rev. S. Scoville. pp. 422–425.

kindness and courtesy on the part of most than I deserved, yet, on the other hand, I perceive that the Southern influence prevails to some extent in England. [Applause and uproar.] It is my old acquaintance; I understand it perfectly — [laughter] — and I have always held it to be an unfailing truth that where a man had a cause that would bear examination he was perfectly willing to have it spoken about. [Applause.] And when in Manchester I saw those huge placards: "Who is Henry Ward Beecher?" — [laughter, cries of "Quite right," and applause] — and when in Liverpool I was told that there were those blood-red placards, purporting to say what Henry Ward Beecher had said, and calling upon Englishmen to suppress free speech — I tell you what I thought. I thought simply this: "I am glad of it." [Laughter.] Why? Because if they had felt perfectly secure, that *you* are the minions of the South and the slaves of slavery, they would have been perfectly still. [Applause and uproar.] And, therefore, when I saw so much nervous apprehension that, if I were permitted to speak — [hisses and applause] — when I found they were afraid to have me speak — [hisses, laughter, and "No, no!"] — when I found that they considered my speaking damaging to their cause — [applause] — when I found that they appealed from facts and reasonings to mob law — [applause and uproar] — I said, no man need tell me what the heart and secret counsel of these men are. They tremble and are afraid. [Applause, laughter, hisses, "No, no!" and a voice: "New York mob."] Now, personally, it is a matter of very little consequence to me whether I speak here to-night or not. [Laughter and cheers.] But, one thing is very certain, if you do permit me to speak here to-night you will hear very plain talking. [Applause and hisses.] You will not find a man — [interruption] — you will not find me to be a man that dared to speak about Great Britain three thousand miles off, and then is afraid to speak to Great Britain when he stands on her shores. [Immense applause and hisses.] And if I do not mistake the tone and temper of Englishmen, they had

rather have a man who opposes them in a manly way — [applause from all parts of the hall] — than a sneak that agrees with them in an unmanly way. [Applause and "Bravo!"] Now, if I can carry you with me by sound convictions, I shall be immensely glad — [applause]; but if I cannot carry you with me by facts and sound arguments, I do not wish you to go with me at all; and all that I ask is simply FAIR PLAY. [Applause, and a voice: "You shall have it, too."]

Those of you who are kind enough to wish to favor my speaking, — and you will observe that my voice is slightly husky, from having spoken almost every night in succession for some time past, — those who wish to hear me will do me the kindness simply to sit still, and to keep still; and I and my friends the Secessionists will make all the noise. [Laughter.][1]

Audience which may become hostile. The value of winning sympathy at the outset when a speaker knows that an audience, friendly at first, is sure to be angered by words he must say later is shown in the opening paragraph of the *First Letter* of Junius. He is to make statements about the members of the Ministry so audacious that most of his readers, even though they agree that wrong exists, will draw back shocked. At the outset, therefore, he finds common ground upon which he and his readers can agree, in order that when his readers later are disposed to withdraw their sympathy, they may see that his censure is but the logical outcome of the statements to which they agreed at the beginning of the letter. Seeing this, they will be less likely to revolt. Junius, as the following will show, first puts before his readers a general proposition which they will readily accept; then, with a sudden turn, makes a special application of it, and throughout his letter simply adds detail to detail of his special case.

[1] *Specimens of Argumentation.* pp. 156–158.

SIR: The submission of a free people to the executive authority of government is no more than a compliance with laws which they themselves have enacted. While the national honor is firmly maintained abroad, and while justice is impartially administered at home, the obedience of the subject will be voluntary, cheerful, and I might say, almost unlimited. A generous nation is grateful even for the preservation of its rights, and willingly extends the respect due to the office of a good prince into an affection for his person. Loyalty, in the heart and understanding of an Englishman, is a rational attachment to the guardian of the laws. Prejudices and passion have sometimes carried it to a criminal length; and whatever foreigners may imagine, we know that Englishmen have erred as much in a mistaken zeal for particular persons and families, as they ever did in defense of what they thought most dear and interesting to themselves.

It naturally fills us with resentment to see such a temper insulted and abused. In reading the history of a free people whose rights have been invaded, we are interested in their cause. Our own feelings tell us how long they ought to have submitted, and at what moment it would have been treachery to themselves not to have resisted. How much warmer will be our resentment if experience should bring the fatal example home to ourselves!

The situation in this country is alarming enough to rouse the attention of every man who pretends to a concern for the public welfare.[1]

Should the conclusion be stated in the introduction? Whether one's subject is unpopular, whether what one must say may rouse hostility, are questions which must be answered before an important matter, namely, "Should one's conclusion be stated in the introduction?" can be settled. Readers of Plato's dialogues will remember that

[1] *Specimens of Argumentation.* pp. 42–44.

Socrates very often held back his real thesis until he had forced an antagonist step by step to the desired conclusion. When speaker or cause is unpopular or details of the case or its treatment may rouse hostility it is wiser in the introduction to state one's thesis as a question, phrasing it exactly only when the audience has accepted the details which make the conclusion inevitable.

A speech at a public dinner some time since illustrated how little a worthy cause and good intentions offset tactless premature announcement of one's purpose. The speaker, knowing that many rich and liberal men were present at this purely social gathering, wished to make sure of a large contribution for a local charity, — though all the preceding speeches had aimed only to entertain. Either from thoughtlessness or because he believed in frankness above all else, he promptly announced his purpose, and he was wounded that after a good speech he met with no response from his audience. It felt tricked in being obliged to listen to such an appeal at such a meeting. His frank statement of his design, therefore, so chilled it that even the earnestness of his appeal could not win its sympathy. Had he spoken at first lightly, entertainingly; then by well-told anecdote slipped into more serious matters, gradually arousing sympathy and interest in his cause, and finally appealed as strongly as he could in behalf of the charity whose value and need he had demonstrated, the response would probably have been far different.

A third source. Clearly, the hostility toward Beecher and Junius arose more from the relation of the audience to the subject than to the man. This fact opens up the third source of persuasion, the richest, the most complicated, and consequently the hardest to master.

III. PERSUASION ARISING FROM THE RELATION OF THE AUDIENCE TO THE SUBJECT-MATTER

A skillful speaker is always on the alert for any opportunity to give the particular idea he may be developing, whether in the introduction, the argument proper, or the peroration, a bearing personal to his audience, so that their individual interests, their emotions, as well as their reasoning powers, shall be stirred. A beginner will probably do best to make a brief or an outline of his intended speech and go over it considering how the argument suggested by each heading and subheading is likely to affect the interests, prejudices, and emotions of his probable audience, and how the evidence he means to use in treating each division may appeal to these same interests, prejudices, and emotions. Any such examination of an outline with relation to some audience well known to the speaker will show that there are three methods of appeal open, usually employed in common: (1) selection of interests, prejudices, habitudes of mind to which the material may be made to appeal and avoidance of anything in the case which may disadvantageously stir them; (2) pure excitation of the emotions in connection with parts of the material, or in opening or closing; and (3) a rhetorical presentation of the selected material or of the emotional appeals which gives them special effectiveness. In ideal argumentation, evidently, each part should not count simply for conviction or persuasion, but for both. Lord Erskine was a master of this double use of material. In his *Defense of Lord George Gordon* he makes not one mere appeal to the emotions, but when he pleads here for sympathy as inexperienced and there compliments Lord Mansfield

gracefully, his words subserve also a second purpose: the plea goes far to establish a presumption of his client's innocence and the compliment becomes a proof of that innocence.

Variety of motives. The moment a speaker considers how he may mold his material to the interests, the prejudices, and the habitudes of mind of his audience, he needs to understand what occasions or induces action in men, — motives, — and the extent to which these motives to action hold good in the particular audience he is to address. To know these motives is, however, no easy matter, for their name is legion: love of country; easier labor in one case than in another; desire for a good market for manufactures; love of fair play; love of, and pride in, one's self, one's family, city, state, country; social and political ambition; avarice, anger, hatred, fear, charitableness; interest in education, literature, or the fine arts; admiration of courage, perseverance, coolness, — all these are possible motives for action. The first reason, then, why the study of motives in mankind is difficult is their number.

Grades in motives. A second difficulty in studying motives for action is that motives are not all of the same rank. Suppose that a man is induced to buy a lot of land, not because he has any real use for it, but because he knows a man he dislikes wishes to buy it. He will hardly care to say much about that motive. Suppose, on the other hand, that he buys it because the land, in a wretched part of the city, has been long used by poor children as a playground, and he knows that, if he does not buy it, the land will be sold to a man who, by placing buildings on it, will deprive the children of their playground. Suppose that he buys it even at some inconvenience to

himself, because he is public-spirited and fond of children Will not his own opinion of himself, and particularly th opinion of him among his fellow-citizens, improve accord ing to the differing circumstances? That is, there ar grades in the motives which lead to action, — from thos which regard simply the good of the individual, throug those which regard the good of some class, to those whic regard the good of humanity. Unfortunately, too, thi grading of motives varies greatly even among Christia peoples. What seems very important to one man ma seem far less so to another. Even in the same country th grading may vary. For instance, love of the arts, of litera ture, of science, is much greater in some cities than i others. Any man who has lived in the newer West know that in some regions the greatest sin is stealing horse In many places the desire to gain money dominates ever other motive. Consequently, a student of persuasion mus know not only what in general are the motives that i human beings underlie action and what are the broa gradings in them recognized by all Christian nations, bu also what grading is operative in the particular audienc he is addressing. Breadth of experience, constant study persistent practice, — these are the essentials to successfu persuasion. The careers of two men especially famous i persuasion illustrate this. Lord Erskine, trained first i the navy and later in the army, became a lawyer wh made all kinds of acquaintances at assizes in all parts o England. During this wide range of experience he studie his fellow-men enthusiastically and minutely, constantl applying the results of his study in his speaking. On has only to read his speeches to see that his eye wa always on the faces of his hearers. Here and there, fro

a change in wording, a reiteration, a sudden change in attack, one learns that Lord Erskine saw disagreement or doubt on the face of some juryman and was unwilling to proceed till the man was won over. Beecher, too, met all sorts and conditions of men, learned to read their faces and figures as indices of their mental and moral powers, — an important faculty for the man who wishes to be persuasive, — and gained a profound knowledge of the motives for action in his fellow-men. When he had a difficult audience to meet he made careful inquiries in advance as to its interests and prejudices, and fitted his treatment of his subject to these. How closely, even after this preparation, he watched his audience and how readily he adapted his thought and phrase to its mood of the moment his *Speech at Liverpool*[1] shows.

Eight general suggestions for persuasion. In treating conviction it was possible to lay down principles which will apply whenever and wherever men of intelligence be met, but what has just been said must show that no such generally and persistently useful principles of persuasion can be given. Some general suggestions may, however, be made. First, before addressing any audience ascertain its habits of mind. Is it liberal or conservative, religious or free-thinking, pledged to protection, free trade, or reciprocity? Not to know such facts is, perhaps, to affront an audience at the outset and almost certainly to lose admirable opportunities of making the material appeal to habits of mind of the audience. Beecher, knowing that in Englishmen love of fair play is ingrained, appealed to it in the opening of his *Speech at Liverpool.*[2] Similarly

[1] *Specimens of Argumentation.* pp. 154–178.
[2] *Idem.* pp. 41–59.

Junius in his *First Letter*, after stating at the beginning the frame of mind toward the government habitual with most Englishmen, proceeded, detail by detail, to show how that frame of mind has been "insulted and abused."

Now these habits of mind are either the result of special interests or prejudices of the audience or manifest themselves in such interests and prejudices. Therefore, secondly, before addressing an audience determine as far as possible what are its special interests in life and in what way the special topic may be related to them. Find, if possible, an interest so vital that mere recognition of its presence stirs the particular audience to action. These interests are, of course, general, those which they share with the people of their section, state, or city; or special to them individually. The general interests, such as love of country, loyalty to county, state, city, or college, have been badly overworked, — so obvious are they and so sure of at least a perfunctory response. To determine what are the interests special to a particular audience and to relate one's material to these is no doubt difficult, but it brings the largest returns to be gained in persuasion. Beecher in his *Speech at Liverpool* pointed out that the freedom for slaves which he advocated would mean a better market for the goods of his hearers. Demosthenes in his *First Philippic*[1] insisted that the present idleness and self-indulgence of the Athenians must ultimately mean a struggle against Philip for the very life of the country. In one part of the *Speech at Liverpool* Beecher showed that his audience was responsible for the very evil it condemned.

There is another fact that I wish to allude to — not for the sake of reproach or blame, but by way of claiming your more

[1] See p. 335.

lenient consideration — and that is, that slavery was entailed upon us by your action. Against the earnest protests of the colonists the then government of Great Britain — I will concede not knowing what were the mischiefs — ignorantly, but in point of fact, forced slave traffic on the unwilling colonists. [Great uproar and confusion. . . . The disturbance having subsided—] I was going to ask you, suppose a child is born with hereditary disease; suppose this disease was entailed upon him by parents who had contracted it by their own misconduct, would it be fair that those parents that had brought into the world the diseased child, should rail at the child because it was diseased? ["No, no!"] Would not the child have a right to turn round and say: "Father, it was your fault that I had it, and you ought to be pleased to be patient with my deficiencies." [Applause and hisses. . . . Much disturbance.] I do not ask that you should justify slavery in us, because it was wrong in you two hundred years ago; but having ignorantly been the means of fixing it upon us, now that we are struggling with mortal struggles to free ourselves from it, we have a right to your tolerance, your patience, and charitable constructions.[1]

The very essence of Lincoln's brief greeting to the 166th Ohio regiment returning from the Civil War is that the men had been fighting not merely to preserve their country but to guarantee the future of their children.

Soldiers: I suppose you are going home to see your families and friends. For the services you have done in this great struggle in which we are all engaged, I present you sincere thanks for myself and the country.

I almost always feel inclined, when I happen to say anything to soldiers, to impress upon them, in a few brief remarks, the importance of success in this contest. It is not merely for to-day, but for all time to come, that we should perpetuate

[1] *Specimens of Argumentation.* pp. 175–176.

for our children's children that great and free government which we have enjoyed all our lives. I beg you to remember this, not merely for my sake, but for yours. I happen, temporarily, to occupy the White House. I am a living witness that any one of your children may look to come here as my father's child has. It is in order that each one of you may have, through this free government which we have enjoyed, an open field and a fair chance for your industry, enterprise, and intelligence; that you may all have equal privileges in the race of life, with all its desirable human aspirations. It is for this the struggle should be maintained, that we may not lose our birthright — not only for one, but for two or three years. The nation is worth fighting for, to secure such an inestimable jewel.[1]

Disregard of differences between audiences resulting from local characteristics and interests is a frequent cause of failure. A political speaker once complained of the unresponsiveness of a Cape Cod audience which had the evening before listened in silence, almost with disapprobation, to a speech which had been delivered amid cheers early in the week in a western town. Questioning brought out that the speech had been composed for the western town, and that because of its great success it had been repeated unchanged in phrase or delivery on Cape Cod. Tommy Dodd's appeal to his soldiers and the address of Colonel Devens to his men after their first battle illustrate the difference in approach to the same end made necessary when regular army men rather than volunteers are addressed and under widely contrasting circumstances.

Tallantire gave him briefly the outlines of the case, and Tommy Dodd whistled and shook with fever alternately.

[1] *Forms of Address.* G. P. Baker. p. 246. H. Holt & Co. 1904.

That day he devoted to strategy, the art of war, and the enlivenment of the invalids, till at dusk there stood ready forty-two troopers, lean, worn, and dishevelled, whom Tommy Dodd surveyed with pride, and addressed thus: "O men! If you die you will go to Hell. Therefore endeavour to keep alive. But if you go to Hell that place cannot be hotter than this place, and we are not told that we shall there suffer from fever. Consequently be not afraid of dying. File out there!" They grinned, and went.[1]

Soldiers of Massachusetts, men of Worcester County, with these fearful gaps in your lines, with the recollection of the terrible struggle of Monday fresh upon your thoughts, with the knowledge of the bereaved and soul-stricken ones at home, weeping for those whom they will see no more on earth, with that hospital before your eyes filled with wounded and maimed comrades, I ask you now whether you are ready to again meet the traitorous foe who are endeavoring to subvert our government, and who are crushing under the iron heel of despotism the liberties of a part of our country. Would you go next week? Would you go to-morrow? Would you go this moment?

One hearty "Yes" burst from every lip.[2]

In the third place, choose the highest motives to which you think your audience will respond. If a speaker feels it necessary to appeal to motives not of the highest grades he should see to it that before he closes he makes them lead into high motives. In the *Speech at Liverpool*, even as Beecher showed that his main appeal would be to the interest of his audience in securing a good market, he connected this appeal with the far higher motives of mere justice and the good of humanity.

[1] *Life's Handicap*. Rudyard Kipling. Swastika edition. p. 204.
[2] *New York Herald*, October 30, 1861.

That nation is the best customer that is freest, because freedom works prosperity, industry, and wealth. Great Britain, then, aside from moral considerations, has a direct commercial and pecuniary interest in the liberty, civilization, and wealth of every nation on the globe. [Loud applause.] You also have an interest in this, because you are a moral and religious people. ["Oh, oh!" Laughter and applause.] You desire it from the highest motives; and godliness is profitable in all things, having the promise of the life that now is, as well as of that which is to come; but if there were no hereafter, and if man had no progress in this life, and if there were no question of civilization at all, it would be worth your while to protect civilization and liberty, merely as a commercial speculation. To evangelize has more than a moral and religious import — it comes back to temporal relations. Wherever a nation that is crushed, cramped, degraded under despotism is struggling to be free, you — Leeds, Sheffield, Manchester, Paisley — all have an interest that that nation should be free. When depressed and backward people demand that they may have a chance to rise — Hungary, Italy, Poland — it is a duty for humanity's sake, it is a duty for the highest moral motives, to sympathize with them; but besides all these there is a material and an interested reason why you should sympathize with them. Pounds and pence join with conscience and with honor in this design.[1]

What gives its significance to the suggestion that lower motives should be brought into connection with higher is that few men are willing to admit that they have acted from motives considered low or mean. Even if they suspect this to be the case, they endeavor to convince themselves that it is not true. In an audience each man knows those about him see what moves him in the speaker's words and therefore he yields most readily to a motive

[1] *Specimens of Argumentation.* pp. 163–164.

hich he knows is generally commended — religious feel-
ıg, charity, devotion to one's country, etc. But the
rading of the innumerable motives which are not instantly
ecognized as of the first order varies not only in different
ountries and in different states, but even in the same
udience. One man may feel that charity begins at home,
nd that, therefore, the advancement of his children is a
ery high motive; the man next him may feel that care
f the poor of a city is an even greater duty. One man
ıay exalt his duty to his state or city above his duty to
is country, and his neighbor may feel that the country
more important than all else. Since, then, men yield
ıore willingly to motives generally commended, and since
nanimity of action is more easily gained when the high-
st motives are addressed, this corollary to the suggestion
ıst made may be formulated: The larger the audience, the
igher the motives to which an appeal may be made.

Inertia is one of the worst enemies of the public speaker,
ıe philanthropist, the worker for civic betterment, of any
ıan who tries to change established conditions. How may
n indifferent public be aroused is their chief problem.
he search for an effective motive, or group of motives,
ecomes absorbing here. Sometimes one may dissipate
ıertia by moving from a general principle known to be
dmitted to the particular plan favored or the condition
be reprehended and improved, but this device of Junius
ı his *First Letter* is really only the method already ex-
lained of relating one's subject to the interests or the
abitual opinions of one's audience. The public may be
nresponsive because it thinks it has already heard enough
f the subject in question, is unaware of evil or unde-
rable conditions known to the speaker, is disappointed

because an unknown speaker has been substituted for one very popular, is hopeless, or is too timid to face a grave situation squarely. In any of these conditions it may be helpful to startle the audience into close attention at the outset. Sensationalism in public speaking, particularly in sermons, is a misapplication of this means, at times entirely proper, of overcoming the inertia or the unresponsiveness of an audience. Demosthenes was fond of beginnings so paradoxical that his audience became instantly eager to learn how such statements could be reconciled with truth. He used this method in his *First Philippic* to rouse the Athenians from their hopelessness in regard to resisting Philip of Macedon.

First, I say, you must not despond, Athenians, under your present circumstances, wretched as they are; for that which is worst in them as regards the past, is best for the future. What do I mean? That your affairs are amiss, men of Athens, because you do nothing which is needful; if it were the same even when you performed your duties, there would be no hope of amendment.[1]

In an article on *The Child and the State*, David Dudley Field swiftly roused his audience to attention by a startling contrast.

"The Homeless Boy" is the title of a wood-cut circulated by the Children's Aid Society. It is a sad picture. The little waif sits on a stone step, with his head bent over and resting on his hands, stretched across bare knees, his flowing hair covering his face, and his tattered clothes and bare feet betokening utter wretchedness. Turning the leaf, we are informed that twenty dollars will enable the society to give the boy a home. . . . How many of such homeless children

[1] *Olynthiacs and Philippics.* Demosthenes. Bohn edition. p. 61.

are there in the city of New York? We are told that there are at least twelve thousand under twelve years of age; seven thousand of them having no shelter, not knowing at morning where they can sleep at night, and the rest having only shelters revolting to behold. Less than $250,000 then would give them all decent and comfortable homes. Every night that these twelve thousand children are wandering in the streets or lurking about rum-shops and dance-houses, or huddled in dens that are as foul in air as they are foul in occupants, that sum many times over is spent in superfluous luxury. Rich parlors and wide halls are filled nightly with pleasure-seekers, where the air is sweetened with the perfume of flowers, music wafted with the perfume, and the light is like "a new morn risen on mid noon." The voice of mirth in the ball-room drowns the wail of the children beyond, and when the night pales into morning, the dancers go home rejoicing and the children go about the streets. Surely there must be something wrong with our civilization, our Christian civilization, so long as these strange contrasts are permitted to last.[1]

Such assurance as Senator Mason startled his hearers with in the following is safe only when the speaker is perfectly sure that the end will justify the means:—

Back in the '80's, when the late President McKinley and "Tom" Reed were making their reputations on the floor of the House, the Republican citizens of Yonkers, New York, undertook to organize the greatest political rally in the history of that place. Consequently their first effort was to secure a campaign orator of the highest order, and the committee on speakers, after much debate, decided that only Mr. McKinley or Mr. Reed would measure up to the standard. . . . There was great gloom at Yonkers when a telegram was received there reading substantially as follows: "Impossible to send

[1] *The Forms of Public Address.* pp. 310–311.

either McKinley or Reed. Will send you Hon. William E. Mason." . . . The disappointment and resentment at the failure of the State Central Committee to send either Mr. McKinley or Mr. Reed was ill concealed and at once apparent to Congressman Mason, who had been forewarned that he would have to "thaw out" both the local committee and the audience. After the unknown speaker of the day had listened to a nicely qualified and adroitly noncommittal introduction of himself he arose and began his address in these words: "As the servant of the National Committee, and subject to its dictates, I have been sent here against your will and against mine to do service as a substitute for Mr. McKinley and Mr. Reed. It may shock the modesty and good taste of some of the inhabitants of this beautiful and aristocratic place, but I am bound to tell you, right at the start, that I can make a better political speech than either William McKinley or Tom Reed — even if I am 'not known here.' Now, if I fail to make good this boast you can, when I have finished my speech, call me down publicly and as severely as you wish." . . . Before the speech was half delivered Mr. Mason's hearers were shouting with laughter and delight at his stories, his inimitable flashes of wit and his cutting characterization of Democratic doctrines and foibles. At the conclusion of his speech Mr. Mason was almost carried bodily from the platform.[1]

Junius throughout his *First Letter* depends chiefly upon daring to say what many have hardly dared to think. At the end he startles in order to gain emphasis, — another use to which the device may often be put. After a terrible arraignment of the chief officers of the government, but only by the names of their offices, he unexpectedly throws off all indirectness as he closes, naming each offender. So doing he stamps his ideas on the startled mind of the reader.

[1] *Spellbinders and Straw Ballots.* F. Crissey. *The Reader*, November, 1904. pp. 640–641.

If by the immediate interposition of Providence, it were possible for us to escape a crisis so full of terror and despair, posterity will not believe the history of the present times. They will either conclude that our distresses were imaginary, or that we had the good fortune to be governed by men of acknowledged integrity and wisdom. They will not believe it possible that their ancestors could have survived, or recovered from so desperate a condition, while a Duke of Grafton was Prime Minister, a Lord North Chancellor of the Exchequer, a Weymouth and a Hillsborough Secretaries of State, a Granby Commander-in-Chief, and a Mansfield chief criminal judge of the kingdom.[1]

Just as the very nature of the task which has been set a speaker determines his order in refutation, so, too, it affects his order in persuasion. When he need simply urge people to continue in accustomed action, or to carry out a purpose already formed, he may arrange his persuasion in climactic order, for even a very slight amount will probably move his audience in the right direction. If, however, he wishes to urge men to give up doing something to which they have become accustomed, or to forego a purpose already well established in their minds, he must naturally, as in the case of refuting long-established ideas, bring forward his strongest material first. When he has stirred his audience by his first strong appeal he can maintain his effect with other appeals, each of which would not have been strong enough, alone at the outset, to rouse the audience. In rare cases it is effective to hold back all direct persuasion till late in a speech. For instance, in Lord Mansfield's *Defense of Allan Evans*[2] the first fourteen

[1] *Specimens of Argumentation.* pp. 58–59.

[2] *Idem.* pp. 22–40. This speech should be carefully analyzed by the class for its ordering of its persuasion.

pages contain no direct persuasion. Instead of creating at the start a feeling that the persecutors of Evans have been cruelly unjust, Mansfield moved, with no apparent emotion whatever, from a swift, brief-like outline of his case to detailed consideration of all the possible positions of his opponents. When, within three pages of the end, he at last turned to persuasion, he had already made his hearers feel, without one word of his directly bearing on the matter, that some evil plan must lie back of conduct so clearly illegal as that of the persecutors of Evans. Knowing well the hatred of the Jesuits current at the time, he next strengthened the suspicion by making his hearers see the Jesuitical nature of the attempt; and finally, when his hearers were ready to break out with the suspicion so strongly did they feel it, he phrased it forcibly for them, supporting his accusation by references to the case and by analogy. Then with a swift summary he closed. Though throughout the greater part of the speech the sincerity and the impartiality of treatment are indirectly persuasive, the direct persuasion is confined to but two pages near the end. In persuasion, then, one's ideas must be both selected and ordered in relation to the audience addressed.

The fine unity of Lincoln's speech to the 166th Ohio regiment proves the value of a seventh suggestion. Unify your persuasion for a definite purpose. Do not depend on scattered attempts, but see that wherever your persuasion appears it conduces to pervasive persuasion and leads unmistakably to a definite final effect. Never leave an audience vague as to what it should do. Develop the final impulse slowly, division by division, if you like; hint, suggest, rather than directly state it, if for any

reason that seems best; but never obscure your persuasive aim. Though Antony never bade the mob about dead Cæsar's body revenge the murder, he did not cease speaking till he saw the purpose he desired kindling in their minds.[1] On the other hand, a brilliant speaker once roused a group of college students to great enthusiasm by his eloquent lectures on Eloquence. But when they tried to apply their enthusiasm, they found they had not been given one working principle, and the enthusiasm quickly faded — resultless.

Finally, be flexible: gain the power of shifting your plans quickly, of adapting yourself to unexpected contingencies. No matter how carefully one prepares a speech for some particular audience, there is always the chance that some unforeseen happening may so complicate or simplify the expected task that the original plan must be modified or thrown over. If, for instance, a preceding prosy speaker has run over into your time and the audience is growing restless, cut down your speech if possible to less than the time assigned you and strike at once to something in it especially interesting. The return in reawakened interest, and in sympathy caused by gratitude that you do not abuse your privilege as did your predecessor, will probably offset the loss in your material. Keep your eyes on the audience, watching the effect of each part of your work, and, if you are debating, of each part of your opponent's work. Be ready to aid your audience or to be aided by it. No speech is either a failure or a success till the last word is said: many a good beginning has lapsed into a weak ending, and many a poor start has been redeemed by a quickness of wit which threw over what

[1] *Julius Cæsar.* Act III, Sc. 2.

was prepared and facing conditions unforeseen grappled with them successfully.

Combined use of the eight suggestions. Of course, masterly persuasion uses one or more of these suggestions as experience and intuition prompt. Beecher's *Speech at Liverpool* shows skillful recognition of all of them. Beecher planned it on the idea that an English audience habitually likes fair play, courage, independence, and good nature. He asked for the first because he could offer the other three in exchange. He constantly sought to show the audience the connection between his subject and their personal interests. He knew that it is safest to appeal to high motives, and that when lower motives are used they must lead into higher. His experience told him that in so large an audience as his he might well connect his special appeal with the highest motives. He startled his audience more than once by his frankness, his courage, or his swift turning of the tables. The persuasion of each division worked toward a purpose which is stated first in the last paragraphs of the address. Nearly every page illustrates his skill in grappling with conditions which could not have been foreseen. Indeed, as an illustration of successful coping with problems of persuasion raised by the nature of the subject, the relation of the speaker to it and to the audience, and the relation of the audience to the subject, the *Speech at Liverpool* should be studied from end to end.[1]

Summary of eight suggestions for persuasion. For reference the suggestions just expounded are tabulated.

[1] See *Specimens of Argumentation*, pp. 154–178. For a similar masterly use of the methods in combination see the *Olynthiacs* and the *Philippics* of Demosthenes.

1. Ascertain the habits of mind of your proposed audience.

2. Determine the special interests and the idiosyncrasies of your audience.

3. Connect lower with higher motives.

4. Remember that the larger the audience the higher the motives to which appeal may be made.

5. Startling an audience may rout indifference or effectively emphasize.

6. Let the nature of your task determine the order of your persuasion.

7. Unify the persuasion for some definite purpose.

8. Be flexible; adapt the work to unexpected exigencies.

IV. EXCITATION

The methods already explained do not, however, exhaust all means of persuasion. The Puritan divine of early colonial days not only showed his audience that it was to their interest to be upright, but by pictures of the personal torture they would hereafter endure if they were not, terrified refractory persons into obedience. To-day, a lawyer trying to convince a jury that certain anarchists should be punished for throwing bombs, not only points out how it touches the interests of the jurors as citizens and fathers that such outrages should cease, but paints vividly for them the scene of horror caused by the bomb-throwing. In each case the effort is to stir an audience to emotion so strong that it will seek relief in action, and, since the act suggested by the speaker is placed most vividly before the hearers, relief in that particular action. Excitation — arousing the emotions, the passions — is, then, another means of persuasion.

Two means of arousing emotion. We may arouse emotion in our fellows either by dwelling on matters likely to stir these desired emotions or by exhibiting the emotions ourselves. Illustrations given under divisions I, II, and III of this chapter sufficiently exemplify the first method.[1] Every child who uses tears as a means of getting what it wants illustrates the second method. The effect on Daniel Webster's audience of the emotion which for a moment overcame him as he pleaded the cause of Dartmouth College, his *alma mater*, is famous.

When Webster had finished his argument he stood silent for some moments, until every eye was fixed upon him, then, addressing the Chief Justice, he said: —

"This, sir, is my case. It is the case not merely of that humble institution, it is the case of every college in our land. . . .

"Sir, you may destroy this little institution; it is weak; it is in your hands! I know it is one of the lesser lights in the literary horizon of our country. You may put it out. But if you do you must carry through your work! You must extinguish, one after another, all those greater lights of science which for more than a century have thrown their radiance over our land. It is, sir, as I have said, a small college, and yet there are those who love it."

Here his feelings mastered him; his eyes filled with tears, his lips quivered, his voice was choked. In broken words of tenderness he spoke of his attachment to the college, and his tones seemed filled with the memories of home and boyhood; of early affections and youthful privations and struggles.

"The court room," said Mr. Goodrich, to whom we owe this description, "during these two or three minutes presented an extraordinary spectacle. Chief Justice Marshall, with his tall and gaunt figure bent over as if to catch the slightest

[1] See especially pp. 304–327.

whisper, the deep furrows of his cheek expanded with emotion and his eyes suffused with tears; Mr. Justice Washington, at his side, with his small and emaciated frame, and countenance more like marble than I ever saw on any other human being,—leaning forward with an eager, troubled look,—and the remainder of the court at the two extremities, pressing, as it were, to a single point, while the audience below were wrapping themselves round in closer folds beneath the bench, to catch each look and every movement of the speaker's face. . . .

"Mr. Webster had now recovered his composure, and, fixing his keen eye on the Chief Justice, said, in that deep tone with which he sometimes thrilled the heart of an audience:—

"'Sir, I know not how others may feel' (glancing at the opponents of the college before him), 'but for myself, when I see my Alma Mater surrounded, like Cæsar in the senate-house, by those who are reiterating stab after stab, I would not, for this right hand, have her turn to me, and say, *Et tu quoque, mi fili! And thou too, my son!*'"[1]

The danger of showing strong emotion. Because exhibition of emotion is often an easy way of moving other people to act as we wish, it has been abused as a means of persuasion. Expression of strong emotion is really dangerous unless one's hearers are in full sympathy with it; they will feel in it, especially if highly refined, something a little repellent because too uncontrolled. Moreover, frequent dependence on this method of persuasion weakens its effect. An audience, seeing that the speaker seems to feel readily any emotion, begins to doubt the genuineness of this feeling, wondering whether it is at best more than perhaps unconscious acting of a high order. If it decides that the display of emotion is really but acting, it may

[1] *Daniel Webster.* H. C. Lodge. pp. 89–91. Houghton, Mifflin & Co. 1892.

admire the man as an actor; it will not long do his bidding. The late Dr. Phelps wrote of free display of emotion: "It is a misfortune to be unable to suppress tears. I once knew a preacher whose most remarkable quality was the readiness with which he wept. He once shed tears in exhorting Christians not to be tardy in their attendance at the weekly meeting of the church. He was wonderfully attractive on a first hearing, but he had ten brief settlements." [1] On the other hand, the exhibition of strong emotion by a nature noted for its self-control may sweep all before it. Rufus Choate said of Daniel Webster's momentary loss of self-control just described: "One thing it taught me, that the pathetic depends not merely on the words uttered, but still more on the estimate we put upon him who utters it."

For a speaker to say to himself during the preparation of his address: "This idea gives me a chance for a stirring burst of emotion, therefore here I will let my audience see how moved I am" has the theatric about it, and may lead to failure. It is safer in planning persuasion to trust to relating one's ideas to motives operant in the audience and to depicting conditions which should arouse emotion. If it kindles in the very words of a speaker, if in spite of his efforts to the contrary it overmasters him, he will be very persuasive, but if it does not arise in these ways, a note of insincerity will probably spoil its effect.[2] A student should remark here the difference between the art of the orator and the art of the actor. The success of the actor is complete if his audience feels: "This is the perfect simulation of anger, grief, mirth, misery." For the orator

[1] *Theory of Preaching.* Phelps. p. 568. C. Scribner's Sons.

[2] See the experience of Lord Erskine cited on p. 298.

that judgment is the doom of his persuasive work. His audience must be swept out of its critical self-control into participation in the anger, grief, mirth, or misery, so complete as to take action in consequence of it. The orator has a special act in mind as the end of his persuasion; the actor has not.

Three qualities essential in any appeal to the emotions. In all attempts to stir emotion three qualities are essential: tactful avoidance of anything that may arouse feelings hostile to the end the speaker has in view, vividness, and brevity. In excitation tact corresponds to refutation in conviction, for as in refutation safety lies in knowing or in guessing accurately what your opponent thinks about your case, so in persuasion safety lies in knowing or in guessing what he feels about each part of your work. Demosthenes in his *First Philippic* illustrates admirably what tact may do in avoiding dangerous emotion which words that must be uttered may arouse. He wished to make his audience feel that Philip owed his success not so much to his own genius as to their past indolence. In order to make this clear, he must show how Philip had gained his power step by step, and the proportions to which it had grown. But he must be on his guard constantly lest insistence on this growing greatness and vast power should so terrify the Athenians that they should say: "Remonstrance is useless. Let us make the best terms we can since we have thrown away our chances": —

First I say, you must not despond, Athenians, under your present circumstances, wretched as they are, for that which is worst in them as regards the past, is best for the future. What do I mean? That your affairs are amiss, men of Athens, because you do nothing which is needful; if, notwithstanding

you performed your duties, it were the same, there would be no hope of amendment.

Consider next, — what you know by report, and men of experience remember, — how vast a power the Lacedæmonians had not long ago, yet how nobly and becomingly you consulted the dignity of Athens, and undertook the war against them for the rights of Greece. Why do I mention this? To show and convince you, Athenians, that nothing, if you take precaution, is to be feared, nothing, if you are negligent, goes as you desire. Take for examples the strength of the Lacedæmonians then, which you overcame by attention to your duties, and the insolence of this man now, by which through neglect of our interests we are confounded. But if any among you, Athenians, deem Philip hard to be conquered, looking at the magnitude of his existing power, and the loss by us of all our strongholds, they reason rightly, but should reflect, that once we held Pydna and Potidæa and Methone and all the region round about as our own, and many of the nations now leagued with him were independent and free, and preferred our friendship to his. Had Philip then taken it into his head, that it was difficult to contend with Athens, when she had so many fortresses to infest his country, and he was destitute of allies, nothing that he has accomplished would he have undertaken, and never would he have acquired so large a dominion. But he saw well, Athenians, that all these places are the open prizes of war, that the possessions of the absent naturally belong to the present, those of the remiss to them that will venture and toil. Acting on such principle, he has won everything and keeps it, either by way of conquest, or by friendly attachment and alliance; for all men will side with and respect those, whom they see prepared and willing to make proper exertion. If you, Athenians, will adopt this principle now, though you did not before, and every man, where he can and ought to give his service to the state, be ready to give it without excuse, the wealthy to contribute, the able-bodied to enlist; in a word, plainly, if you will become

your own masters, and cease each expecting to do nothing himself, while his neighbor does everything for him, you shall then with heaven's permission recover your own, and get back what has been frittered away, and chastise Philip. Do not imagine, that his empire is everlastingly secured to him as a god. There are who hate and fear and envy him, Athenians, even among those who seem most friendly; and all feelings that are in other men belong, we may assume, to his confederates. But now they are all cowed, having no refuge through your tardiness and indolence, which I say you must abandon forthwith. For you see, Athenians, the case, to what pitch of arrogance the man has advanced, who leaves you not even the choice of action or inaction, but threatens and uses (they say) outrageous language, and, unable to rest in possession of his conquests, continually widens their circle, and, while we dally and delay, throws his net all around us. When then, Athenians, when will ye act as becomes you? In what event? In that of necessity, I suppose. And how should we regard the events happening now? Methinks, to freemen the strongest necessity is the disgrace of their condition. Or tell me, do ye like walking about and asking one another:—Is there any news? Why, could there be greater news than a man of Macedonia subduing Athenians, and directing the affairs of Greece? Is Philip dead? No, but he is sick. And what matters it to you? Should anything befall this man, you will soon create another Philip, if you attend to business thus. For even he has been exalted not so much by his own strength, as by our negligence.[1]

Brevity and vividness. Any appeal to the emotions must have a strong element of the dramatic in it, and any student of dramatic technique knows that two of the main essentials in play-writing are vividness of phrase and brevity as great as conveying one's exact meaning will allow.

[1] *Olynthiacs and Philippics.* Demosthenes. pp. 61–63. Bohn ed.

The chief source of brevity and vividness dramatically is selection. That is, a dramatist does not give all the details of the lives of his characters or of their conversations, but selects those parts which are most significant for his purpose. Similarly a speaker, in making any direct appeal to the emotions, should give only the essential or striking features of that which moves him or is intended to move his hearers. The anecdote of General Garfield in the next paragraph well illustrates this.

The value in persuasion of concreteness. A great aid to vividness and brevity in excitation is concreteness. Anecdotes, examples, analogies, illustrations of all kinds, as the swiftest method of making clear the persuasive means selected, are indispensable in excitation. This concreteness of statement is a marked characteristic of the addresses of the great "revivalists" of the last twenty years. Any one who heard the late D. L. Moody speak must recognize that much of his power lay in the emotion caused by his vivid stories and his dramatic illustrations. A famous brief speech of General Garfield shows the great value of concreteness in persuasion.

After the battle of Bull Run, conflicting rumors steadily poured into New York city as to the real condition, the true position of the Northern army, and the effect of the defeat on the government at Washington. A great crowd which, because of its anxiety and uncertainty, threatened at any moment to become a mob, gathered in front of the Astor House. General Garfield was urged to try to quiet it. Stepping out on a balcony, he stood quietly, with raised hat, till the crowd of men, catching sight of him one after another and hushing their neighbors to listen, were still enough for him to be heard. Then he said,

"God reigns, and the Government at Washington still lives," — and the crisis was over. Garfield's words had given the anxious crowd just the information it craved, — that there was still a government at Washington; and it had supplied them with a motive for action of the highest kind, — belief that the outcome must be for the best even though the present were dark, since all was in God's hands. All this had been done in nine words because Garfield knew how to select and to be concrete.

The incomplete in excitation. Both vividness and brevity are sometimes gained by leaving a description incomplete or by giving only just enough details to set the imaginations of the audience to working. This is very effective if a speaker or writer is sure that his audience will fill in the details as he desires. Otherwise it is a risky method. Clearly it is safer for the speaker, who can watch the faces of his audience and see whether they show a recognition of the full significance of the incomplete description, the few details, than it is for the writer, who never sees his audience. A very successful use of this method is shown in the peroration of Lord Erskine's speech in behalf of Lord George Gordon. Erskine did not develop any appeals to the emotions of his hearers, but simply suggested to their imaginations what might readily be developed into such appeals. He knew from the look of his hearers that they were sufficiently in sympathy with him for their imaginations to fill out his suggestions. His evident willingness to waive emotional appeals produced in the jury belief in the convincingness of his proof. His method also forced the jury to make itself responsible for any part that their sympathies might have in the verdict given. He could say that he had busied himself only with what rested on

evidence and must appeal to their reason. It is a model of restraint and of suggestive persuasion.

I may now, therefore, relieve you from the pain of hearing me any longer, and be myself relieved from speaking on a subject which agitates and distresses me. Since Lord George Gordon stands clear of every hostile act or purpose against the Legislature of his country, or the properties of his fellow-subjects — since the whole tenor of his conduct repels the belief of the *traitorous intention* charged by the indictment — my task is finished. I shall make no address to your passions. I will not remind you of the long and rigorous imprisonment he has suffered; I will not speak to you of his great youth, of his illustrious birth, and of his uniformly animated and generous zeal in Parliament for the Constitution of his country. Such topics might be useful in the balance of a doubtful case; yet, even then, I should have trusted to the honest hearts of Englishmen to have felt them without excitation. At present, the plain and rigid rules of justice and truth are sufficient to entitle me to your verdict.[1]

Summary of persuasion. Persuasion may, then, arise from the subject itself, the relation to it of speaker or audience, the relation of speaker to audience, and from pure excitation. Suggestions as to use of persuasion arising from each of these sources can be given, but they must always be applied under the guidance of common sense and experience. It is not enough, however, as was pointed out in the first paragraph of this chapter, to know how to analyze a case, select and value one's evidence, and choose one's means of persuasion: one must also be able so to clothe thought and feeling in words as to get from one's audience just the desired response. Evidently, therefore, none of the principles of rhetoric which concern accurate, interesting,

[1] *Specimens of Argumentation.* pp. 152–153.

individual expression of ideas or feelings can be neglected by a student of argumentation. Yet this essential part of argumentation, the rhetoric of argument, is often neglected by even careful students.

Section 2 — The Rhetoric of Argument

Three divisions of a forensic. Any argument may consist of three parts, corresponding to the three parts of a brief, though, contrary to the method in briefs, they should never be so designated by headings. The introduction of an argument corresponds to the brief introduction, the argument itself to the brief proper, and the peroration to the conclusion of the brief.

The work of the introduction in conviction. The work of the introduction is twofold: to appeal to the understanding — to convince; and to appeal to interests, prejudices, and emotions — to persuade. Its work in conviction is so to re-present the analysis of the question as laid down in the brief as to give a reader just the information he needs in order to follow the argument proper understandingly, but without rigidity of form or baldness of phrase. Like the introduction to the brief, it should, in conviction, phrase only what both sides must admit if there is to be any discussion; like its brief, too, it will give only as many of the steps in analysis — phrasing a proposition, defining the terms through the history of the question, and finding the special issues — as the conditions of the particular question demand. Evidently, if an argument rests on a well-drawn brief, it cannot open up a question vaguely. But another quality in an introduction is essential: it should have the art which conceals art. A reader may be allowed to feel

that good analysis must underlie the swift and convincing outline of the case which he is reading, but he should not be allowed to recognize each step as it is taken, least of all should he have each step thrust on his attention as it is made. It is the business of the introduction to subordinate whatever formal processes may precede it to a presentation of the subject so vivid as to make that subject seem vital, or even momentous.[1]

Persuasion in the introduction. Of course, the chief means in producing this effect comes from persuasion, and all that has been said in regard to the significance of the relation of speaker to subject and of audience to both subject and speaker must be borne in mind in planning one's introduction. Moreover, clothing in words the ideas selected for conviction and persuasion may count so much that the rhetoric of argument must be carefully studied.

The proper proportion of persuasion to conviction in the introduction to any given subject must, naturally, depend on the nature of the subject and the relation to it of speaker and audience. The proportion may vary from an introduction without persuasion — something rare — to one with persuasion and conviction as subtly mingled throughout as they are in Lord Erskine's *Defense of Lord George Gordon.* Common sense and experience are the only sure guides in applying to the conditions of the case in question the suggestions as to persuasion already explained.

The argument itself. Like the introduction, the argument itself may do twofold work. It may simply convince by giving in literary form the evidence for which the carefully constructed brief calls, or it may persuade. Important

[1] For illustration of the good and the bad qualities of an introduction see forensics in Appendix.

points to remember in treating the argument itself are that persuasion and conviction need not be given separate sentences and paragraphs, but may coöperate within the same sentence or paragraph, and are most effective when they are but warp and woof; that the persuasion in the different parts of the work should be unified for a definite purpose; and that an argument should not be a bald exposition of the evidence called for by the brief, but should have special interest from its very presentation of this evidence. Essentials of the argument proper, both in persuasion and conviction, are clearness, movement, and force.

The importance of the peroration. Any study of briefs should make clear that all carefully constructed argument is a steady preparation for the peroration. The peroration, then, is to an argument what climax is to a story or the last act to a play: its ultimate purpose is to bring the argument to a full and perfect close. In it the final impression on reader or hearer is to be made, and this should be as vivid and as lasting as possible. Its work also is twofold, for it may appeal either to the reason or the emotional side of an audience. Its simplest work in conviction is that called for by the conclusion of the brief: recapitulation of the argument. It may advantageously emphasize as it recapitulates, and here the power of phrasing strikingly or of repeating an idea in a fresh guise is needed. It may also amplify or diminish, that is, point out the importance and the conclusiveness of the proof of the speaker, the unimportance of whatever in an opponent's case still stands, or the inconclusiveness of his proof as a whole. To do one or more of these things as conditions require is to understand the work of conviction in the peroration.

Recapitulation only. The following peroration from a forensic on "The City of Utopia should adopt a School Commission of five members in place of the present large School Committee" shows good recapitulation but misses chances for persuasion.

The demand for a school commission is not of recent growth, but is the result of a growing conviction that the School Committee, as has been shown, has not taken advantage of the opportunities that exist for increasing the value of the educational system of the city. We have pointed out that the schools have not received the proper financial support; salaries of teachers and janitors are too low; the schoolhouses are overcrowded, and children are being turned away for lack of room; great numbers of children are being sent out from the schools badly prepared to engage in life's struggles; and the schoolhouses are allowed to stand unused when they might be used as instruments of social service to the community. To abandon the old system of ward representation under which these unfortunate conditions have grown up, and to adopt in its place a highly centralized commission elected at large, with full responsibility, would prepare the way for radical reforms.

The commission plan would substitute for the present inadequate system a method which would result in a comprehensive and definite plan of school development. The school system would be treated as a unit instead of as a group of rival elements; delays due to conflict of authority would be ended; responsibility and authority would be fixed; business would be transacted promptly and efficiently; and the schools and their equipment would be developed to their highest value to the community. Why, then, should the city hesitate to make the change?

Amplifying and diminishing. The quotation from *A Roman Lawyer in Jerusalem* on pp. 112–114 forms the first part of a peroration which diminishes by showing the

improbability of the ordinary view of Judas, and then amplifies by setting forth the naturalness of the poet's view of his conduct. Both its emphasis and phrasing are skillful. The amplifying portion follows.

> But take the other view that Lysias takes,
> All is at once consistent, clear, complete.
> Firm in the faith that Christus was his God,
> The Great Messiah sent to save the world,
> He, seeking for a sign — not for himself,
> But to show proof to all that he was God —
> Conceived this plan, rash if you will, but grand.
> "Thinking him man," he said, "mere mortal man,
> They seek to seize him — I will make pretence
> To take the public bribe and point him out,
> And they shall go, all armed with swords and staves,
> Strong with the power of law, to seize on him —
> And at their touch lo, God himself shall stand
> Revealed before them, and their swords shall drop:
> And prostrate, all before him shall adore,
> And cry, 'Behold the Lord and King of all!'"
> But when the soldiers laid their hands on him
> And bound him as they would a prisoner vile,
> With taunts, and mockery, and threats of death —
> He all the while submitting — then his dream
> Burst into fragments with a crash; aghast
> The whole world reeled before him; the dread truth
> Swooped like a sea upon him, bearing down
> His thoughts in wild confusion. He who dreamed
> To open the gates of glory to his Lord,
> Opened in their stead the prison's jarring door,
> And saw above him his dim dream of Love
> Change to a Fury stained with blood and crime.
> And then a madness seized him, and remorse
> With pangs of torture drove him down to death.

The persuasive work of the peroration. The peroration should, too, take advantage of the last opportunity to win sympathy for subject or speaker and to stir the emotions of the audience. As a speaker recapitulates, he may relate his cause as a whole or in its subdivisions to habitudes, interests, prejudices of his hearers, or may directly appeal to their emotions. In any case, the purpose which unifies the persuasion throughout the argument should be made unmistakable in the peroration. In all the cases mentioned in treating the principles of persuasion — a dull or technical subject, an audience which does not know the speaker or is hostile to him or his subject, etc. — the speaker has in the peroration a final chance for conciliatory work. In it he may show how well he has kept his initial promises; he may make his audience see that, though the subject is technical, or usually dull in treatment, he has simplified it or enlivened it; or he may reëmphasize that the subject is important enough to repay his hearers for the close attention he has required; or he can make his audience feel that, though he came before them unknown, he has proved his right to speak and has shown common interests, bonds of sympathy, which must prevent any further hostility to him or his subject. It is the general recognition of the chance the peroration offers for appeals to the emotions which has led Fourth of July orators to think that their addresses cannot end without a "spread-eagle" outburst — the old story of an improper use of a valuable opportunity.

Perorations may range, of course, from those doing only one of the things possible in a peroration to others which do all. No rules can be given as to the relative amount of conviction and persuasion which should appear in any

given peroration or class of perorations, for the amount must depend on the relation of speaker to subject and audience, of audience to subject, and the extent of the persuasion in the other two divisions of the argument. Once more, the only guide must be common sense and experience.

Emotional Appeal. The closing lines of the *Funeral Oration* by Hypereides on the death of Leosthenes and his friends, before Lamia, show direct appeal to the emotions:—

It is hard, perhaps, to comfort those who are in such a sorrow; grief is not laid to rest by speech or by observance; rather is it for the nature of the mourner, and the nearness of the lost, to determine the boundaries of anguish. Still, we must take heart, and lighten pain as we may, and remember not the death of the departed but the good name also that they have left behind them. We owe not tears to their fate, but rather great praises to their deeds. If they came not to old age among men, they have got the glory that never grows old, and have been made blessed perfectly. Those among them who died childless shall have as their inheritors the immortal eulogies of Greece; and those of them who have left children behind them have bequeathed a trust of which their country's love will assume the guardianship. More than this,—if to die is to be as though we had never been, then these have passed away from sickness and pain and from all the accidents of the earthly life; or, if there is feeling in the under-world, and if, as we conjecture, the care of the Divine Power is over it, then it may well be that they who rendered aid to the worship of the gods in the hour of its imminent desolation are most precious to that Power's providence.[1]

Application to interests and emotional appeal. In the peroration of the speech of Lysias *Against Eratosthenes*

[1] *Attic Orators.* R. C. Jebb. Vol. II, pp. 392, 393.

an application of the case to interests of different parts of the audience leads to an emotional appeal.

I wish, before I go down, to recall a few things to the recollection of both parties, the party of the Town and the party of the Peiræus; in order that, in passing sentence, you may have before you as warnings the calamities which have come upon you through these men.

And you, first, of the Town — reflect that under their iron rule you were forced to wage with brothers, with sons, with citizens, a war of such a sort that, having been vanquished, you are the equals of the conquerors, whereas, had you conquered, you would have been the slaves of the Tyrants. They would have gained wealth for their own houses from the administration; you have impoverished yours in the war with one another; for they did not deign that you should thrive along with them, though they forced you to become odious in their company; such being their consummate arrogance that, instead of seeking to win your loyalty by giving you partnership in their prizes, they fancied themselves friendly if they allowed you a share of their dishonours. Now, therefore, that you are in security, take vengeance to the utmost of your power both for yourselves and for the men of the Peiræus; reflecting that these men, villains that they are, were your masters, but that now good men are your fellow-citizens,— your fellow-soldiers against the enemy, your fellow-counsellors in the interest of the State; remembering, too, those allies whom these men posted on the acropolis as sentinels over their despotism and your servitude. To you — though much more might be said — I say this much only.

But you of the Peiræus — think, in the first place, of your arms — think how, after fighting many a battle on foreign soil, you were stripped of those arms, not by the enemy, but by these men in time of peace; think, next, how you were warned by public criers from the city bequeathed to you by your fathers, and how your surrender was demanded by the

cities in which you were exiles. Resent these things as you resented them in banishment; and recollect, at the same time, the other evils that you have suffered at their hands;—how some were snatched out of the market-place or from temples and put to a violent death; how others were torn from children, parents, or wife, and forced to become their own murderers, nor allowed the common decencies of burial, by men who believed their own empire to be surer than the vengeance from on high.

And you, the remnant who escaped death, after perils in many places, after wanderings to many cities and expulsion from all, beggared of the necessaries of life, parted from children, left in a fatherland which was hostile or in the land of strangers, came through many obstacles to the Peiræus. Dangers many and great confronted you; but you proved yourselves brave men; you freed some, you restored others to their country.

Had you been unfortunate and missed those aims, you yourselves would now be exiles, in fear of suffering what you suffered before. Owing to the character of these men, neither temples nor altars, which even in the sight of evil-doers have a protecting virtue, would have availed you against wrong;—while those of your children who are here would have been enduring the outrages of these men, and those who are in a foreign land, in the absence of all succor, would, for the smallest debt, have been enslaved.

I do not wish, however, to speak of what might have been, seeing that what these men have done is beyond my power to tell; and, indeed, it is a task not for one accuser, or for two, but for a host.

Yet is my indignation perfect for the temples which these men bartered away or defiled by entering them; for the city which they humbled; for the arsenals which they dismantled; for the dead, whom you, since you could not rescue them alive, must vindicate in their death. And I think that they are listening to us, and will be aware of you when you give

your verdict, deeming that such as absolve these men have passed sentence upon *them*, and that such as exact retribution from these have taken vengeance in *their* names.

I will cease accusing. You have heard — seen — suffered: you have them: judge.[1]

Essentials of a good peroration. To make a good peroration a speaker must know when to stop and how to stop. To know how to stop depends on avoidance of statements not in the argument proper, clearness, brevity, and a skill which can provide some special attractiveness of phrasing or illustration.

When to stop. In any literary work to know when to stop is essential to mastery. Has the reader never heard a story-teller spoil his tale because after its climax he did not know when to stop, or, though evidently he felt that he had nothing more to say, did not know how to end? Has he never heard an after-dinner speech, which began well and was successful for some minutes, ultimately become unendurable because the speaker did not know when and how to stop? If a speaker has planned his case carefully for a definite audience, and as he speaks is in touch with it, he will know when to stop. Not knowing when to stop results from ignorance of correct principles of argumentation, wrong principles, or self-absorption. Comparison of the closing words of Æschines and Demosthenes *On the Crown* gives a striking example of the difference between a peroration in which the speaker knew when to stop and the opposite. "Æschines, not being a true artist, stands in awe of his art. He does not venture to be original and to stop at his real climax. He must needs conform with the artistic usage of a formal harmony; and he mars all.

[1] *Attic Orators.* R. C. Jebb. Vol. I, pp. 185–188.

Demosthenes, the master, can make his art obey him. With true instinct, he feels this to be the rare case which the rule does not fit. The emotions of his hearers have been stirred beyond the point of obedience to the pulses of an ordered music. His intense appeal to the memories of his countrymen ends in a storm of imprecation and of prayer."

This is the peroration of Æschines: —

Remember, then, that the city whose fate rests with you is no alien city, but your own. Give the prizes of ambition by merit, not by chance; reserve your rewards for those whose manhood is truer and whose characters are worthier; look at each other and judge, not only with your ears but with your eyes, who of your number are likely to support Demosthenes. His youthful companions in the chase or gymnasium? No, by the Olympian Zeus! He has not spent his life in hunting or in any healthful exercise, but in cultivating rhetoric to be used against men of property. Think of his boastfulness, when he claims, by his embassy, to have snatched Byzantium out of the hands of Philip, to have thrown the Acarnanians into revolt, to have astonished the Thebans with his harangue! He thinks that you have reached a point of fatuity at which you can be made to believe even this — as if your fellow-citizen were the Goddess of Persuasion, instead of a pettifogging mortal. And when, at the end of his speech, he calls as his advocates those who shared his bribes, imagine that you see on this platform, where I now speak before you, an array drawn up to confront their profligacy — the benefactors of Athens; Solon, who ordered the democracy by his glorious laws, the philosopher, the good legislator, entreating you, with that gravity which so well became him, never to set the rhetoric of Demosthenes above your oaths and above the law; Aristeides, — who assessed the tribute of the Confederacy, and whose daughters, after his death, were dowered by the

State, — indignant at the contumely threatened to Justice, and asking, *Are you not ashamed? When Arthmios of Zeleia brought Persian gold to Greece, and visited Athens, our fathers well-nigh put him to death, though he was our public guest, and proclaimed him expelled from Athens, and from all territory that the Athenians rule; while Demosthenes, who has not brought us Persian gold, but has taken bribes for himself, and has kept them to this day, is about to receive a golden wreath from you!* And Themistocles, and they who died at Marathon and Platæa, ay, and the very graves of our forefathers — do you not think that they will utter a voice of lamentation, if he who covenants with barbarians to work against Greece shall be — crowned?

"This was the true climax. But Æschines felt the presence of the Attic rule. He must not *end* thus. The storm must be laid in a final harmony. And so he passed on to the most tremendous failure that ever followed so close upon a triumph": —

O Earth and Sunlight! O ye influences of Goodness, of Intelligence, of that Culture by which we learn to distinguish things beautiful or shameful — *I* have done my duty, I have finished. If the part of the accuser has been performed well and adequately to the offense, then I have spoken as I wished, — if defectively, yet I have spoken as I could. Judge for yourselves from what has been spoken or from what has been left unsaid, and give your sentence in accordance with justice and with the interests of Athens.[1]

This is the peroration of Demosthenes: —

Here is the proof. Not when my extradition was demanded, not when they sought to arraign me before the Amphictyonic Council, not for all their menaces or their offers, not when they set these villains like wild beasts upon me, have I ever

[1] *Attic Orators*. R. C. Jebb. pp. 406–408. Macmillan & Co. 1893.

been untrue to the loyalty I bear you. From the outset, I chose the path of a straightforward and righteous statesmanship, to cherish the dignities, the prerogatives, the glories of my country: to exalt them: to stand by their cause. I do not go about the market-place radiant with joy at my country's disasters, holding out my hand and telling my good news to any one who, I think, is likely to report it in Macedon; I do not hear of my country's successes with a shudder and a groan, and a head bent to earth, like the bad men who pull Athens to pieces, as if, in so doing, they were not tearing their own reputations to shreds, who turn their faces to foreign lands, and, when an alien has triumphed by the ruin of the Greeks, give their praises to that exploit, and vow that vigilance must be used to render that triumph eternal.

Never, Powers of Heaven, may any brow of the Immortals be bent in approval of that prayer! Rather, if it may be, breathe even into these men a better mind and heart; but if so it is that to these can come no healing, then grant that these, and these alone, may perish utterly and early on land and on the deep: and to us, the remnant, send the swiftest deliverance from the terrors gathered above our heads, send us the salvation that stands fast perpetually.

"Two thousand years have challenged a tradition which lives, and will always live, wherever there is left a sense for the grandest music which an exquisite language could yield to a sublime enthusiasm — that, when Demosthenes ceased, those who had come from all parts of Greece to hear, that day, the epitaph of the freedom which they had lost, and a defence of the honour which they could still leave to their children, had listened to the masterpiece of the old world's oratory, perhaps to the supreme achievement of human eloquence."[1]

[1] *Attic Orators.* R. C. Jebb. Vol. II, pp. 416–418. Macmillan & Co 1893.

How to stop. When failure to stop at the right point may not be assigned to one or more of the three causes named on p. 350 it comes, not because a speaker does not recognize that he should stop, but because he does not know how to close his work effectively, and bunglingly tries one device after another.

1. Avoidance of statements not in argument itself. Two errors which sometimes appear in recapitulations should be studiously avoided — particularly in extemporaneous work or when speaking from slight notes. First, a speaker, in summing up his case, brings in new arguments. He notices, as he draws his case to a close that, through forgetfulness, either because of hasty work or a tendency of mind, one or two arguments he meant to use have not been treated. He tucks them in, therefore, at the last minute. Doubtless, if they are needed, it is better for the speaker to state them than to lose them, but by putting them into the peroration he spoils the finish of his work and lays himself open to a suspicion of careless workmanship throughout his speech. This suspicion may make hearers hesitate to trust his work as a whole. For the writer who has time to prepare his work such patching up of a poor job at its end is inexcusable. Any need for such patching shows that the argument is incomplete. The need should be met by the insertion of the proof in question at its proper place in the forensic or speech.

Secondly, the writer or speaker may refer to matters as proved which have not been treated at all. This usually happens through inadvertence. If intentional, it is unpardonable. In any case such a method weakens the work, for a reader will adjudge the writer or speaker careless or untrustworthy, and either judgment is undesirable.

2. Clearness. Above all, let a peroration be clear. Avoid any confusion in stating what has been proved true or false. Do not jumble the order of the parts of the work in renaming them. Do not refer vaguely to what has been proved, as does this peroration, especially in the words "his own theory of criticism."

I have now shown that Mr. Howells is not justified in his criticism of Balzac because he has failed to measure and explain him on his own theory of criticism and also because his criterion does not recognize the ideal in art, the "principle of subordination by which to assign rank to the diverse productions of art."

What a speaker endeavors in his peroration to give his hearer may be compared to a map of the country through which the latter has traveled, with red lines under the places that should be particularly remembered; or a formula so simple and so carefully emphasized that it and its signification must indelibly impress themselves on a hearer's mind. Therefore, summarize with the detail requisite to this end, but avoid a multiplicity of details that merely bewilders.[1] Above all, then, a peroration must be clear — in thought, in construction, and in phrasing.[2]

3. Brevity. With college students as yet untrained in argumentation a favorite ending for a forensic is: "Here, then, are my arguments. I think, therefore, that I have proved my case." This is given without any recapitulation of the arguments stated in the forensic. Such work is too much like that of an old minister who always preached just an hour, with his watch lying open before him.

[1] For this dangerous multiplicity of detail see the peroration of Sir P. Sidney, p. 357.

[2] For good perorations see pp. 345, 347, 348, 352–353.

When he saw the hour was past, no matter where he happened to be in his discourse, he broke off, saying: "Brethren, the hour is up. Let us pray."[1] What must have been the final impression left by these edifying discourses! There is such a thing, then, as too great brevity in a peroration, but a student should aim to accomplish, as briefly as he can, those portions of the possible work of a peroration which the conditions of his subject seem to demand. A clear, forcible, final impression is what he is trying to leave, and a lengthy peroration — i.e. one containing many new matters for thought or long involved statements of what has been shown to be true — is liable to defeat its own end.

The fact that the conditions under which the speech is given must determine the length of the peroration is well illustrated by the end of Oliver Cromwell's speech in dissolving the First Protectorate Parliament.

> I have troubled you with a long speech; and I believe it may not have the same resentment with all that it hath with some. But because that is unknown to me, I shall leave it to God; — and conclude with this: That I think myself bound, as in my duty to God, and to the People of these Nations for their safety and good in every respect, — I think it my duty to tell you that it is not for the profit of these Nations, nor for common and public good, for you to continue here any longer. And therefore I do declare unto you, That I do dissolve this Parliament.[2]

In itself this seems abrupt, but if a reader studies the speech itself, he will see that the peroration is fitting. It emphasizes, by its neglect of any careful summary of the

[1] *The Theory of Preaching.* Phelps. p. 522. C. Scribner's Sons. 1893.
[2] *Political Orations.* Camelot Series. p. 39.

arguments, any application of them to the audience, any elaborate appeal to the emotions, Cromwell's contempt for his hearers, his determination to carry things with a high hand, and his belief that he was acting as a divine agent. On the other hand, the length and the detail of Sir Philip Sidney's final summary in *The Defense of Poesy* defeats the very end for which the peroration exists — to leave a clear and forcible final impression on the reader: —

So that since the ever praiseworthy poesy is full of virtue-breeding delightfulness, and void of no gift that ought to be in the noble name of learning; since the blames laid against it are either false or feeble; since the cause why it is not esteemed in England is the fault of poet-apes, not poets; since, lastly, our tongue is most fit to honor poesy, and to be honored by poesy; I conjure you all that have had the evil luck to read this ink-wasting toy of mine, even in the name of the Nine Muses, no more to scorn the sacred mysteries of poesy; no more to laugh at the name of poets, as though they were next inheritors to fools; no more to jest at the reverend title of "a rimer"; but to believe, with Aristotle, that they were the ancient treasurers of the Grecians' divinity; to believe, with Bembus, that they were the first bringers-in of all civility; to believe, with Scaliger, that no philosopher's precepts can sooner make you an honest man than the reading of Virgil; to believe, with Clauserus, the translator of Cornutus, that it pleased the Heavenly Deity by Hesiod and Homer, under the veil of fables, to give us all knowledge, logic, rhetoric, philosophy natural and moral, and *quid non?* to believe, with me, that there are many mysteries contained in poetry, which of purpose were written darkly, lest by profane wits it should be abused; to believe, with Landino, that they are so beloved of the gods, that whatsoever they write proceeds of a divine fury; lastly, to believe themselves, when they tell you they will make you immortal by their verses.

Thus doing, you shall be most fair, most rich, most wise, most all; you shall dwell upon superlatives. Thus doing, though you be *libertino patre natus*, you shall suddenly grow *Herculea proles, si quid mea carmina possunt.* Thus doing, your soul shall be placed with Dante's Beatrice or Virgil's Anchises.

But if — fie of such a but! — you be born so near the dull-making cataract of Nilus, that you cannot hear the planet-like music of poetry; if you have so earth-creeping a mind that it cannot lift itself up to look to the sky of poetry, or rather, by a certain rustical disdain will become such a mome as to be a Momus of poetry; then, though I will not wish unto you the ass's ears of Midas, nor to be driven by a poet's verses, as Bubonax was, to hang himself, nor to be rimed to death, as is said to be done in Ireland; yet thus much curse I must send you on the behalf of all poets: — that while you live you live in love, and never get favor for lacking skill of a sonnet; and when you die, your memory die from the earth for want of an epitaph.[1]

4. Ease. A peroration which does not end abruptly and which avoids spread-eagle oratory will, to at least a slight degree, possess another desirable quality in perorations, — ease. Moreover, when the summary must be only a final repetition of ideas often stated as the argument has developed, it will give desirable ease to vary its phrasing. Whether the elegance which grace of thought and of style may give should be sought for in a peroration evidently depends on the relation of speaker and audience to the subject. As was noted in treating persuasion, p. 298, there are cases in which elegance may create a suspicion of the speaker's sincerity, because it makes him seem more interested in manner than in matter, but, on the other hand,

[1] *Defense of Poesy.* Sir P. Sidney. A. S. Cook, ed. pp. 57–58. Ginn & Company. 1890.

elegance throughout the address is expected from Phi Beta Kappa and Commencement orators. The illustration which at once occurs to any student of American oratory is the oratory of George William Curtis. The elegance of his thought and style made a chief part of the enjoyment his work gave. Through consideration of the principles of persuasion, then, a student may best decide whether he should give a particular peroration more than the rudimentary ease which comes from avoidance of abruptness and bombast and from freshness of phrase.

Four rhetorical essentials in argumentation. A student should never forget that though an argument is, in a sense, but an expansion of his brief, it is not any kind of expansion, but an expansion fitted to the needs and the interests of a particular audience or group of readers. All that can prevent a student who understands the principles of evidence and refutation from developing a good brief into a good argument is laziness, or inability to phrase clearly and forcibly and to give movement and literary finish to his work. But few students recognize the essentiality of movement in argument, that is, grasping and emphasizing one's work so that the drift and the purpose not only of the whole but of each division are clear as it develops. Practically no beginner sees the great importance of literary finish. Yet argumentation is not a mere working out of logical processes apart from rhetoric: it is a form of exposition which demands, as much as any other, skilled rhetorical treatment.

1. Avoidance of formalism and rigidity. The task of him who argues is to "make the option between two hypotheses forced, living, and momentous." Consequently, the work must above all be interesting, and nothing more destroys

interest than a rigid and formal treatment. For instance, the relation of the brief to the forensic should be that of the scaffolding to the completed building. The scaffolding must precede, of course, but entirely disappears when the structure is completed. Doubtless a skilled worker in argument may discern the brief which underlies a finished argument, just as a competent builder can tell what kind of scaffolding must have preceded a building, but the brief should not protrude in the forensic. Yet, with beginners, forensics are too often but mere repetitions of the brief, with all their bareness of phrasing and even their lettering and numbering. Or, though letters and numbers have disappeared, the restatement of the brief is so bald that none of its rigidity is lost. Beginners do not understand, also, that the rule given for the argumentative part of the brief, that the proposition should always precede the proof, does not hold rigidly for the forensic. Such rigidity is necessary in the brief in order that any one examining it may, with least time and trouble, see just what is proved, and how; but what was said on p. 312 as to the occasional desirability of withholding from an audience at the outset the exact purpose or conclusion of a speaker may apply equally to the conclusion involved in any division of his case. If, therefore, anything is likely to be gained by leading up step by step to a proposition that is revealed only as the speaker turns into a new paragraph or division of his work, the order of proof proposition may be used in the forensic. What determines the better order in any given case is, of course, the relation of audience to speaker and subject. Sometimes, too, even a student who has got rid of the hardness of the brief style, wishing to save labor, refers from his forensic to evidence which he has given

fully in his brief. He should remember that brief and argument are distinct, even if related, pieces of work. The formal processes by which the thought is made effective are not what interests a reader, but the thought itself. To forget this, showing each formal step as it is made, not only produces repellent rigidity, but may make the writer ridiculous. Sixty years ago there was a French Huguenot preacher in New York who modeled his sermons exactly after the pattern laid down in Claude's *Essay on Preaching*. Usually he preached in French, but when he resorted to English the effect was irresistible. He not only built his discourse upon a set plan, but was careful to have the fact known and appreciated. To that end, he announced in turn each of its divisions. "Now we have de oration," he would say gravely; and then "Now we have de peroration." His masterpiece of effectiveness was exhibited when, with a befittingly solemn face, he gave out the thrilling announcement, "And now, my friends, we come to de pa-tet-ic."

On the other hand, when it is clear that the development of a subject, because of its technicality, its length, or intentional confusion by an opponent, will be hard to follow, it is sometimes wise to give at the end of the introduction a rapid outline of the case or of the treatment planned. Such an outline of the country to be traversed will keep the way clear as the reader moves. It may even be indispensable in showing that a different ordering of the ideas which a writer wishes to use is justifiable. Mansfield uses an outline at the beginning of his speech in behalf of Allan Evans both to clarify a case which willfully had been much confused and to serve as a guide to his hearers.

In every view in which I have been able to consider this matter, I think this action cannot be supported.

If they rely on the Corporation Act; by the literal and express provision of that act, no person can be elected who hath not within a year taken the sacrament in the Church of England. The defendant hath not taken the sacrament within a year; he is not, therefore, elected. Here they fail.

If they ground it on the general design of the Legislature in passing the Corporation Act; the design was to exclude Dissenters from office, and disable them from serving. For, in those times, when a spirit of intolerance prevailed, and severe measures were pursued, the Dissenters were reputed and treated as persons ill-affected and dangerous to the government. The defendant, therefore, a Dissenter, and in the eye of this law a person dangerous and ill-affected, is excluded from office, and disabled from serving. Here they fail.

If they ground the action on their own by-law; that by-law was professedly made to procure fit and able persons to serve the office, and the defendant is not fit and able, being expressly disabled by statute law. Here, too, they fail.

If they ground it on his disability's being owing to a neglect of taking the sacrament at church, when he ought to have done it, the Toleration Act having freed the Dissenters from all obligation to take the sacrament at church, the defendant is guilty of no neglect — no *criminal* neglect. Here, therefore, they fail.[1]

There are, of course, instances in which the intricacy of a case or its essentially formal character justify placing numerals or letters before each division, but it is to be noted that these are the exception, and that the formal markings are used, not to repeat the brief, but as a last necessary touch in producing perfect clearness in the forensic. The essential distinction here is that formalism

[1] *Defense of Allan Evans.* pp. 24–25. *Specimens of Argumentation.*

for its own sake is bad, but used occasionally, apart from the brief, as an indispensable means to clearness is even desirable.

2. Clearness. "Does this method or phrase conduce to clearness?" is evidently one of the tests by which a student of argumentation may guide himself. First of all, he should fit his phrasing of his subject to the knowledge of it possessed by his audience. If he be a specialist addressing specialists he may write as follows:—

At Salem Neck the excursion will visit the outcrops of Essexite, a petrographic type of great importance, which is here cut by younger masses of augite and elæolite syenite. These rocks are traversed by a series of gabbro dikes and by a still younger series of tinguaites which cut all the older formations. Thence proceeding to Marblehead Neck, granitite will be seen intrusive through the Cambrian rocks, the keratophite sheet overlaying the old rhyolites, and finally the more recent quartz porphyry dikes.

If, however, he is addressing any audience of people less well informed than himself, he must never forget that the answer to the question, "How concrete must I be at this point?" lies, not in what is clear to him or in what he thinks ought to be clear to his audience, but in what he can ascertain that they know on the particular matter. If he does not keep this distinction in mind he will fall into the obscurity which often makes the work of the specialist too difficult for the general public. The words of Sir Kenelm Digby should be a constant warning to him.

"For besides what faylings may be in the matter, I cannot doubt but that even in the expressions of it, there must often be great obscurity and shortnesse; which, I, who have my thoughts filled with the things themselves,

am not aware of. So that, what peradventure may seem very full to me, because every imperfect touch bringeth into my mind the entire notion and the whole chain of circumstances belonging to that thing I have so often beaten upon, may appear very crude and maymed to a stranger, that cannot guesse what I would be at, otherwise than as my direct words do lead him." [1]

Concreteness. Especially in presenting evidence, work concretely. Avoid generalizations not based on illustrations immediately preceding or following. Avoid, too, abstract statements not promptly made concrete. A student of argumentation should carefully consider all the rhetorical devices which make for clearness, — illustration, description, narration, epigram, characterization, metaphor, and simile. Huxley was not content to state abstractly the three possible theories of creation, but paused to illustrate concretely the supposed working of each.[2] Macaulay carefully followed up the generalizing of the first three sentences of the following extract with numerous and varied instances which justify his statements.

The deficiency of the natural demand for literature was, at the close of the seventeenth and at the beginning of the eighteenth century, more than made up by artificial encouragement, by a vast system of bounties and premiums. There was, perhaps, never a time at which the rewards of literary merit were so splendid, at which men who could write well found such easy admittance into the most distinguished society, and to the highest honors of the State. The chiefs of both the great parties into which the kingdom was divided

[1] Quoted in *Literary Essays*. J. R. Lowell. Vol. I, p. vi. Houghton, Mifflin & Co. 1890.

[2] *Specimens of Argumentation*. pp. 64–69.

patronized literature with emulous munificence. Congreve, when he had scarcely attained his majority, was rewarded for his first comedy with places which made him independent for life. Smith, though his *Hippolytus* and *Phædra* failed, would have been consoled with three hundred a year but for his own folly. Rowe was not only poet-laureate, but also land surveyor of the customs in the port of London, clerk of the council to the Prince of Wales, and secretary of the Presentations to the Lord Chancellor. Hughes was secretary to the Commissions of the Peace. Ambrose Philips was Judge of the Prerogative Court in Ireland. Locke was Commissioner of Appeals and of the Board of Trade. Newton was Master of the Mint. Stepney and Prior were employed in embassies of high dignity and importance. Gay, who commenced life as an apprentice to a silk mercer, became a secretary of legation at five-and-twenty. It was to a poem on the Death of Charles the Second, and to the City and Country Mouse, that Montague owed his introduction into public life, his earldom, his garter, and his auditorship of the exchequer. Swift, but for the unconquerable prejudice of the queen, would have been a bishop. Oxford, with his white staff in his hand, passed through the crowd of his suitors to welcome Parnell, when that ingenious writer deserted the Whigs. Steele was a commissioner of stamps and a member of Parliament. Arthur Mainwaring was a commissioner of the customs, and auditor of the imprest. Tickell was secretary to the Lords Justices of Ireland. Addison was Secretary of State.[1]

Illustration. R. L. Stevenson, early in his stinging reply to Dr. Hyde's attack on Father Damien, Roman Catholic missionary among the lepers, by illustration made clear his point that everyday honor should have restrained Dr. Hyde.

[1] *Essays on Croker's Boswell's Johnson.* pp. 353, 354. H. Holt & Co. 1893.

Common honour; not the honour of having done anything right, but the honour of not having done aught conspicuously foul; the honour of the inert; that was what remained to you. . . . But will a gentleman of your reverend profession allow me an example from the fields of gallantry? When two gentlemen compete for the favour of a lady, and the one succeeds and the other is rejected, and (as will sometimes happen) matter damaging to the successful rival's credit reaches the ear of the defeated, it is held by plain men of no pretensions that his mouth is, in the circumstance, almost necessarily closed. Your church and Damien's were in Hawaii upon a rivalry to do well: to help, to edify, to set divine examples. You having (in one huge instance) failed, and Damien succeeded, I marvel it should not have occurred to you that you were doomed to silence; that when you had been outstripped in that high rivalry and sat ingloriously in the midst of your well-being, in your pleasant room — and Damien, crowned with glories and honours, toiled and rotted in that pigstye of his under the cliffs of Kalawao — you, the elect who would not, were the last man on earth to collect and propagate gossip on the volunteer who would and did.[1]

Description. H. W. Grady in his famous after-dinner speech on *The New South* used description as one means of making clear the growth of the South.

Dr. Talmage has drawn for you, with a master hand, the picture of your returning armies. He has told you how, in the pomp and circumstance of war, they came back to you, marching with proud and victorious tread, reading their glory in a nation's eyes! Will you bear with me while I tell you of another army that sought its home at the close of the late war? An army that marched home in defeat and not in victory — in pathos and not in splendor, but in glory that

[1] *Father Damien.* R. L. Stevenson. pp. 11–12. Chatto & Windus. 1880.

equaled yours, and to hearts as loving as ever welcomed heroes home. Let me picture to you the footsore Confederate soldier, as, buttoning up in his faded gray jacket the parole which was to bear testimony to his children of his fidelity and faith, he turned his face southward from Appomattox in April, 1865. Think of him as ragged, half-starved, heavy-hearted, enfeebled by want and wounds; having fought to exhaustion, he surrenders his gun, wrings the hands of his comrades in silence, and, lifting his tear-stained and pallid face for the last time to the graves that dot the old Virginia hills, pulls his gray cap over his brow and begins the slow and painful journey. What does he find?—let me ask you who went to your homes eager to find, in the welcome you had justly earned, full payment for four years' sacrifice—what does he find when, having followed the battle-stained cross against overwhelming odds, dreading death not half so much as surrender, he reaches the home he left so prosperous and beautiful? He finds his house in ruins, his farm devastated, his slaves free, his stock killed, his barn empty, his trade destroyed, his money worthless; his social system, feudal in its magnificence, swept away; his people without law or legal status; his comrades slain, and the burdens of others heavy on his shoulders. Crushed by defeat, his very traditions gone; without money, credit, employment, material training; and besides all this, confronted with the gravest problem that ever met human intelligence—the establishing of a status for the vast body of his liberated slaves.

What does he do—this hero in gray, with a heart of gold? Does he sit down in sullenness and despair? Not for a day. Surely God, who had stripped him of his prosperity, inspired him in his adversity. As ruin was never before so overwhelming, never was restoration swifter. The soldier stepped from the trenches into the furrow; horses that had charged Federal guns marched before the plow, and the fields that ran red with human blood in April were green with the harvest in June; women reared in luxury cut up their dresses and made

breeches for their husbands, and, with a patience and heroism that fit women always as a garment, gave their hands to work. There was little bitterness in all this. Cheerfulness and frankness prevailed.[1]

Narrative. A dramatic bit of narrative makes the very heart of Sherman Hoar's *American Courage.*

The particular example I desire to speak about is of that splendid quality of courage which dares everything not for self or country, but for an enemy. It is of that kind which is called into existence not by dreams of glory, or by love of land, but by the highest human desire; the desire to mitigate suffering in those who are against us.

In the afternoon of the day after the battle of Fredericksburg, General Kershaw of the Confederate army was sitting in his quarters when suddenly a young South Carolinian named Kirkland entered, and, after the usual salutations, said: "General, I can't stand this." The general, thinking the statement a little abrupt, asked what it was he could not stand, and Kirkland replied: "Those poor fellows out yonder have been crying for water all day, and I have come to you to ask if I may go and give them some." The "poor fellows" were Union soldiers who lay wounded between the Union and Confederate lines. To get to them Kirkland must go beyond the protection of the breastworks and expose himself to a fire from the Union sharpshooters, who, so far during that day, had made the raising above the Confederate works of so much as a head an act of extreme danger. General Kershaw at first refused to allow Kirkland to go on his errand, but at last, as the lad persisted in his request, declined to forbid him, leaving the responsibility for the action with the boy himself. Kirkland, in perfect delight, rushed from the general's quarters to the front, where he gathered all the canteens he could carry, filled them with water, and going over the breastworks,

[1] *Modern American Oratory.* R. C. Ringwalt. pp. 283–284. H. Holt & Co.

started to give relief to his wounded enemies. No sooner was he in the open field than our sharpshooters, supposing he was going to plunder their comrades, began to fire at him. For some minutes he went about doing good under circumstances of most imminent personal danger. Soon, however, those to whom he was taking the water recognized the character of his undertaking. All over the field men sat up and called to him, and those too hurt to raise themselves, held up their hands and beckoned to him. Soon our sharpshooters, who luckily had not hit him, saw that he was indeed an Angel of Mercy and stopped their fire, and two armies looked with admiration at the young man's pluck and loving kindness. With a beautiful tenderness, Kirkland went about his work, giving of the water to all, and here and there placing a knapsack pillow under some poor wounded fellow's head, or putting in a more comfortable position some shattered leg or arm. Then he went back to his own lines and the fighting went on. Tell me of a more exalted example of personal courage and self-denial than that of that Confederate soldier, or one which more clearly deserves the name of Christian fortitude.[1]

Characterization and epigram. Disraeli, speaking *On the Berlin Congress*, drove home the contrast between his own ministry and the leader of the opposition with characterization so telling that it instantly became famous as a hostile portrait of Gladstone.

I would put this issue to an English jury — Which do you believe most likely to enter into an insane Convention, a body of English gentlemen, honoured by the favour and the confidence of their fellow-subjects, managing your affairs for five years, I hope with prudence and not altogether without success, or a sophisticated rhetorician, inebriated with the

[1] *Modern Reader and Speaker.* G. Riddle. pp. 145–146. H. S. Stone & Co. 1900.

exuberance of his own verbosity, and gifted with an egotistical imagination that can at all times command an interminable and inconsistent series of arguments to malign an opponent and to glorify himself?[1]

He who wishes to characterize effectively must not forget the epigram. Nothing ever said of Colley Cibber and his famous *Apology* bettered Henry Fielding's remark that Colley "lived his life in order to have an opportunity of apologizing for it." An old quatrain gives the essentials of a good epigram: —

> The qualities rare in a bee that we meet
> In an epigram never should fail;
> The body should always be little and sweet,
> And a sting should be left in its tail.

It should be remembered, too, that the epigram is best cultivated not as an end in itself, but as a means to clearness, for the cult of the epigram recently has brought it into some disrepute.

Metaphor and simile. Perhaps the most famous recent effect gained from metaphor is Mr. Bryan's close to his speech at the Democratic National Convention in 1896.

If they dare come out in the open field and defend the gold standard as a good thing, we will fight them to the uttermost. Having behind us the producing masses of this nation and the world, supported by the commercial interests, the laboring interests, and the toilers everywhere, we will answer their demand for a gold standard by saying to them: You shall not press down upon the brow of labor this crown of thorns; you shall not crucify mankind upon a cross of gold.[2]

[1] *Modern Political Orations.* L. Wagner. p. 188. H. Holt & Co. 1896.

[2] *The First Battle.* W. J. Bryan. pp. 199–206. W. B. Conkey Co.

A brilliant simile in the following from Froude on Cardinal Wolsey not only saves detailed comment, but seems the final word on its subject.

Cardinal Wolsey wrote that if he "could only see the divorce arranged, the King remarried, the succession settled, and the laws and the manners and customs of the country reformed, he would retire from the world and would serve God the remainder of his days." To these few trifles he would be contented to confine himself — only to these; he was past sixty, he was weary of the world, and his health was breaking, and he would limit his hopes to the execution of a work for which centuries imperfectly sufficed. It seemed as if he measured his stature by the lengthening shadow, as his sun made haste to its setting.[1]

These devices not necessarily proof. Use of these various devices not only gives clearness, it lends variety, vividness, and interest to the argument. Yet in using all these various devices, a student should bear in mind what J. R. Lowell said of the metaphor. "A metaphor is no argument, though it be sometimes the gunpowder to drive one home and imbed it in the memory." Illustration, description, narration, characterization, epigram, metaphor, and simile, all give clarity: to go a step farther and prove anything true, they must first undergo successfully the tests of good evidence.

Emphasis. A great aid to clearness, namely proper emphasis — keeping before a reader what you wish him to grant or to remember — also helps to force and movement. Emphasis is, however, far too often neglected by beginners in argumentation. The fact is, good emphasis is indispensable in correct argumentation, for of course the

[1] *History of England.* J. A. Froude. Vol. I, p. 141.

whole analytical process of separating what is essential in a case from what is extraneous is a study of emphasis by selection, and when a student, in preparing his brief, considers whether an idea should be made a heading or a subheading, and how he must arrange his ideas in order to obtain climax, he again studies emphasis, for what is given a main position or is placed as final in climax is emphasized. Indeed, the emphasis which comes from the position given many ideas is largely settled in the brief. Rhetoric, however, may still do much for emphasis in the forensic both by the position given details and by phrasing in general, for any college student knows that whether an idea is placed at the beginning, in the middle, or at the end of a sentence or paragraph affects emphasis, and that the very phrasing of the thought may make it insignificant or memorable.

The first point to remember is that proper emphasis should permeate all parts of the forensic — that due emphasis of the whole can come only through correct emphasis in divisions, paragraphs, and sentences. All that was said of the importance of emphasis in refutation[1] applies equally to the handling of one's own case. Constantly beginners in argumentation who produce good evidence forget to make clear at the beginning of a division just the point on which the evidence bears, or fail to keep clear during their development of the division the effect on this point of the evidence presented, or pass swiftly from the evidence to a new subheading, letting a reader decide for himself the total accomplishment of the division or paragraph. Instead, they should drive home what the division has accomplished as to the idea central in it and,

[1] See pp. 175–180.

also, what this central idea has done toward proving true the main proposition. Too often a reader is left at the end of a division feeling that evidently he should be convinced as to something, but he cannot see exactly what. Of course, all the aids to clearness already considered — description, narration, illustration, epigram, characterization, metaphor, and simile — may also be used to give emphasis, but in addition iteration and summarizing are great helps to emphasis, and consequently to clearness, force, and movement. Indeed, iteration is one of the commonest devices for gaining emphasis.[1] Its value was fully recognized even early in Greek oratory. "A striking trait of Isæus [420–350 B.C.] in the province of argument is iteration; and the preference of emphasis to form which this implies is worth notice as suggesting how the practical view of oratory was beginning to prevail over the artistic. Sometimes the repetition is verbal — an indignant question or phrase occurs again and again, where Isocrates would have abstained from using it twice. More often it is an argument or a statement which the speaker aims at impressing on the hearers by urging it in a series of different forms and connections. Or even a document, cited at the outset, is read a second time, as if to make the jury realize more vividly that a circle of proof has been completed."[2]

At the end of a long, involved, or technical division of an argument a writer may well give a succinct outline of its content which shall leave a reader clear as to the work it has accomplished. The essentials of a good summary

[1] For iteration see the first two sentences of the extract from Stevenson's *Father Damien*, given on p. 366.

[2] *Attic Orators*. Jebb. Vol. II, p. 297. Macmillan & Co.

are: to include every important point made; to show clearly their relations to one another; to give each its due emphasis; to provide one or more, as circumstances require, with persuasive significance; and to leave perfectly clear the meaning and the purposes of the ideas taken as a group. Moreover, if one uses summaries freely throughout a forensic, it is well to vary their form: otherwise the constant repetition may produce not only monotony, but undesirable formality of effect.

Here is the summary — entirely without attempt at persuasion — with which Justice Harlan closed the second part of his argument before the Behring Sea Tribunal in 1893: —

If I am correct in the views above expressed, the answers to the first four points of Article VI should be, substantially, as follows:

To the first. — Prior to and up to the time of the cession of Alaska to the United States, Russia did not assert nor exercise any exclusive jurisdiction in Behring Sea, or any exclusive rights in the fur seal fisheries in that sea, *outside of ordinary territorial waters*, except that in the Ukase of 1821 she did assert the right to prevent foreign vessels from approaching nearer than 100 Italian miles the coasts and islands named in that Ukase. But, pending the negotiations to which that Ukase gave rise, Russia voluntarily suspended its execution, so far as to direct its officers to restrict their surveillance of foreign vessels to the distance of cannon shot from the shores mentioned, and by the treaty of 1824 with the United States, as well as by that of 1825 with Great Britain, the above Ukase was withdrawn, and the claim of authority, or the power to prohibit foreign vessels from approaching the coasts nearer than 100 Italian miles was abandoned, by the agreement embodied in those treaties to the effect that the respective citizens and subjects of the high contracting parties should not

be troubled or molested, in any part of the Great Ocean commonly called the Pacific Ocean, either in navigating the same or in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in other articles of those treaties.

To the second. — Great Britain never recognized nor conceded any claim by Russia of exclusive jurisdiction in Behring Sea, nor of exclusive rights as to the seal fisheries therein, outside of ordinary territorial waters; although she did recognize and concede Russia's exclusive jurisdiction within her own territory, and such jurisdiction inside of territorial waters as was consistent with the law of nations.

To the third. — The body of water now known as Behring Sea was included in the phrase "Pacific Ocean" as used in the treaty of 1825 between Great Britain and Russia, and, after that treaty, Russia neither held nor exercised any rights in the waters of Behring Sea — outside of ordinary territorial waters — that did not belong in the same waters to other countries.

To the fourth. — All the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring Sea, east of the water boundary in the treaty between the United States and Russia of March 30, 1867, passed, under that treaty, unimpaired to the United States.[1]

This summary from W. H. Seward's speech in 1858, *On the Irrepressible Conflict*, shows, in contrast, strong feeling and persuasive appeal.

Such is the Democratic party. It has no policy, state or federal, for finance, or trade, or manufacture, or commerce, or education, or internal improvements, or for the protection or even the security of civil or religious liberty. It is positive and uncompromising in the interest of slavery, — negative,

[1] *Behring Sea Arbitration.* Harlan. pp. 110–111.

compromising, and vacillating in regard to everything else. It boasts its love of equality; and wastes its strength, and even its life, in fortifying the only aristocracy known in the land. It professes fraternity; and, so often as slavery requires, allies itself with proscription. It magnifies itself for conquests in foreign lands; but it sends the national eagle forth always with chains, and not the olive branch, in his fangs.

This dark record shows you, fellow citizens, what I was unwilling to announce at an earlier stage of this argument, that of the whole nefarious schedule of slaveholding designs which I have submitted to you, the Democratic party has left only one yet to be consummated — the abrogation of the law which forbids the African slave trade.[1]

Edmund Burke was a master of the summary, as study of its frequent use in his speech *On Conciliation with the American Colonies* will show. Here are two striking instances of his use of the summary: —

Then sir, from these six capital sources: of descent; of form of government; of religion in the northern provinces; of manners in the southern; of education; of the remoteness of situation from the first mover of government, — from all these causes a fierce spirit of liberty has grown up. It has grown with the growth of the people in your colonies, and increased with the increase of their wealth; a spirit that, unhappily, meeting with an exercise of power in England, which, however lawful, is not reconcilable to any ideas of liberty, much less with theirs, has kindled this flame that is ready to consume us.[2]

Sir, here is the repeated acknowledgment of parliament that the colonies not only gave, but gave to satiety. This nation has formally acknowledged two things; first, that the colonies

[1] *Orations and Arguments.* C. B. Bradley. pp. 308–309. Allyn & Bacon. 1894.

[2] *Political Orations.* Camelot Series. p. 72. W. Scott. London.

had gone beyond their abilities, parliament having thought it necessary to reimburse them; secondly, that they had acted legally and laudably in their grants of money, and their maintenance of troops, since the compensation is expressly given as reward and encouragement. Reward is not bestowed for acts that are unlawful; and encouragement is not held out to things that deserve reprehension. My resolution, therefore, does nothing more than collect into one proposition what is scattered through your journals. I give you nothing but your own; and you cannot refuse in the gross what you have so often acknowledged in detail. The admission of this, which will be so honorable to them and to you, will, indeed, be mortal to all the miserable stories by which the passions of the misguided people have been engaged in an unhappy system.[1]

3. Force. As has been seen, proper emphasis conduces to the third essential in the rhetorical presentation of argument — force. In handling evidence a student will find that four other suggestions will much increase its force.

First, when a witness who may be unknown is quoted, always explain why he has been selected. A reader should never be left in doubt as to the honesty, the intelligence, the competence, or even the authoritativeness of a witness. College students often quote evidence — valuable only if it come from reliable sources — from books or articles whose writers are not known to their readers. If the students know why the witnesses are trustworthy they should share the information with their readers as they cite the testimony. As was the case with the argument from authority (see pp. 67–68), here, too, the evidence must not be used for the value it seems to the writer to have, but for the value he can give it with his audience. He should always remember that in using evidence he is

[1] *Idem.* p. 99.

likely to start two questions: not merely, "What does your evidence show?" but also, "What value have your sources of information?" Professor Dicey, with this fact in mind, in his review of the verdict of the Parnell Commission showed carefully why he thought all readers should trust the judges: —

Of the honesty of the three judges, of their intentional fairness, of their unblemished character, of their judicial capacity, it is needless to say anything. Their special qualifications for the discharge of a most arduous task are on all hands admitted. The means possessed by them for ascertaining the truth were, strictly speaking, unparalleled; these means were such as never have been, and probably never again will be, possessed by any other men, whether politicians or magistrates. Sir James Hannen and his colleagues saw and heard all the witnesses whom the foes or the defenders of the League chose to produce; all the evidence brought forward was given on oath, it was subjected to the test of the most rigorous cross-examination, it was sifted with the utmost care without any regard to the expenditure either of time or of labor; the lawyers employed on either side were the picked men of the legal profession in England and in Ireland. No one's mouth was closed. The one circumstance which is supposed to detract from the fairness of our criminal procedure — the compulsory silence of the accused — was from the peculiar nature of the investigation got rid of. Every respondent was at liberty to appear and make whatever statement he chose in defence of himself or of the association of which he was a member. The appearance of some and the non-appearance of others among the Parnellites incriminated were equally instructive. The non-production of proof may be at least as suggestive as its production; silence may tell more than speech. Of the amount of the evidence brought before the Commission Court some faint conception may be formed by remembering that over 450

witnesses were examined, that the proceedings in court lasted for 128 days, and that the official account of them fills a "Blue-book" of eleven huge volumes, making up 7227 pages. During a much longer period, moreover, than the 128 days of the inquiry the effect of the evidence was before the minds of the judges. They did not deliver any hasty decision; months elapsed between the closing of the investigation and the sending in of their Report. If the account given by such men of the inferences to be drawn from such an inquiry is not to be treated as trustworthy and true, it is hard to say what is the evidence on which any man can venture to rely.[1]

Secondly, in handling evidence remember always that when opposing testimony or reasoning has been or is sure to be cited against yours, you cannot merely state your opinion of your evidence, but must relate it to the opposing evidence, showing clearly why it is more trustworthy either *per se* or because of the superior nature of the sources from which it is derived.[2]

Thirdly, do not forget that it is not enough to know how to distinguish good evidence from bad: one must be able to separate good from mediocre, best from better. Some of the evidence which accumulates when one is preparing to argue any case is not by itself conclusive. Other bits which taken alone are not conclusive become so when combined with two or three others of no more value in themselves. There will, too, be some evidence which, though not bad, may be excluded by a worker because he has other material which is more convincing.

[1] *The Verdict.* A. V. Dicey. pp. 3–4. Cassell & Co. 1890.

[2] This principle is fully illustrated by the extract from J. C. Collins's article on *Swift's Relationship to Stella*, printed in the Appendix. See especially the last paragraph.

When handling evidence he will find it convenient to remember the old distich: —

> Where one's proofs are aptly chosen
> Four are as valid as four dozen.[1]

Not the number of details of proof, but their convincingness, is the important matter in evidence, and a writer should always use as little evidence as is consistent with proving his point. By this means he gains in force, for, as has been justly said, "Proof which goes for nothing, goes for less than nothing." This is true because a reader keen enough to see that nothing is gained by the presence of the proof in question is forced to believe that the writer thought it had value when it had none, or was willing to palm off evidence as convincing which was not, or was a careless workman. Any of these suppositions will make him suspicious of the man and his work. Hence the proof that seemed harmless has done decided harm.

A student should not, however, forget, in his desire to give only the proof absolutely necessary, that some questions cannot be proved true by one instance, one bit of evidence. For instance, in treating the question, "Should a Federation of Great Britain and her colonies be formed?" it is not enough to show that this would be advantageous for Great Britain, or for Cape Colony, or New South Wales, but the colonies must be divided into groups whose conditions are alike, and the needs of each group considered. This is also true, as was pointed out (p. 162), of the question "Should the Australian Ballot System be adopted in the United States?" That is, if a student does not remember that some statements cannot be proved true by a single

[1] Quoted by J. Q. Adams, *Lectures on Oratory*. Vol. II, p. 92.

instance, no matter how strong, he will fall into the fallacy of proving true for only a part what should be proved true for the whole.[1]

Fourthly, avoid qualification. A writer sometimes closes a paragraph, a division, or the whole argument with the words: "This, then, seems true for these reasons [naming them], but even if I have not proved this true, I have certainly shown that," etc. At once a reader's suspicions are aroused, for he fears that the writer, working carelessly or ignorantly, and in either case not correctly valuing his evidence before using it, has been forced to recognize or to admit its inadequacy at the last moment. This suspicion will almost surely affect even earlier parts of the work, for qualification is admission of faulty work. When a man states in any part of his argument that in what precedes he has proved true what is really but a qualified form of the thesis he has been maintaining, whether main or subordinate, he admits his failure to make good that thesis.

A form of qualification appears in the following extract from Pitt's speech, *On the Slave Trade*: —

On the part of the West Indians it is urged, "The planters are in debt, they are already distressed; if you stop the slave

[1] Students should remember that (1) whenever they give another's words exactly, that is quote, they should place the words within quotation marks, acknowledging in a footnote their indebtedness by naming the source of the quotation, with the chapter or page, and, if there is more than one volume or edition, the volume and the edition used; (2) they should not when merely paraphrasing allow themselves to be given credit for ideas that are really another's. Sometimes a clever student will restate a writer's thoughts in fewer words or more clearly, but he should always acknowledge in a footnote that the gist of his words is borrowed, and tell whence it comes. These two laws, too often transgressed in literary work, are really but common honesty.

trade, they will be ruined." Mr. Long, the celebrated historian of Jamaica, recommends the stopping of importations as a receipt for enabling the plantations which are embarrassed to get out of debt. Speaking of the usurious terms on which money is often borrowed for the purchase of fresh slaves, he advises "the laying of a duty equal to a prohibition on all negroes imported for the space of four or five years, except for reëxportation. Such a law," he proceeds to say, "would be attended with the following good consequences. It would put an immediate stop to these extortions; it would enable the planter to retrieve his affairs by preventing him from running in debt, either by renting or purchasing negroes; it would render such recruits less necessary, by the redoubled care he would be obliged to take of his present stock, the preservation of their lives and health; and lastly, it would raise the value of negroes in the island. A North American province, by this prohibition alone for a few years, from being deeply plunged in debt, has become independent, rich, and flourishing." On this authority of Mr. Long I rest the question whether the prohibition of future importations is that rash, impolitic, and completely ruinous measure which it is so confidently declared to be with respect to our West Indian plantations. I do not, however, mean, in thus treating this branch of the subject, absolutely to exclude the question of indemnification, on the supposition of possible disadvantages affecting the West Indies through the abolition of the slave trade. But when gentlemen set up a claim of compensation merely on these general allegations, which are all that I have yet heard from them, I can only answer, let them produce their case in a distinct and specific form; and if upon any practicable or reasonable grounds it shall claim consideration, it will then be time enough for Parliament to decide upon it.[1]

Pitt seems, up to "I do not, however," to be proving that the abolition of slavery could not hurt the planters

[1] *Political Orations.* Camelot Series. pp. 147–148. W. Scott.

of the West Indies. In the lines after "I do not, however," he implies that he can conceive that it might hurt them sufficiently to justify them in asking for indemnity. This makes a reader feel that for some reason Pitt did not believe what seems his conclusive proof to be such, and weakens the force of the first part of the paragraph. A little change in the phrasing and the arrangement of the paragraph would obviate this difficulty. The correct order of the train of thought underlying the paragraph is this: The West Indians say the abolition of slavery will ruin them; yet, though (1) it may cause them some loss at the outset, (2) it cannot ruin them, (3) may really help them, and (4) an indemnity would meet satisfactorily the immediate loss. By slightly confusing this order Pitt produces the effect of qualification, for were the ideas treated strictly in this order and form the qualification would disappear. When a writer is tempted to qualify, let him find (1) just what it is he is trying to prove in the division, and then (2) whether his evidence is equal to his needs. If his evidence is insufficient, let him find new evidence sufficiently strong, or change his proposition to something his original evidence will prove true. Then qualification will disappear.

4. Movement. In any argument progress toward a conclusion already stated, or gradually becoming more definite, is essential. Unless there be a similar movement within each division of the work, this total movement will be hampered or even rendered impossible. Clearness and force, of course, conduce to it, but especial aids are avoidance of digression and neat transitions.

A good brief should make frequent or extensive digression in the forensic impossible, for it should have separated

essential from unessential matter and should hold a writer to a sequential development of his case. Without a preceding brief, a forensic is likely to resemble in movement a dog out walking with his master. He certainly covers the ground, but he is drawn off the straight road by any new thing which catches his eye, and is now at his master's heels, now over the stone wall, now barking up a tree. Good briefing will thwart any similar tendency in a writer to leave the straight road and follow now one interest, now another, but unless the movement within each paragraph be considered, occasional undesirable digression may still appear.

Often, too, the paragraphs of a forensic are independent and apparently even mutually repellent blocks of thought. In ideal work each sentence of a paragraph develops naturally into the next, each paragraph develops into that which follows it, each division leads to the one succeeding. Such unity gives not only clearness and force, but also ease and a flowing style. Indeed, neat transitions give emphasis as well as movement, for when a writer in passing from one paragraph to another is careful to leave a reader clear as to the work done by the first paragraph and the relation to it of the second, he has gained movement by proper emphasis. Examination of Pitt's *Speech on the Slave Trade*,[1] Grattan's *Declaration of Irish Rights*,[2] or Erskine's *Defense of Lord George Gordon*[3] will demonstrate the common movement and ease which neat transitions may give speeches on very different subjects delivered under dissimilar conditions.

[1] *Political Orations.* p. 138. W. Scott. London.
[2] *Idem.* p. 120.
[3] *Specimens of Argumentation.* p. 86.

Style in argument. Clearness, force, and movement are not, however, everything needed in argument. In perfect work ideas must be clothed in a style so fitting that it contributes directly to the total effect. Students seem to regard style as a "reward of merit" due them after mastering the rudiments of rhetoric and studying some specimens of English literature. Really style is "a thinking out into language," the visible expression of the inner thought. To be what it should, style must express the thought clearly not merely for the speaker but for the audience addressed, and it must phrase the thought not as any one might phrase it but so that it reveals the speaker's individuality. Style depends, then, primarily on thought; secondly on imagination, which produces in the speaker sympathetic understanding of conditions, events, and emotions treated, and chooses the right word to reproduce the idea or emotion, not merely for the thinker but for his audience; and finally on an accurate, copious, and responsive vocabulary.

At this point it may be objected that the principles, apart from persuasion, laid down in this book seem at best to imply mere compilation from the work of others. Questions, however, in which a student can depend entirely on his own experience and thinking for arguments are very rare. Even in these, he must look beyond himself for most of the objections likely to be raised against his ideas. In most instances, in considering both sides of the case he must read widely. What has been said, therefore, as to analysis, structure, and evidence means much more than copying or mere compilation, for in all good argumentation thought by the arguer must precede, accompany, and follow the reading.

Hasty preparation without any preliminary scrutiny of the content of one's mind on the subject in debate and without consideration of the strength of an opponent's case results in a hasty abstract of the volumes read, for a student finds that the books, even if prejudiced, naturally state the ideas but roughly phrased in his mind better than he can, and consequently he is unable to throw off their influence. Even though he does not make a servile copy of parts of two or three books, he may offer a jumbled paraphrase that is not better. The late Bishop Brooks said to the Yale divinity students: "The man of special preparation is always crude; he is always tempted to take up some half-considered thought that strikes him in the hurry of his reading, and adopt it suddenly, and set it before the people, as if it were his true conviction. Many a minister's sermons are scattered all over with ideas which he never held, but which once held him for a week, like the camps in other men's forests, where a wandering hunter has slept for a single night." [1]

Thought must also accompany the reading, for one must react on what is read. Not to do this is to string quotations together, a method which proclaims two undesirable facts: that the knowledge is undigested, and that there is no personality behind the work. It is the thought which a worker spends on the material he gathers, giving old ideas new forms, new meanings, finding previously unrecognized relations and suggestions in them, which wins him the right to call ideas his own as he presents them to his audience. A student once wrote of the process — naïvely but accurately: "Every one who has read much when working up some topic has often had the experience

[1] *Lectures on Preaching.* p. 157. E. P. Dutton & Co. 1877.

of finding when he has read a large number of books that he has in the end some idea or theory, parts of which he can trace to almost every book of the number, the whole of which he can hardly recognize as belonging to any one. He hardly understands the final compound. He cannot say that it belongs to the author of any one of the books he has read. He cannot even say it is a composite of the ideas of all the books. In working up both my forensics this year, I read a great deal. My mind kept in a perfect boil all the time, and after each book or article I seemed to have a different conformation of ideas. Ideas of my own that I started out with were totally or almost entirely changed in the end. Nor had I apparently changed them for those of any one else. They were not on the other hand original. I am sure some one had thought of every one before. In fact, they had flashed through my own mind in a vague way at different times in my life. My forensics were, in short, little like my own original ideas and they were not the ideas in any exact sense of any one else. I had taken the ideas of other men and moulded mine by them. My application of them was often very different from the application of the authors themselves, yet I had used them and owed them something."

After all, what can originality to-day be but effective individual reaction, in the light of one's experience or thought, on the thought or experience of others? J. R. Lowell puts the whole case attractively in his lines on "Franciscus de Verulamio sic cogitavit."

> That 's a rather bold speech, my Lord Bacon,
> For, indeed, is 't so easy to know
> Just how much we from others have taken,
> And how much our own natural flow?

Since your mind bubbled up at its fountain
How many streams made it elate,
While it calmed to the plain from the mountain.
As every mind must that grows great?

While you thought 't was you thinking as newly
As Adam still wet with God's dew,
You forgot in your self-pride that truly
The whole Past was thinking through you.

. . . . . .

And yet there 's the half of a truth in it,
And my Lord might his copyright sue;
For a thought 's his who kindles new youth in it,
Or so puts it as makes it more true.

The birds but repeat without ending
The same old traditional notes,
Which some, by more happily blending,
Seem to make ever new in their throats;

And we men through our old bit of song run,
Until one just improves on the rest,
And we call a thing his in the long run,
Who utters it clearest and best.[1]

Moreover, thought after reading must guide application of all the principles of structure and presentation set forth in this book. Until, then, one can think readily and take pleasure in thinking, argumentation cannot be mastered nor individual style acquired. This personal note in style which comes, not from artificial tricks of phrase or acquired mannerisms, but as a result of the reaction of an individual mind and temperament on reading, cannot be too strongly insisted on. With students of composition, style is too often very conscious; this desired personal quality comes

[1] *Lowell's Works.* Vol. IV, p. 197. Houghton, Mifflin & Co. 1897.

not when sought for directly but as the inevitable concomitant of good thinking.

The second quality of style, imagination, is essential in two ways: to produce in the speaker sympathetic understanding of events, conditions, and emotions treated, and thus kindle connotative speech; and to aid the speaker so to enter into the moods and interests of his audience as to select the words which will produce in them exactly the desired images, thoughts, or moods. Patrick Henry, when among the Virginia mountaineers, thought to please them by speaking to them in language as illiterate as their own, only to learn from his cool reception that his hearers resented this as trickery in one so well trained as he. A literary man telling some friends of a child playing about during a recent afternoon call of his said: "Yes, she sketched herself into the room and played lambently over the furniture." In one case the imagination of Henry played him false; in the other the man spoke only to himself, with no thought of the probable feeling of his hearers for his words. In the following very different selections it is imagination, stimulated by the emotions, choosing just the right words, which not only conveys to us what the writer felt or saw, but reproduces his mood in us. In the first extract, from R. B. Sheridan's impeachment of Warren Hastings, imagination provides dialogue which in the briefest possible space, even as it characterizes the speakers, sarcastically paints the situation.

A number of friends meet together, and [Hastings], knowing (no doubt) that the accusation of the Commons had been drawn up by a Committee, thought it necessary, as a point of punctilio, to answer it by a Committee also. One furnishes the raw material of fact, the second spins the argument, and

the third twines up the conclusion, while Mr. Hastings, with a master's eye, is cheering and looking over this loom. He says to one, "You have got my good faith in your hands — you, my veracity to manage. Mr. Shore, I hope you will make me a good financier — Mr. Middleton, you have my humanity in commission." When it is done, he brings it to the House of Commons, and says, "I was equal to the task. I knew the difficulties, but I scorn them: here is the truth, and if the truth will convict me, I am content myself to be the channel of it!" His friends hold up their heads, and say, "What noble magnanimity! This must be the effect of conscious and real innocence." Well, it is so received, it is so argued upon — but it fails of its effect.

Then says Mr. Hastings: "That my defence! no, mere journeyman-work — good enough for the Commons, but not fit for your Lordships' consideration." He then calls upon his Counsel to save him: "I fear none of my accusers' witnesses — I know some of them well — I know the weakness of their memory, and the strength of their attachment — I fear no testimony but my own — save me from the peril of my own panegyric — preserve me from that, and I shall be safe." Then is this plea brought to your Lordships' bar, and Major Scott gravely asserts, — that Mr. Hastings did, at the bar of the House of Commons, vouch for facts of which he was ignorant, and for arguments which he had never read.[1]

Contrast this accelerating emotional effect from Webster.

He has done the murder. No eye has seen him, no ear has heard him. The secret is his own, and it is safe!

Ah! Gentlemen, that was a dreadful mistake. Such a secret can be safe nowhere. The whole creation of God has neither nook nor corner where the guilty can bestow it, and say it is safe. Not to speak of that eye which pierces through all disguises, and beholds everything as in the splendor of

[1] See *Speeches of R. B. Sheridan*, Vol. I, p. 373. Bohn. 1842.

noon, such secrets of guilt are never safe from detection, even by men. True it is, generally speaking, that "murder will out." True it is, that Providence hath so ordained, and doth so govern things, that those who break the great law of Heaven by shedding man's blood, seldom succeed in avoiding discovery. Especially, in a case exciting so much attention as this, discovery must come, and will come, sooner or later. A thousand eyes turn at once to explore every man, every thing, every circumstance, connected with the time and place; a thousand ears catch every whisper; a thousand excited minds intensely dwell on the scene, shedding all their light, and ready to kindle the slightest circumstance into a blaze of discovery. Meantime the guilty soul cannot keep its own secret. It is false to itself; or rather it feels an irresistible impulse of conscience to be true to itself. It labors under its guilty possession, and knows not what to do with it. The human heart was not made for the residence of such an inhabitant. It finds itself preyed on by a torment, which it dares not acknowledge to God or man. A vulture is devouring it, and it can ask no sympathy or assistance, either from heaven or earth. The secret which the murderer possesses soon comes to possess him; and, like the evil spirits of which we read, it overcomes him, and leads him whithersoever it will. He feels it beating at his heart, rising to his throat, and demanding disclosure. He thinks the whole world sees it in his face, reads it in his eyes, and almost hears its workings in the very silence of his thoughts. It has become his master. It betrays his discretion, it breaks down his courage, it conquers his prudence. When suspicions from without begin to embarrass him, and the net of circumstance to entangle him, the fatal secret struggles with still greater violence to burst forth. It must be confessed, it will be confessed; there is no refuge from confession but suicide, and suicide is confession.[1]

[1] *Works of Daniel Webster.* Vol. VI, pp. 53–54. *The White Murder Trial.* Little, Brown & Co. 1856.

Contrast the turbulent irony of this quotation from Victor Hugo's *Napoléon le Petit* with the dignity and the pervasive music of the peroration of Demosthenes on pp. 352–353.

This is the man by whom France is governed! Governed, do I say? — possessed in supreme and sovereign sway! And every day, and every morning, by his decrees, by his messages, by all the incredible drivel which he parades in the "Moniteur," this emigrant, who knows not France, teaches France her lesson! and this ruffian tells France he has saved her! And from whom? From herself! Before him, Providence committed only follies; God was waiting for him to reduce everything to order; at last he has come! For thirty-six years there had been in France all sorts of pernicious things, — the tribune, a vociferous thing; the press, an obstreperous thing; thought, an insolent thing, and liberty, the most crying abuse of all. But he came, and for the tribune he has substituted the Senate; for the press, the censorship; for thought, imbecility; and for liberty, the sabre; and by the sabre and the Senate, by imbecility and censorship, France is saved. Saved, bravo! And from whom, I repeat? From herself. For what was this France of ours, if you please? A horde of marauders and thieves, of anarchists, assassins, and demagogues. She had to be manacled, had this mad woman, France; and it is Monsieur Bonaparte Louis who puts the handcuffs on her. Now she is in a dungeon, on a diet of bread and water, punished, humiliated, garroted, safely cared for. Be not disturbed; Monsieur Bonaparte, a policeman stationed at the Elysée, is answerable for her to Europe. He makes it his business to be so; this wretched France is in the straight-jacket, and if she stirs — Ah, what is this spectacle before our eyes? Is it a dream? Is it a nightmare? On one side a nation, the first of nations, and on the other, a man, the last of men; and this is what this man does to this nation. What! he tramples her under his feet, he laughs in her face, he mocks and taunts her, he

disowns, insults, and flouts her! What! he says, "I alone am worthy of consideration!" What! in this land of France where none would dare to slap the face of his fellow, this man can slap the face of the nation? Oh, the abominable shame of it all! Every time that Monsieur Bonaparte spits, every face must be wiped! And this can last! and you tell me it will last! No! No! by every drop in every vein, no! It shall not last! Ah, if this did last, it would be in very truth because there would no longer be a God in heaven, nor a France on earth![1]

When one notes that the characterization, the irony, the music, the dignity, or the pathos of these extracts is contributed by certain well-chosen words and compares the accurate, copious, and evidently responsive vocabularies with the vocabularies of most college students, one is impelled to follow Professor Palmer in applying Hobbes's description of his *State of Nature* to students' vocabularies, and to say that they are "solitary, poor, nasty, brutish and short."[2] What is needed is a vocabulary of "accuracy, audacity, and range,"[3] immediately responsive to an imagination quickened by intense individual thinking on one's own experience or the thought and experience of others. To try to develop students' vocabularies before they have been interested in thinking for its own sake and before their imaginations have been quickened is misleading and futile. Indeed, the chief aim of this book is not to teach the principles of argumentation for their own sake, but by teaching them to lure students into habits of orderly

[1] *A Modern Reader and Speaker.* George Riddle. pp. 243–245. H. S. Stone. 1900.

[2] *Self-Cultivation in English.* G. H. Palmer. p. 18. T. Y. Crowell & Co. 1897.

[3] *Idem.* p. 12.

thinking, on a basis of careful investigation, which shall provide a background of thought for undergraduate vocabularies.

Modified forms of argument. Of course, argument appears in many forms less rigid than the forensic. That is the most convenient in which to study it because, in the forensic, argument preponderates as compared with narration or description, and because the forensic permits searching criticism, but all the forms of public address may use argument. Therefore, a student of argumentation must not consider himself thoroughly equipped till he has studied the application of its principles as they are called for in only a division or a paragraph of these other forms or in special conditions of audience or subject in which the formal methods of the forensic may beneficially be relaxed.[1] Though these modified forms of argument may best be studied by themselves, Debating, which to a large extent is but the oral expression of a forensic, should be considered here.

EXERCISES

Persuasion

1. Let the class, either as a written exercise or orally, analyze Beecher's *Speech at Liverpool*, p. 156 of the *Specimens of Argumentation*, in order to distinguish persuasion from conviction and to point out the methods by which the persuasion is gained. In connection with this exercise use, in the *Forms of Public Address*, p. 41, Seward's letter to C. F. Adams. President Lincoln's additions and omissions totally change the persuasive effect of the letter.

2. Let the class, in or out of the class room, write a letter of three or four pages of theme paper to a college friend urging him to

[1] See specimens in *Forms of Public Address*, especially *The Scholar in a Republic*, Wendell Phillips, and *The Leadership of Educated Men*, G. W. Curtis, pp. 253 and 282. H. Holt & Co. 1904.

room with the writer during the ensuing year, to try for one of the athletic teams, or to canvass for some college cause, in a word for any purpose which demands persuasive presentation. In writing, each student should be required in his choice of central persuasive idea and his use of interests and characteristics of his friend to make the personality of the friend so definite that, if the letter is later read to the class, the friend may readily be described by any member.

3. Analyze for the class the speech of Lord Mansfield in behalf of Allan Evans, *Specimens of Argumentation*, p. 23, that it may see the importance of order in persuasion.

4. In order to illustrate persuasion arising from skillful choice of subject or message, analyze and discuss with the class the *Speech at Liverpool*, in the *Specimens*, p. 156, and one or more of the following in the *Forms of Public Address: Address at the Atlanta Exposition*, Booker T. Washington, p. 210; *Gettysburg Speech*, Abraham Lincoln, p. 207; *The Puritan Principle*, G. W. Curtis, p. 430.

5. To illustrate persuasion arising from the speaker's relation to his subject, analyze and discuss with the class the forensic on the *Extermination of the Gypsy Moth* in the Appendix, or in the *Forms of Public Address: Farewell Speech*, John Brown, p. 247; *The Scholar in a Republic*, Wendell Phillips, p. 253; *On Repeal of the Union*, Daniel O'Connell, p. 387.

6. To illustrate persuasion arising from skillful adaptation of the material to a particular audience, analyze and discuss with the class from the same book: *Fourth of July Address*, Phillips Brooks, p. 185; *Letter to Napoleon*, Mrs. Browning, p. 23; *The Child and the State*, D. D. Field, p. 310, contrasting its approach to a common subject with the treatment in the *Address in behalf of the Children's Aid Society*, Phillips Brooks, p. 319; or use the *First Letter* of Junius, the speech of Lord Chatham on *Removing the Troops from Boston*, pp. 42 and 88 of the *Specimens;* or in the Appendix the *Argument for Pension Reform* or *A New Plea on an Old Subject.*

7. For specimens of excitation see the references given under D on p. 439 of the *Forms of Public Address*, or the following places in the *Specimens:* last paragraph, p. 20; p. 37 to p. 39, line 8; p. 90 to p. 91, line 13; p. 177, line 28, to p. 178, line 14.

8. Name some college topic of strong momentary interest to undergraduates. Describe a gathering of alumni who graduated at

least ten years since and who are not well informed as to present undergraduate life and may not be in hearty sympathy with it on this question. Ask the class to write a speech of five to ten minutes which will interest this audience in the topic named and if possible cause them to take some action in regard to it. The desired action should be clearly stated to the class, or each student should be required to make evident in his work the action he wishes to produce. For the topic and audience suggested may be substituted a talk of similar length to boys in the student's own preparatory school on something in college life on which sub-freshmen may be supposed to be uninformed or to think differently from the best undergraduate opinion.

9. Analyze for the class either or both of the speeches of G. W. Curtis — *The Puritan Principle, Forms of Public Address*, p. 430; *The Leadership of Educated Men, Idem*, p. 282 — in order to illustrate the value of concreteness, of narration and description, in persuasion. Compare with these the forensics in the Appendix on *Reform of the Pension System* and on *Extermination of the Gypsy Moth.*

10. Ask the class to choose an audience for which to rewrite their last piece of argumentation. Let them select if possible an audience known to them, not purely imaginary. Require them to state their own relation to the occasion and the subject, that is, why they are asked to speak on the topic, by whom, and under what conditions as to hall, time allowance, and other speakers on the same or different subjects. Let them describe the audience — its knowledge of the subject, supposed interest in it, habitudes of mind, and relation to speaker. These papers should be examined and returned to the class with comment. Next ask the class to go over the briefs for the last argument, noting each place at which there are persuasive advantages or disadvantages to be considered, in what these consist, and how they will be dealt with by the student in his rewritten argument. Insist that each student shall weave a unifying persuasive main idea into the work. Require special care as to opening and closing the rewritten argument, but make clear that the persuasion must pervade the argument, not merely appear at the start and the finish. Examine these annotated briefs, comment upon them, and then require the class to write from them, when revised, an address for the given audience.

Rhetoric of Argument

1. Ask the class to take one of their former introductions and one of their perorations and consider how they may be improved according to the suggestions of Chapter V in regard to introductions and perorations. Let them write out in the class room the result of their thinking. This exercise may be separated, of course, into an exercise on the introduction and another on the peroration.

2. Consider with the class one or more rigid and formal forensics, showing how by the steps treated in Chapter V they could be given ease and movement. Contrast from the Appendix the forensic on the pension system or *A New Plea on an Old Subject* with the forensics on the increase of the army and on the Russian question.

3. For the value of style in persuasion discuss in the *Forms of Public Address:* T. B. Aldrich's letter to William Winter, p. 22; S. Johnson's letter to Lord Chesterfield, p. 19; *The Leadership of Educated Men,* G. W. Curtis, p. 282.

CHAPTER VI

DEBATING

Debating is, for the most part, but oral application of the principles of analysis, structure, evidence, and presentation already carefully explained in this book; often, indeed, it is very largely a repetition of what has been written in accordance with those principles. The differences between speaking and writing, however, make a few additional principles necessary. Often, too, these differences render a ready writer ineffective unless he can exactly repeat what he has written and committed to memory. For this reason it is also helpful to consider what are the errors common to inexperienced debaters, from choice of topic to final rebuttal, and how they may be avoided. The common faults in debating arise from four sources: incomplete preparation, due to laziness or haste; unwillingness to coöperate as one of a team of two or more and desire to display one's own abilities without regard for one's colleagues; ignorance of the principles underlying rebuttal; and forgetfulness of the fact that no speech is really effective which does not influence its audience.

Choice of topic. In the first place, topics, whether for intercollegiate contests or class debates, should be chosen much more carefully than they often are. The desideratum is not any debatable question, nor one which gives the affirmative or the negative an advantage, and least of

all is it a question which involves some trap for opponents. The last is unpardonable, for what is wanted is a two-sided question which will give each group of speakers a chance under approximately equal conditions to show what it can do evidentially and persuasively with a definite case. Avoid, then, those questions on which it is practically impossible to reach any final decision. Our old-fashioned debating clubs were curiously fond of them. For instance, if a class try to discuss the proposition "Women are illogical," the result will probably be citation by one side of cases of illogicality in women, and by the other of cases of logicality. It can be conclusively shown that some women are logical and that some are not, but the evidence for all women cannot be gathered. Therefore, any decision must be a qualified one; for instance, that in the cases shown, logicality or the opposite prevails; but that is not exactly the answer desired for the proposition. Of course, trained psychologists might discuss the nature of the female mind, but college undergraduates are not trained psychologists and are nearly certain to go to pieces if they enter upon such a treatment of the question. Another question on which it is exceedingly difficult to get other evidence than one's own experience is, "Do people always admire in others the qualities they themselves lack?" So general a proposition cannot be established or refuted by the comparatively few witnesses with whom a speaker can talk on the subject, and it is very difficult to find printed testimony on the matter. In choosing a question, then, consider carefully the probability that evidence is accessible, in print, through interviews, or from one's own thinking. Avoid also topics that produce little except haggling over definitions. For instance, in "Great

poets are always good men" we must first determine our standards of greatness and of goodness. Granted those, it will not be difficult to settle the question. But discussions made up wholly of defining are likely to lead to hairsplitting, and are nearly certain to lack life. Again, avoid topics which in the last resort can be made conclusive only for certain temperaments, that is, which rest more on persuasion than on conviction. For instance, how can we prove for the world at large or even for all members of a large audience that "Letter-writing in general is a waste of time"? All depends upon one's aims in life and one's means and leisure. It may be proved that for those with leisure who chiefly desire pleasant friendships this sort of letter-writing is admirable, but that for busy men and women it is an unjustifiable waste of energy needed elsewhere. That is, the force of the conclusion will largely depend upon the interests, the emotions, the habitudes of the hearer, not on his logical sense. Select, too, topics which can be treated in the time allowed for the debate. Many questions of the day are hydra-headed. The common topic, "Should Immigration be further restricted?" involves at least two subjects large enough for a debate: "Should Immigration be further restricted, and if so, by what plan?" When students try to treat both they are likely to be superficial on each. It is probably better to discuss either the need of further restriction, waiving discussion of any plan of betterment; or, with the need of restriction granted by both sides, to consider the relative merits of two plans or the merits and demerits of one plan. The purpose of debating is not to talk for two hours, nor in that time to talk on as many subjects as possible, but for each side within that space of

time to show skill in presenting persuasively on a well-analyzed case a careful selection from the evidence accessible for its views and against those of its opponent. The present tendency, in submitting questions, to narrow them by restrictive clauses such as, "It being granted," "Waiving the question whether," is a result of many rambling and superficial discussions in the past arising from questions too inclusively phrased. It is doubtless wise to let beginners in debate choose time-worn topics, such as governmental control of railroads, popular election of senators, etc., for so much material lies ready to their hands that they can give their attention to selecting and presenting their evidence, but to continue using this kind of subject is to deprive a student of training in an essential of argumentation, skill in discovering evidence from other people and from one's own thought. As a rule, reasonably fresh topics, the really current questions of the day on which public opinion is still forming, are the best training. Use the negative phrasing with caution, that is: "It is not for the best interests of the United States to build the canal across the Isthmus of Panama." Usually this phrasing, turning affirmative into negative and negative into affirmative, leads before the end of the debate to double negatives and to confusion in the minds of the audience. Of course, in rare cases in which the affirmative case is clearly very difficult as compared with that of the negative, it is but fair by this phrasing to relieve the affirmative at the outset of the burden of proof, transferring it to the side better able to sustain it. One tendency in phrasing, much fostered by intercollegiate debating, to select questions in which the negative need only show that the proposition of the affirmative does not hold good, but need itself support

no case of its own, is not productive of the best training in argument. This leads to overestimating the value of rebuttal in debate, with the result that often speakers skillful in rebuttal fail utterly when forced to support a constructive case. Would it not be much better, both in class and intercollegiate debates, to find questions which oblige both sides to work both destructively and constructively? Any comparative question does this.

Burden of proof. Much controversy in phrasing questions arises from confusion as to the meaning of the words "burden of proof," each team of debaters being eager to throw that mysterious responsibility on the other. "In legal discussion, this phrase is used in several ways. It marks (1) The peculiar duty of him who has the risk of any given proposition on which parties are at issue, — who will lose the case if he does not make that proposition out, when all has been said and done. . . . (2) It stands for the duty . . . of going forward in argument or in producing evidence; whether at the beginning of a case or at any later moment throughout the trial or the discussion. (3) There is an undiscriminated use of the phrase, perhaps more common than either of the other two, in which it may mean either or both of the others."[1] That is, in the first sense, he who asserts must prove, and till he has finally made good his main proposition he is not permanently free from the burden of proof; but in the second sense this burden shifts at each point in a discussion in which the asserter establishes a presumption in favor of his view, — only to shift back again if his opponent successfully breaks down this presumption. For instance, in the

[1] *Law of Evidence.* J. B. Thayer. p. 335. Cited in *The Art of Debate.* R. M. Alden. pp. 65–66.

topic "Is the Elective System a failure?" the burden of proof in the first sense is on him who maintains the affirmative and is not permanently thrown off till he has established the truth of his view in the face of opposing evidence. In the second sense, he may rid himself of the burden for the moment by showing that educators who originally favored the elective system have recently declared against it. The burden is now on his opponents to show cause why this testimony shall not be held to establish a strong presumption against the system. But if the negative side can show prejudicial circumstances working on these witnesses or can produce equally good or better witnesses to speak heartily in favor of the system, the burden of proof is thrown back. That is, rebuttal is a recognition of an attempt to shift the burden of proof and an endeavor to block the effort.[1] If students would remember that no amount of trickery or haggling can change the fact that he who asserts must prove and by asserting takes upon himself the burden of proof in the first sense, and that at any point in a debate the position of the burden of proof in the second sense is perfectly ascertainable if one notes which side would be defeated if the discussion were broken off at the point in question, they would save themselves useless labor, some bad temper, and considerable bad taste. Usually, of course, from the phrasing of questions the burden of proof in the first sense is on the affirmative, but it is possible to throw it on the side that would naturally be the negative by introducing a *not* into the topic. In the second sense, however, no phrasing whatever can prevent the burden from shifting with the course of the debate

[1] Even anticipatory rebuttal aims to block a prospective effort to stop a shifting of the burden of proof.

until the affirmative is finally freed from it by proving the truth of the proposition or is forced to accept it for good and all by the stronger case of the negative. To sum up: "The burden of proof is, in the first place, the obligation resting on the affirmative to prove the proposition it lays down at the outset, — an obligation which it never escapes, and, in the second place, the obligation of either disputant to produce proof at any moment when, in the absence of such proof, the other side would be judged to be in the right. In a word, it is simply the demand of the audience: *Show your proof if we are to believe.*"[1]

The value of a preliminary conference. Much of this unintelligent struggling to shift the burden of proof and all haggling about definition of terms will be obviated if a conference of the debaters precedes the discussion. It is but natural when two groups of debaters meet without any preceding agreement as to what may be taken as admitted facts in the case and the interpretation of the question, that each side should struggle to base the discussion on the interpretation of the question which makes the case easiest for it to treat. Sometimes this struggle is without issue and blocks the debate proper; more often it postpones that discussion till it must be inadequate for lack of time. Whatever be thought of the practicability, before intercollegiate debates, of a preliminary conference to determine the introductory matter, that is, the steps in analysis leading to the issues and including them, experience shows that such a conference is practically indispensable as a preliminary to class debates.

Attitude of conferees in this conference. The purpose of class debates is training in the essentials of public

[1] *The Art of Debate.* R. M. Alden. pp. 75–76. H. Holt & Co. 1900.

discussion; the purpose of the preliminary conference is to find common ground which shall provide a relatively equal task for each side in finding evidence and in selecting it and presenting it for a definite audience. Therefore, there is no reason why the attitude of the two sides in the conference should be one of mutual suspicion. Nor should each side be eager to lay traps for the other. It is unpardonable to hold back information at the conference which when used in the introduction to the debate itself is sure to change wholly the plan agreed on. Such work is shystering, not debating. No man is obliged in the conference to betray just how he means to treat the issues, in what order, or with what evidence, but on his understanding of the meaning of the question he should be frank and complete in statement. In establishing the issues through the history of the question, including the clash in opinion, the two sides should usually find little reason for cautious movement. The need for care comes in determining what in the broad clash may be regarded as admitted, granted, waived, or extraneous, not because either side is trying to catch the other, but because unless one knows exactly what in all its detail is the case one wishes to develop in the argument itself and watches warily, matter will slip in or be excluded under one or more of these divisions which will later complicate or partially block the case one wishes to present. The important point to remember, however, is that skill in debate consists not in getting some advantage of one's opponent in the introduction, but in the presentation of one's views on the question as determined in that conference.

Attitude towards colleague. The preceding chapters of this book should have proved that no lazy or hasty worker

can hope for any sustained success in debate, since it rests on completeness of preparation. Occasionally, however, a debater shirks till the last moment, depending for his supply of material on the good nature of his colleague and on his facility of speech and ease on the platform to carry him through the debate successfully. The unfairness of this to the colleague needs no comment. Usually the proceeding, however, brings its own punishment, for debates in the course of which nothing changes any of the prearranged details of treatment are very rare. Mobility thus becomes one of the essentials of debating, but he who knows only that part of the case on which he expects to speak is helpless if for any reason his colleague is obliged to leave some part of the case untreated, expecting him to take it up. In the properly equipped team each man should be able to speak on any part of the case. This power he should, if possible, acquire by shifting parts before the debate. High specialization is not the desideratum in debating, but such preparation by each speaker that he can fill in any gaps left by a colleague through inadvertence or the necessity of putting more time than was planned for on some part of his case. Each member of a team should know his own part of the case, that of the colleague or colleagues, and as far as possible that of his opponents. Even debaters who recognize the importance of preparing thoroughly on their own part of the case and on that part of their opponents' which touches their own, neglect the case of their colleagues and the corresponding portions of the opponents' case. A speaker's knowledge of his colleagues' case is sure to betray itself in the course of his speech, for in proper debating he must in opening consider the effect of the just preceding words of his

opponent on the ideas advanced by the colleague who spoke first. If he merely refers to the proof of his colleague as "untouched" or as "still significant," he probably knows too little of it to be able to reëmphasize its value properly. If he is well prepared he will make his hearers see in a swift comparative summary of the argument of the opponent in relation to the ideas advanced by his colleague the superiority of the evidence of the latter. Moreover, the speech of each debater has some relations, even as it develops, to the work of his colleagues, and a properly equipped speaker will bring these out; the inadequately prepared speaker neglects them. Ability to shift quickly, going into details where detail has not been planned for, dropping matter because the opposing side has evidently decided not to put emphasis where it was expected, filling out part of the work of a colleague, all this desirable mobility depends not only on preparedness on the whole case but on independence of a memorized speech. Write out and commit your speech if you wish, but come to the platform prepared to treat the set speech merely as a form on which to place whatever in phrase or thought the exigencies of the particular debate may demand. It is unfortunate when a speaker flounders through two or three minutes of opening rebuttal to change suddenly to sure and effective movement merely because he has at last got to his prepared speech, which is markedly free from any mention of the ideas he has just been cumbersomely trying to rebut. Write out your speech, if you like, to make sure that it comes within the time limits, is phrased so that it delivers easily, is tellingly expressed in places, and uses illustrations you wish to employ, but don't feel that you must give it exactly as written or go to pieces. Come

to the debate with a brief outline of what you have written, with perhaps a note or two of the illustrations or evidence to be used at particular points, and with the speech well in mind. Then use as much of the speech as conditions permit, but in any case make it fit the moment, using, not neglecting, special opportunities of the discussion.

Unity in each side of case. But all this flexibility and mobility must work for a unified presentation of each side of the case. Not only should each speech connect with that of a preceding colleague, but it should lead into the next speech for the same side. Moreover, much effect is often gained by emphasizing one or two ideas at the start as central in the case, and constantly keeping those before the audience as the speeches for this side develop. This is frequently done in rebuttal, — the negative pointing out that if certain ideas are made good the case of the affirmative fails, and then in the succeeding speeches constantly bringing out that evidence produced shows this failure. The case for each side should then be, not blocks of debating, but a rope, in which one or more strands should in some way be made conspicuous.

Progression in debate. Though a debate must often linger for reconsideration of a point, to replace the question, or for other justifiable cause, it should, in the speech of each contestant, definitely progress toward its conclusion. Nor should the audience ever be left in doubt as to just what progress has been made by a given speaker. A debater's task is not merely to kill time, to repeat what a colleague has said, or slightly to amplify that, but to push ahead the case for his side by readjustment, reëmphasis, and well-selected proof on which he lets the audience see him thinking cogently. Do not, therefore, overcrowd your

speech with facts, trusting that your audience will see their value for the issues in the case. Remember that any audience is much more influenced by cogent thinking on a few well-selected facts than by any amount of facts whose value they are not shown or which are so numerous that they confuse. The aim should not be "How much evidence can I pour out before this audience?" but "What is the smallest number of the many pieces of evidence in my possession which, when presented so as to show my thought in regard to them, will convince?"

Unity of the whole debate. Due emphasis in the whole debate cannot be too strongly insisted on, for often two sets of speakers who start from a set of issues acceptable to both develop a case on which much conflicting evidence is cited, but the affirmative emphasizes one of the issues particularly and the negative another. As was pointed out in treating proof, evidence must be handled in relation to the evidence of one's opponent, and in treating a question involving several issues it is not enough to prove one or more sound or unsound. The question is whether what is proved on one side disposes of what is proved on the other. It may perfectly well be that one or more of the issues are really of secondary value as compared with the others. For instance, in a debate on a bill for the exclusion of the Chinese, the negative contended that the bill "damages American interests in the Philippine Islands by excluding Chinese laborers who are necessary for the development of the Islands; that the law is loose and weak; that it is unduly harsh; that the harshness of the law has been detrimental to American trade in China in the past and will be more detrimental in the future." The speakers, however, put their probative emphasis on the second and

the third of these contentions, while the affirmative replied particularly to the first and the fourth. A little thought will show that the latter are much more important, and if the affirmative speakers had but shown in their rebuttal that the negative could not dispose of the question merely by establishing the truth of the second and the third ideas, but must first prove the truth of the other two, a discussion which moved on parallel lines would have been given unity, for the negative must either have met the contention or have admitted its truth by failing to reply and so suffering defeat.

Rebuttal in debating. Indeed it is in rebuttal, particularly in the openings or the closings of the regular speeches, that unity both for a side and for the case as a whole may readily be brought about, for it is particularly at those points that a speaker relates his own work and that for his side to the other side. Rebuttal may be said to be the life of debate, for it links part with part, brings the immediate and the unexpected into relation with the prearranged, keeps a discussion from going off on secondary issues, and places emphasis correctly. As we have seen, preparedness, selection, and emphasis are three essentials of refutation, and at this point, for debating, a fourth should be added, mobility, the ability, as already explained, to shift effectively to meet the exigencies of debate. A great part of the success of the German army in the Franco-Prussian War has been attributed to the care used to keep officers and their aids informed as to the nature of the country in which they were maneuvering their troops. The officer in command, whenever a body of German soldiery moved to a new position, at once summoned his under officers, and with a map of the country spread out on the floor, quizzed them

as to the names of the surrounding villages and hamlets, roads running out of the town, crossroads, and the points of vantage and of special danger, — in a word, as to the military topography of the region. When the lesson was over, the officers were sent to their posts. Yet even all this preparation must at times have proved worthless, if the officers could not swiftly throw their men from one position to another in order to repel an attack at a point at which it had been decided that the enemy was unlikely to attack. Preparedness is an essential of refutation, but the power to use one's information without rigidity, with mobility, is equally important.

Arbitrary and scattering rebuttal. In rebuttal untrained debaters often pick out at random one or more of the ideas advanced against them and confine their answer to these. Such arbitrary selection is weakening to one's case. Let the audience see that you have followed so closely the development of the discussion to any given point that you are perfectly aware of all that has been said against your case; but if extraneous matter has been thrust in, or matter which can be granted or waived, or if some of the ideas are subordinate to others and so must fall if the latter are refuted, make these facts clear by swift summarizing analysis of the case to the point at which you take it up. Then you can proceed with your refutation sure, if you succeed in establishing the truth of your answer, that you have really done more, namely, swept away the opposition thus far of your opponents.

Again, do not indulge in scattering rebuttal, picking up most or all of the points made against you but in perfectly haphazard fashion. First, by analysis determine just which of the ideas urged against you must be treated. Secondly,

note whether all must be treated in opening your speech, or whether some naturally connect themselves with parts of your own direct proof and may best be taken up in connection with them, while others may best be treated at the end of your speech. Of course selection among many ideas advanced against your case is not easy, but sureness comes with practice. The test, when in doubt as to the necessity for considering a point made by an opponent, is to compare it with the accepted special issues. If it has any vital relation to one or more of them, it must be treated. If not, it may go out. There is no more common fault in debating than a combination of arbitrary and scattering rebuttal, in which speakers simply try to answer a few of the many ideas advanced against them, choosing them apparently entirely at random. Nothing more surely sends a debate adrift, confusing a hearer as to its real meaning and the exact work accomplished up to a given point. Of course the ability to value each objection as it rises and, if it deserve reply, to place it properly in one's own case, comes only with much careful practice, but no one is a master of rebuttal who has not the power, and without it one is sure to render impossible the unity and progression already explained as essential.

Form. Let a speech have a beginning, a middle, and an end. Begin with some effective thought or some keen piece of analysis which places a case somewhat confused or outlines clearly a treatment that is not in itself simple. Keep your transitions in thought clear. You owe this to your audience. Some speeches are, however, unrelated blocks of thought. Watch your audience and see to it that it understands the significance for the main question of what you say in each division. In closing see that

what your work as a whole has accomplished is evident and if possible make clear into what position it forces your opponents. Keep within time limits. To be cut off has a bad effect: it is worse to run over. In an intercollegiate debate some years ago, one speaker persistently disregarded the repeated fall of the chairman's gavel, finishing his work as he had planned. The next speaker, on the opposite side of course, who as he began rather markedly placed his watch before him on the desk, was careful to come to the end of his effective speech before the time limit had expired. Picking up his watch he said: "I see, Mr. Chairman, that I still have four minutes left. These I present to the preceding speaker for his rebuttal." Hearty applause from an audience largely composed of college mates of the preceding speaker showed how much he had lost by his disregard of the regulations. Get climax in your work. Even if the ebb and flow of the discussion forces you to disregard it in the ordering of your ideas, gain climactic effect from your phrasing, manner, and voice. Many speakers approach the end of their work as if it were a dreaded leap into oblivion, and, after trying again and again to close, end abruptly or trail off in less and less audible sentences till the gavel falls.

External form. Debaters should remember that their appearance before an audience may have a large persuasive effect for or against them. The fact is, any beginner in debate will save himself much if he will take as a preliminary a good course in voice-training, pose, and gesture. A quiet, not self-conscious facing of an audience; ability to change one's position easily, instead of an awkward shifting from foot to foot, or steady swinging of the trunk from the hips, or restless pacing of the platform; gestures

which interpret or emphasize instead of merely betraying nervousness — all these are desiderata in a debater.

Above all in external form, train the voice. Sometimes it is all that can give variety to a speech, but its power to do this when skillfully used is amazing. Much speaking is ineffective, not because of a thin, nasal, or harsh tone, but because of monotony. Even an agreeable tone, if repeated in each succeeding sentence, soon comes to have a marked rhythm that deprives the matter of emphasis and may easily put the hearers to sleep.

Nor is speaking mere talking. Much of the talk which we hear lacks energy and also variety of inflection, but he who becomes interested in some argument with a friend energizes, puts power behind his delivery, and as he waxes more and more interested in making his point, lets his feelings color his voice and even his phrase. Such energized talking is the beginning of speaking. Throw yourself into your work with every nerve alert and every faculty ready to be of use. But do not overreach with the voice, that is, shout. Reserve power, — the suggestion, when you are speaking energetically and are evidently throwing yourself into your work, that you are by no means as yet at your full possible power, — is desirable. To this, both shouting and the thin, light voice are almost insuperable obstacles.

Pose helps greatly. Weak knees, which allow the trunk to settle, block good tone; drooping shoulders, contracting the chest, have a similar effect. Let the laws of gravity take care of the hands. They belong neither in one's pockets nor on the hips. Forget them till your thought impels you to interpret or to emphasize it by gesture. In that case, let the gesture start at the shoulder rather than

from the wrist or an elbow held close to the body. Relax the hand instead of holding it clinched.

Nor may vocabulary be neglected by the earnest debater. Many a student who writes correctly grows slangy or falls into cheap colloquialisms when he speaks. Such persons pound their way through sentences, landing emphatically on unimportant connectives and prepositions instead of significant words because the right word does not spring instantly responsive to thought. In such a case it is wise to try each day speaking in one's room for five minutes on any topic which interests one, with an accurate and responsive vocabulary as the test of success. If the difficulty results from nervousness before an audience, such practice usually shortly cures it. If the vocabulary is really meager, it may be enlarged by any of the devices recommended in courses in composition.

The work of each debater. It may be well to state what should be the work of each speaker in a debate. In class debates,[1] there are usually two persons on each side, allowed, for instance, ten minutes in which to open the discussion, fourteen minutes for the main speech, and six

[1] Class debates rather than interclass or intercollegiate debates are considered here because class-room work should teach more than debating under this or that set of special rules established by some committee, and will, if well done, surely turn out good debaters for such contests, since it deals in the principles underlying all good oral discussion. Custom differs decidedly in these debating contests, for sometimes there are two, sometimes three contestants on a side; sometimes all three speakers on each side are given a chance in rebuttal, sometimes only one; and in some places the negative still has the last rebuttal speech. After all, the directions in this chapter which apply to the whole debate as contrasted with the special speaker hold good no matter whether there be one, two, or three men on a side. Nor will it be difficult for teacher or pupil to see the slightly different apportionment of work and emphasis which a third debater on a team or three final rebuttal speeches may make necessary.

minutes for final rebuttal, with some five or six speeches from the floor of four minutes each.

Opening speech for the affirmative. This is to arouse interest promptly in the subject or to increase interest already aroused. Do not open a debate like a seminar on a topic in history or economics, nor with such formality that it becomes evident that you are thinking more of the principles of debating than of making your subject interesting. State rapidly but clearly whatever must be understood before the case to be developed can be listened to intelligently. If a printed introduction is in the hands of your hearers, do not assume their knowledge of its contents: rapidly, lightly, interestingly run over its contents. Increase your detail of treatment if no such outline is in their hands. Give attention carefully to admitted, granted, extraneous, and waived matter, and the issues. Move into the first division of your argument. A trick too common in debating is for the opening speaker to make his exposition so full that he has no room for argument. Thus, if the introduction be acceptable to the negative, it is forced into anticipatory rebuttal and may be led to waste its strength in attacking what the affirmative does not intend to treat. Usually, the negative, unwilling to attack in the dark, takes any opportunity to haggle over some introductory detail, and thus, when the third speaker opens and the debate should be at least a third over, it has not really begun. Another reprehensible trick is for an opening speaker to go as far as his issues, but to leave the negative still in the dark about them. This trick is usually given the appearance of a miscalculation in time which cuts the speaker off unexpectedly. Either trick should count heavily against the side perpetrating it. If possible,

do not merely present part or all of the first division of your argument, but show in closing what position it seems to you the negative must take in regard to it. That makes it impossible for the negative to dodge or to ignore your contentions.

First speech for the negative. Make clear whether the introduction of the affirmative is acceptable, especially as to admitted, granted, extraneous, or waived matter and the issues. Do you agree to the order in which the affirmative evidently means to treat them? Do you accept the task outlined by the last speaker in closing? Is there any reason why his argument thus far may best be treated in detail, not by you, but by your colleague? If so, make the fact so clear that no hearer can doubt your right to postpone discussion of it. Arbitrary postponement has the appearance of dodging the question. If possible, in passing the argument over to your colleague, deal it one blow, leaving him to fill in details. If you feel that it is your duty to consider the argument, do not merely pick flaws in it and produce contradictory evidence, but make evident (1) why your proof is better than that of the affirmative, and (2) where your evidence, well selected and carefully contrasted with that of your opponent, leaves the case. If you do not need all your time to answer the case of the affirmative so far as it has been developed, the difficult part of your task is to decide whether to lead out your attack on material not yet submitted by your opponents. Only study of the special conditions of each case can answer this question properly, but usually one is forced to attack because the whole case for the negative cannot be crowded into the second speech. If forced to produce anticipatory rebuttal, don't spend all your ammunition.

Strike firm blows, but save material for your colleague in the second negative speech or for the final rebuttal, for in either of these you will both know just what the affirmative has to say on the matter. When closing, make clear (1) what you have tried to do; (2) where it leaves the whole case; and (3) what it seems to you the affirmative must in consequence do.

Second speech for the affirmative. First, do you accept the preceding speaker's contentions as to (1), (2), and (3) in his summing up? If not, readjust the case, but never arbitrarily: let your audience see your right to do what you wish. If you feel that the preceding speaker did not successfully meet the argument of your colleague, summarize carefully so that the audience shall see why the evidence of your colleague still more than answers the argument of the negative. Do not merely assert that your opponent has been overcome; don't treat the matter with vague reference, as, "My colleague fully met all this by what he said as to the effect of immigration on crime." An audience may not remember the details which make the force of this proof. Restate rapidly, comparing the two sets of evidence. Of course, if you feel sure, from watching the audience, that it sees the failure of the negative to meet your colleague's argument, your summary may be the swiftest possible which yet recalls the way in which your colleague made his point or points. If you don't at once answer the ideas introduced into the debate by the preceding speaker, justify your order. If possible, show that he mistook, in his anticipatory rebuttal, your plan of campaign and has overreached himself by attacking what you do not mean to defend. Remember in both direct proof and rebuttal that your evidence is of value, not

simply because evidence is produced, but because you show its value as compared with the evidence of your opponents. In closing, leave your whole case clear, summarizing both your colleague's and your own contribution to the discussion and their effect on the case of the negative. If possible, as you close, insist that the negative must not merely object, but must support a contrasting plan or method. Of course in many cases you cannot fairly demand this of the negative, but when you can it is important to do so.

Second speech for the negative. Do you accept the case as emphasized by the affirmative? Do you accept the conclusions of the second speaker for the affirmative as to your colleague's treatment of the first affirmative speaker? If you do, you need say nothing; but if you do not, rearrange, justifying your changes. It may sometimes be advisable to leave some rebuttal suggested by the preceding speech till the final rebuttal. If so, make clear your right to postpone it. Strengthen as much as you can the positions taken by your colleague. If a contrasting case must be presented, this is the place for it. In supporting this or in rebuttal, remember that cogent reasoning on a few well-selected facts is more convincing than a mere array of evidence. In closing, place the whole case for your side in relation to the case for the affirmative.

Speeches from the floor. In class debates the speeches from the floor come at this point. These should not be mere statements of opinion or questions only, but debating. Would-be speakers from the floor, either before coming to the class room, or as they listen to the debate, should select an idea for development. It may be one treated or suggested in the main debate or by some speech from the floor. The speaker should make clear his point, his

answer to obvious objections to it, and what he takes to be the effect of it on the case as a whole. Obviously it will not be possible to do this for more than one point, and not even for that unless there is skillful selection in evidence with conciseness of phrase. If the main debate has been confused, it is helpful to let the first speaker from the floor analyze the main debate, showing judicially what has been accomplished and what remains to be done, or how the question should be reëmphasized, so that his successors on the floor may not go astray. It is probably best to let the speeches alternate for affirmative and negative. Sometimes it is helpful to allow the last speaker before the final rebuttal to summarize the whole discussion, including the speeches from the floor, leaving a clear case for the rebuttal speakers to accept, treating it swiftly but with evidential firmness, or to reëmphasize with justification and then treat strongly. It sometimes sharpens the rebuttal speeches or aids in keeping mere questioning out of the speeches from the floor to permit members of the course to ask questions, not speaking to them, just before the final rebuttal begins.

Final rebuttal. The negative now opens in rebuttal, as an offset to its advantage in not having to open up the case. The chief points in final rebuttal are non-introduction of any new aspect of the case, though new evidence may be produced to support an idea already treated in the main debate;[1] treatment of the case as a whole, but so

[1] Debates leading to a decision have aroused discussion of this principle, for advantage has been taken of the opportunity it offers to hold back evidence which should have been produced earlier in the debate. But must evidence, crowded out because of unexpected detail called for in some division or really forgotten, be ruled out of the final rebuttal because some debaters are willing to be mere shysters?

cut down by analysis as to be susceptible of treatment in six minutes; telling blows by well-selected evidence; recognition of arguments pro and con introduced from the floor as well as in the main discussion; and a close which makes a hearer understand what the speaker thinks he has done and where the case rests. Naturally all this is possible in so brief a space only when sure and swift analysis reduces a case to very simple proportions; an equally sure selection of evidence picks just the piece of evidence which, by itself or with summarizing reference to evidence already produced in the debate, makes the point good; and when the phrasing is succinct. Mastery of final rebuttal usually coincides with mastery of debate. It cannot come till one can debate well elsewhere, but till it comes, a good debate may go to pieces at the last moment.

Formalism in debate. Of course, the directions just given state merely what must underlie each speech, not by any means what should be unmistakably evident. After all, the greatest art is that which conceals itself, and in no art is this truer than in argumentation. Particularly in managing the transitions from the speech of one side to the next for the opposite side a debater must beware of formalism. Do the work, get the result, but do not let the method obtrude itself. Many a debate has been wearisome beyond endurance because, though all the proper steps were properly taken, they were made so prominently that the technical moves of debating attracted more attention than the development of the question at issue. The skilled debater, resting on his training in analysis, structure, evidence, and presentation, will show the special characteristics of good debate — fairness, clearness, thoroughness, and mobility — but in such fashion that his

audience will not think of any of these matters, so absorbed will it be in his interesting, lucid, and cogent presentation of his case.

The relation of theory to practice. All that has been said of written and oral argumentation shows that it is a difficult art, to be mastered only through persistent, conscientious practice of its principles. Often in colleges, students who have deservedly gained some reputation at school or in their Freshman year as speakers, confident of their powers, filled with the widespread idea that genius needs no training other than practice, refuse to enter courses in argument. Repeating year after year without severe criticism the errors which were not serious at first but which soon hardened into grave faults, they grow dissatisfied and complaining when more and more often they are on losing teams. Some in disgust drop out of debating, protesting that something indefinable is wrong which is unjust to them. As in any art, in argumentation use makes perfect, and he who is told he has promise as a debater will be wise to submit to severe training in the principles which underlie argumentation; nor should he allow himself to be led astray by that *ignis fatuus* of the weary or lazy student, the idea that because in his first careful study of the rules of the art he finds his work hampered by them, he is losing his individuality and may even work less well after his study than before. There is undoubtedly a stage in learning and applying laws of any art when, for a time, the student feels hampered by warnings for and against this or that, and longs for his old freedom of movement which certainly brought him larger results. Gradually, however, the laws that were at first so hampering become a matter of course. When this stage in his work is reached, if he compares his result with the

results of his labor before he studied at all, he will see his great gain. Certainly, only when a man has so thoroughly learned his art that instinctively he works rightly, can he be said to be master of it. None of the great orators gained his mastery without infinite pains. The beginner in argumentation, hesitating whether to submit himself to strict training in the principles of Persuasion and Conviction, should ponder these words of Demosthenes: —

It seems to me far more natural that a man engaged in composing political discourses, unperishable memorials of his power, should neglect not even the smallest detail, than that the generation of painters and sculptors, who are darkly showing forth their manual tact and toil in corruptible material, should exhaust the refinements of their art on the veins, on the feathers, on the down of the lip, and the like niceties.[1]

EXERCISES

1. Apply with the class to the following topics the comments on pp. 398–402, in regard to choice of topics: —

"Has Civilization benefited more from poetry than from science?"

"That it is harmful to the citizens of the United States to rest on what their forefathers did and to be honored for it, rather than to be proud of what improvements they themselves have made."

"Judges should not be elected by popular vote."

"The efforts of the Russian Nihilists are entitled to the sympathy of a free people."

"Church unity is not possible."

"Intercollegiate football promotes the best interests of colleges."

"The scheme of transporting the negro to Africa is impracticable."

"It should not be the policy of the United States to hold permanently foreign territory unless it be with the purpose of giving it ultimate statehood."

"Codification of the common law is not unwise."

[1] *Attic Orators.* R. C. Jebb. Vol. I, p. lxxv. Macmillan & Co.

2. Discuss with the class burden of proof in both senses as exemplified in the specimen debate printed in the Appendix.

3. Let the class read carefully the specimen debate. In the class room discuss its merits and demerits; first, when judged as a whole by the standards explained on pp. 408–415, and secondly, by the standards named for each speaker.

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APPENDIX

I

A PERSUASIVE SPEECH

On the Employment of Indians in the War against the Colonies

LORD CHATHAM

[In the course of the debate on affairs in America, Lord Suffolk, secretary for the Northern Department, undertook to defend the employment of the Indians in the war. His Lordship contended that, besides its *policy* and *necessity*, the measure was also allowable on *principle;* for that "it was perfectly justifiable to use all the means that *God and nature put into our hands!*"]

I am astonished [exclaimed Lord Chatham as he rose], shocked to hear such principles confessed — to hear them avowed in this House, or in this country; principles equally unconstitutional, inhuman, and unchristian!

My Lords, I did not intend to have encroached again upon your attention, but I cannot repress my indignation. I feel myself impelled by every duty. My Lords, we are called upon as members of this House, as men, as Christian men, to protest against such notions standing near the Throne, polluting the ear of Majesty. "That God and nature put into our hands!" I know not what ideas that lord may entertain of God and nature, but I know that such abominable principles are equally abhorrent to religion and humanity. What! to attribute the sacred sanction of God and nature

to the massacres of the Indian scalping-knife — to the cannibal savage torturing, murdering, roasting, and eating — literally, my Lords, *eating* the mangled victims of his barbarous battles! Such horrible notions shock every precept of religion, divine or natural, and every generous feeling of humanity. And, my Lords, they shock every sentiment of honor; they shock me as a lover of honorable war, and a detester of murderous barbarity.

These abominable principles, and this more abominable avowal of them, demand the most decisive indignation. I call upon that right reverend bench, those holy ministers of the Gospel, and pious pastors of our Church — I conjure them to join in the holy work, and vindicate the religion of their God. I appeal to the wisdom and the law of this learned bench to defend and support the justice of their country. I call upon the Bishops to interpose the unsullied sanctity of their lawn; upon the learned Judges, to interpose the purity of their ermine, to save us from this pollution. I call upon the honor of your Lordships to reverence the dignity of your ancestors, and to maintain your own. I call upon the spirit and humanity of my country to vindicate the national character. I invoke the genius of the Constitution. From the tapestry that adorns these walls, the immortal ancestor of this noble lord frowns with indignation at the disgrace of his country. In vain he led your victorious fleets against the boasted Armada of Spain; in vain he defended and established the honor, the liberties, the religion — the *Protestant religion* — of this country, against the arbitrary cruelties of Popery and the Inquisition, if these more than popish cruelties and inquisitorial practices are let loose among us — to turn forth into our settlements, among our ancient connections, friends, and relations, the merciless cannibal, thirsting for the blood of man, woman, and child! to send forth the infidel savage — against whom? against your Protestant brethren; to lay waste their country, to desolate their dwellings, and extirpate their race and name

with these horrible hell-hounds of savage war — *hell-hounds, I say, of savage war!* Spain armed herself with blood-hounds to extirpate the wretched natives of America, and we improve on the inhuman example even of Spanish cruelty; we turn loose these savage hell-hounds against our brethren and countrymen in America, of the same language, laws, liberties, and religion, endeared to us by every tie that should sanctify humanity.

My Lords, this awful subject, so important to our honor, our Constitution, and our religion, demands the most solemn and effectual inquiry; and I again call upon your Lordships, and the united powers of the state, to examine it thoroughly and decisively, and to stamp upon it an indelible stigma of the public abhorrence. And I again implore those holy prelates of our religion to do away these iniquities from among us. Let them perform a lustration; let them purify this House, and this country, from this sin.

My Lords, I am old and weak, and at present unable to say more; but my feelings and indignation were too strong to have said less. I could not have slept this night in my bed, nor reposed my head on my pillow, without giving this vent to my eternal abhorrence of such preposterous and enormous principles.[1]

[1] *Representative British Orations.* C. K. Adams. Vol. I, pp. 138–141. G. P. Putnam's Sons. 1884.

II

DEFINITION OF PARTY

DEFENCE OF PARTY

IN

Thoughts on the Cause of the Present Discontents

EDMUND BURKE

This cabal has, with great success, propagated a doctrine which serves for a colour to those acts of treachery; and whilst it receives any degree of countenance, it will be utterly senseless to look for a vigorous opposition to the court party. The doctrine is this: That all political connexions are in their nature factious, and as such ought to be dissipated and destroyed; and that the rule for forming administrations is mere personal ability, rated by the judgment of this cabal upon it, and taken by draughts from every division and denomination of public men. This decree was solemnly promulgated by the head of the court corps, the Earl of Bute himself, in a speech which he made, in the year 1766, against the then administration, the only administration which he has ever been known directly and publicly to oppose.

It is indeed in no way wonderful, that such persons should make such declarations. That connexion and faction are equivalent terms, is an opinion which has been carefully inculcated at all times by unconstitutional statesmen. The reason is evident. Whilst men are linked together, they easily and speedily communicate the alarm of any evil design. They are enabled to fathom it with common counsel, and to oppose it with united strength. Whereas, when they lie dispersed, without concert, order, or discipline, communication is uncertain, counsel difficult, and resistance impracticable. Where

men are not acquainted with each other's principles, nor experienced in each other's talents, nor at all practised in their mutual habitudes and dispositions by joint efforts in business; no personal confidence, no friendship, no common interest subsisting among them, it is evidently impossible that they can act a public part with uniformity, perseverance, or efficacy. In a connexion, the most inconsiderable man, by adding to the weight of the whole, has his value, and his use; out of it, the greatest talents are wholly unserviceable to the public. No man, who is not inflamed by vain-glory into enthusiasm, can flatter himself that his single, unsupported, desultory, unsystematic endeavours, are of power to defeat the subtle designs and united cabals of ambitious citizens. When bad men combine, the good must associate; else they will fall, one by one, an unpitied sacrifice in a contemptible struggle.

It is not enough in a situation of trust in the commonwealth, that a man means well to his country; it is not enough that in his single person he never did an evil act, but always voted according to his conscience, and even harangued against every design which he apprehended to be prejudicial to the interests of his country. This innoxious and ineffectual character, that seems formed upon a plan of apology and disculpation, falls miserably short of the mark of public duty. That duty demands and requires, that what is right should not only be made known, but made prevalent; that what is evil should not only be detected, but defeated. When the public man omits to put himself in a situation of doing his duty with effect, it is an omission that frustrates the purposes of his trust almost as much as if he had formally betrayed it. It is surely no very rational account of a man's life, that he has always acted right; but has taken special care to act in such a manner that his endeavours could not possibly be productive of any consequence.

I do not wonder that the behaviour of many parties should have made persons of tender and scrupulous virtue somewhat out of humour with all sorts of connexion in politics. I admit

that people frequently acquire in such confederacies a narrow, bigoted, and proscriptive spirit; that they are apt to sink the idea of the general good in this circumscribed and partial interest. But, where duty renders a critical situation a necessary one, it is our business to keep free from the evils attendant upon it; and not to fly from the situation itself. If a fortress is seated in an unwholesome air, an officer of the garrison is obliged to be attentive to his health, but he must not desert his station. Every profession, not excepting the glorious one of a soldier, or the sacred one of a priest, is liable to its own particular vices; which, however, form no argument against those ways of life; nor are the vices themselves inevitable to every individual in those professions. Of such a nature are connexions in politics; essentially necessary for the full performance of our public duty, accidentally liable to degenerate into faction. Commonwealths are made of families, free commonwealths of parties also; and we may as well affirm, that our natural regards and ties of blood tend inevitably to make men bad citizens, as that the bonds of our party weaken those by which we are held to our country.

Some legislators went so far as to make neutrality in party a crime against the state. I do not know whether this might not have been rather to overstrain the principle. Certain it is, the best patriots in the greatest commonwealths have always commended and promoted such connexions. *Idem sentire de republicâ*, was with them a principal ground of friendship and attachment; nor do I know any other capable of forming firmer, dearer, more pleasing, more honourable, and more virtuous habitudes. The Romans carried this principle a great way. Even the holding of offices together, the disposition of which arose from chance, not selection, gave rise to a relation which continued for life. It was called *necessitudo sortis;* and it was looked upon with a sacred reverence. Breaches of any of these kinds of civil relation were considered as acts of the most distinguished turpitude. The whole people was distributed into political societies, in which they

acted in support of such interests in the state as they severally affected. For it was then thought no crime, to endeavour by every honest means to advance to superiority and power those of your own sentiments and opinions. This wise people was far from imagining that those connexions had no tie, and obliged to no duty; but that men might quit them without shame, upon every call of interest. They believed private honour to be the great foundation of public trust; that friendship was no mean step toward patriotism; that he who, in the common intercourse of life, showed he regarded somebody besides himself, when he came to act in a public situation, might probably consult some other interests than his own. Never may we become *plus sages que les sages*, as the French comedian has happily expressed it, wiser than all the wise and good men who have lived before us. It was their wish, to see public and private virtues, not dissonant and jarring, and mutually destructive, but harmoniously combined, growing out of one another in a noble and orderly gradation, reciprocally supporting and supported. In one of the most fortunate periods of our history this country was governed by a *connexion;* I mean the great connexion of Whigs in the reign of Queen Anne. They were complimented upon the principle of this connexion by a poet who was in high esteem with them. Addison, who knew their sentiments, could not praise them for what they considered as no proper subject of commendation. As a poet who knew his business, he could not applaud them for a thing which in general estimation was not highly reputable. Addressing himself to Britain,

> "Thy favourites grow not up by fortune's sport,
> Or from the crimes or follies of a court,
> On the firm basis of desert they rise,
> From long-tried faith, and friendship's holy ties."

The Whigs of those days believed that the only proper method of rising into power was through hard essays of practised friendship and experimented fidelity. At that time it

was not imagined, that patriotism was a bloody idol, which required the sacrifice of children and parents, or dearest connexions in private life, and of all the virtues that rise from those relations. They were not of that ingenious paradoxical morality, to imagine that a spirit of moderation was properly shown in patiently bearing the sufferings of your friends; or that disinterestedness was clearly manifested at the expense of other people's fortune. They believed that no men could act with effect, who did not act in concert; that no men could act in concert, who did not act with confidence; that no men could act with confidence, who were not bound together by common opinions, common affections, and common interests.

These wise men, for such I must call Lord Sunderland, Lord Godolphin, Lord Somers, and Lord Marlborough, were too well principled in these maxims upon which the whole fabric of public strength is built, to be blown off their ground by the breath of every childish talker. They were not afraid that they should be called an ambitious Junto; or that their resolution to stand or fall together should, by placemen, be interpreted into a scuffle for places.

Party is a body of men united, for promoting by their joint endeavours the national interest, upon some particular principle in which they are all agreed.[1] For my part, I find it impossible to conceive, that any one believes in his own politics, or thinks them to be of any weight, who refuses to adopt the means of having them reduced into practice. It is the business of the speculative philosopher to mark the proper ends of government. It is the business of the politician, who is the philosopher in action, to find out proper means towards those ends, and to employ them with effect. Therefore every honourable connexion will avow it is their first purpose, to pursue every just method to put the men who hold their opinions into such a condition as may enable them to carry their common plans into execution, with all the power and

[1] Italics not in the original.

authority of the state. As this power is attached to certain situations, it is their duty to contend for these situations. Without a proscription of others, they are bound to give to their own party the preference in all things; and by no means, for private considerations, to accept any offers of power in which the whole body is not included; nor to suffer themselves to be led, or to be controlled, or to be overbalanced, in office or in council, by those who contradict the very fundamental principles on which their party is formed, and even those upon which every fair connexion must stand. Such a generous contention for power, on such manly and honourable maxims, will easily be distinguished from the mean and interested struggle for place and emolument. The very style of such persons will serve to discriminate them from those numberless impostors, who have deluded the ignorant with professions incompatible with human practice, and have afterwards incensed them by practices below the level of vulgar rectitude.

III

A SPECIMEN INTRODUCTION

The First of Three Lectures on Evolution[1]

T. H. Huxley

We live in and form part of a system of things of immense diversity and complexity, which we call Nature; and it is a matter of the deepest interest to all of us that we should form just conceptions of the constitution of that system and of its past history.[2] With relation to this universe, man is, in

[1] *Specimens of Argumentation.* pp. 60–72.

[2] In this desire and power of man to speculate upon the past history of the universe, Professor Huxley finds the origin of the question of Evolution that he is to present to his audience. So far as is expressed,

extent, little more than a mathematical point; in duration but a fleeting shadow; he is a mere reed shaken in the winds of force. But, as Pascal long ago remarked, although a mere reed, he is a thinking reed; and in virtue of that wonderful capacity of thought, he has the power of framing for himself a symbolic conception of the universe, which, although doubtless highly imperfect and inadequate as a picture of the great whole, is yet sufficient to serve him as a chart for the guidance of his practical affairs. It has taken long ages of toilsome and often fruitless labor to enable man to look steadily at the shifting scenes of the phantasmagoria of Nature, to notice what is fixed among her fluctuations, and what is regular among her apparent irregularities; and it is only comparatively lately, within the last few centuries, that the conception of a universal order and of a definite course of things, which we term the course of Nature, has emerged.

But, once originated, the conception of the constancy of the order of Nature has become the dominant idea of modern thought. To any person who is familiar with the facts upon which that conception is based, and is competent to estimate their significance, it has ceased to be conceivable that chance should have any place in the universe, or that events should depend upon any but the natural sequence of cause and effect. We have come to look upon the present as the child of the past and as the parent of the future; and, as we have excluded chance from a place in the universe, so we ignore, even as a possibility, the notion of any interference with the order of Nature. Whatever may be men's speculative doctrines, it is

this is also the immediate cause for discussion, for the other factors that contributed to gathering people to hear the speaker were Professor Huxley's reputation and the knowledge that he would speak in defense of a theory which many persons considered startling if not irreligious. There was no occasion to speak of either of these causes. Moreover, to speak of the first would have been unbecoming, and to emphasize the second would have defeated Professor Huxley's persuasive purpose to lead his audience as gently and naturally as possible to the consideration of his theory.

quite certain that every intelligent person guides his life and risks his fortune upon the belief that the order of Nature is constant, and that the chain of natural causation is never broken.

In fact, no belief which we entertain has so complete a logical basis as that to which I have just referred. It tacitly underlies every process of reasoning; it is the foundation of every act of the will. It is based upon the broadest induction, and it is verified by the most constant, regular, and universal of deductive processes. But we must recollect that any human belief, however broad its basis, however defensible it may seem, is, after all, only a probable belief, and that our widest and safest generalizations are simply statements of the highest degree of probability. Though we are quite clear about the constancy of the order of Nature, at the present time, and in the present state of things, it by no means necessarily follows that we are justified in expanding this generalization into the infinite past, and in denying, absolutely, that there may have been a time when Nature did not follow a fixed order, when the relations of cause and effect were not definite, and when extra-natural agencies interfered with the general course of Nature. Cautious men will allow that a universe so different from that which we know may have existed; just as a very candid thinker may admit that a world in which two and two do not make four, and in which two straight lines do inclose a space, may exist. But the same caution which forces the admission of such possibilities demands a great deal of evidence before it recognizes them to be anything more substantial. And when it is asserted that, so many thousand years ago, events occurred in a manner utterly foreign to and inconsistent with the existing laws of Nature, men, who, without being particularly cautious, are simply honest thinkers, unwilling to deceive themselves or delude others, ask for trustworthy evidence of the fact.

Did things so happen or did they not? This is a historical question, and one the answer to which must be sought in the same way as the solution of any other historical problem.

So far as I know, there are only three hypotheses which ever have been entertained, or which well can be entertained, respecting the past history of Nature. I will, in the first place, state the hypotheses, and then I will consider what evidence bearing upon them is in our possession, and by what light of criticism that evidence is to be interpreted.

Upon the first hypothesis, the assumption is, that phenomena of Nature similar to those exhibited by the present world have always existed; in other words, that the universe has existed from all eternity in what may be broadly termed its present condition.

The second hypothesis is, that the present state of things has had only a limited duration; and that, at some period in the past, a condition of the world, essentially similar to that which we now know, came into existence, without any precedent condition from which it could have naturally proceeded. The assumption that successive states of Nature have arisen, each without any relation of natural causation to an antecedent state, is a mere modification of this second hypothesis.

The third hypothesis also assumes that the present state of things has had but a limited duration; but it supposes that this state has been evolved by a natural process from an antecedent state, and that from another, and so on; and, on this hypothesis, the attempt to assign any limit to the series of past changes is, usually, given up.

It is so needful to form clear and distinct notions of what is really meant by each of these hypotheses that I will ask you to imagine what, according to each, would have been visible to a spectator of the events which constitute the history of the earth. On the first hypothesis, however far back in time that spectator might be placed, he would see a world essentially, though perhaps not in all its details, similar to that which now exists. The animals which existed would be the ancestors of those which now live, and similar to them; the plants, in like manner, would be such as we know; and the mountains, plains, and waters would foreshadow the

salient features of our present land and water. This view was held more or less distinctly, sometimes combined with the notion of recurrent cycles of change, in ancient times; and its influence has been felt down to the present day. It is worthy of remark that it is a hypothesis which is not inconsistent with the doctrine of Uniformitarianism, with which geologists are familiar. That doctrine was held by Hutton, and in his earlier days by Lyell. Hutton was struck by the demonstration of astronomers that the perturbations of the planetary bodies, however great they may be, yet sooner or later right themselves; and that the solar system possesses a self-adjusting power by which these aberrations are all brought back to a mean condition. Hutton imagined that the like might be true of terrestrial changes; although no one recognized more clearly than he the fact that the dry land is being constantly washed down by rain and rivers and deposited in the sea; and that thus, in a longer or shorter time, the inequalities of the earth's surface must be levelled, and its high lands brought down to the ocean. But, taking into account the internal forces of the earth, which, upheaving the sea-bottom, give rise to new land, he thought that these operations of degradation and elevation might compensate each other; and that thus, for any assignable time, the general features of our planet might remain what they are. And inasmuch as, under these circumstances, there need be no limit to the propagation of animals and plants, it is clear that the consistent working-out of the uniformitarian idea might lead to the conception of the eternity of the world. Not that I mean to say that either Hutton or Lyell held this conception — assuredly not; they would have been the first to repudiate it. Nevertheless, the logical development of their arguments tends directly toward this hypothesis.

The second hypothesis supposes that the present order of things, at some no very remote time, had a sudden origin, and that the world, such as it now is, had chaos for its phenomenal antecedent. That is the doctrine which you will

find stated most fully and clearly in the immortal poem of John Milton — the English *Divina Commedia* — *Paradise Lost.* I believe it is largely to the influence of that remarkable work, combined with the daily teachings to which we have all listened in our childhood, that this hypothesis owes its general wide diffusion as one of the current beliefs of English-speaking people. If you turn to the seventh book of *Paradise Lost,* you will find there stated the hypothesis to which I refer, which is briefly this: That this visible universe of ours came into existence at no great distance of time from the present; and that the parts of which it is composed made their appearance, in a certain definite order, in the space of six natural days, in such a manner that, on the first of these days, light appeared; that, on the second, the firmament, or sky, separated the waters above from the waters beneath the firmament; that, on the third day, the waters drew away from the dry land, and upon it a varied vegetable life, similar to that which now exists, made its appearance; that the fourth day was signalized by the apparition of the sun, the stars, the moon, and the planets; that, on the fifth day, aquatic animals originated within the waters; that, on the sixth day, the earth gave rise to our four-footed terrestrial creatures, and to all varieties of terrestrial animals except birds, which had appeared on the preceding day; and, finally, that man appeared upon the earth, and the emergence of the universe from chaos was finished. Milton tells us, without the least ambiguity, what a spectator of these marvellous occurrences would have witnessed. I doubt not that his poem is familiar to all of you, but I should like to recall one passage to your minds, in order that I may be justified in what I have said regarding the perfectly concrete, definite picture of the origin of the animal world which Milton draws. He says:

> The sixth, and of creation last, arose
> With evening harps and matin, when God said,
> "Let the earth bring forth soul living in her kind,
> Cattle and creeping things, and beast of the earth,

Each in their kind!" The earth obeyed, and, straight
Opening her fertile womb, teemed at a birth
Innumerous living creatures, perfect forms,
Limbed and full-grown. Out of the ground uprose,
As from his lair, the wild beast, where he wons
In forest wild, in thicket, brake, or den;
Among the trees in pairs they rose, they walked;
The cattle in the fields and meadows green:
Those rare and solitary; these in flocks
Pasturing at once, and in broad herds upsprung.
The grassy clods now calved; now half appears
The tawny lion, pawing to get free
His hinder parts — then springs, as broke from bonds,
And rampant shakes his brinded mane; the ounce,
The libbard, and the tiger, as the mole
Rising, the crumbled earth above them threw
In hillocks; the swift stag from underground
Bore up his branching head; scarce from his mould
Behemoth, biggest born of earth, upheaved
His vastness; fleeced the flocks and bleating rose
As plants; ambiguous between sea and land,
The river-horse and scaly crocodile.
At once came forth whatever creeps the ground,
Insect or worm.

There is no doubt as to the meaning of this statement, nor as to what a man of Milton's genius expected would have been actually visible to an eye-witness of this mode of organization of living things.

The third hypothesis, or the hypothesis of evolution, supposes that, at any comparatively late period of past time, our imaginary spectator would meet with a state of things very similar to that which now obtains; but that the likeness of the past to the present would gradually become less and less, in proportion to the remoteness of his period of observation from the present day; that the existing distribution of mountains and plains, of rivers and seas, would show itself to be the product of a slow process of natural change operating upon

more and more widely different antecedent conditions of the mineral framework of the earth; until, at length, in place of that framework, he would behold only a vast nebulous mass, representing the constituents of the sun and of the planetary bodies. Preceding the forms of life which now exist, our observer would see animals and plants not identical with them, but like them; increasing their differences with their antiquity and, at the same time, becoming simpler and simpler; until, finally, the world of life would present nothing but that undifferentiated protoplasmic matter which, so far as our present knowledge goes, is the common foundation of all vital activity.

The hypothesis of evolution supposes that in all this vast progression there would be no breach of continuity, no point at which we could say "This is a natural process," and "This is not a natural process"; but that the whole might be compared to that wonderful process of development which may be seen going on every day under our eyes, in virtue of which there arises, out of the semi-fluid, comparatively homogeneous substance which we call an egg, the complicated organization of one of the higher animals. That, in a few words, is what is meant by the hypothesis of evolution.[1]

[1] Professor Huxley, stating the three hypotheses at first as simply as he could, felt even then that they sounded vague, and therefore brought in concrete illustration to make each clearer. When he spoke, far more than to-day, discussion of the theory of Evolution made church-people combative at once, because of the essential contradiction they premised between it and the biblical theory of creation. Knowing this, Professor Huxley carefully avoided reference to the Bible, lest, before he had placed all the hypotheses clearly before his hearers, he should be involved in explanations of his interpretation of the lines in Genesis. To avoid this danger, he called the second hypothesis the Miltonic, by the newness of this term arousing the curiosity of the audience and turning their thoughts from the Bible to "Paradise Lost." There could be no doubt that he interpreted correctly the lines he read: there might, as he shows later, have been much discussion about any interpretation he gave of the words in Genesis. By his skill Professor Huxley got the three hypotheses before his audience without treating a difficult and dangerous topic.

I have already suggested that in dealing with these three hypotheses, in endeavoring to form a judgment as to which of them is the more worthy of belief, or whether none is worthy of belief — in which case our condition of mind should be that suspension of judgment which is so difficult to all but trained intellects — we should be indifferent to all *à priori* considerations. The question is a question of historical fact. The universe has come into existence somehow or other, and the problem is, whether it came into existence in one fashion, or whether it came into existence in another; and, as an essential preliminary to further discussion, permit me to say two or three words as to the nature and the kinds of historical evidence.

The evidence as to the occurrence of any event in past time may be ranged under two heads which, for convenience' sake, I will speak of as testimonial evidence and circumstantial evidence. By testimonial evidence I mean human testimony; and by circumstantial evidence I mean evidence which is not human testimony. Let me illustrate by a familiar example what I understand by these two kinds of evidence, and what is to be said respecting their value.

Suppose that a man tells you that he saw a person strike another and kill him; that is testimonial evidence of the fact of murder. But it is possible to have circumstantial evidence of the fact of murder; that is to say, you may find a man dying with a wound upon his head having exactly the form and character of the wound which is made by an axe, and, with due care in taking surrounding circumstances into account, you may conclude with the utmost certainty that the man has been murdered; that his death is the consequence of a blow inflicted by another man with that implement. We are very much in the habit of considering circumstantial evidence as of less value than testimonial evidence, and it may be that, where the circumstances are not perfectly clear and intelligible, it is a dangerous and unsafe kind of evidence; but it must not be forgotten that, in many cases, circumstantial is quite as conclusive as testimonial evidence, and that, not

unfrequently, it is a great deal weightier than testimonial evidence. For example, take the case to which I referred just now. The circumstantial evidence may be better and more convincing than the testimonial evidence; for it may be impossible, under the conditions that I have defined, to suppose that the man met his death from any cause but the violent blow of an axe wielded by another man. The circumstantial evidence in favor of a murder having been committed, in that case, is as complete and as convincing as evidence can be. It is evidence which is open to no doubt and to no falsification. But the testimony of a witness is open to multitudinous doubts. He may have been mistaken. He may have been actuated by malice. It has constantly happened that even an accurate man has declared that a thing has happened in this, that, or the other way, when a careful analysis of the circumstantial evidence has shown that it did not happen in that way, but in some other way.[1]

IV

CLASH IN OPINION AND SPECIAL ISSUES

RESOLVED: *That Harvard should Engage a Permanent Professional Coach for the Varsity and Freshman Rowing Squads*

I. The Question arises from the following facts.
   A. In the last seventeen years Harvard has won but three Varsity races, and few Freshman races.
   B. Complaint has been made that the coaching is at fault, in that

[1] This careful distinction between, and illustration of, testimonial and circumstantial evidence shows how careful Professor Huxley was not to leave in his hearers' minds any vagueness as to his terms. There is a popular feeling that circumstantial evidence is not very trustworthy, and since all of the proof Professor Huxley intended to use in support of his theory was circumstantial evidence, it was necessary to do away with this prejudice in the minds of his hearers.

1. Harvard's losing crews have usually been coached by amateurs.
2. The winning crews of opponents have usually been coached by professionals.

C. Yielding to this complaint, Harvard has twice tried professional coaching for her crews, viz.

1. In 1897 and 1898 Mr. Lehmann, an English oarsman, was employed.
2. In 1903 Mr. Colson, a Cornell oarsman, was paid to coach Harvard crews.

D. Although these coaches failed to turn out winning crews, to many the following explanation seems satisfactory, viz.

1. They were not retained long enough to give professional coaching a fair trial.

E. In view of this explanation many Harvard men believe that the Athletic Committee should at once engage a professional coach for the intercollegiate races in the spring.

II. Those who favor professional coaching maintain the following points.

A. Harvard's defeats cannot be attributed to lack of suitable material, since

1. Harvard has more students than her victorious rivals.
2. There is no evidence that her students are physically inferior.
3. There is no indication that they are less interested in rowing.

B. The real cause for defeats is found in the system of coaching, since

1. Under amateur coaching there has been frequent change of policy, —
   a. There have been four coaches in the last eight years.
2. Amateur coaches have not been sufficiently well informed in the sport.

C. These defects in coaching would be removed by a permanent system of professional coaching, since
1. One man will be given several years of full control as at Yale and Cornell.
2. The coach will be an expert in all the details of his sport, since
   a. He devotes his life to it (Courtney, Colson, Ten Eyck, etc.).
   b. He completely masters the mechanical details (rigging, oars, seats, etc.).
   c. He masters fine points of excellent oarsmanship (dip, catch, leg-drive, length of stroke, recovery, etc.).
3. He will be in a position to choose the best men for the crews — in that
   a. He watches the men from the time they begin rowing in the graded or class crews.
   b. He is an expert in judging physical and mental fitness (weight, strength, length of reach, determination, etc.).
   c. He is a master of scientific training.
   d. Much less than a graduate amateur coach is he given to favoritism.

D. The argument that professional coaching is likely to result in deterioration of true sportsmanship is not true, since
1. Rowing offers practically no opportunities for roughness or foul tactics.
2. Harvard professionals have been men of unquestioned sportsmanship.
3. The professional coaches of other institutions are gentlemanly and sportsmanlike (Courtney, Kennedy, C. Day).
4. At present the men who comprise the Varsity and Freshman squads are grounded in the rudiments of the sport by professionals.

5. Professional coaching is not considered undesirable in other branches of Harvard intercollegiate athletics, where foul tactics are much more possible.
6. Teams coached by professionals against which Harvard contests are sportsmanlike.

E. The consideration of the money expended is not a strong objection, in that
1. The salary is small.

III. Those who favor the retention of amateurs as coaches contend as follows:

A. That Harvard's material may be assumed to be equal to that of her rivals.

B. The argument that our defeats are due to lack of professional coaching is not convincing, since
1. We have lost all three races with crews coached by professionals.
2. We have won two races with crews coached by amateurs.
3. English amateur crews defeat American crews coached by professionals.

C. Harvard's crews have been coached under a disadvantage, in that
1. The system has frequently changed.
2. Some of the coaches have not been experts.

D. It is possible to remedy these disadvantages under a system of graduate amateur coaching.
1. It is not impossible to secure a graduate amateur coach who may remain several years.
   a. The time required is not great.
   b. There are usually "moneyed" men among rowing enthusiasts.
   c. Mr. Bancroft did coach for several years.
2. Several graduates might act as under-coaches and in turn continue the system as head-coaches.
3. Yale retains practically the same system under both professional and amateur coaches.

E. An amateur coach may be as well informed as, or even better than, a professional.

1. He may have all the professional's mastery of detail.
2. Being a college man, he can arouse a more determined spirit among his oarsmen.

F. A vital objection to professional coaching is that it lowers the standard of pure sportsmanship.

1. The only standard of success for a professional is victory.
2. Amateurs see honor in a well-fought contest even though it results in defeat.
3. An amateur sees that sport for sport's sake, friendly if fierce rivalry, well-rounded physical excellence, etc., are the true aims of sport.
4. Though it may be true that crews coached by professionals do not resort to foul tactics, yet

4'. Many instances can be cited where men coached by professionals in other sports have.

G. The idea of paying money for true sport seems to be repugnant.

1. Even now the Corporation of Harvard is considering the abolition of gate-receipts.

IV. Two terms need explanation.

A. Professional coaches, as in other branches of athletics, are men who receive compensation above actual expenses.

B. True sportsmanship may be defined as meaning a desire to secure not only the highest efficiency but also clean tactics and a friendly if earnest rivalry with opponents.

V. Several considerations may be omitted from the discussion.

A. Three points are admitted by both sides.

1. There has been a lack of uniformity in Harvard's coaching.

2. Harvard should bend every fair effort to secure more efficient crews.
3. To this end uniformity of system is indispensable.

B. The advocates of amateur coaching are willing to grant three things:
1. Harvard's material is as good as her rivals'.
2. This desirable uniformity might be secured by the affirmative plan.
3. No small tricks are possible in rowing.

C. As extraneous to this discussion, the following may be omitted from consideration:
1. All analogies between American and English oarsmanship, since
   a. The conditions of climate, temperament, training, and experience in rowing are entirely different.
2. Favoritism on the part either of amateurs or professionals, since
   a. Either would realize that it is absolutely imperative for Harvard to get the best crews possible.

D. Both sides agree to waive discussion of the financial consideration, since
1. The amount of money is small.
2. The principle as to paying money for coaches should be decided for all athletics, not for one sport alone.

VI. With these considerations omitted, the question seems to turn on the following issues:

A. Could the admittedly desirable uniformity be secured under amateur coaching, in that
1. One man could serve for several years?
2. He could train men to take his place and maintain his system?

B. If not, would the acknowledged inefficiency of our crews be removed by professional coaching, since
1. It is granted that uniformity would ensue?

2. A professional coach greatly surpasses an amateur in knowledge of the sport, in that
   a. He devotes his life to it?
   b. He completely masters the mechanical details?
   c. He masters fine points of excellent oarsmanship?
3. He will be in a position to choose the best men for the crews, in that
   a. He watches the men constantly?
   b. He is an expert in judging physical and mental fitness?
   c. He is a master of scientific training?

C. Would a professional coach in rowing lower the standard of Harvard sportsmanship?
1. Has the sportsmanship decreased in other Harvard sports that have been coached by professionals?
2. Does the experience of other American Universities indicate that professional coaching injures the standard of sportsmanship?

V

A CLASH IN OPINION

Should the Dispensary System for the Sale of Intoxicating Liquors be Adopted in New England?

I. Those who assert that the system should be adopted make the following contentions:
   A. They say New England needs a reform.
   B. The excessive use of intoxicants leads to evil results.
   C. Some legislation to control the drink traffic is necessary.
   D. They say it would tend to decrease drunkenness, since
      1. Less liquor would be sold, in that
         a. It would remove the social temptation to drink.

b. There would be no competition among sellers.
c. There would be no private profit.
E. They say that it is desirable politically.

II. Those who assert that the system should not be adopted make the following contentions:
A. They say that it would increase the evils of drunkenness, since
1. It would remove the social ban on drinking.
2. There would be increased drunkenness in the home.
3. The state would try to increase sales of liquors, since
a. It receives the profits.
B. They say that it could not be enforced, since
1. Present saloon power would oppose it.
C. They say that it would be a great political peril, in that
1. The system would offer means for a "spoils system."

VI

A CLASH IN OPINION

RESOLVED: *That Women should have the Same Suffrage Rights in the United States as Men*

I. The contentions of the Affirmative are as follows:
A. Woman suffrage should be granted on the basis of justice, since
1. The right of suffrage is one of the essential rights of citizenship.
2. Governments derive their just powers from the consent of the governed.
3. Taxation without representation is unjust.
4. To deny to women the right to vote is in effect taxation without representation.
5. The ballot is the only efficient protection of woman's interests, since

a. Men have been slow to realize the needs and interests of women.
b. All improvement in the status of women has been brought about largely by their own endeavors.
c. At this moment, women still have standing legal, economic, and social grievances against the government as a result of the "man régime."

B. Woman suffrage will benefit the government, since
1. Politics will be purified.
2. New abilities will be made available.
3. The educational system will be improved.
4. The undesirable voters will be excluded by literacy and property tests.

C. Woman suffrage is practicable, since
1. It has been successful in the United States wherever in operation.
2. It has been successful in foreign countries.
3. The Constitutional changes will not be difficult to bring about.

II. The contentions of the Negative are as follows:

A. Woman suffrage is not demanded by justice.

B. Woman suffrage is not necessary, since
1. Woman's interests are already adequately represented.

C. Woman suffrage would confer the franchise upon persons by nature unfitted for politics.

D. Woman suffrage would greatly increase the number of illiterate and corrupt voters.
1. This will be especially true among the negro women of the South.

E. Woman suffrage is not practicable, since
1. It would interfere with woman's natural duty as wife and mother.
2. It would cause serious inconvenience to large numbers of women.
3. It would cause the deterioration of American home life.

VII

A CLASH IN OPINION

The Army Canteen should be Reëstablished

I. The canteen should be reëstablished, since
   A. The larger number of men in the army are addicted to drink.
   B. The soldiers who are addicted to the drink habit will continue to drink, whether the canteen exists or not.
   C. The surroundings at the post-exchange are better than those at the saloons which the soldiers must frequent.
   D. Intoxication and its attendant evils, — desertion, absences without leave, insubordination, illness, disease, — exist in the army.
   E. The reëstablishment of the canteen would do away with many of the evils of intoxication, since
      1. It would save the soldier from bodily injury.
      2. It would keep him from being robbed in many cases.
      3. It would keep him from contracting many diseases.
      4. It would improve discipline in the camp.
   F. For the government to supply places of recreation will be very expensive, since
      1. The appropriation of one million dollars will hardly suffice for two dozen buildings.

II. Those who oppose reëstablishment have argued that the canteen should not be reëstablished, since
   A. By the reëstablishment of the canteen the actual amount of liquor consumed will be increased.
   B. By the reëstablishment of the canteen the number of men who drink will be somewhat increased.
   C. It promotes drunkenness.
   D. Drunkenness is detrimental to the health and discipline of the army.
   E. It is injurious to the morals of the soldier.

F. It is ethically wrong for the government to sanction liquor traffic.

G. It is injurious to the public morals.

H. The United States will make an appropriation which will make up for the loss of the canteen.

I. The United States will be able to construct buildings for all the army camps and maintain them at its own expense.

VIII

SPECIMEN OF ANALYSIS

The Severe Policy of our Army Officers in the Philippine Islands to Suppress the Rebellion and to Establish Civil Government is not Justifiable

Introduction

I. Public attention has been called to the methods of our army officers in the Philippine Islands by the following events:

A. Publication by newspapers of certain letters written by some of our soldiers and officers, in which our officers were accused of cruelty against the natives.

B. General Miles came out with the statement that the war was being carried on with "marked severity."

C. Being reprimanded by Secretary Root, General Miles brought to light the report of Colonel Gardiner showing that severity was being employed.

D. An investigation was ordered.

E. Major Waller, court-martialed for shooting natives, was acquitted on the ground that he acted under orders of General Smith.

F. General Smith, court-martialed for issuance of order to "kill and burn," was acquitted May 5th, 1902. He was later retired by the President.

II. In this argument the following terms need explanation:
   A. By "officers in the Philippine Islands" we mean commissioned officers, — that is, all officers having the rank of lieutenant or above.
   B. By "rules of war" we refer to the rules governing the United States army.

III. The following points are admitted by both sides:
   A. International law does not apply in this war.
   B. Retaliatory measures, as far as allowed by rules of war, are justifiable.
   C. "Concentration" is justifiable.
   D. The following acts, except in retaliation, according to rules of war, are unjustifiable, — torture, shooting of prisoners without trial, refusal to give quarter, extermination of peaceful inhabitants.
   E. The policy of our officers in the Philippine Islands has been severe in these respects:
      1. They have laid waste districts aiding insurgents.
      2. They have imposed "Concentration."
      3. They have exterminated combatants so far as rules of war allow.
   F. The decision of the administration to put down the rebellion and to retain the Philippine Islands is to be upheld.

IV. The Affirmative make the following three contentions:
   A. Some of our army officers have seen fit to use the following methods in suppressing the insurrection, — torture, shooting prisoners without trial, refusal to give quarter, devastation of peaceful districts, extermination of noncombatants.
   B. Such instances of cruelty on the part of our officers have been sufficiently numerous to be considered part of their policy.
   C. This policy is unjustifiable on the following grounds:
      1. It is contrary to the instructions of the adminstration.

2. It is contrary to the rules of war.
3. It is inexpedient from the point of view of our interest.
4. It is morally unjustifiable.

V. The Negative make the following two contentions:
   A. Instances of unusual severity on the part of our officers have not been numerous enough to be considered part of their policy.
   B. Such instances as there have been are justifiable, for
      1. They have been for purposes of retaliation.
      2. Retaliation, in savage warfare, is allowed by rules of war and by expediency.

VI. The question takes the following form:
   A. Have the following unjustifiable acts been resorted to?
      1. Torture.
      2. Shooting of prisoners without trial.
      3. Refusal to give quarter.
      4. Devastation of peaceful districts.
      5. Extermination of noncombatants.
   B. If resorted to, have they occurred in sufficient number to be considered part of the policy of our officers?
   C. Can these acts be justified upon the following grounds?
      1. Were they in accordance with the instructions of the administration?
      2. Were they in accordance with the rules of war?
      3. Were they expedient?
      4. Were they morally justifiable?

IX

SPECIMEN OF ANALYSIS

Should an Eight-Hour Working Day be Adopted within the United States?

I. The question arises from the following facts:
   A. Gradual reductions have been made from the old labor day, from sunrise to sunset, till now an average working day of eleven hours prevails in most countries.
   B. Many firms in England have adopted an eight-hour day.
   C. Australia has an eight-hour day by legal enactment.
   D. Bills have been introduced in Congress for the adoption of an eight-hour day and have failed.
   E. Several states have adopted the eight-hour day.
   F. There is a bill in Congress at present for an eight-hour day, to apply to the government employees.
   G. It is a question which directly affects all, employer, employee, and consumer.

II. The eight-hour working day does not apply to farm and agricultural labor.

III. The advocates of an eight-hour day base their case on the following points:
   A. That an eight-hour day would not be an economic disadvantage, in that
      1. The amount of production would be maintained, since
         (*a*) The successive reductions of the hours of labor in this country have been followed by an increase rather than a diminution.
         (*b*) The amount of production depends largely upon the intellectual and moral status of the laborer.
         (*c*) More laborers would be utilized.

(*d*) Invention and the use of new machinery would be stimulated.

2. Wages would not be lowered.
3. Prices generally would not be affected.
4. The total export trade would not be affected.
   (*a*) It would not be according to theory.
   (*b*) At present competition is most marked with countries where hours of labor are shortest.
   (*c*) Other countries are also shortening their hours of labor.
5. Domestic trade relations would not be affected, since
   (*a*) The question assumes that the change in the laboring day would be uniform throughout the United States.

B. An eight-hour working day would be an advantage to laborers or the working class, in that
1. It would increase their intelligence and culture, in that
   (*a*) More time would be given for lectures, reading, evening schools.
2. It would raise the standard of living.
   (*a*) Wants would be created which laborers would satisfy.
3. The laborers would have better health, in that
   (*a*) They would not have to spend so much time in unwholesome conditions.

IV. Those who oppose an eight-hour working day maintain the following:

A. That an eight-hour day would be harmful to industry, in that
1. It would decrease production, since
   (*a*) Men can do less in eight hours than they can in ten.
2. Wages would be decreased, in that
   (*a*) Employers would pay in proportion to the number of hours worked.

3. Our export trade would be injured, in that
   (*a*) Our goods could not compete with goods made in countries where the longer working day is common.

B. An eight-hour working day is unnecessary, in that
1. Ten or twelve hours will not injure the workmen mentally.
2. Ten or twelve hours will not hurt them physically.
3. Not all workmen desire the shorter working day.
4. The laborers in the United States are at present prosperous.

C. The condition of the laboring class would not be improved.
1. It is not certain that the time gained by shorter hours would be well spent.

V. The physical and intellectual improvement of laboring men, their moral condition, and the method of adopting this measure will not be discussed, in that

A. It is generally admitted that if the financial condition of the laborers is not injured, an eight-hour working day would improve the physical condition of laboring men.

B. Under the same condition it would improve the intellectual condition of the laboring class.

C. The negative grants for the sake of argument that the moral conditions of laborers would be bettered under an eight-hour day.

D. Any question as to the method of adopting an eight-hour day will be waived for this discussion.

VI. The three following questions then become vital:

A. Would an eight-hour working day maintain the amount of production?

B. Would it decrease the wages of the employee?

C. Would our export trade be injured?

X

SPECIMEN OF ANALYSIS

The Changes in the Present Banking Law as Proposed by Senator Aldrich should be Adopted

I. The frequent financial stringencies in our large monetary centers within recent years have aroused widespread discussion of the efficacy of our present National Banking Law to relieve them.

II. The existing Banking Act, as enacted in 1864, provides:

A. The Secretary of the Treasury be "authorized to designate certain national banks as Government depositories and to deposit therein all the receipts of the United States, except those from customs." (Senator Aldrich, Cong. Rec., Feb. 24, '03.)

B. The depository banks give as security to the Secretary of the Treasury bonds of the United States to the full amount of deposits.

III. The critics of the present act base such criticism upon the fact that:

A. Since it provides no easy means of getting rid of large surpluses locked up in the national Treasury, a stringency in the money market often occurs at a season when money is most needed.

IV. This financial stringency is attributed to provisions of the Present Banking Act, namely, that:

A. The Secretary of the Treasury is expressly prohibited by the existing act from depositing customs receipts in the national depositories.

B. The Secretary can accept only United States Bonds to secure all government deposits.

V. The Aldrich Bill, looking to the abolition, or at least mitigation, of such financial stringencies, provides that:

A. The Secretary of the Treasury may place on deposit with national banks customs receipts as well as other government receipts.

B. The Secretary of the Treasury may, at his discretion, accept as security besides the bonds of the United States the following:

1. Bonds or other interest-bearing obligation of any state.
2. Any legally authorized bonds issued for municipal purposes by any city in the United States which has been in existence as a city for a period of twenty-five years, and which for a period of ten years previous to such deposit has not defaulted in payment of any authorized debt, and which has at such date more than 50,000 inhabitants, as established by the last census, and whose net indebtedness does not exceed 10% of the valuation of the taxable property therein.
3. The first mortgage bonds of any railroad company, not including street railway bonds, which has paid dividends of not less than 4% per annum regularly and continuously on its entire capital stock for a period of not less than 10 years next previous to the deposit of the bonds.
4. The 2% bonds issued to appropriate funds for the construction of the Isthmian canal.

C. The United States shall have a first lien on the current assets of the depository for the repayment of the deposits.

D. The Secretary of the Treasury may at his discretion require the depository to increase or change the character of the securities already deposited.

E. The national banks shall pay for the use of public money deposited a rate of interest not less than 1½% per annum, the rate to be determined by the Secretary of the Treasury at his discretion.

VI. The Affirmative contend that:
  A. The accumulated surplus in the Treasury causes a stringency in the money market.
  B. This surplus will be removed by the Aldrich Bill.
VII. The Negative contend that:
  A. The cause of the stringencies is that Bankers do not keep a large enough reserve.
  B. The Aldrich Bill will not prevent these stringencies by causing the Bankers to keep a larger reserve.
VIII. The Affirmative admit that the Aldrich Bill will not cause the Banks to keep a larger reserve.
IX. The Negative admit that the Aldrich Bill will do away with the surplus.
X. The issue then narrows down to the following:
  A. Is the cause of the stringency the surplus of customs receipts in the Treasury, or is it the failure of Bankers to keep on hand a large enough reserve?

XI

SPECIMEN OF ANALYSIS

The Tuition in Harvard College should be Increased from $150 to $225

I. According to President Eliot's report, 1902–'03, there was a deficit of over $40,000 for the expenses incurred by Harvard College, due to the following causes:
  A. A $43,144.59 increase in the salary list.
  B. $3,342.42 paid on the excess of running expenses of Stillman Infirmary over receipts.
  C. $1654.15 paid for running of Semitic Museum.
  D. $2390.16 " " " " New Lecture Hall.
  E. $2,328.06 " " " " Germanic Museum.
  F. $21,264.00 loss by having to give up interest on certain bequests transferred to the Medical School.

G. $10,114.90 paid on debt of School of Veterinary Surgery.

II. Treasurer Charles F. Adams proposed on this account an increase of the tuition fee of Harvard College from $150 to $225.

III. In speaking of Harvard College we mean to exclude the professional schools.

IV. Those who favor making this increase in tuition fees make two contentions.

A. At the present tuition, the welfare of the college is threatened by lack of funds, in that

1. Annual deficit cannot be avoided without materially decreasing the college's efficiency.
2. There is no other way to meet this deficit.

B. An increase of $75 in tuition is a desirable way to meet this deficit and lack of funds, in that

1. Sufficient funds would be furnished to enable the college to maintain its position and develop for many years.
2. It would not materially affect the number of students.
3. It would not be a step away from democracy.

V. Those who oppose the increase, on the other hand, make two contentions.

A. The deficit is not a sufficient reason for changing the tuition fee to $225, in that

1. The deficit is only temporary and is no cause for alarm.

B. The proposed plan would be damaging to the college, in that

1. It would materially decrease the number of students.
2. It would be sacrificing democracy to conservatism.

VI. For this discussion both sides agree that if there is to be any increase it shall be $75. No relative amounts are to be discussed.

VII. The Negative admits that the proposed plan would meet the deficit.

VIII. The special issues therefore are the following questions:

A. Is the said deficit weighty enough to cause a change in the existing policy, in that

1. Is it permanent?
2. Is there any other way to meet it?

B. Is said change of such magnitude that it would be damaging to the institution in the following respects:

1. Would it cause the loss of a considerable number of students?
2. Would it be a step away from democracy?

XII

SPECIMEN OF ANALYSIS

The Cecil Rhodes Scholarships for the United States will Accomplish the Purpose of their Founder

I. The will of Cecil Rhodes establishes for each state and territory of the United States two Oxford scholarships of $1500 each.

II. The will specifies the following qualifications for candidates:

A. Literary and scholastic attainments, which shall count $\frac{3}{10}$ and which shall be determined by examination.

B. Fondness for and success in out-of-door sports, which shall count $\frac{2}{10}$ and which shall be determined by ballot by the fellow-students of the candidate.

C. Qualities of manhood, truth, courage, attention to duty, sympathy for the weak, unselfishness, and fellowship, which shall count $\frac{3}{10}$ and shall be determined by vote of fellow-students.

D. Exhibition during school days of force of character and of instincts to lead and to take an interest in his schoolmates, which shall count $\frac{2}{10}$ and shall be determined by the head master of the school.

III. The recipients of the scholarships are to be separated among the various colleges of Oxford.

IV. The purpose of Cecil Rhodes in establishing these scholarships was to increase the good will between the United States and England. He hoped to do this by educating in England young Americans who seemed likely to become influential men in their own country.

V. Both sides admit the following:

A. Three years' residence at Oxford is time enough to cause these men to desire a closer attachment of the United States to England.

B. The majority of these students will return to the United States.

C. Men are eligible for these scholarships who have gone no farther than through their Sophomore year at college.

VI. The Affirmative contend as follows:

A. These men will become influential Americans.

B. As influential men they will be able to create a better feeling in the United States towards England.

VII. The Negative admit that if these men become influential they will be able to create in the United States a better feeling towards England, but contend as follows:

A. The qualifications named by Rhodes do not as a rule make influential Americans.

B. The men selected will not be the most desirable American youths.

C. The Oxford training will not fit the men selected to become influential Americans.

VIII. The special issues then become:

A. Do the qualifications named by Rhodes as a rule make influential Americans?

B. Will the men selected be the most desirable American youths?

C. Will the Oxford training fit the men selected to become influential Americans?

XIII

BRIEF FOR EVIDENCE EXERCISE No. 10 — REFUTATION

Brief E

Should Capital Punishment be Abolished?

INTRODUCTION

I. In former times a long category of crimes were punished by the infliction of death — usually by hanging — on the guilty. As time went on, one after another of these crimes were expunged from the national code, till at present murder is, generally speaking, the only crime punished with loss of life. The question now arises, "Why not abolish capital punishment for murder?"

II. Capital punishment is punishment involving the forfeiture of life, inflicted on a person for a crime, by the authority to which the offender is subject.

III. Three theories concerning the design of punishment are held.

A. Reformation of the criminal.

B. Retribution.

C. Prevention.

BRIEF PROPER

Capital punishment should be abolished, for

I. It has done irrevocable wrong, for

A. Inequality and unfairness exist in the administration of justice, for

1. In some places criminals are much better hanged than in others, for
   a. Hanging in the country is done by amateurs.
2. The same punishment is inflicted on every person who commits murder, for
   a. No allowance is made for the kind of murder perpetrated.
3. A certain class of criminals is more easily put to death than others, for
   a. It is hard to hang a person who holds a high social position in the community.
   b. It is more difficult to put to death a person of wealth than a person of little or no means.
4. A man hanged in one part of the country escapes in another, for
   a. Certain parts of the country have abolished the death penalty.
   b. The farther west you go the harder it is to condemn.
5. Murderers are hanged at certain times who would not be hanged at others, for
   a. Much depends on the governor, for
      (*i*) If he is a soft, weak, conceited, heartless man, his judgment is apt to be partial.
   b. When the murder is general and people are alarmed for their safety, the criminal will have few chances to escape.
   c. If some time has elapsed between the crime and the conviction and the community is unconscious of insecurity, he will have many hopes of escaping the severe penalty.
   d. It is always more difficult to convict after an execution than before, for
      (*i*) Experience proves it.
6. The laws of the land are constantly disregarded and acts performed which they neither recognize nor allow, for

a. Although they state that every murderer should forfeit his life, yet
  (*i*) Many guilty men are inflicted with a lighter punishment or pardoned.[1]
b. Of two men found guilty of capital offense, one is violently executed, the other is allowed to escape, because
  (*i*) The sympathies, desires, and excited passions of the public are allowed to control, if not defy, the carrying out of the law.[2]

7. The innocent are frequently put to death with the guilty, and
8. Death destroys the only proof of innocence.
9. Though it may be argued that other punishments involve the innocent with the guilty, yet
   a. The dead can receive no reparation.

B. Offenses once capital are no longer punished with death.[3]

C. The assertion that capital punishment is a universal necessity cannot be proved, for

1. Its advocates base their assertion merely on their opinion of what is best for society, for
   a. The fear of change of punishment is associated with an idea of certain ruin whenever the change shall take place.
2. A mere opinion cannot define law and duty in the case of life and death.[4]
3. They cannot rely on the principles of retaliation, for
   a. The principle of retaliation is forbidden and disclaimed.[5]
4. They cannot rely on the principle of revenge, for
   a. All purpose of revenge is indignantly disowned.

[1] *Westminster Review*, Vol. 17, p. 57.
[2] *North American Review*, Vol. 62, p. 52.
[3] *Idem*, Vol. 62, p. 48.
[4] *Idem*, Vol. 62, p. 48.
[5] *Matthew* 5: 39.

5. They cannot rely on the principle of self-defense, for
   a. The right of taking life depends on the emergency.
   b. It has not lessened the number of murders.

D. The assertion that capital punishment is sanctioned by divine authority cannot be supported, for

1. Passages in the Bible which seem to uphold this theory are capable of different interpretations, for
   a. The word *shall* in Genesis, ninth chapter, sixth verse, on which the whole scriptural argument depends, can by permission of the Hebrew and English languages be changed to *will* and so express simply the great retributive law of God's providence.[1]
   b. The Hebrew future does not always stand for the imperative.
2. The Mosaic code was made for the Hebrews and is not binding for other nations.
3. There are other passages of equal importance that assert the contrary.[2]
4. It is contrary to the whole spirit of Christianity, for
   a. The supreme rule is to return good for evil.
5. The example of Christ does not advocate it, for
   a. He spared many who were guilty of murder.[3]
6. The Jewish penalties and retaliations which comprised originally the very law of life for life, have been repealed by Christ.

II. Capital punishment fails to support any one of the three theories concerning the design of punishment, for

A. Though it has been asserted that the only legitimate design of punishment should be to reform the criminal, yet

1. Capital punishment does not reform the criminal, for

[1] *North American Review*, Vol. 62, p. 44.
[2] *Genesis* 4: 14, 15; *Exodus* 20: 13.
[3] *Genesis* 4: 15; *Exodus* 2: 12.

a. Death cuts him off from all further opportunities to live a better life.

B. Though it has been asserted that the design of punishment should be to retribute the guilty person for the crime as he deserves, for

1. Capital punishment does not punish the criminal as he deserves, for

a. The most desperate and hardened criminal is insensitive to the suffering he has to endure and to the ignominy, for

(*i*) He does not care for his life.

C. Though it has been asserted that the design of punishment should be to protect society from other crimes, yet

1. Capital punishment fails to protect society, because

a. It does not prevent murder, for

(*i*) Although it is said that the fear of the gallows prevents crime, yet

x. The desperate murderer does not calculate the severe penalty of his crime, and

y. If he did calculate the result, he cannot be blind to the fact that jurors are exceptionally difficult to convince in cases of murder when the evidence is circumstantial.

(*ii*) Though the objection has been raised that murders are committed in secret, for fear of death, yet

x. Murders are committed in secret in places where the death penalty has been abolished.

(*iii*) The sight of executions has not been a warning, for

x. It is demoralizing in nature, for

(1) It is barbarous.

(2) There is always more or less savage exultation.[1]

[1] *Westminster Review*, Vol. 81, p. 412.

(3) Facts prove that a large number of criminals condemned for capital offenses have attended executions.[1]

2. It has been abolished with advantage to society, for
   a. In certain parts of countries where the death penalty has been abolished, with one exception, a Swiss canton, murders have not increased,[2] and
   b. In some instances murders have been known to decrease.[3]

CONCLUSION

Since, therefore, we have shown that capital punishment has done irrevocable wrong, and that it does not answer any of the purposes of a good punishment, we conclude that capital punishment should be abolished.

XIV

SPECIMEN POOR BRIEF

Brief F

Should the Students of Wellesley College have Self-Government?

A. INTRODUCTION

I. The question arises, since
   A. Some colleges are trying this method.
   B. There is a tendency at Wellesley towards this method of government.
   C. There is a strong feeling among the students in favor of its adoption.

II. Use of term self-government.

This means that each student shall govern herself according to her good judgment, and shall work in

[1] *Westminster Review*, Vol. 62, pp. 66, 67. [2] *Idem*, Vol. 91, p. 438.
[3] *North American Review*, Vol. 81.

coöperation with the faculty for the best interests of herself, her fellow-students, and the institution.

III. The students of Wellesley College should have self-government.

B. Proof

To adopt this method of government would

I. Benefit the college, as an institution, for

A. It would give it the greatest strength, since

1. It would give more unity. "In unity is strength."

a. Faculty and students united by

(*i*) Same aim: The greatest good of college and students.

(*ii*) Increase of mutual confidence, for

w. Without unity between faculty and students there is lack of confidence. See state of confidence between faculty and students at Lasell Seminary.

x. Trust of students by faculty underlies this government.

y. The students appreciate the trust.

z. Students and faculty would consult each other on important matters.

B. It is the only just method of government, since

1. All would share in government, and "legislation without representation is tyranny"; see

a. Attitude of English towards this.

b. Attitude of Americans towards it.

II. Benefit the students.

A. In spite of the objection that relaxation of arbitrary restraint of students would tend to cause the students to act in an unbecoming or imprudent manner.

1. Such an objection would be granted in a few cases, but not for the most part, since

a. Such action would be restrained by increased self-respect of students.

b. Such action would be checked by sentiment of faculty and students.

B. By increasing their self-reliance and prudence.

1. Self-reliance and prudence most necessary to women in all spheres of life, —
   As business women,
   As mothers.
2. Self-reliance and prudence increased by permitting the practice of them in the training-school of life, the college.

C. Since it has benefited those that have attempted it.

1. Contrast Lasell Seminary and Bryn Mawr.
2. Tendency towards this method in Wellesley a success. Compare first years of college with present time.

C. Conclusion

Since self-government would benefit the institution of Wellesley College and its students, it should be adopted.

XV

SPECIMEN POOR BRIEF

Brief G

Saloons Conducted on the Plan of the "Subway Tavern" in New York Promote Temperance

I. Introduction:

A. Origin of the Question.

1. This question was originated by the recent action of Bishop Potter of New York in dedicating a public saloon with religious exercises.
2. This act immediately aroused a spirited discussion in press and pulpit, among religious leaders, temperance workers, and the general public as well.

B. Definition of Terms.

1. By the phrase "conducted on the plan of the 'Subway Tavern,'" we shall mean those saloons conducted on the following principles.
   a. The proprietor shall make no profits except on non-alcoholic drinks and beer.
   b. No more inducement shall be given to the sale of alcoholic than of non-intoxicating drinks.
   c. Undue drinking shall be discouraged by
      i. Prohibiting "treating."
      ii. Provision of liberal and wholesome lunch.
   d. The purest drinks only shall be sold.
   e. Every reasonable attempt shall be made to make the place clean, respectable, and attractive.
2. In this connection we shall mean by "temperance" a moderate and restricted use of alcoholic liquors, in such a degree as not to cause a distinct physical injury.

C. Determination of Special Issues.

1. Admitted Matters.
   a. By dedicating this saloon with religious exercises, Bishop Potter gave the sanction of the Episcopal Church to this enterprise.
   b. This scheme is a sincere and honest attempt to eradicate the evils of intemperance.
   c. There is admitted to be a grave need of some remedy for the evils of intemperance.
   d. As yet no effectual remedy has been found.
2. Special Issue.
   a. Will saloons conducted on the plan of the "Subway Tavern," providing that
      a. There shall be no profits except on non-alcoholic drinks and beer and
      b. That no special inducements be given for sale of intoxicating drinks and
      c. That there shall be no treating and

d. That only the purest drinks be sold and
e. That as far as possible the place be kept clean, respectable, and attractive,
really promote temperance?

3. Extraneous Matter.
a. We shall regard the religious sanction given by Bishop Potter at the opening of the original "Subway Tavern" as incidental and not essential to this scheme.

II. Brief Proper:

Saloons conducted on the plan of the "Subway Tavern" do not promote temperance, for

A. This plan, in making the saloon respectable, directly encourages drinking, for

1. It removes an important restraining influence, since
a. There is a general conviction that drinking in saloons is not altogether respectable.
b. This conviction is nullified by making the saloon respectable, and
c. It is reasonable to suppose that where this influence has been removed, men will more readily yield to inclinations and temptations, and
d. This general argument is substantiated by Dean Richmond Babbitt of Brooklyn, who says, "the scheme undermines, neutralizes, and destroys temperance sentiment."[1]

B. The added attractiveness of such saloons induces more drinking and more drinkers, for

1. It is only reasonable to suppose that a man will stay longer and drink more in a place that is attractive than in one that is repellent; there will be more drinkers and more drinking here.
a. It is admittedly the essential part of the scheme that "Subway Tavern" saloons shall be more attractive than other saloons.

[1] *Public Opinion*, August 11, 1904, p. 184.

2. It is also reasonable to suppose that light drinkers will be enticed to continue the habit, thus being under constant temptation to drink to excess.
3. Men that do not drink at all are more likely to start the habit.
4. The attractiveness of the saloon will add a difficulty for the man who is trying to overcome the drink habit.
5. A combination of all these factors is conducive to more drinking, for
   a. As the *Star of Hope* says, "these saloons must greatly increase drunkenness and its attendant crimes."[1]
6. The *New York Sun* says, "The saloon is already too attractive."[2]

C. Saloons conducted on this plan contradict the well-recognized principle of temperance work, that the protection of the young from the drink habit is the most effectual way of curbing intemperance, since
1. By its combination of attractiveness and respectability it induces non-drinkers, who are for the most part young, to drink.
   a. As has been shown above.
2. And it is a well-known fact that, after the drink habit has been formed, only small results can be obtained by temperance work.
3. In this instance the old adage is applicable, that "an ounce of prevention is worth a pound of cure."

D. This scheme in itself directly provides for the increase of saloons in any one community, since
1. All profits over five per cent of the original capital are to be used in building more saloons to be run on the same plan.

[1] *Literary Digest*, September 3, 1904, p. 278.
[2] *Idem*, August 13, 1904, p. 185.

2. Naturally, the number of saloons will increase as the proceeds increase, and
   a. This per cent will undoubtedly be great, for
      (*i*) Financially the "Subway Tavern" is very successful.
         (*x*) As has been shown from the reports in daily papers.
3. This contention is substantiated by the fact that more saloons are to be built in New York at once, although the "Subway Tavern" has been open but a short time.
   a. This assertion is confirmed by the daily papers.

III. Refutation:

A. It has been asserted by those who favor the scheme that
1. The saloon cannot be eradicated, therefore to improve it will promote temperance.

1′. We reply that the scheme will not, in the long run, promote temperance, since it provides for
   a. More drinking.
   b. More drinkers.
   c. More saloons.

2. It may be urged that there are fewer inducements to drink, since
   a. The proprietor has no motive to induce drinking.

2′. Still this is nullified by the increased attractiveness of the saloon.
   a. As has been shown in our main argument.

2″. Increase in number of saloons.

3. Although it may be urged that the provision of soft drinks will discourage drinking,

3′. Yet in this respect the "Subway" is no better than any other saloon, for
   a. Soft drinks and good lunches may be obtained at almost any bar.

4. It is urged that by prohibiting "treating" a common cause for excessive drinking will be removed.

4′. This plan, however, if it proves successful could be adopted in all saloons, without the attendant evils of the "Subway" plan.

5. While in general there may be good points in the "Subway" scheme, as there undoubtedly are,

5′. Yet we contend that the evils as outlined above outweigh these possible benefits.

IV. Conclusion:

Since in making the saloon more respectable and attractive this plan directly encourages more drinking and more men to drink, and since it violates a fundamental principle of temperance work, and since it provides for an increase in the number of saloons, and since the advantages are outweighed by these evils, we conclude that saloons conducted on the plan of the "Subway Tavern" in New York will not promote temperance.

XVI

SPECIMEN POOR BRIEF

Brief H

Should Capital Punishment be Abolished?

INTRODUCTION

I. By capital punishment is meant punishment by death, by any method, for murder.

II. By murder is meant the willful and malicious destruction of human life.

BRIEF PROPER

Capital punishment should not be abolished, for[1]

A. It makes the conviction of the innocent less likely, for

1. When death is the penalty it leads to the most exact and critical examination of evidence.

[1] *New Englander*, Vol. I, p. 28.

2. It gives to the accused the full benefit of every doubt.
3. It lays the strongest hold on the conscience and sympathy of both court and witnesses.

B. The argument that capital punishment should be abolished on account of the fallibility of human courts is inconsistent, for

1. All laws are administered by fallible human courts, and by this reasoning it would follow that all laws ought to be abolished.

C. The argument that capital punishment should be abolished because it is irremediable, is unreasonable, for

1. All severe penalties, such as life imprisonment, are without a remedy, for
   a. Even though the criminal is pardoned finally, the best years of his life have been wasted.
2. It is not the object of courts of justice to inflict remediable penalties.

D. The lives of thousands are preserved by the execution of a few, for[1]

1. By the destruction of leaders of violent mobs, it discourages the tendency to instigate such mobs.
2. It suppresses the insurrection of anarchists.

E. The statement that capital punishment is the punishing of one murder by the commission of another is untrue, for

1. Punishment by death is not attended by malicious and revengeful designs, for
   a. To say that it is, is to deny all law and all forms of justice.

F. Places where the law of capital punishment does not exist become a refuge for murderers, for

1. Criminals desire the least possible punishment for their crimes, as is shown by the care they take to

[1] *New Englander*, Vol. I, p. 28.

escape detection, so would naturally plan to commit crimes in a place where the least penalty is inflicted.

2. Authentic instances exist of murderers deliberately decoying their victims into jurisdictions where the death penalty does not prevail.[1]

G. The fact that some jurors fail to bring in a verdict of guilty for murder when capital punishment is the penalty should not be considered, for

1. The poor administration of a law should not condemn the law itself.

H. The objection that there is no time for repentance for the criminal does not hold, for

1. Sufficient time is given between the arrest, conviction, and final death for every religious duty.[2]
2. The disposition to delay repentance will be the same in prison as out.
3. The shorter the time, and the greater and more pressing the need for repentance, the sooner is the criminal likely to repent.

I. Life imprisonment is an inadequate substitute, for

1. There is no higher penalty when the crime has been repeated by
   a. Murdering prison guards and warden.
2. It gives opportunities for escape, for
   a. Means are furnished for coöperative work by
      (*i*) Supplying tools.
      (*ii*) Causing the removal of criminals from their cells to the prison workhouse.
   b. There is an opportunity for criminals to make plans by communication with each other.
3. The possibilities for pardon are very great, for
   a. Statistics prove that within seven years a man has sixty-three chances out of one hundred.[3]

[1] *Forum*, Vol. III, p. 381.
[2] *New Englander*, Vol. I, p. 28.
[3] *Nation*, Vol. XVI, p. 193.

J. It is the best means for protecting the government, for
1. It is a safeguard against the populace taking the matter of life and death into their own hands by
   a. Private vengeance.
   b. Lynching.
2. It is a safeguard against the murder of those in public office by
   a. Political aspirants or their accomplices.
   b. Anarchists.
   c. Men like Booth, Guiteau, and the murderer of Carter Harrison.

K. Government has a right to maintain its own authority by the best means, even at the expense of life, for [1]
1. It is a part of the social compact in which the state originated, for
   a. A social compact necessarily implies a surrender to society of all the rights and powers which are indispensable to its own preservation.

L. It is the most effective preventive of crime, for
1. It produces more horror and dread of the crime of murder than any other form of punishment.
2. A man's life is his most important possession.
3. Confessions of convicted criminals show that they would not have committed the crime had they thought that they would suffer death.[2]

M. Where it has been abolished murder has increased, for
1. This has been proved by statistics to be the case in
   a. Rhode Island.
   b. Maine.
   c. Belgium.
2. This is shown by the fact that in some places where it had been abolished it has been restored, as in
   a. Tuscany.
   b. Michigan.
   c. Parts of Switzerland.

[1] *New Englander*, Vol. III, p. 562. [2] *Idem*, Vol. I, p. 28.

CONCLUSION

Since capital punishment is the best security against the conviction of the innocent; since by it thousands of lives are preserved; since places where it does not exist become a refuge for murderers; since life imprisonment is an inadequate substitute for it; since it is the best means for protecting the government; since furthermore it is the most effectual deterrent from crime, and since where it has been abolished murder has increased, capital punishment should not be abolished.

XVII

SPECIMEN GOOD BRIEF

Brief I

RESOLVED: *That in their Recent Clash with the Students of the Massachusetts Institute of Technology, the Police Exceeded their Legal Rights*

INTRODUCTION

I. The question arises from the following facts:
   A. On the evening of November 2 Harvard and Technology Republicans held a joint parade.
   B. Fearing a collision upon the steps of Rogers Hall, similar to the one which had occurred four years before, between the Harvard and Technology men, President Pritchett had directed Bursar Rand to see Captain Hall of the police and arrange for proper police protection "to keep the steps clear." The bursar had so arranged.
   C. After the Harvard paraders had passed out Beacon Street on their way home, the Technology paraders marched to Rogers Hall to give their customary cheers before disbanding.

D. Pursuant to their orders, the police attempted to prevent the students from mounting the steps, and as a result a fight between students and police followed, in which many people were hurt.

E. The police have been charged with being at fault and having exceeded their legal rights.

II. The details of these charges are as follows:

A. The police had no right to keep the students off the steps.

B. They had no right to use violence, in that

1. The law makes self-defense or overcoming of resistance the only occasion for police use of violence.
2. They and not the students were the original attacking party.

C. Granting that, after the attack was begun, the students threw sticks and torches at the police, yet

C'. The police met the resistance by more violence than was justified, in that

1. The law justifies the use of violence by the police only to the extent necessary to overcome resistance and defend themselves.
2. The need of violence was small.
3. The police were guilty of extreme violence.

D. The mounted police had no right to be on Boylston Street and so to enter the fight.

E. The police had no right to charge the crowds in the street, in that

1. They were not in riot.

III. The opposition maintains that the police were acting within their legal rights, in that

A. They had a right to keep the students off the steps of Rogers Hall, in that

1. They had an unrevoked order to do so, given upon the request of the Technology authorities.

B. The police had a right to use violence, in that

1. They were attacked by the students while peacefully carrying out instructions.

2. The law provides that in defending themselves from attack the police may use violence necessary to overcome resistance and defend themselves.

C. The police later had a right to clear the streets, in that

1. The crowd was dangerous.
2. The crowd blocked the passage.

D. The mounted police were acting within their legal rights in being on Boylston Street and taking a part in the clash, in that

1. They were ordered to report to Captain Hall after conducting the Harvard men to the bridge.
2. The law requires the police to aid their fellows when in difficulty.

E. The police did not use unnecessary violence in resisting the student attack, in that

1. They were met with great resistance, which under the law justified the violence necessary to overcome it.
2. Though the police used their clubs in striking students, yet

2′. The violence they used was not nearly so great as it seems, in that

a. The stories are exaggerated.

b. There were other causes in operation to produce the harm to the students.

c. The mounted police did not charge at speed into the crowd.

d. Few outsiders were hurt, and those because they were in the midst of the throng which was resisting the police.

IV. The following terms need definition:

A. The legal rights of the police in so far as they bear on this question are as follows:[1]

[1] Laws and Regulations Governing the Administration of the Police Department of the City of Boston.

1. Every patrolman shall at all times answer the calls and obey the orders of his superior officers.
2. The police shall suppress riots and mobs and disperse dangerous assemblies and assemblies which obstruct the free passage of public streets, walks, parks, etc.
3. In times of peril the police must act together and protect each other in the restoration of peace.
4. Violence is allowable only when the police meet with forcible resistance in carrying out their duty and when they are attacked.
5. No more force shall be used than is necessary for overcoming resistance.

B. Self-defense includes striking back with all necessary violence.

V. The following points will be excluded:

A. It is admitted that the police had the right to keep the steps clear. (President Pritchett.)

B. It is admitted that the police had the right to clear the streets.

C. It is admitted that the police used clubs and the students used sticks and torches.

D. It is admitted that controlled and peaceful keeping clear of steps does not constitute attack.

E. It is granted that the mounted police had a right to be on Boylston Street and to use violence if attacked.

VI. The question then reduces to these special issues:

A. Did the students or police open the attack?

B. Did the police use more violence than was necessary to overcome the opposition?

Brief Proper

I. The students of Technology and not the police opened the attack, for

A. It is not probable that the police attacked, for

1. They know they can legally use violence only when attacked, for

a. It is explicitly stated in the rules, a copy of which they all have.
b. They are required to know the rules.

2. They had no reason for attacking, for
a. They were on good terms with the students, for
(*i*) Captain Hall said, "Before this clash I had always been on good terms with the Technology men."[1]
(*ii*) All the police testified before the Commission that they regarded the jibes of the students, such as "All policemen have big feet," as jokes and were not angered by them.
b. They could use all the force necessary to keep the students off the steps without its constituting an attack, for
(*i*) The law forces them to carry out orders.

3. The police are naturally slow to attack, for
a. They know that punishment awaits them if they attack without reason.

B. It is natural that the students should have attacked, for

1. They would be angered at being kept off the steps, for
a. They thought they had special right to the steps, for
(*i*) As the yard is to Harvard men, Rogers Hall is to Technology students.
b. They had always gone there to cheer before.
c. They had not been told that they were to be kept off, for
(*i*) President Pritchett said, "No notice was given them."

2. Conditions favored a student attack, for
a. They were in a mood for a fight, for

[1] *Boston Herald*, November 3, p. 2.

(*i*) They had expected one with Harvard men.

b. They had sticks in their hand, especially suited for fighting purposes.

3. Students have an inborn desire to resist officers of the law.

C. The students resisted the officers first in going up the steps, for

1. They knocked over or pushed by the line of officers stationed at the foot of the steps, for
   a. There was such a line of officers.[1]
   b. They could not have otherwise got up the steps.
   c. Police all testify to have been knocked over or driven back.[2]
   d. George Washington (himself hurt by a policeman) said, "The Technology students started the trouble by rushing the police on the steps and without warning assaulting them with torches."[3]
   e. A Harvard Junior told me the same thing.
   f. George Costello, D. Daly, and others so testified.
   g. The testimony of those back of the first few lines on this point is worthless, for
      (*i*) They knew nothing about the rush in resistance to the police until the police were driving their comrades back upon them.

D. Several students admit more flagrant attacks upon the police at the top of the steps before the police charged them off, for

1. Edward B. Rowe, Technology '06, said, "I was one of three to seize an officer violently at the top of the steps. This was before the real clash."

E. The students attacked the mounted police when they appeared, for

[1] Police Commission Report. *Herald*, December 5, p. 5.
[2] *Herald*, November 23 and December 6.
[3] *Idem*, November 5, p. 2.

1. Sergeant Guard said, "The hot reception we received from flying torches and sticks was a surprise and entirely unexpected."[1]
2. Officer Balch said, "The torches came like hail as soon as we appeared."[2]
3. The *Herald* of December 6 said, "All witnesses are agreed that as far as the mounted officers were concerned the attack was begun by the students and was unprovoked."

II. The police did not use violence unnecessary to overcome the resistance, for

A. Granting for the moment that the police were very violent in their treatment of the students, yet

A'. They were legally justified in it, for

1. By definition, the legal rights of the police include self-defense and violence in case of resistance; and self-defense before the law constitutes striking back, even killing a man if necessary.
2. Decided violence was demanded, for
   a. The crowd could not have been handled without it, for
      (*i*) The crowd was practically in riot, for
         (*x*) A large body was violently resisting and attacking the police.
      (*ii*) Riots cannot be suppressed by peaceful means, for
         (*x*) It is impossible to arrest all the offenders.
         (*y*) The law allows soldiers to shoot into a crowd in riot.
      (*iii*) Military and police authorities say the crowd could not have been handled without violence, for
         (*x*) Captain Hall said, "Force was necessary."

[1] Testimony before Commission. *Herald*, December 6, p. 5.
[2] Testimony before Commission. *Herald*, December 6, p. 5.

(*y*) Colonel Charles Kenney said, "Violence had to be used to control the crowd."[1]

(*iv*) A student said, "If it had n't been for the mounted police we should have had you."[2]

b. The police were vigorously attacked, for

(*i*) The students threw torches, sticks, and rocks, for

(*x*) J. A. Wallis, '08, H. W. Mahr, '06, M. S. Clark, '08, and A. P. Mathesius, '06, among many others admit having thrown them.[3]

(*y*) "The torches came like hail,"[4] said Patrolman W. Balch.

(*ii*) They wheeled the burning transparency upon the police, for

(*x*) Captain Hall said, "It struck me on the leg."

(*y*) H. W. Mahr, Technology '06, said, "I saw the float on fire, but did not see who set it. It was pushed toward the steps and police."[3]

(*iii*) They threw the officers and seized their helmets, badges, and clubs, for

(*x*) R. C. Caryl, '08, said, "I know of fellows who have police helmets, one who has a 'billy,' and one who has a badge."[5] Others say the same thing.

(*y*) The testimony of all the officers before the Commission shows it, especially Sergeant R. Fitzgerald's.[6]

[1] Investigation before the Commission. *Journal*, December 5, p. 5.
[2] Investigation before the Commission. *Herald*, December 2.
[3] Testimony before Commission. *Herald*, November 18, p. 2.
[4] Testimony before Commission. *Herald*, December 6, p. 5.
[5] Testimony before Commission. *Transcript*, December 15.
[6] *Herald*, December 6, p. 7.

(*iv*) They jabbed the horses of the mounted police until they threw them, for

(*x*) Besides the police, F. H. Stearns, George Costello, D. Daly, and others concur in testimony of the first, "I saw officers attacked and knocked from their horses."[1]

(*y*) A Technology Freshman told me of throwing rocks and sticks at horses and men and getting men thrown.

(*v*) A Junior and a Freshman both said to me: "I was so mad that I could have killed an officer and felt perfectly justified. It was a good thing that the fight was n't farther up the street where the pavement had been torn up and there were lots of loose paving stones. If it had been, some men would now be dead."

(*vi*) Sixty-two officers were hurt, one of whom was off duty for three weeks.[2]

B. But though the police used their clubs in striking students, yet

B'. They were not nearly so violent as it seems, for

1. Other causes were operating to produce the harm to the students, for

a. Rocks and torches were flying about promiscuously in the air.

b. Many students were not sure that they were hit by police clubs and not by something else.[3]

c. Many fell and were hurt by their fellows, for

(*i*) Walter Smith of the Elevated office said, "I saw people trampled under foot in the rush of students."[4]

[1] Testimony before the Commission. *Herald*, December 3, p. 1.
[2] Report of Commissioner Emmons in *Herald*, November 30, p. 5.
[3] Trial before Commission. *Herald*, December 16.
[4] Testimony before Commission. *Herald*, December 6, p. 5.

(*ii*) — Ransom, Harvard '07, said, "I saw fellows trampled upon in the crowd."

d. The horses of the police, frightened by the students, kicked out in all directions.

e. The police might innocently have struck men in defending themselves from the sticks, for

(*i*) Officer Felton said, "When the sticks broke, my club must fall somewhere and in some cases fell on students."[1]

2. The mounted police did not charge at speed into the crowd, for

a. It is impossible to imagine their doing so, for

(*i*) They could not go through the crowd.

(*ii*) If they had they could not have helped hurting more than they did.

b. Colonel Charles Kenney said, "I should not say that the horses were ridden in a way to injure people, except as a horse might step on a person's foot by accident."[2]

c. His testimony was supported by others, F. H. Stearns, D. Daly, Colonel Darling, etc.

3. Though eight persons, not Technology students, were hurt, yet

3'. It does not follow that the police used their clubs indiscriminately upon innocent citizens, for

a. Of these eight, two were students of other colleges who had joined in the parade and in the fight with the police.

b. All the others were in the midst of the students who were resisting the officers.

c. Four of the six, not students, did not know whether police hit them or something else hit them.

[1] Testimony reported in *Herald*, December 1, p. 7.

[2] Testimony reported in *Herald*, December 6, p. 5.

d. Contrary to first report, there were no women found who had been hurt during the clash.

4. Contrary to the first exaggerated reports, physicians and Technology counsel admit "that the actual physical consequences to the students are not serious."
5. Unprejudiced and judicious witnesses deny that the police used excessive force. These include, for instance, Boston Street R. R. inspectors, G. W. Judkins, F. H. Stearns, D. Daly, and militiamen and soldiers, Colonel Kenney, and Colonel Darling.

CONCLUSION

I. The police did not exceed their legal rights, since
   A. The police had a right to clear the steps and street.
   B. They were attacked when merely carrying out their duty in a legal way.
   C. They used no more violence than was necessary to defend themselves and overcome resistance.

XVIII

SPECIMEN GOOD BRIEF

Brief J

Should Onset be Set Off from Wareham as a New Town?

INTRODUCTION

I. The question originated as follows:
   A. A section of Wareham known as Onset became dissatisfied with being under the government of Wareham and expressed a desire to have Onset set off as a new town.
   B. By "setting off as a new town" we mean the granting of a charter by the Legislature, giving to the

inhabitants of a certain territory the right to conduct, independently, their own municipal affairs according to law.

C. The people began to hold mass meetings in 1898, sent petitions to the General Court of Massachusetts in 1901, and in 1902 they presented a bill to the Legislature.

D. Upon the failure of this one they drew up another and presented it this spring, 1904.

E. This one failed and now they are at work preparing another bill for separation.

II. The people of Onset and the people of Wareham on the question of separation disagree on the following points:

A. The people of Onset allege the following evils:

1. Onset and Wareham are, in their relations one to another, incompatible, since
   a. The people of Wareham are conservative in their ideas.
   b. The people of Onset are progressive in their ideas.
   c. Their business methods vary.
2. Onset cannot get the improvements that she needs, since
   a. They are voted down in the Town Meetings, since the voting power of Wareham is so much greater than that of Onset.
3. Law and order and health measures are not enforced in Onset by Wareham.
4. The high valuation of property in Onset, compared with the valuation in Wareham, is unfair.

B. Before the Committees on Towns of the Massachusetts Legislature, the Wareham representatives answered as follows:

1. That Onset received her share of the expenditures.
2. That the allegations of Onset as set forth in *A* were not true.

III. The following terms need definition:

A. Wareham. — Wareham is a town in Massachusetts, at the head of Buzzards Bay, settled in 1719.

1. In one direction it stretches about nine miles; in another, in the vicinity of seven miles.
2. The whole tract covers about 18,000 acres of taxable land.
3. In 1903, the whole was valued at $2,982,230.00, and the actual amount raised by taxation in the same year was $42,944.11.
4. According to the last census, there were in Wareham 3432 permanent inhabitants, and of them 797 were voters.
5. The various sections of the Town of Wareham are known as Tremont, South Wareham, Wareham Narrows (or simply Wareham), Great Neck, Point Independence, and Onset.

B. Onset. — What is hereafter called Onset consists of the easterly section of Wareham, including a part of East Wareham, Onset (Fire District), and Point Independence, but excludes Great Neck.

1. The area of the whole section is about 5000 acres, or nearly one third of the whole area of Wareham.
2. In 1903 the valuation was over a third of that of all Wareham, or $1,000,000. The amount raised by taxation was $12,550; a little over one fourth of that of all Wareham.
3. The voting force is about one fourth of that of Wareham, and about one third (286 to 797) of the voting force of Wareham with Onset excluded.
4. 1700 people reside permanently in Onset, which is one half the total population of Wareham.
5. In the summer months about 3000 people spend their vacations in Onset, while on certain days the summer people number from 5000 to 8000.

IV. Discussion of the following points is to be omitted:

A. Both sides grant the following for the sake of argument:

1. The men of Onset, as far as ability and judgment are concerned, are just as capable of running a town government as the men of Wareham.
2. The town has the material qualities for forming a new town, in that
   - *a.* It has more than 1000 inhabitants, while out of the 320 towns in Massachusetts 125 have fewer than 1000.
   - *b.* It has 286 voters, while 120 towns in Massachusetts have less than 286 voters.
   - *c.* It has a valuation of $1,000,000, while 153 towns in Massachusetts have a valuation of less than $1,000,000.
   - *d.* None of the towns, equal in the above respects, have, up to this time, presented any bill to the Legislature for combining one or several of them with another.

B. Both sides admit that Wareham, in the event of separation, will lose a certain amount of territory and taxes.

V. The question reduces itself to the following special issues:

A. Does the present government of Onset by Wareham fulfill efficiently the needs of Onset in respect to improvements, law and order, and taxation?

B. Would the proposed government of Onset, in case she should become a town, fulfill more efficiently than the present government by Wareham her needs in these same respects?

C. Would the loss to Wareham be outweighed by the benefits to Onset?

BRIEF PROPER

I. The present government of Onset by Wareham is inefficient, for
   A. Onset and Wareham are, in their relation to one another, incompatible, for
      1. In their ideas they are opposite, for
         a. The conditions of life of the people of Wareham make them naturally unwilling to accept new ideas or, in other words, make them extremely conservative, for
            (*i*) They have always been used to one condition of affairs, for
               (*x*) Many of them have inherited their property and have lived there all their lives.
         b. The acts of the people of Wareham exhibit this conservatism, for
            (*i*) In spite of heavy losses by fire, Wareham refused the request of Onset to supply the town with water.
         c. The conditions of life of the people of Onset make them naturally willing to accept new ideas or, in other words, make them progressive, for
            (*i*) They mix with many people who have varied and progressive ideas, for
               (*x*) The large number of people who come there for their summer vacation from all over the country bring in new ideas.
         d. The acts of the people of Onset exhibit this progressiveness, for
            (*i*) They formed a private corporation which supplies Onset with water.
            (*ii*) The business men formed a volunteer fire department and had hydrants placed along their streets, with the result that Onset has never since had a serious fire.

(*iii*) They built a wharf where excursion steamers could land.

2. In business conditions they are opposite, for

a. In Wareham business as a whole has declined, for

(*i*) At the time when Onset began to develop there existed in Wareham the following large industrial establishments:

The Tremont Nail Works, Parker Mills Works, Franconia Iron and Steel Works, two merchant iron mills, four nail factories, and three sawmills.

(*ii*) To-day there only remain the Tremont Nail Works, the Parker Mills Works, and one sawmill.

(*iii*) The other industries, mercantile especially, have made no progress, for

(*x*) The stores on Main Street, which are all there are in town, are practically the same as they were years ago.

(*y*) There have been no noticeable additions recently.

b. Business in Onset, which is largely mercantile, — since Onset has no water power as Wareham has, — is flourishing and progressive, for

(*i*) Several stores have installed acetylene gas for illuminating purposes in place of oil lamps.

(*ii*) Among evidences of prosperity and progressiveness is the addition of the following stores, — two new "Oriental Bazaars," a branch of the Boston "Delicatessen," a "Five and Ten Cent Store," and two new grocery stores.

B. The voting power of Wareham is so much greater than that of Onset that Onset is at a great disadvantage, for

1. The voters of Wareham vote down measures favorable to Onset.
   a. For example, several business men of Onset were refused a charter for forming a gas company to supply Onset with lights.
   b. Many taxpayers on Longwood Avenue have petitioned for seven years without success to have the street made fairly passable for carriages, and Park Street and East Central Avenue are equally badly off.

C. Although Wareham says that Onset gets her share of the taxes in the money she receives for her schools, poor, and the like;

C'. Yet, considering that the laws of Massachusetts require the maintenance of schools and the poor, Onset does not receive her fair share, for

1. The maintenance of these does not consume one fourth of the taxes of Wareham, which is the contribution of Onset.[1]
2. Onset does not receive further improvements, because
   a. It has been shown that Wareham has voted them down.

D. Law and order and health measures are not properly enforced, for

1. For instance, the officers at Onset, appointed not by men who have the interests of Onset at heart, but by men who are opposed to Onset, allow men who come down there for the purpose of selling liquor illegally, to sell all through the summer season, and at the end they make raids and impose fines very small in proportion to the profits made.
2. In regard to the health rules, in many instances the storekeepers and summer residents throw garbage into the corners of the back yards.

[1] Town Reports.

E. Property in Onset is unfairly valued at a higher rate than that of Wareham, for

1. Even though the chairman of the assessors said in the hearing before the Legislative Committee on Towns that he considered it his duty as an assessor to raise the valuation in Onset;

1′. Yet it was merely a matter of discrimination on the part of the assessors, for

a. They knew that the people of Onset, having too few voters to outvote those of Wareham, had no redress.

b. A comparison of true values with the assessors' valuations in Onset and on Main Street in Wareham gives evidence of discrimination, for

(*i*) A quarter-acre lot with store and barn on Main Street in Wareham, renting for $480 and probably valued above $4000, is assessed at only $1100.

(*ii*) A lot of one tenth acre with store and cottage in Onset, assessed in 1901 at $2000, is now assessed at $4150.

(*iii*) A department store and cottage on Main Street, Wareham, covering an acre of land, is assessed at only $5000.

(*iv*) The owner of a cottage in Onset, valued in 1901 at $200, improved by the addition of a stable at an actual cost of $400, is now assessed at $400 for the cottage and $500 for the stable.

(*v*) A lot in Onset offered for $400, — which was generally considered a fair price, — and sold for $350, is assessed at $500.

c. In the opinion of competent investigators the market value of property on Main Street in Wareham is about three times the assessed valuation, while the property in Onset is

assessed nearly to the full market value and sometimes over.

II. The proposed government of Onset would be efficient, for
  A. The inhabitants in Onset itself would be compatible, for
    1. They would have the same progressive ideas, for
      a. They all alike mingle with people who possess and demand progressive ideas.
    2. They are confined to a comparatively small and uniformly thickly settled portion where they have free access to each other.
  B. They would be able to repair their streets and make the improvements necessary to a progressive people, because
    1. They would control their own taxes.
    2. They would be harmonious in policy.
  C. They would have the laws enforced, because
    1. Their officers would be directly amenable to them, for
      a. The men who appoint the officers would have the interests of Onset at heart.
      b. The men appointed would naturally have a civic pride.
  D. They would not be at the mercy of discriminating assessors, for
    1. They would themselves elect the assessors.

III. The loss which Wareham would sustain would be far outweighed by the benefits to Onset, for
  A. Wareham can afford to lose the proposed district of Onset, for
    1. She has too large a territory to govern economically, for
      a. She has to support roads, etc., over a thinly settled territory of sixty-three square miles.
        (*i*) Wareham is only settled, to any extent, in the villages of South Wareham, Tremont,

Parker Mills, Great Neck, Onset, and Point Independence, which stretch out miles apart at intervals covering a distance of nine miles.

B. Onset will be greatly benefited, for

1. She can conduct her affairs economically over her section, for
   a. All the thickly settled territory, namely, Onset Fire District and Point Independence, which contain nearly all the population and taxable property of the proposed district, are very near together.
      (*i*) They are connected by a bridge over East River.
2. She has undeveloped territory where at some future time she can dispose of her sewage by filtration.
   a. The territory from the 40th parallel to the Plymouth line is uncultivated.

C. The loss by Wareham of $12,500 in taxes from Onset is not an injustice, for

1. She does not use it in the interests of Onset.
   a. She votes down measures for improvements in streets, etc.

D. Onset will gain greatly, for

1. She can use her own taxes for improvements, for
   a. She will have full control over her funds.

Conclusion

I. I have proved that the present government of Onset by Wareham is inefficient;

II. And that the proposed government of Onset as a separate town would be more efficient;

III. And that the benefits received by Onset would outweigh the loss to Wareham:

Therefore Onset should be set off from Wareham as a new town.

XIX

SPECIMEN BRIEF DRAWN FROM A SPEECH

Brief K

Lord Chatham's Speech on the Motion to Remove the Troops from Boston[1]

INTRODUCTION

I. The present action of the Ministry suggests unfairness.
II. There has been unfairness by the Government, namely, misrepresentation, in that
  A. The representations that led to the measures obnoxious to the Americans were false, as is shown by the fact that
    1. The Ministry said that the measures would overawe the Americans, but these measures have united the Americans in resistance to England.
III. Therefore, the troops should be immediately removed from Boston.
IV. In considering this proposed action, a hearer should remember that to be just to America does not mean to exempt her from all obedience to Great Britain.

BRIEF PROPER

This removal of the troops is necessary, for
  A. It will show the willingness of the English to treat amicably.
  B. The resistance of the Americans was just, because
    1. The proceedings of Parliament had been tyrannical
  C. The means of enforcing the obnoxious measures have failed, for

[1] *Political Orations*, Camelot Series, pp. 40–49; *Specimens of Argumentation*, p. 7; Goodrich's *Select British Eloquence.*

1. The army of General Gage is "penned up — pining in inglorious inactivity."
2. Though it is said that the army in America is a safeguard, yet this is untrue, for
   a. It is powerless and contemptible.
   b. It is irritating to the Americans.
3. Though it is said that General Gage is needlessly inactive, yet this is untrue, for
   a. Any activity on his part would mean "civil and unnatural war."

D. If Parliament tries still to enforce its measures, the results will be bad, for
1. If Parliament is victorious, it will be over an embittered people.
2. The troops are not strong enough to resist three million united, courageous people.
3. Persecution of those men whose fathers fled to escape it should cease, since
   a. The objection that the "Americans must not be heard" is wrong, because
      (1) It lumps the innocent with the guilty.

E. The statement that the Union in America cannot last is not true, for
1. The evidence of the "commercial bodies" is unreliable, for
   a. They do not represent the class they personate.
   b. They are government agents.
   c. Even if they did represent the class they personate, their evidence would not be weighty, for
      (*i*) Not the traders but the farmers are the sinew of a nation.
      (*ii*) The farmers are solidly arrayed for liberty.
2. The evidence of a recognized authority (Dr. Franklin plainly hinted) shows that for liberty the Americans would suffer far more than they have endured, even war and rapine.

F. The statement that the Americans should be punished for illegal violence is untrue, for

1. A chance for reconciliation should not be missed.
2. Thirty thousand should not be punished for the fault of forty or fifty.
3. Punishment means arousing the unappeasable wrath of the whole American people.
4. Even if the English should be victorious, they could not control the great tract as they conquered it.
5. The resistance should have been foreseen, for
   a. The spirit that resists in America is that of all English stock, that which established the essential maxim of English liberty, "No taxation without the consent of the taxed."
6. The resistance will be too strong to be overcome, for
   a. The idea of the Americans is that of the English Whigs, who, in consistency, must support the Americans.
   b. The Irish have always maintained the American idea.
   c. The means to oppose this union will be inadequate, for
      (*i*) A few regiments in America and about eighteen thousand men at home must oppose millions in England and all Ireland and America.

G. This removal of the troops must precede any other step, for

1. Fear and resentment must first of all be removed in the Americans.
2. While the troops remain, resentment will remain, for
   a. Any measures secured by force will be doubly irritating with the army still in its place, and
   b. When, as is now the fact, force cannot be used, the mere presence of the army, although it is itself in danger, is an irritation.

H. The views of Congress are moderate and reasonable.
I. The superior should take the initiative in concessions.
J. While every motive of policy urges withdrawal of the troops, very great dangers threaten if they are kept in position, for
1. If the old course is pursued, foreign war hangs over the heads of the English, for
   a. France and Spain are watching for an advantageous chance to interfere.
2. The old methods will bring ruin at home, for
   a. The king will lose all his power.
   b. The kingdom will be utterly undone.

XX

MATERIAL FOR BRIEFING[1]

Is the Claimant Don Sebastian?

In the last years of the sixteenth century, a man in middle life, poor, with no attendants, appeared in Venice, asserting his claim to the throne of Portugal as Don Sebastian, its former king. Some twenty years before, young Don Sebastian, then king of Portugal, had crossed into Africa with the flower of his court and army for a crusade against the Infidels, the Moors. In the first battle his army was routed with terrible loss, and in the confusion he disappeared. His body servant after the battle identified a certain corpse as that of Don Sebastian. This body was buried with royal ceremonies by King Philip of Spain. There were rumors, however, that he had escaped and had been seen in hiding at a monastery in Portugal; there were also rumors that he was dead. As

[1] First determine what are the essential ideas to be proved for or against the claimant and then support these by subheads drawn from the evidence stated in the following account. From this material draw a brief either in support of or against the claims of this man.

time passed all, except a very few in Portugal who still hoped, believed that he was dead. Philip II took Portugal under his control, and it was in order to win supporters against the Spanish king that the claimant appeared at Venice.

Friends of Philip derided his claims and maintained that there was no good reason for Don Sebastian's disappearance after the battle, if he had not been killed. They said it was hardly natural for a man to give up a kingdom so easily. Moreover the claimant's physical resemblances to the lost prince were, in their opinion, not conclusive. To many, however, the claimant's story of his disappearance and long absence seemed plausible, and his resemblance to Don Sebastian and his knowledge of the prince's early life seemed convincing. In short, the validity of the claim to the throne seemed to depend upon the satisfactoriness of the claimant's account of Don Sebastian's disappearance and of his long absence, and the conclusiveness of his resemblance in mind and body to the lost prince.

The claimant said that he fled in the rout and wandered about with his followers; that because of the overwhelming nature of his defeat in this first battle of what he had believed to be a holy war, he felt a judgment of God in his defeat, and was too overcome, too disgraced, to show himself to the people. Therefore, he went to the Portuguese monastery in hiding, thinking later to reveal himself. His sense of disgrace increased, however, and he determined to do penance by fighting with his small band of followers against the Paynim in the East. He named many Eastern countries in which he had traveled and fought. After much successful fighting, finding that his feeling that his defeat had been a judgment of God grew upon him, he determined to become a hermit, and dismissed all of his followers. To a fellow-hermit he told his story, and this man's strong appeals aroused him to assert his rights. He gathered some servants about him, and set off for Venice to press his claims. On the road his servants robbed him of everything and deserted him.

He urged his claims with great plausibility, gaining many supporters. In meeting the opposition offered him by the friends of Philip, which amounted to something not unlike persecution, he showed much dignity and manliness, remaining throughout examinations and torture unswerving in his statement that he was the king. He told several stories of the king's youth and of his young manhood that showed an intimate knowledge of Don Sebastian's life. He spoke Portuguese with an accent, gained, he said, by speaking for twenty years the languages of the East. Don Sebastian had had marked physical characteristics, a limp, some wounds, etc. The limp and the scars the claimant showed. Some persons who had known Don Sebastian, mainly, however, ignorant people who had not known him well, recognized the claimant as the king they had seen twenty years before. (For further particulars, see biographical dictionaries.)

XXI

MATERIAL FOR BRIEFING

Swift's Relationship to Stella

The intimate friendship of Jonathan Swift with Esther Johnson and Hester Vanhomrigh and his failure to discourage the affection of the latter in more definitive fashion have given rise to a question as to whether Swift and Esther Johnson were united in a purely formal marriage in 1716 or whether Swift was really free to marry Hester Vanhomrigh all through the years in which he allowed her affection to grow without breaking off the friendship. If this marriage did take place, then, every visit he paid, every letter he wrote, to Miss Vanhomrigh subsequent to 1716 was derogatory to him. We may go further. In that case, we are justified in believing the very worst of him, not only in his relations with Stella and Vanessa, but in his relations with men and the world. In

that case, there is no ambiguous action, either in his public or in his private career, which does not become pregnant with suspicion. For, in that case, he stands convicted of having passed half his life in systematically practising, and in compelling the woman he loved to practise systematically, the two vices which of all vices he professed to hold in the deepest abhorrence. Those who know anything of Swift know with what loathing he always shrank from anything bearing the remotest resemblance to duplicity and falsehood. As a political pamphleteer he might, like his brother-penmen, allow himself licence, but in the ordinary intercourse of life it was his habit to exact and assume absolute sincerity.

Swift first met Esther Johnson in 1689 at Moor Park, when she was about eight years old and he was twenty-two. He seems to have spent much time and thought upon her education, and from her fifteenth year until her death in 1728 at the age of forty-seven, except during the years that Swift spent in London, they were almost constantly thrown together. Esther Johnson or "Stella," as she is usually called, was often at the deanery and frequently received Swift's guests. Before Swift's death in 1745 it was commonly reported that he had been secretly married to Stella about 1716 by Bishop Ash, who died in 1717. The story, however, was vigorously denied by many of Swift's and Stella's most intimate friends. Swift's biographers have been much puzzled in regard to this controversy, and range themselves on different sides of the question. Scott, Craik, and in a very qualified degree, Leslie Stephen and Saintsbury believe in the marriage. Monck Mason and Churton Collins dispute the fact.

The evidence is roughly of three sorts: first, the silent and indirect testimony of Swift's own character as it gradually impresses itself upon a student of his life and writings; secondly, the evidence deducible from the words and acts of Swift and Stella, the parties principal; thirdly, the external testimony of friends, associates, and contemporaries who are most competent to express an opinion in the matter. In

the following argument evidence of the first class is directly excluded, for that must be found by each one interested in this aspect of the evidence, as it depends upon the effect produced on one personality by continued association with the intense personality of Jonathan Swift. Evidence of the two other classes is presented in the pages from Churton Collins which follow.

It is scarcely necessary to say that the documents bearing on Swift's relations with Esther Johnson are very voluminous, and, from a biographical point of view, of unusual value. We have the verses which he was accustomed to send to her on the anniversary of her birthday. We have the "Journal" addressed to her during his residence in London. We have allusions to her in his most secret memoranda. We have the letters written in agony to Worral, Stopford, and Sheridan, when he expected that every post would bring him news of her death. We have the prayers which he offered up at her bedside during her last hours; and we have the whole history of his acquaintance with her, written with his own hand while she was lying unburied in her coffin — a history intended for no eye but his own. Now, from the beginning to the end of these documents, there is not one line which could by any possibility be tortured into an indication that she was his wife. Throughout the language is the same. He addresses her as the 'kindest and wisest of his friends.' He described her in his "Memoir" as 'the truest, most virtuous, and valuable friend that I, or perhaps any other person, was ever blessed with.' In all his letters he alludes to her in similar terms. In the Diary at Hollyhead she is his 'dearest friend.' At her bedside, when the end was hourly expected, he prays for her as his 'dear and useful friend.' 'There is not,' he writes to Dr. Stopford on the occasion of Stella's fatal illness, 'a greater folly than that of entering into too strict and particular friendship, with the loss of which a man must be absolutely miserable, but especially at an age when it is too late to engage in a new friendship; besides, this was a person

of my own rearing and instructing from childhood; but, pardon me, I know not what I am saying, but, believe me, that violent friendship is much more lasting and engaging than violent love.' If Stella was his wife, could hypocrisy go further? It is certain that he not only led all who were acquainted with him to believe that he was unmarried, but, whenever he spoke of wedlock he spoke of it as a thing utterly alien to his tastes and inclinations. 'I never yet,' he once said to a gentleman who was speaking to him about marriage, 'saw the woman I would wish to make my wife.' It would be easy to multiply instances, both in his correspondence and in his recorded conversation, in which, if he was even formally a married man, he went out of his way to indulge in unnecessary hypocrisy. What, again, could be more improbable than that Esther Johnson, a woman of distinguished piety, nay, a woman whose detestation of falsehood formed, as Swift has himself told us, one of her chief attractions, would when on the point of death, preface her will with a wholly gratuitous lie? For not only is that will signed with her maiden name, but in the first clause she describes herself as an unmarried woman.

The external evidence against the marriage appears equally conclusive. If there was any person entitled to speak with authority on the subject, that person was assuredly Mrs. Dingley. For twenty-nine years, from the commencement, that is to say, of Swift's intimate connection with Stella till the day of Stella's death, she had been her inseparable companion, her friend and confidant. She had shared the same lodgings with her; it was understood that Swift and Esther were to have no secrets apart from her. When they met, they met in her presence; what they wrote, passed, by Swift's special request, through her hands. Now it is well known that Mrs. Dingley was convinced that no marriage had ever taken place. The whole story was, she said, an idle tale. Two of Stella's executors, Dr. Corbet and Mr. Rochford, distinctly stated that no suspicion of a marriage had ever even crossed

their minds, though they had seen the Dean and Esther together a thousand times. Swift's housekeeper, Mrs. Brent, a shrewd and observant woman, who resided at the deanery during the whole period of her master's intimacy with Miss Johnson, was satisfied that there had been no marriage. So Mrs. Ridgeway, who succeeded her as housekeeper, and who watched over the Dean in his declining years. But no testimony could carry greater weight than that of Dr. John Lyon. He was one of Swift's most intimate friends, and, when the state of the Dean's health was such that it had become necessary to place him under surveillance, Lyon was the person selected to undertake the duty. He lived with him at the deanery; he had full control over his papers; he was consequently brought into contact with all who corresponded with him, and with all who visited him. He had thus at his command every contemporary source of information. Not long after the story was first circulated, he set to work to ascertain, if possible, the truth. The result of his investigations was to convince him that there was absolutely no foundation for it but popular gossip, unsupported by a particle of evidence.

Such is the testimony against the marriage. Let us now briefly review the evidence in its favour. The first writer who mentions it is Orrery, and his words are these: 'Stella was the concealed but undoubted wife of Dr. Swift, and if my informations are right, she was married to him in the year 1716 by Dr. Ash, then Bishop of Clogher.' On this we need merely remark that he offers no proof whatever of what he asserts, though he must have known well enough that what he asserted was contrary to current tradition; that in thus expressing himself he was guilty of gross inconsistency, as he had nine years before maintained the opposite opinion; and that there is every reason to believe that he resorted to this fiction, as he resorted to other fictions, with the simple object of seasoning his narrative with the piquant scandal in which he notoriously delighted. The next deponent is Delany, whose independent testimony would undoubtedly have carried great

weight with it. But Delany simply follows Orrery, without explaining his reason for doing so, without bringing forward anything in proof of what Orrery had stated, and without contributing a single fact on his own authority. Then comes Deane Swift. All that he contributes to the question is simply the statement that he was thoroughly persuaded that Swift was married to Stella in or about 1716. But he gives no explanation of what induced his persuasion, and admits that there was no evidence at all of the marriage. And, unsatisfactory as his testimony is, it is rendered more so by the fact that some years before he had, in a letter to Lord Orrery, stated that to many the marriage seemed based only 'on a buzz and rumors.' Such was the story in its first stage. In 1780 a new particular was added, and a new authority cited. The new particular was that the marriage took place in the garden; the new authority was Dr. Samuel Madden, and the narrator was Dr. Johnson. Of Madden it may suffice to say that there is no proof that he was acquainted either with Swift himself or with any member of Swift's circle; that in temper and blood he was half French, half Irish; and that as a writer he is chiefly known as the author of a work wilder and more absurd than the wildest and most absurd of Whiston's prophecies or Asgill's paradoxes. On the value of the unsupported testimony of such a person there is surely no necessity for commenting. Next comes Sheridan's account, which, as it adds an incident very much to Swift's discredit, it is necessary to examine with some care. The substance of it is this: — that, at the earnest solicitation of Stella, Swift consented to marry her; that the marriage ceremony was performed without witnesses, and on two conditions — first, that they should continue to live separately; and secondly, that their union should remain a secret; that for some years these conditions were observed, but that on her death-bed Stella implored Swift to acknowledge her as his wife; that to this request Swift made no reply, but, turning on his heel, left the room, and never afterwards saw her. The first part of this

story he professes to have derived from Mrs. Sican, the second part from his father. We have no right to charge Sheridan with deliberate falsehood, but his whole account of Swift's relations with Miss Johnson teems with inconsistencies and improbabilities so glaring that it is impossible to place the smallest confidence in what he says. He here tells us that the marriage had been kept a profound secret; in another place he tells us that Stella had herself communicated it to Miss Vanhomrigh. He admits that the only unequivocal proof of the marriage is the evidence of Dr. Sheridan, and yet in his account of the marriage he cites as his authority, not Dr. Sheridan, but Mrs. Sican. But a single circumstance is, perhaps, quite sufficient to prove the utterly untrustworthy character of his assertions. He informs us, on the authority of his father, that Stella was so enraged by Swift's refusal to acknowledge her as his wife, that to spite and annoy him she bequeathed her fortune to a public charity. A reference to Swift's correspondence will show that it was in accordance with his wishes that she thus disposed of her property. A reference to the will itself will show that, so far from expressing ill-will towards him, she left him her strong box and all her papers. Nor is this all. His statement is flatly contradicted both by Delany and Deane Swift. Delany tells us that he had been informed by a friend that Swift had earnestly desired to acknowledge the marriage, but that Stella had wished it to remain a secret. Deane Swift assured Orrery, on the authority of Mrs. Whiteway, that Stella had told Sheridan 'that Swift had offered to declare the marriage to the world, but that she had refused.' Again, Sheridan asserts that his father, Dr. Sheridan, was present during the supposed conversation between Swift and Stella. Mrs. Whiteway, on the contrary, assured Deane Swift that Dr. Sheridan was not present on that occasion.

This brings us to the last deponent whose evidence is worth consideration. In 1789 Mr. Monck-Berkeley brought forward the authority of a Mrs. Hearne, who was, it seems, a niece

of Esther Johnson, to prove that the Dean had made Stella his wife. As nothing, however, is known of the history of Mrs. Hearne, and as she cited nothing in corroboration of her statement, except vaguely that it was a tradition among her relatives — a tradition which was, of course, just as likely to have had its origin from the narratives of Orrery and Delany as in any authentic communication — no importance whatever can be attached to it. But the evidence on which Monck-Berkeley chiefly relied was not that of Mrs. Hearne. 'I was,' he says, 'informed by the relict of Bishop Berkeley that her husband had assured her of the truth of Swift's marriage, as the Bishop of Clogher, who had performed the ceremony, had himself communicated the circumstance to him.' If this could be depended on, it would, of course, settle the question; but, unfortunately for Monck-Berkeley and for Monck-Berkeley's adherents, it can be conclusively proved that no such communication could have taken place. In 1715, a year before the supposed marriage was solemnized, Berkeley was in Italy, where he remained till 1721. Between 1716 and 1717 it is certain that the Bishop of Clogher never left Ireland, and at the end of 1717 he died. As for the testimony on which Scott lays so much stress — the story, that is to say, about Mrs. Whiteway having heard Swift mutter to Stella that 'if she wished, it should be owned,' and of having heard Stella sigh back to Swift that 'it was too late' — it need only be observed, first, that it was communicated about seventy years after the supposed words had been spoken, not by the son of Mrs. Whiteway, who, had he known of it or had he attached the smallest importance to it, would have inserted it in his "Memoirs of Swift," but by her grandson, Theophilus Swift, who was the laughing-stock of all who knew him; secondly, it was admitted that those words, and that those words only, had been heard, and consequently there was nothing to indicate either that the words themselves, or that the conversation of which they formed a portion, had any reference to the marriage.

How, then, stands the case? Even thus. Against the marriage we have the fact that there is no documentary evidence of its having been solemnized; that, so far from there being any evidence of it deducible from the conduct of Swift and Stella, Orrery himself admits that it would be difficult, if not impossible, to prove that they had ever been alone together during their whole lives. We have the fact that Esther Johnson, at a time when there could have been no possible motive for falsehood, emphatically asserted that she was unmarried: the fact that Swift led every one to believe that he was unmarried: the fact that Esther Johnson's bosom friend and inseparable companion was satisfied that there had been no marriage: the fact that two of Swift's housekeepers, two of Stella's executors, and Dr. Lyon, were satisfied that there had been no marriage. It is easy to say that all that has been advanced merely proves that the marriage was a secret, and that the secret was well kept. But that is no answer. The question must be argued on evidence; and it is incumbent on those who insist, in the teeth of such evidence as has been adduced, that a marriage was solemnized, to produce evidence as satisfactory. This they have failed to do. Till they have done so, let us decline to charge Swift with mendacity and hypocrisy, and to convict him of having acted both meanly and treacherously in his dealings with the two women whose names will for all time be bound up with his. In itself it matters not two straws to any one whether Swift was or was not the husband of Stella. But the point of importance is this. If he was the husband of Stella, his conduct to Miss Vanhomrigh admits of no defence — it was unmanly and dishonorable. If he was not married to Stella, the fate of her rival leaves no stain on his memory. Moral courage in a man's relations with men is, it is true, quite compatible with moral cowardice in his relations with women, but that this deplorable anomaly finds illustration in Swift is at present mere assumption.[1]

[1] John Churton Collins. *Jonathan Swift.* Ch. vi, pp. 146–157.

XXII

MATERIAL FOR BRIEFING

The Act of 1873[1]

Fellow-citizens: I have come from the east to the west to speak to you for honest money. I do not imagine myself to be in an "enemy's country." There is to me no enemy's country within the boundaries of this republic. Wherever I am among Americans I am among fellow-citizens and friends, bound together by common interests and a common patriotism. In this spirit I shall discuss the question of the day. I shall not deal in financial philosophy, but in hard and dry facts.

There are sporadic discontents in the country, partly genuine, partly produced by artificial agitation. They may be specified thus: there are farmers who complain of the low prices of agricultural products; laboring men complaining of a lack of remunerative employment; men in all sorts of pursuits complaining of a general business stagnation and of a scarcity of money. In some parts of the country, especially the south and west, there are many people complaining of a want of capital and a too high rate of interest. The cry for more money is the favorite cry. These are the principal and the most definite complaints. Beyond them, however, an impression has been spread by agitators that an organized conspiracy of moneyed men, mainly great bankers, in America and in Europe, backed by the monarchs and aristocracies of the old world, is seeking the general establishment of the gold standard of value to monopolize or "corner" the world's money to the general detriment.

All this has found definite expression in the following declaration of the Chicago platform: "We declare that the

[1] Part of speech before American Honest Money League, Chicago, September 5, 1896. Carl Schurz.

act of 1873, demonetizing silver without the knowledge or approval of the American people, has resulted in the appreciation of gold and a corresponding fall in the prices of commodities produced by the people; a heavy increase in the burden of taxation and of all debts, public and private; the enrichment of the money-lending class at home and abroad, prostration of industry, and impoverishment of the people."

Mark well that all these evil consequences are ascribed to the demonetization of silver in the United States alone — not to its demonetization anywhere else. This is to justify the presentation, as a sufficient remedy, of the free coinage of silver in the United States alone, "without waiting for the aid or consent of any other nation." This platform is amplified by free-coinage orators, who tell us that the act of 1873, called "the crime of 1873," has surreptitiously "wiped out" one half of the people's money, namely, silver; that in consequence the remaining half of our metallic money, namely, gold, as a basis of the whole financial structure, has to do the same business that formerly was done by gold and silver together; that thereby gold has risen to about double its former purchasing power, the gold dollar being virtually a 200-cent dollar; that the man who produces things for sale is thus being robbed of half the price, while debts payable on the gold basis have become twice as heavy, and that this fall of prices and increase of burdens is enriching the money changers and oppressing the people.

Are these complaints well founded? Look at facts which nobody disputes. That there has been a considerable fall in the prices of many articles since 1873 is certainly true. But was this fall caused by the so-called demonetization of silver through the act of 1873? Now, not to speak of other periods of our history, such as the period from 1846 to 1851, everybody knows that there was a considerable fall of prices, not only as to agricultural products — cotton, for instance, dropped from $1 a pound in 1864 to 17 cents in 1871 — but in many kinds of industrial products, before 1873. What happened

before 1873 cannot have been caused by what happened in 1873. This is clear. The shrinkage after 1873 may, therefore, have been caused by something else.

Another thing is equally clear. Whenever a change in the prices of commodities is caused by a change in supply or demand, or both, then it may affect different articles differently. Thus wheat may rise in price, the supply being proportionately short, while at the same time cotton may decline in price, the supply being proportionately abundant. But when a change of prices takes place in consequence of a great change in the purchasing power of the money of the country, especially when that change is sudden, then the effect must be equal, or at least approximately so, as to all articles that are bought or sold with that money. If by the so-called demonetization of silver in 1873 the gold dollar, or the dollar on the gold basis, became a 200-cent dollar at all, then it became a 200-cent dollar at once and for everything. It could not possibly be at the same time a 200-cent dollar for wheat and a 120-cent dollar for coal, and a 150-cent dollar for cotton, and a 100-cent dollar for corn or for shovels. I challenge any one to gainsay this.

Now for the facts. The act of 1873 in question became a law on the 12th of February. What was the effect? Wheat, rye, oats, and corn rose above the price of 1872, while cotton declined. In 1874 wheat dropped a little; corn made a jump upward; cotton declined; oats and rye rose. In 1875 there was a general decline. In 1876 there was a rise in wheat and a decline in corn, oats, rye, and cotton. In 1877 there was another rise in wheat carrying the price above that of 1870 and up to that of 1871, years preceding the act of 1873. Evidently so far the 200-cent dollar had not made its mark at all. But I will admit the possible plea, that, as they say, the act of 1873 having been passed in secret, people did not know anything about it, and prices remained measurably steady, in ignorance of what dreadful things had happened. If so, then it would appear that, if the knowing ones had only kept still

about it, the gold dollar would have modestly remained a 100-cent dollar, and nobody would have been hurt. But, seriously speaking, it may be said that when the act of 1873 was passed we were still using exclusively paper money; that neither gold nor silver was in circulation, and that therefore the demonetization would not be felt. Very well. But then in 1879 specie payments were resumed. Metallic money circulated again. And, more than that, the cry about "the crime of 1873" resounded in Congress and in the country. Then, at last, the 200-cent gold dollar had its opportunity. Prices could no longer plead ignorance. What happened? In 1880 wheat rose above the price of 1879, likewise corn, cotton, and oats. In 1881 wheat rose again, also corn, oats, and cotton. In 1882 wheat and cotton declined, while corn and oats rose. The reports here given are those of the New York market. They may vary somewhat from the reports of farm prices, but they present the rises and declines of prices with substantial correctness.

These facts prove conclusively to every sane mind that for nine years after the act of 1873 — six years before and three years after the resumption of specie payments — the prices of the agricultural staples mentioned, being in most instances considerably above 1860, show absolutely no trace of any such effect as would have been produced upon them had a great and sudden change in the purchasing power of the money of the country taken place; that it would be childish to pretend that but for the act of 1873 those prices would be 100, or 50, or 25, or 10 per cent higher; and that, therefore, all this talk about the gold dollar having become a 200-cent dollar, or a 150-cent dollar, or a 125-cent dollar, is — pardon the expression — arrant nonsense. Since 1882 the price of wheat has, indeed, very much declined, although in 1891 it reached once more in New York $1.09, while corn sold in 1891 two, three, and four cents higher than in 1879. But if the act of 1873, which, had it really enhanced the purchasing power of the dollar, would have done so promptly

and uniformly, produced no such effect for nine years after its enactment, it would be absurd to say that it produces it twenty years after its enactment. Is not this clear?

If, however, there be somebody believing that in spite of these facts the demonetization of silver by the act of 1873 must in some mysterious way have done something to depress prices, I meet him with the affirmation that the silver dollar was practically demonetized long before 1873. To judge from the speeches of our free-coinage orators, the American people must before 1873 have fairly wallowed in silver dollars. What is the fact? President Jefferson stopped the coinage of silver dollars in 1806. From 1783 to 1878, aside from fractional currency — which since 1853 was only limited legal tender — only about 8,000,000 of silver dollars were coined. They were so scarce that you would hardly ever see one except in a curiosity shop as a rare coin.

There was constant trouble with the legal ratio between gold and silver, which could not be so fixed as to keep the two metals together in circulation. First one of them would be driven out of the country and then the other. Meanwhile, over $1,000,000,000 of gold coin was coined, and since 1853 gold was substantially the only full legal tender money in actual circulation. And those were exceptionally prosperous times. Then the civil war came and swept all our metallic money out of sight. Paper money took its place, and in that condition we were in 1873, when the famous act of 1873 was passed. What, then, was in reality that law that has since been so fiercely denounced as "the crime of 1873"? To judge from the declamations of the free-coinage orators, it must have been a law annihilating at one fell swoop one half of the money circulating among the people. Did it do that? Why, it was simply an act revising our coinage laws and providing among other things that certain silver coins should be struck to be legal tender in the payment of debts only to a small amount. The standard silver dollar, that had practically been out of use since President Jefferson in 1806 had stopped

its coinage, was simply not mentioned in the enumeration. That is all. The act of 1873, therefore, did not create a new state of things, but simply recognized a state of things which had existed for many and many years. It did thereby not only not destroy half the money of the country, but not a single dollar of it.

But, I hear myself asked, if this is so, why was this act of 1873 passed secretly, surreptitiously, stealthily? For silver orators have been persistently dinning into the popular ear for many years, until millions believed it, the story that the silver dollar was "assassinated" through the law of 1873 by some dark, corrupt plot. This fable has been so often and so authoritatively disproved that I am unwilling to take it up again in detail. Senator Sherman did that recently in a most conclusive manner. I will only add that I was a member of the Senate at the time and know whereof I affirm; and I emphatically pronounce all the stories about the act of 1873 being passed surreptitiously; about senators and members being somehow hypnotized, so that they did not know what they were doing; about some Englishman being on the ground with much money to promote the demonetization of silver, and so on, as wholly and unqualifiedly false. . . .

How did it happen that the act of 1873 did not attract more popular attention at the time? Simply because the dropping of the obsolete silver dollar from the coinage was regarded by everybody taking an interest in such matters as the mere recording of an accomplished fact, as a matter of course, just as much so as a law would have been providing that the old flintlock should no longer be used in the army. And how did it happen that a few years afterward such an uproar arose about it? The reason for that, too, was very simple. In 1873 the market value of silver, although already yielding, was still high. The silver in the silver dollar was worth $1.02. The silver mine owner did not care to take $1.02 to the mint and get only $1 back for it. He was then enthusiastic for gold. But a few years later silver had declined in

market value considerably, and when the silver miner might have taken 90 cents' worth of silver to the mint and got for it $1, he was enthusiastic for silver, and he grew more and more enthusiastic the more silver declined in the market, and the more profit free coinage would have given him. The silver mine owner is no doubt a great and good man, but he is not the most disinterested of philanthropists. He knows on which side his bread is buttered. Finding the act of 1873 in his way, he discovered that act to be a heinous crime, not against the mining millionaires, but against the common people. Another class of persons joined in the cry, namely, those who had worked for an inflation of our irredeemable paper money, who had opposed the resumption of specie payments, and now favored the silver dollar, because the silver in it was worth in the market less than a gold dollar, and its coinage would therefore furnish what they called "cheap money." And then began that campaign of fraud which in shamelessness of imposture has, within my knowledge, never had its equal.

Now mark what followed. Cowed by the uproarious outcry which was started by the silver miners and taken up by the "cheap money" men, Congress passed two laws, one in 1878, the other in 1890, in pursuance of which over 429,000,000 of silver dollars were added to our currency, more than fifty times as many dollars as had ever been coined before, besides a large addition to our subsidiary silver coins. Our paper money was largely increased, so that while in 1873, the year in which the American people were said to have been robbed of half their money — while in 1873, I say, we had $774,000,000 of money in the United States, we had $2,217,000,000 in 1895 — nearly three times as much; and while in 1873 the circulation was $18.04 per capita, it was $22.96 per capita in 1895. Fifty times as many silver dollars, and many times more money of all kinds than this country had ever had in its most prosperous days — and yet, the price of silver in the market kept on falling, and the prices of many commodities, agricultural staples included, continued to decline.

Now analyze this case. Upon what ground do the silver advocates assert that the so-called demonetization of silver depressed prices? According to their own reasoning, because there has not been sufficient money to sustain prices. Sustain what prices? Those prevailing before 1873. But there is now three times as much money as there was in 1873, and a much higher per capita circulation. Well, what becomes of their argument? Some of the silver philosophers have invented a more mysterious phrase — that prices have gone down because by the act of 1873 the "money of ultimate redemption" had been curtailed — only gold being available for this purpose. But according to the treasury statistics we had in 1873 only $25,000,000 of coin, including subsidiary silver, in the country, and now we have much over $600,000,000 of gold alone, or more than twenty-four times as much "money of ultimate redemption" as in 1873. And yet prices are low. The man whom such facts do not convince that the decline of prices cannot have been caused by any effect produced upon our currency by the act of 1873 must have a skull so thick that a trip hammer would not drive a sound conclusion through it.

XXIII

MATERIAL FOR BRIEFING[1]

Queen Elizabeth a Persecutor[2]

It is vehemently maintained by some writers of the present day that Elizabeth persecuted neither Papists nor Puritans as such, and that the severe measures which she occasionally adopted were dictated, not by religious intolerance, but by political necessity. Even the excellent account of those times

[1] In briefing this argument the clearest result will be secured if Macaulay's rhetorical order be disregarded and the evidence be rearranged solely on logical grounds. The usual introductory material may, if desired, be secured from standard histories.

[2] From Macaulay's *Essay on Hallam's Constitutional History.*

which Mr. Hallam has given has not altogether imposed silence on the authors of this fallacy. The title of the Queen, they say, was annulled by the Pope; her throne was given to another; her subjects were incited to rebellion; her life was menaced; every Catholic was bound in conscience to be a traitor; it was therefore against traitors, not against Catholics, that the penal laws were enacted.

In order that our readers may be fully competent to appreciate the merits of this defence, we will state, as concisely as possible, the substance of some of these laws.

As soon as Elizabeth ascended the throne, and before the least hostility to her government had been shown by the Catholic population, an act passed prohibiting the celebration of the rites of the Romish Church, on pain of forfeiture for the first offence, of a year's imprisonment for the second, and of perpetual imprisonment for the third.

A law was next made in 1562, enacting, that all who had ever graduated at the Universities or received holy orders, all lawyers, and all magistrates, should take the oath of supremacy when tendered to them, on pain of forfeiture and imprisonment during the royal pleasure. After the lapse of three months, the oath might again be tendered to them; and, if it were again refused, the recusant was guilty of high treason. A prospective law, however severe, framed to exclude Catholics from the liberal professions, would have been mercy itself compared with this odious act. It is a retrospective statute; it is a retrospective penal statute; it is a retrospective penal statute against a large class. We will not positively affirm that a law of this description must always, and under all circumstances, be unjustifiable. But the presumption against it is most violent; nor do we remember any crisis, either in our own history, or in the history of any other country, which would have rendered such a provision necessary. In the present case, what circumstances called for extraordinary rigor? There might be disaffection among the Catholics. The prohibition of their worship would naturally

produce it. But it is from their situation, not from their conduct, from the wrongs which they have suffered, not from those which they have committed, that the existence of discontent among them must be inferred. There were libels, no doubt, and prophecies, and rumors, and suspicions, strange grounds for a law inflicting capital penalties, *ex post facto*, on a large body of men.

Eight years later, the bull of Pius deposing Elizabeth produced a third law. This law, to which alone, as we conceive, the defence now under our consideration can apply, provides that, if any Catholic shall convert a Protestant to the Romish Church, they shall both suffer death as for high treason.

We believe that we might safely content ourselves with stating the fact, and leaving it to the judgment of every plain Englishman. Recent controversies have, however, given so much importance to this subject, that we will offer a few remarks on it.

In the first place, the arguments which are urged in favor of Elizabeth apply with much greater force to the case of her sister Mary. The Catholics did not, at the time of Elizabeth's accession, rise in arms to seat a Pretender on her throne. But before Mary had given, or could give, provocation, the most distinguished Protestants attempted to set aside her rights in favor of the Lady Jane. That attempt, and the subsequent insurrection of Wyatt, furnished at least as good a plea for the burning of Protestants, as the conspiracies against Elizabeth furnish for the hanging and embowelling of Papists.

The fact is that both pleas are worthless alike. If such arguments are to pass current, it will be easy to prove that there never was such a thing as religious persecution since the creation. For there never was a religious persecution in which some odious crime was not, justly or unjustly, said to be obviously deducible from the doctrines of the persecuted party. We might say that the Cæsars did not persecute the Christians; that they only punished men who were charged,

rightly or wrongly, with burning Rome, and with committing the foulest abominations in secret assemblies; and that the refusal to throw frankincense on the altar of Jupiter was not the crime but only evidence of the crime. We might say that the massacre of St. Bartholomew was intended to extirpate, not a religious sect, but a political party. For, beyond all doubt, the proceedings of the Huguenots, from the conspiracy of Amboise to the battle of Moncontour, had given much more trouble to the French monarchy than the Catholics had ever given to the English monarchy since the Reformation; and that too with much less excuse.

The true distinction is perfectly obvious. To punish a man because he has committed a crime, or because he is believed, though unjustly, to have committed a crime, is not persecution. To punish a man because we infer from the nature of some doctrine which he holds, or from the conduct of other persons who hold the same doctrines with him, that he will commit a crime, is persecution, and is, in every case, foolish and wicked.

When Elizabeth put Ballard and Babington to death, she was not persecuting. Nor should we have accused her government of persecution for passing any law, however severe, against overt acts of sedition. But to argue that, because a man is a Catholic, he must think it right to murder a heretical sovereign, and that because he thinks it right he will attempt to do it, and then, to found on this conclusion a law for punishing him as if he had done it, is plain persecution.

If, indeed, all men reasoned in the same manner on the same data, and always did what they thought it their duty to do, this mode of dispensing punishment might be extremely judicious. But as people who agree about premises often disagree about conclusions, and as no man in the world acts up to his own standard of right, there are two enormous gaps in the logic by which alone penalties for opinions can be defended. The doctrine of reprobation, in the judgment of many very able men, follows by syllogistic necessity from the

doctrine of election. Others conceive that the Antinomian heresy directly follows from the doctrine of reprobation; and it is very generally thought that licentiousness and cruelty of the worst description are likely to be the fruits, as they often have been the fruits, of Antinomian opinions. This chain of reasoning, we think, is as perfect in all its parts as that which makes out a Papist to be necessarily a traitor. Yet it would be rather a strong measure to hang all the Calvinists, on the ground that, if they were spared, they would infallibly commit all the atrocities of Matthias and Knipperdoling. For, reason the matter as we may, experience shows us that a man may believe in election without believing in reprobation, that he may believe in reprobation without being an Antinomian, and that he may be an Antinomian without being a bad citizen. Man, in short, is so inconsistent a creature that it is impossible to reason from his belief to his conduct, or from one part of his belief to another.

We do not believe that every Englishman who was reconciled to the Catholic Church would, as a necessary consequence, have thought himself justified in deposing or assassinating Elizabeth. It is not sufficient to say that the convert must have acknowledged the authority of the Pope, and that the Pope had issued a bull against the Queen. We know through what strange loopholes the human mind contrives to escape, when it wishes to avoid a disagreeable inference from an admitted proposition. We know how long the Jansenists contrived to believe the Pope infallible in matters of doctrine, and at the same time to believe doctrines which he pronounced to be heretical. Let it pass, however, that every Catholic in the kingdom thought that Elizabeth might be lawfully murdered. Still the old maxim, that what is the business of everybody is the business of nobody, is particularly likely to hold good in a case in which a cruel death is the almost inevitable consequence of making any attempt.

Of the ten thousand clergymen of the Church of England, there is scarcely one who would not say that a man who

should leave his country and friends to preach the Gospel among savages, and who should, after laboring indefatigably without any hope of reward, terminate his life by martyrdom, would deserve the warmest admiration. Yet we doubt whether ten of the ten thousand ever thought of going on such an expedition. Why should we suppose that conscientious motives, feeble as they are constantly found to be in a good cause, should be omnipotent for evil? Doubtless there was many a jolly Popish priest in the old manor-houses of the northern counties, who would have admitted, in theory, the deposing power of the Pope, but who would not have been ambitious to be stretched on the rack, even though it were to be used, according to the benevolent proviso of Lord Burleigh, "as charitably as such a thing can be," or to be hanged, drawn, and quartered, even though, by that rare indulgence which the Queen, of her special grace, certain knowledge, and mere motion, sometimes extended to very mitigated cases, he were allowed a fair time to choke before the hangman began to grapple in his entrails.

But the laws passed against the Puritans had not even the wretched excuse which we have been considering. In this case, the cruelty was equal, the danger infinitely less. In fact, the danger was created solely by the cruelty. But it is superfluous to press the argument. By no artifice of ingenuity can the stigma of persecution, the worst blemish of the English Church, be effaced or patched over.

XXIV

SPECIMEN OF ASSERTIVENESS

Forensic A

The United States Army should be Increased to One Hundred Thousand Men

(Written shortly after the Spanish War)

The question whether the United States army should be increased to one hundred thousand men is one of the most important questions before the country to-day. It deals with the policy of the United States and should therefore be considered very carefully. A year ago we had a standing army of twenty-five thousand, and yet with a standing army of this size we came out of the war with Spain successfully. Why should this army be increased to an army of four times its size?

Before we debate the question let us first consider the full meaning and import of the terms of the question. The term United States needs no explanation, for nearly every one knows the meaning of these words. The word "should" needs the most careful explanation. By this we mean that it would be the best for the United States politically (to secure her against foreign nations), socially (for the best interests of society), and economically (the best and cheapest for the people). By "standing army" we mean the number of soldiers kept by the government ready for war or ready for a call at any moment.

With an army of twenty-five thousand we have defeated Spain in a short and successful war and secured the country against the violence of mobs and strikers. A few years ago the Indians were a great deal more warlike than they are now, so a larger army is unnecessary to guard the people against them. The United States should not take such an important step as to increase the army if there is absolutely no necessity for it.

The expense of one soldier to the government is about one thousand dollars a year, even when the soldiers are kept in their country. If soldiers were sent into the islands the expense per man would be greater, and the expense of one hundred thousand men would mean about four dollars tax where there is one dollar tax now.

Besides the amount of expense for salaries, food, transportation, etc., there would be a great additional amount in the number of pensions, which the government would have to grant if the army were increased to one hundred thousand men.

The most capable army officers we have are graduated from West Point where they receive first-rate military instruction, but even now with our present small army, West Point graduates are hardly enough to fill the positions made vacant in the army.

What would happen if our army should be suddenly increased to one hundred thousand men? The officers of this increased army would have to be made up of incapable men, who have had no good military instruction and are fully incapable in every way. Perhaps there are some men in the country who would be as good officers as West Point graduates, but the chances of these good men for getting the positions are very poor unless they have a strong political pull, which in these cases has much power.

The people of this country are entitled to administration of government with the least possible expense and on this account a standing army has always been looked upon as a necessary evil, for each soldier is a charge upon the labor of others and upon the industrial production, which he does not help produce, and at the same time he adds nothing to the general stock of wealth of the country.

Several years ago the standing army of the United States was limited to twenty-five thousand but since then the population has grown in proportion to this number; but this number during all this increase has been able to keep the peace in the country and to meet all military purposes.

The United States has always held a peaceful policy toward all the countries of the world but a great increase of the standing army would mean that the United States had adopted an imperial policy, that it was going into "world politics" and was ready to meet all comers.

In this argument we have given several reasons why the standing army of the United States should not be increased to one hundred thousand men and we think of no good reasons why it should be thus increased.

We have shown that the United States standing army should not be increased to one hundred thousand men for: —

1. There is no necessity.
2. It would be a great expense.
3. There would not be sufficient capable officers for an army of this size.
4. A standing army is a necessary evil and should be kept as small as possible.
5. The population has outgrown the numerical strength of the army in its proportion and the army is still enough for all purposes.
6. An increase in the army would be the adoption of an imperial policy.

With these reasons we think that we have proved our side of the question without any doubt, and at this point we rest our argument.

XXV

SPECIMEN OF ASSERTIVENESS

Forensic B

Was the Course of the Beaconsfield Ministry in the Eastern Question Advantageous to England?

1. In 1876 Bulgaria declared war against Turkey; and it was in this war that Turkey committed the horrible massacres known as the "Bulgarian Atrocities."

2. The war would never have been begun between Turkey and Bulgaria, had it not been for Turkish misrule, which was well known by other countries as well as by Bulgaria. Servia and Montenegro were left alone to fight with Turkey, after the other states which belonged to the "confederacy" were obliged to back out for want of supplies. Of course, these two states could not carry on war with Turkey on equal footing, and soon a treaty for peace was made.

3. Now Russia put herself forward, and the Czar demanded a treaty which much favored Bulgaria. At this point Beaconsfield recognized the fact that Russia wanted to get Turkey into her own power and thereby enter Constantinople, which would give Russia the control of the Black Sea. Therefore Beaconsfield used all the influence he could to preserve peace between Russia and Turkey.

4. By this time Russia had advanced her forces as far as Adrianople.

5. Russia claimed, as she always had, that she was looking after the interests of the Christian subjects of the Sultan.

6. Now this is certainly a good, charitable, and commendable purpose, but it is certain that there was a deeper motive than this, which made Russia so anxious to interfere with Turkey, namely, "Russia wanted control of Constantinople."

7. Beaconsfield understood this to be Russia's object, and he ordered troops to be placed under arms, ready to attack Russia at any moment; and he told Russia that if she advanced further than Adrianople he would consider it a *casus belli.*

8. Beaconsfield wanted to hold a conference of the Great Powers of Europe, whose decision concerning Turkey should be final. But Russia would not agree to any such treaty unless certain agreements, which were favorable to Russia, made about a year before, should be adhered to. Beaconsfield, on the other hand, would not listen to Russia's demand, and for a time, it seemed as though war was certain. But by a private consultation with Russia, Beaconsfield got Russia to agree to a treaty at Berlin.

9. At this treaty Russia gained nothing, owing, no doubt, to Beaconsfield's good work. Russia would not be allowed to have warships in the Black Sea, and the Straits should be open to trading vessels. Let us consider a moment what would have been the result, had Russia obtained command of Constantinople.

10. Lord Beaconsfield once said, "Constantinople is the Key of the East." If Russia had power over Constantinople, she would have entire command of the Black Sea, and also command of the way to India; and she would, in time, take command of India, which is a fertile country, and therefore of greatest advantage to a European country.

11. England owned India, and depended on it for many products, and Beaconsfield saw that if Russia once obtained command of Constantinople England's chances to keep India would be very small.

12. Beaconsfield obtained the island of Cyprus as a military station, and this was a gain for which England cannot too highly praise Beaconsfield. From its geographical situation it is clear that it commands the territory which was most important to England. From it England has control of the Suez Canal, the passage to India, which is certainly of greatest importance to England.

13. Had Russia been allowed to enter Constantinople she would virtually have had command of all Europe, and this would have been a most undesirable state of affairs. Everybody knows what Russian government is, and to think that it should be the principal power in Europe can but make one's blood run cold.

14. The treaty at Berlin roused all Europe against Russia. The Powers of Europe now saw what a danger Russia was, and what mischief she could do if Turkey was in her power, and they therefore were ready to unite against Russia at any time.

15. I admit that the treaty did not settle the question permanently, but it was the best thing which could have been done, for by it Russia was no nearer to Constantinople, and England had obtained the island of Cyprus as a military station.

16. It is argued that it was a disgrace for Beaconsfield to take the part of such a depraved, barbaric country as Turkey; but it seems to me that such arguments should be left out of a question of this kind. Beaconsfield did take the part of a "barbaric" country, but it was the salvation of not only England but of all Europe. Perhaps he felt that by taking Turkey's part England could gain influence in Turkey and prevent the misrule which existed in Turkey. But we must leave sentiment out of this question. Beaconsfield thought that a treaty was the best thing, and therefore he asked for one; and it *was* the best policy. If any one wants to deny that Beaconsfield's policy was not for the best interests of England, let him offer a plan which Beaconsfield ought to have followed. Perhaps such a person will say that England ought to have bought Constantinople from Russia, but this is absurd, for Russia would never have thought of allowing England to enter Constantinople, for *any* sum. And to sell Constantinople to Russia would have been anything but advantageous to England, as shown above. The only remaining course would have been a war between England and Russia. This,

no doubt, would have settled the matter. But what an awful thing would war have been! Do we not always hear, "Let arms alone when they are not needed"?

17. A war between these two countries would have resulted in terrible loss of life, and tremendous expense; and it might have lasted for years and years. After considering these arguments carefully, I question whether any one can deny that Beaconsfield's course was advantageous to England.

18. When Beaconsfield returned to England he was received with applause and welcomed as a benefactor to his country. The Queen herself approved most heartily his policy.

XXVI

SPECIMEN FORENSIC

Forensic C

Were Sheriff Martin and His Deputies Justified in Firing upon the Miners near Lattimer, Pennsylvania, September 10, 1897?

The word "justified" admits of two interpretations, justified morally and justified in point of law. The two are by no means synonymous. A man may be legally innocent yet morally guilty, as was Aaron Burr. He may likewise even be legally guilty yet morally innocent.

We shall consider the question in its moral sense. The Sheriff and his deputies are now on trial to prove whether or not their act was legally justifiable. Its legal justification will be determined by investigation made under the fixed rules of courts. Its moral justification may be just as truly determined by non-legal investigation, provided that investigation adheres strictly to the facts in the case and weighs carefully and unprejudicedly the evidence upon it. And the moral investigation may be fairer than the legal from the

very fact that it is not hampered by the arbitrary rules of court procedure nor dependent upon the doubtful decision of a jury. If the facts are true, the premises and reasoning correct, then the conclusion must be true also.

It may be well to here set down the occurrence at Hazelton which has given rise to the question. It must be stated without details, only in the barest outlines, that every one may agree to the statement to begin with, and that it may suggest the questions which call for evidence on one side or the other.

On the day of September 10, 1897, a body of striking miners formed to march past Hazelton to Lattimer. At West Hazelton the Sheriff stopped them, read the Riot Act, and ordered them to disperse. They pressed on, and a conflict followed. The deputies were roughly handled, and two strikers were injured with the butts of the guns. The marchers scattered, but kept on, determined to march to Lattimer in spite of the Sheriff's orders. The Sheriff and his deputies boarded trolley cars, to intercept them. The marchers re-formed, gathering strength as they came. Just beyond Hazelton they were intercepted by the deputies under Sheriff Martin. The deputies were drawn up across the road to prevent the march of the miners. The Sheriff advanced. He met the miners, and a struggle of some kind ensued. The deputies fired upon the miners and killed twenty-four of them.

The country was at once agitated. The press was divided. Part supported the Sheriff. Part proclaimed his act murder in cold blood and unprovoked, and declared that now the crisis in the struggle of Labor and Capital had come. For now the capitalist was backed by the laws, and the law by the rifle of the deputies. Now if the laboring man resisted the grinding of the capitalist, he was to be shot down like a dog.

Great harm has been done by such articles. The demagogue and the agitator have been vastly aided. For the workingman has been led to forget that the miners marching to Lattimer did not alone represent Labor, but that at Lattimer

were other men who earned their bread by the sweat of their brows, men who had no dispute and wanted to work. At home were wives and children who looked to them for bread. The agitator who fattens off the strife of employer and employee had no hold on them. They had no grievance and were glad to work that their hungry little ones might be fed.

Were they to be allowed to work? No. This marching body of miners at Hazelton was coming to stop them. It has been admitted on the witness stand. Men who were shot at Hazelton had admitted under oath that they were marching to compel the workers at Lattimer to quit, whether they wished to or not.

Now answer for yourselves this question, at the very beginning of our investigation — Did the Sheriff and his deputies stand there on the road to Lattimer to crush the laboring man in his struggle with Capital, or did they stand there to protect the laboring man as he earned his daily bread? Decide for yourselves what the Sheriff and his deputies were to uphold, — the interests of Capital, or Law and Liberty to all.

The bare and brief statement of the occurrence at Hazelton will suggest certain questions for your investigation. To begin with — What was the condition of affairs in Luzerne County that made it necessary for the Sheriff to have a body of nearly a hundred deputies? What was the purpose of the miners marching to Lattimer, and in what manner did they march? And most important of all — What took place when they were met by the Sheriff, before the deputies fired? With these questions answered it will be possible to rightly decide whether or not the firing was justifiable.

Let us answer these questions clearly and truly.

The County of Luzerne was in a state of riot. "Breakers" and mining property had been damaged, houses sacked, workmen driven from the mines by force, those who refused to strike and march in the processions had been assaulted and beaten. This same body of deputies, only the day before, while protecting workmen at Stanwood, had been roughly

handled, and some severely beaten. The men had been compelled to quit work in spite of the efforts to protect them. The same had happened at the Hazel mines.

The Lattimer miners were the only ones still mining. The miners marching past Hazelton were going thither to compel the men at Lattimer to quit work. They have admitted under oath and on the witness stand that they intended to force the men there to quit whether they wished or not. Some of the men who have so sworn were wounded themselves, and in all this evidence the prosecution alone has put witnesses on the stand.

It is true that the workers were unarmed, it is further probably true that they were marching in ranks and in regular order. But a body of four or five hundred men need not be armed to be dangerous. Once arrived at Lattimer, stones and clubs would be seized, readily enough, and riot follow if the men then refused to be driven from work. And a mob, marching in ranks and regular order, is no less dangerous than one in confusion and disorder.

Was not their very orderliness indicative of a fixed purpose and a determination far more dangerous than the uncertain impulse of a disorganized crowd?

And now, what happened when this body met the deputies drawn up across the road to stop their march? Again I offer only the evidence of the prosecution, evidence of the marchers themselves on the stand when the Sheriff and his deputies were arraigned before the court, to be held for trial.

By the miners' own admission, then, the Sheriff advanced in front of his deputies. He commanded the procession to halt. He ordered them to disperse. Evidence conflicts as to whether he read the Riot Act. He had the paper in his hand, and those who swear he did not read it may have been unable to hear in the confusion. It matters little, for he had read the act repeatedly during four days, and to this same body of marchers less than an hour before, when he bade them disperse at West Hazelton and forbade the march to Lattimer.

The rear ranks pushed on the front. The Sheriff seized one of the leaders, at the same time drawing his revolver. The man, by his own testimony, grasped the Sheriff's wrist and forced his arm up over his head. There was a struggle. The strikers admit that probably fifty men had passed the Sheriff. Some one cried, "Fire." There were two or three scattered shots, then a volley.

Now how does this case stand?

There had been rioting and beating of men who refused to quit work. This body of men marched toward Lattimer, and there was not the slightest doubt what they intended to do. They have even admitted it themselves. They intended to compel the men there to quit work, not to persuade but to compel them. The Sheriff must preserve law and order in his district. He must see that every man be allowed peacefully to earn his living and to engage unmolested in his daily work. For this very purpose it is made possible for the Sheriff not only to swear in deputies, but to call out the militia, and even to call on every able-bodied man in the county to aid in protecting the rights of peaceful citizens.

Such being his duty, Sheriff Martin must prevent the march to Lattimer. He endeavored to do so at West Hazelton without using the rifles of his deputies. The mob handled them roughly, and continued to march. The Sheriff intercepted them. He drew up his deputies across the road. He advanced alone, and courageously bade the marchers halt and disperse. The men crowded past him. He attempted to arrest one of the leaders. He was seized, and a struggle ensued. The deputies stood behind the Sheriff. They saw him seized and struggling among the miners. Already fifty had passed him and more were coming toward them. What could they do? The Sheriff might be killed at any moment. The mob might charge among them, and at close quarters their rifles would be useless. They had no bayonets to repel a charge, they were outnumbered five to one, and in a struggle would be killed with their own weapons.

Most important of all, they were not police or military, and they were without the leadership or tactics of such bodies. A hundred policemen or soldiers with leaders and discipline, and accustomed to such work, might charge and disperse five hundred strikers without firing. A hundred deputy sheriffs could not. They were men from all occupations, men of the middle class, men such as you and I, and they did what you or I or any man would have done, with rifles in our hands and our own lives in danger, not to mention our leader and the law-abiding citizens whom we had sworn to defend and protect.

They fired, for there was nothing else to do but fire. The very way in which they fired, a few scattering shots and then a volley, shows vividly how they waited and waited, loath to use the last force until they were absolutely compelled to do so. Had they not fired, no one can say what might have happened. We can only point to the example of the great strike in Pittsburg in 1887. There the militia weakly hesitated to fire, and their hesitation cost some of them their lives and lost them control of the city. They were driven out by the rioters, and before law and order could be restored by the regular troops ten million dollars' worth of property had been destroyed by pillage and arson.

XXVII

A GOOD FORENSIC

Forensic D

Were Sheriff Martin and His Deputies Justified in Shooting on the Miners near Lattimer, Pennsylvania, September 10, 1897?

(For an audience of miners supposed to be in sympathy with the Lattimer strikers)

The strike of coal miners in Pennsylvania, West Virginia, Ohio, and most of the central states last summer was an ably conducted enterprise of organized labor. As strikes have become more extensive and effectual, recognized leaders and discipline have become a necessity, and the "sympathetic" coöperation between different trades has come prominently into play. If we are to look for success to these characteristics, the late strike was a credit to all workingmen concerned. President Ratchford spoke of it as "the greatest victory gained by trades unions for years," and thankfully acknowledged the indebtedness of the miners to other trades unions and organizations, for material as well as moral support.[1]

But it is not only in the matter of supplies that the leaders of great strikes have hitherto met with difficulties. The task of feeding the men is slight compared to that of keeping them from returning to work. Where a strike extends through many states, local interests and circumstances come very near destroying all unity of purpose. Some set of miners are likely enough to grow weary of remaining idle, or to satisfy themselves with temporary proposals of the operators, and one large colliery at work can seriously injure the strength of the strike. The men must be kept in good spirits. The hopes of those already striking must be encouraged, and those who remain stubbornly at work must be so impressed with the

[1] *Philadelphia Press*, September 22, 1897.

serious purpose of the movement and their own interests in its speedy success that they will be persuaded to join with their fellow-workmen and stop work. But what is far more difficult, all this must be accomplished without violence.

In that serious and sometimes critical controversy, the strike, labor unlike capital is beset with the danger of violence. Strikers can no more attain their ends by violence than can the speculators in the stock markets, or lawyers before the Supreme Court. Public opinion, common sense of honor, rules them all, forbidding resort to force, whatever their seeming wrongs. Back of mere indefinable honor lie the formulas of the law. They are the expression of what men have decided is right for them to do, and what is not right. And though in the everyday humdrum of life we are very apt to forget it, these laws are constantly governing our actions and protecting our privileges.

The leaders of strikes understand that men who remain at work are in more effectual opposition than the employers themselves. To gain these men to their side, they know full well, may be to gain the strike. But they know also that all men have a right to work if they choose, a right which the law will protect. Indeed they rely on this right and its legal enforcement when they declare a strike. To deny to other men what they have themselves assumed is, they feel, hardly a policy commanding respect. Coercion, even though it were not essentially repulsive to all fair-minded men, is woefully shortsighted and will defeat itself. What then can the leaders do?

The device adopted to meet this emergency in the late coal strike was at once efficient and politic. To impress the men remaining at work and win their sympathies, the strikers were organized for marches and camps. They marched from mine to mine, and before some mines set up camps. By these methods they could appeal directly to the men, if somewhat theatrically, without violating the law. Cases of violence did to be sure occur. Early in August deputies and strikers

fought and drew blood at Plum Creek.[1] In Corinth, West Virginia, the strikers looted the house of men who remained at work, and shot at a deputy marshal.[2] September 13th women armed with clubs attempted to drive men away from DeArmit's mine, and clubbed the deputies.[3] But such outbreaks as these occurred through no fault in the leading and directing of the strike, but in spite of the leaders' efforts to preserve order. Judge Collier, who passed upon the injunction[4] against marching, granted to the New York and Cleveland Gas Coal Co. of Pittsburg, after examining the testimony there adduced, said that on the whole "the strike would go down in history as one of the wonders of the century, and remarkable on account of the utter lack of disorder, for which the strikers are commended, and have the sympathy of the Court."[5]

This very injunction, which the judge found it impossible to modify,[6] and after which numerous injunctions were elsewhere modeled, put the most severe test upon the strikers' self-control. It enjoined them from assembling, marching or encamping near the company's works, and in a clause aimed against coercion went so far as to restrain them from inducing men to quit work. The leaders considered this unjust and unconstitutional. They knew, however, that the officers of the law must needs enforce it. They determined, therefore, to protest against the injustice of such a sweeping injunction, without defying the law. They did more, — by the law itself they sought redress. Said Patrick Dolan,[6] President of the United Mine Workers, on the day the injunction was made permanent, "I sent an order to all of the camps this afternoon to continue marching on the same peaceable lines that we

[1] *Philadelphia Evening Telegraph*, August 13.
[2] *Philadelphia Ledger*, August 17.
[3] *New York World*, September 14.
[4] *Philadelphia Ledger*, August 13.
[5] *Philadelphia North American*, August 17.
[6] *Philadelphia Press*, August 19.

have been following, and I am willing to abide by the result. We do not intend to give up an inch of what we have gained. If we are arrested, we will go quietly and submit to whatever punishment is dealt out to us, provided it is proved that we have broken the law. We do not wish to swerve the sheriff from the line of his duty."

The sheriff was kept very busy in the line of his duty. Hundreds of miners submitted to arrest. The jails were crowded, and this though many were released on bail. At Fairmont, West Virginia, August 18th, two hundred strikers submitted quietly to arrest at the hands of ten deputy marshals.[1] Twelve deputies at Pittsburg in one day were allowed to arrest two entire bands of strikers on the march.[2] These are two instances taken at random, and even these are unnecessary. For I am conscious of "bringing coals to Newcastle" when I set myself to work to show a body of miners who have been through the late strike that their policy in that struggle was one of patient endurance and strict observance of the law.

I have said that violent outbreaks did occur. The only wonder is — and a great credit to the strikers it must be — that riots and irregularities were so distinctly the exception. We could have no better example of the local and unauthorized character of resort to force, than the conduct of the strike in the Hazelton region. There the strike began in trouble, in the shortsighted policy of petty lawlessness, and finally culminated in tragedy. I do not mean to say that the men whom the strikers recognized as their leaders countenanced any dishonorable action. They took full as many precautions as elsewhere. But when the men themselves allowed their bitterness of feeling to gain so far the mastery that they assaulted and beat a company official, as they did Superintendent Jones, the sixteenth of August, on the highway between Andendried and MacAdoo;[3] when they beat insensible

[1] *Philadelphia Press*, August 19. [2] *Idem*, October 29.
[3] *Philadelphia Ledger*, August 17.

a man who continued to work ;[1] and by riotous force drove men from work, as they did August the twenty-seventh at the Beaver Meadow collieries and at Milnesville ;[1] they simply showed that they were not altogether to be trusted to carry on their part of the controversy in a wise and manly fashion. In jeopardizing the safety and liberties of other people they not only put themselves in the wrong, but they went some distance to throw reproach upon the whole movement, which had been marked elsewhere by so much self-restraint and good sense.

The inevitable result followed. Marching upon the highway, when it led to such violence, became dangerous to the public peace ; and it became the duty of the sheriff, as protector of life and property and the inalienable right of workingmen to work, to organize posses of deputies and patrol the roads. During the week at the end of which occurred the shocking clash at Lattimer, Sheriff Martin met and dispersed miners with his posse Tuesday, Wednesday, and Thursday. And Thursday they had previously beaten and forced reluctant recruits to join their ranks.[2] One day this week the sheriff is said to have met single-handed a body of three hundred miners and persuaded them not to march through Hazelton.[3] Such was the situation when, on the evening of September ninth, word reached the sheriff that the miners at the Harwood colliery in secret meeting had decided to march in force next day to Lattimer and induce the miners there to quit work.[4]

Apparently there was not the slightest intention of violence in this move of the strikers. They passed resolutions[5] against carrying any firearms or weapons, and the few next day who did not comply were disarmed by the leaders before the march began.[6] It was their manifest intention that nothing

[1] *Philadelphia Press*, September 12.
[2] *Harper's Weekly*, October 2; *New York Sun*, September 13.
[3] *Philadelphia Press*, August 28.
[4] *New York World*, September 13.
[5] *New York Herald*, September 11.
[6] *Philadelphia Press*, September 12.

more than an organized display of numbers should take place. A young striker from the Harwood mines asserted in an interview with a *World* reporter[1] that the miners had been invited by the men at Lattimer to march over and thus give them a desired excuse for quitting work. This statement of John Eagler is not corroborated by any other testimony or interviews, and it is certainly true that the Harwood miners and others in the region had not scrupled at excuses for closing down the collieries. But it may still be true that the strikers had some understanding with the Lattimer men, though perhaps indefinite, and that, had they been able to pursue their march, the Lattimer men would have thrown down their picks willingly and joined the ranks.

This side of the matter, however, did not reach the sheriff. He knew simply that men were at work at Lattimer, and that the Harwood miners proposed to call them out. Accordingly he continued in the policy he had been following for the past week at least, which not even those who denounced his course at Lattimer most strongly have criticised, and opposed the march of the strikers with his posse of deputies. The encounter occurred at West Hazelton,[2] before the Hazle mines. Martin told the strikers he could not allow their advance and they must disperse. The men protested that they meant no harm, but the sheriff insisted, and read the Riot Act. This reading is flatly denied by young John Eagler, who, as he spoke English, appears to have volunteered his services here as spokesman. Eagler[3] says the sheriff merely pulled a paper out of his pocket, laid his hand on it, saying: "This is my proclamation," and put it back into his pocket. Here again Eagler is alone in his assertion. All other reports say plainly that the Act was read; and witnesses

[1] *New York World*, September 13; *New York Sun*, September 13.

[2] *Boston Herald*, *New York Tribune*, *Philadelphia Press*, *New York Evening Post*, *Philadelphia Public Ledger*, September 11; *New York World*, September 13.

[3] *New York World*, September 13.

in sympathy with the marchers and denouncing the sheriff include the reading in their versions.[1] Eagler[2] again says that, on being asked, the sheriff said he would allow two men to go to Lattimer. "Then I said to the crowd," continues Eagler, "'Boys, fall in two by two and we will continue the march!'" To attempt to put such a construction on the sheriff's concession is not a very creditable performance for a man who volunteered to lead men of honest purpose. I have done my best to get at the real facts in this case, — no easy task, — and I am much afraid that Eagler's version, given full two days after the occurrence, is in many places too good to be true. For instance, he says that when the deputies opened fire at Lattimer[2] many of the men in the front ranks could not believe that ball and shot were being used. It seemed incredible that the deputies had not given a volley of blank cartridges, and it was only when Eagler saw men all about him dropping and the blood flowing that he made up his mind to run. Now if I had been in the front ranks of the unfortunate strikers when the shots came, I cannot honestly conceive of spending any time in speculation on the probability of the cartridges being blank; and in no other accounts have I noticed any mention of the men hesitating in taking to the woods as fast as their legs could carry them.

If I do Eagler injustice, I hope to be put right in the matter. But, as it is, I am forced to consider his version an unsupported assertion, as the rest of the testimony is unanimous on the reading of the Riot Act. After this you all know in the main what occurred, although accounts differ widely in minor details. The deputies broke up the formation of the strikers in quite a sharp tussle, during which two of the leaders were struck with the butts of the deputies' Winchester rifles and arrested.[3] Some time after the strikers

[1] *Philadelphia Press*, September 11, 12.

[2] *New York World*, September 13.

[3] *Philadelphia Press*, September 11; *Philadelphia Public Ledger*, September 11.

had been dispersed, news was brought to Martin that they had re-formed on the highway and were marching to Lattimer. He put his deputies aboard a trolley car and had them carried to Lattimer, where he lined them up along a fence before the coal company's property at the edge of the village. When the strikers approached, he stepped out some distance before the line of deputies to meet them, ordered them again to disperse, addressed them, and read the Riot Act. The men crowded about him. They insisted they were not violating the law and should be allowed to proceed. Martin, revolver in hand, attempted to put two men under arrest. There was an impulse shown, especially by those in the rear, to push forward, and while the jostling and scuffling was in progress the command to fire was given, with instantaneous effect.

The intense spirit of anger in Hazelton gathered to a head at night in an indignation meeting at which resolutions were adopted denouncing the sheriff.[1] In MacAdoo[2] feeling ran high enough for a riot, during which, in a search for Superintendent Jones, his house was ransacked. The press in large part followed the popular feeling. Bloodshed and the sights of suffering put the region in a quiver of wrath, which easily found its way into the columns of the morning journals. And there certainly was good cause for indignation. The error this excitement drew men into could hardly in human nature have been avoided. But to-day while our sympathies are still alive for those who suffered, the wounds to our sense of justice are sufficiently healed to allow us to weigh this question in its full seriousness without prejudice. It will not do to repeat mistakes made when the matter was fresh in our displeasure. Every one said at the time: "It was an error in judgment caused by the incomprehensible haste or malice of the sheriff." In this very verdict did they not with haste, perhaps comprehensible but certainly not warrantable, pass judgment on the sheriff, and possibly a judgment in error?

[1] *New York Herald*, September 11.
[2] *Philadelphia Press*, September 11, 12.

In considering the justification of the actions of an officer of the law it is of course impossible entirely to disregard the legal aspects of the case. But they can be disregarded in some part, and I propose in great measure to disregard them. First, because I am not a lawyer and could not handle the technical complexities of the sheriff's guilt or innocence, though I wished to, and also because you are not a jury and are not to be burdened with the responsibilities of delicate legal distinctions. But yet we are each in himself counsel, judge, and jury, and we sit in constant session on the actions of our fellows. Sometimes our verdicts are just and reached with patience. More often, perhaps, they are returned in haste and bias. But for good cause we are always ready to reverse them. It is conceivable that a public servant may be acquitted in the courts of law, though before these private tribunals he be found guilty. Technically he may have discharged his duties, though in the light of public expediency his measures may have seemed unnecessarily harsh. As he may thus fail twice, it would appear that the secondary hearing should be all the more considerately given. Strangely enough, however, he is far more likely to be unfairly treated by the public than by the laws.

We judge this sheriff in our own fashion on the discharge of his duties. These are laid down by the law. They constitute the legal aspect of the case, and, though we are doubtless more or less familiar with them, it will aid our verdict to review them. In times of emergency and possibility of violence the sheriff, as head of the county, is first policeman. If he thinks it necessary he may call upon citizens to serve as his deputies, taking arms and acting under his authority. Such a posse he uses to protect property and life; in the case of strikes, even to protect men who remain peaceably at work from violent interference. He is duty bound to put a stop to violence, or, if possible, to prevent its occurrence. And in the use of his powers for this purpose he must be the judge of the likelihood of disturbance. When in his opinion

marches of strikers are likely to lead to violence, he is bound to oppose them as a menace to the public peace. As in all cases of unlawful assemblages, he must read the Riot Act, ordering them to disperse. If they refuse, he may put them under arrest. Should they resist with violence his arrest or opposition to their progress, he must meet their resistance with force if necessary.[1] In the case of Martin, bearing these duties in mind, we are to determine whether conditions existed which made it necessary for him to act; and if so whether, as has been alleged, he acted in haste or with malicious intent. If he should appear to have been bound by duty to act and not to have behaved in haste or malice, we are surely ready to acquit him as justified.

The suspicion of malice has been suggested perhaps by the apparently unnecessary continuousness of the deputies' volley. They seem to have kept up firing upon the miners after these started to run,[2] and this perhaps more than anything else has served to bring them hasty condemnation. It would seem to add another complexity to the case. But there is no need for confusing two issues. The first question is whether the firing was justified in any way. If not, its extent does not need to be considered. The sheriff and his deputies being once in the wrong would only have gone deeper in. If the resort to a volley was called for by actual conditions, then the prolongation of the volley may or may not have been justifiable, and requires separate consideration.

We know the circumstances of the strikers' march to Lattimer, and their previous repulse at West Hazelton. We have seen that the sheriff opposed this march precisely as he had opposed other marches during the week. But we question whether, when he had met the strikers, read the Riot Act,

[1] Bouvier. *Law Dictionary*. Dalton. *Sheriff*. p. 355. *New York Herald*, September 12 (opinions of sheriffs). *Philadelphia Press*, October 29 (Judge Lynch's instructions to Grand Jury). *Idem*, August 20 (Sheriff Lowry).

[2] *New York Herald*, *Philadelphia Press*, September 11.

and attempted to disperse them, he should have resorted to force. To judge of this, we must recall his duties as sheriff, and therein we see his order to fire was justified only if the strikers resisted with violence. Nor does even this quite settle the matter; for, if the evidence shows that such violent resistance was offered, we have still to inquire whether he gave the order hastily, too soon, or with malicious intent.

All manner of reports have been published about the conduct of the strikers. They are described as infuriated in some accounts, as entirely docile and unresisting in others. When such conflicting views are set forth in the daily press as the facts in the case, we must discriminate, or give up the task entirely. Many of these reports, moreover, are merely hearsay on record and of little value as testimony. The general drift of them seems to be that the strikers crowded about the sheriff while he read the Riot Act, pushing and jostling him to and fro. This is variously explained as evincing riotous advance or anxiety to hear the sheriff. All accounts say the sheriff, after a somewhat animated conversation with the men, attempted to arrest two of them. Then came the "inexplicable" volley about which reports are so inexplicably muddled.

So much for the broad and indefinite assertions of the general reports. The direct testimony is more limited, but is somewhat more to the point. The sheriff's use of his revolver was a source of considerable difference of opinion. An eyewitness is reported in the *Philadelphia Press* of September eleventh as saying: "The sheriff told them [strikers who advanced upon him] to stand back, and then he pulled his revolver. The revolver was taken from the sheriff's hands by several of the miners." The name of this eyewitness is withheld "for obvious reasons, considering the intense divided feeling in the community."[1] The feeling was obvious enough, but a witness lacking all name and

[1] *Philadelphia Press*, September 11.

embodiment is first cousin to hearsay. John Eagler's [1] version is that the sheriff used his revolver to cover the man he was arresting, who, perhaps for obvious reasons, objected to having his heart aimed at, and gently pushed the revolver aside. On the witness stand, September twenty-first, Jonathan Lichensberger,[2] a Hazelton contractor, who witnessed the encounter, said, "After reading the proclamation he [the sheriff] ordered the crowd to go back. Then they had a scuffle with him. He drew his revolver, but some one grabbed his wrist and held up his hand so he could not do anything." Perhaps we may safely say that the sheriff tried to make an impression with the display of his revolver, and the strikers manifested a disinclination to be covered therewith. If we look the matter squarely in the face, we cannot but see that the strikers resisted arrest by the sheriff. It is idle to say they did not understand his authority. He had been active in the region for a week, his proclamations had been printed in the newspapers,[3] a line of armed deputies was not fifty yards [4] behind him, and he had opposed these same men only a little while before at West Hazelton, where they had finally yielded to his authority, and to the drastic measures of his deputies. The purpose of these miners in going to the Lattimer mines may have been perfectly honorable, but in the process they defied the sheriff and resisted his efforts to put them under arrest. Such conduct makes a poor comparison with the dignified showing of the other miners who under arbitrary restraint respected the law and submitted to the sheriff hundreds at a time. Orderly method is a stroke of wisdom, but such foolhardy defiance of the law as this never wins in the end.

It seems to be agreed generally that the volley was preceded by two or three single shots. Some reports said that

[1] *New York World*, September 13.
[2] *Philadelphia Ledger*, September 22.
[3] *New York Sun*, September 13.
[4] *Philadelphia Press*, September 11.

the strikers were put to rout by these, only to have the horrible volley poured into their backs. A reporter, writing September eleventh, said[1] "all except five of the strikers were shot while they were trying to escape. Their wounds are in their backs." The reporter goes on to say that he saw the wounds himself. Unfortunately he makes no claim to be a competent judge of gunshot wounds, and a bullet from a rifle at such close range might easily go through a man's body, coming out at the back. Dr. Keller[2] of the Hazelton hospital said on this point, "Of the thirty-nine men who are in this hospital there are only twelve whose wounds could possibly have been made by shooting in the back. Of these twelve the wounds of several are not as deep as they would have been if they had been hit by a bullet direct from a gun. It is very likely that these men were struck by bullets that passed through the bodies of other men. The force of the bullet, it can be fairly estimated, would be such as to go through a man's body, if the body was the first object with which it came in contact."

If the men were not entirely in flight when the volley was discharged, were they at a stand facing the deputies? No end again of sweeping statements. Personally, I have wearied of these sweeping statements. They say everything and leave no impression of having established anything. Let us take the testimony of a witness and a participant. Charles Guscott, principal of the Lattimer Grammar School, witnessed the shooting, — which he denounced as unprovoked and cold-blooded murder, — from the porch of the schoolhouse, three hundred yards from where the deputies took their stand. "I saw the sheriff talking vigorously to them," he said, "and then he read the Riot Act. The strikers crowded around him to the number of at least a hundred. Finally, I saw him pushed aside into the ditch at the side of the road, and then the strikers . . . swept toward Lattimer,

[1] *New York Herald*, September 12.
[2] *New York Sun*, September 13.

and in a minute or two were in front of the deputies."[1] Guscott told the same version on the witness stand later.[2] John Eagler says the men behind cried, "Go on; go on!" when the sheriff opposed them, and crowded forward.[3] Finally, "an intelligent Hungarian from Mt. Pleasant," Martin Roski, who was shot in the arm, gave out this laconic version:[4] "We were going along the road to Lattimer, and the deputies were lined across the road barring our progress. We tried to get through them and did not attempt to hit or molest them, when they fired upon us. We ran, but they kept on shooting on us while we ran. It is all their fault."

This has been the popular verdict. The deputies opposed the strikers twice, the last time lined up to defend the men working at the Lattimer mines. Judging from the acts of violence which unfortunately had not been uncommon for some days in the vicinity, they thought the men at work were in immediate danger of intimidation and perhaps assault. The sheriff met the strikers fifty yards before his line, halted them, expostulated with them, read them the Riot Act, when that availed nothing attempted to put two under arrest, and only when they pushed him aside and swept onward, ordered his deputies to fire. And yet we say, "It is all their fault."

If these men were on a peaceful errand, why did they try to get through the deputies? Why did they resist the sheriff's arrest with turbulence?

Shall we think the sheriff hasty in giving the command? He tried every means, — orders, proclamations, arguments, the moral effect of arrests, — and found himself unable to influence these men. All through the week marchers had dispersed at his orders. Once he had coped with a crowd of three hundred, single-handed. But these men with the

[1] *New York Herald*, September 12.
[2] *Philadelphia Ledger*, September 22.
[3] *New York World*, September 13.
[4] *Philadelphia Press*, September 11; *Philadelphia Ledger*, September 11.

avowed intention of having the men at Lattimer quit work got beyond his control. He was duty bound to protect the men at Lattimer, for he had certainly no assurance that the marchers would use them more gently than they did an officer of the law. And Martin knew that if the strikers were given the upper hand they would not be powerless against the deputies. Earlier in the strike, at Coffeen, Illinois,[1] strikers had managed to throw the deputy sheriffs aside and invade the town. Nearer home, at Hazelton, on August twenty-seventh, the Beaver Meadow miners brushed aside the "coal and iron police," and drove carpenters and blacksmiths from work.[2] Here the Harwood miners had twice confronted the sheriff and now brushed him aside. The deputies could not act without orders, and the command was given.

In what stage of the sheriff's patient forbearance, in his arguments to persuade the men to be reasonable, in his endeavors to awe them into obedience, do we see his malice cropping out? There had been an excellent chance to gratify malice at the Hazle workings, which the sheriff appears to have let slip. But it is ridiculous to talk of his giving the order through malice. If malice had prompted him he would never have thought of putting himself in danger. When the command to fire was given, Martin was some distance in front of his deputies, in among the strikers, and stood full as good a chance as any of them of being killed.[3]

It has been suggested[4] by London papers that we should have less bloodshed if we had a well-organized and more complete police force to take charge of entire regions where strikes might happen to occur. The point is well taken. Police are trained officers of the law, constantly used to handling bodies of men and estimating the temper of crowds. By dint of long practice they acquire patience in dealing

[1] *Philadelphia Press*, August 18.
[2] *Idem*, August 28.
[3] *Idem*, etc., September 11.
[4] *Spectator*, September 18.

with opposition. Deputy sheriffs on the other hand are inexperienced, often in the eastern states even unused to firearms. The opposition of a crowd goes far toward putting their inner selves in a panic, and when an outbreak comes they are far more reckless in putting it down than are trained police or soldiers. In England in the thirties and forties they had many such industrial misfortunes as the tragedy at Lattimer, but since the perfecting of their constabulary such occurrences have been fewer. The writer in the *Spectator* predicts that the United States will soon travel the same satisfactory road, to the mutual advantage of labor and capital.

Until we do, however, if our deputies are by lack of training and discipline flighty and unsteady, it is through no fault of theirs. The evil lies in the system. If, when it comes to the point of shooting, their cooler judgment is shaken and they continue longer than in thinking the matter over afterwards we deem advisable, longer perhaps than trained soldiery would have persisted, we cannot at once support the system, commit ourselves to its protection, and denounce its administrators. If the deputies at Lattimer seem to have prolonged their volley unnecessarily, — and on this point as on so many others accounts disagree, — if they seem to have done more execution than needful, we must remember that they were under a severe and unusual strain, that they were doing their best to carry out the commands of their sheriff who appeared to be faring ill in an attempt to make good the law's protection over peaceful workmen.

This is not a question which can expect a hasty decision. But if you will carefully consider the evidence, if you will not blind yourselves to the ill-advised course of the marchers in persistently defying the law, and will pass judgment fairly and candidly on the actions of the officers in the case, you will, I feel sure, believe that Sheriff Martin and his deputies were justified in shooting on the miners at Lattimer.

XXVIII

A GOOD FORENSIC

Forensic E

Should the Elective System be Introduced in all Public High Schools?

The contemporary discussion concerning the elective system for public high schools suggests the exhortation of a negro cab driver. Glad of the lightning which showed him the road, but terrified by repeated peals of thunder, he cried: "O Lord, if it's all the same to you, send us more light and less noise." It is only with the hope of revealing some light on this problem that one is warranted in making more noise.

For nearly a century the elective system has been pushing its way into our colleges and schools. In 1825 elective courses were offered to the upper classes of Harvard College. Since then the elective principle has been working down to the lower grades; in 1846 to the Senior and Junior classes of Harvard College, in 1867 to the Sophomore class, in 1884 to the Freshman class. The influence of this action by Harvard College was inevitably to send the elective system down to the upper classes of secondary schools; within a few years it has reached all classes in the public high schools of Boston and other cities. Down, down it has gone through college, high school, and grammar school, until, as Dean Briggs says, "not even the alphabet can stop it."

The growth of this free-choice principle — fixed quantity and quality of work with variable topic — has no doubt been due largely to the growing diversity of knowledge, to the breaking down of the old ideal of the scholar, to the need of specialization, and to the opening of educational opportunities to all the people. Whatever the causes may be, the elective principle is established, its benefits are recognized, and all

are agreed that at some place in our educational system the studies should be wholly elective. But at what point? The question is pertinent whether in escaping the Scylla of total prescription we are not in danger of being wrecked upon the Charybdis of total election.

Whether free choice should begin in the first year of the public high-school course is a question concerning which there has been much writing, some thinking, and a little scientific investigation. Many individual opinions have been given; the arguments on each side have been partly stated; some evidence has been presented, usually without consideration of its full bearing on all phases of the question; but has any one sought to discover the truth through bringing together all the arguments on both sides and viewing them in the light of facts? I have found no such attempt. My present purpose is to make that attempt, first of all through reducing the arguments of both sides to their lowest terms, in order to see in brief compass just what are the vital differences of opinion; and, second, through considering those issues one by one in connection with the investigations I have made concerning the working of the elective system in the United States.

First, then, what is said against the elective system for public high schools. The arguments may be considered conveniently in four main divisions: the first concerning the ability of high-school pupils to choose; the second concerning possible compromises between complete election and complete prescription; the third concerning the effect of each system on teachers and principals; the fourth concerning the relative moral worth of the old system of prescription and the new system of election.

The first of these arguments contends that those in charge of the schools can choose better for all than can each individual pupil for himself. This is held to be true for three reasons: there are certain studies which are essential for all pupils, of which Latin, algebra, geometry, and English are

often urged; pupils will not of their own choice elect these necessary studies; pupils will choose foolishly, for they will elect easy courses, or those for which they are not prepared, or those taught by favorite teachers, or those of little value, or disconnected courses.

As a second main argument, two compromises are proposed, either of which is held to be superior to the elective system in its entirety. Since there are certain studies which constitute an essential foundation, and since pupils, left to their own choice, will neglect these studies, a programme of partial prescription or a group system seems to many people far better than "a frolic of unbridled fancy." Such is the name applied to the elective idea by an extreme opponent who refuses to call it a "system."

Of those who favor partial prescription, some would have the greater part of school work required and allow the pupil to choose only the "fringe." Others would establish a system of restricted choice, requiring the pupil to take at least one study from each of the great divisions of human knowledge — say language, history, mathematics, and science. The other suggested compromise, called the group system, offers several complete programmes of studies, one of which the pupil must elect, but the studies within each group are wholly prescribed. The argument in favor of this system is that each pupil, whether preparing for college, for technical school, or for business — whether wishing a classical, scientific, or commercial course — can elect one well-planned group of related studies. Many believe that thus the benefits of the elective system are secured and its evils eliminated.

A third argument opposed to the elective system concerns teachers and principals. It is held that this system requires abler, more enthusiastic teachers, more competent and sympathetic principals, stronger men and women; that, further, the system demands of them more work. On this point, other friends of prescribed study urge that the free-choice system is a device to evade the most difficult work of teaching,

— a lazy, *laissez-faire* policy; for it tends to relieve teachers of the very pupils whom they have most difficulty in forcing through a prescribed curriculum.

A fourth main argument is that the prescribed system is of greater moral worth. "What a boy likes," it is said, "is not always best for him," and "backwardness in any subject shows the desirability of more training at just that point." The drudgery of enforced tasks and the discipline in conquering distasteful subjects is more valuable than any training in free choice, and only prescribed work cultivates habits of application, thoroughness, and accuracy.

These four objections do not by any means comprise all that has been said against the elective system. The arguments have been too intricate and numerous, have wandered along too many divergent paths to be gathered into four folds. The friends of the fixed curriculum have also urged that most public high schools are too limited in resources — in teachers and equipment — to make possible a programme of free choice; that there are dangers of superficiality in the so-called "enriching" and "broadening" of lower-school programmes; that absolutely unrestricted choice is impossible, since there are so many hindrances to its free play; that the elective system throws upon busy parents an added responsibility, one wholly assumed by school authorities under the old fixed plan; that the elective system cannot put a stop to all educational wastes.

Indeed, so many have been the invectives against the elective system, so diverse have been the attacks, that it is no simple matter to extricate the specific objections. As far as I know, however, all the arguments which have been advanced seriously are now before us in five divisions. The necessity of such an arbitrary arrangement, and the reason why I have grouped the last six contentions in a fifth division, will become clear through an examination of the other side — of the arguments which favor complete freedom of choice in all our public high schools.

The arguments adduced in support of the elective system may be considered in six groups, the first four of which will be seen to correspond with the first four opposing arguments stated above: first, those concerning the relative ability of the individual to choose for himself and the ability of the school authorities to choose for all; secondly, concerning the proposed substitutes for complete election; thirdly, concerning the effect of each system on teachers and principals; fourthly, concerning the relative moral worth of the two systems; fifthly, concerning the interest of pupils in their work; and lastly, concerning several particular needs of public high-school education in the United States.

The first argument in this order is that throughout the United States each high-school pupil is better able to choose for himself than are school authorities for all alike. This is held true for three reasons: there are no studies which are essential for all pupils; few students omit the subjects most commonly defended by advocates of fixed courses; there are many natural safeguards which together inhibit most of the mistakes of choice feared by the opponents of the elective system.

The second argument holds that no other plan is so satisfactory as complete election. The group system — when its only distinct feature is preserved — is too rigid to provide for individual needs, and is an attempt to *enforce* specialization. Nor is any system of partial choice so satisfactory as complete election. A few options will not give the necessary advantages. Furthermore, elective and prescribed work side by side are incompatible. Finally, a partially elective plan will not do, for free choice should be given in the first year of high school, that the opportunities may attract grammar-school graduates who are deciding whether to enter the high school; free choice should come at this time, when the inevitable errors of training in choice are least harmful.

A third argument is that, under the elective system, teachers and principals are relieved of the most disheartening

kind of work, and inspired with a more sympathetic and enthusiastic attitude toward their work and their pupils.

A fourth is the moral argument. The elective principle is considered strongest for building character, because it honors the will, trains in choice, removes the dangers of habitual dependence, lessens cheating, helps to break the demoralizing educational "lock-step," and aids in developing good citizens. Furthermore, in reply to a common objection, the friends of election say that there are two kinds of drudgery, and the only kind which has moral strength is as surely found where all studies are elective as where all are prescribed.

Closely related to the question of moral worth is a fifth point: the elective system arouses the interest, willingness, and enthusiasm of pupils, as no other system can, whereas prescription makes many pupils disparage the very studies which it seeks to dignify.

A sixth group of arguments in favor of the new education deals with several present needs of public high schools in the United States, which, it is held, only the elective system can satisfy. One of these is the need of arousing the interest of parents, and thus securing more sympathetic coöperation of home and school. Another is the need of a system by which our school buildings can be used more hours of each day and thus be made to accommodate more pupils. A third is the necessity in a democratic community of recognizing the wide diversity in the needs of pupils and thus providing for all classes of society. A fourth is the need of increasing the percentage of the population that secures a high-school education, both by attracting more pupils and by keeping them longer in school. Such present demands, which the people rightfully make of their schools, no prescribed curricula can so nearly satisfy as the plan of complete free choice.

Here, then, are the arguments of both sides, stripped of all their finery and set side by side for the sake of comparison. It is clear that the two sides meet with a definite clash on the first four issues.

The questions, therefore, which must be decided, the issues on which the advocates of the new system must win or lose their case, are these four: First, whether each pupil can choose better for himself or school authorities for all; this in turn depends on whether there is a common ground essential for all pupils; whether with freedom of choice pupils will avoid this common ground; whether there are a sufficient number of safeguards to prevent unwise choices. Secondly, whether the group system or any system of partial election has sufficient advantages to offset those of the elective system. Thirdly, which plan is better suited to secure the interest, sympathy, effective work, and happiness of teachers and principals. Fourthly, whether the moral benefits of drudgery, of conquering distasteful subjects, of submitting to authority, acquiring habits of persistence and accuracy, which are claimed for the prescribed system, outweigh the moral worth of training in free choice which is claimed for the elective system. Such are the four main issues.

Above and beyond these, on which the two sides clinch, other arguments are advanced on both sides of the question. What is their bearing? If they are beside the point, we can discard them at once; if they are germane, but incontestable, we must keep them in mind as truths to be reckoned with; but in any event, since they have all been brought forward repeatedly in connection with this subject, we must give them fair consideration. We may well do so before we examine the main issues.

In an overlapping group we included the objection that the majority of public high schools are too limited in teaching force and equipment to introduce elective studies; and another objection — the danger of superficiality in the so-called enriching and broadening of lower-school programmes. These two matters are continually and often evasively slipped in among the arguments against elective studies; but if this bare, perhaps wearisome, analysis of the question serves any purpose, it helps to make clear that these two points are not germane but beyond the limits of the present subject.

They are extraneous, because, as regards the first objection, it is obvious that schools which can offer only one complete course are not concerned with the matter of election; such schools fall beyond the scope of this discussion until they are able to extend their curricula. Likewise, concerning the second objection, however important it may be to recognize the possible dangers in enriching and broadening the programmes of the lower schools, the question does not concern the *election* of studies. This point is important. If there are any subjects which are worthless, out of place, or superficially taught, they are so whether they are imposed on the pupil or left to his choice. The real fault is that they are in the curriculum at all. These two matters, therefore, may be safely banished from the real issues.

The arguments against the elective system further include two contentions: first, that unrestricted election is impossible, since there are so many hindrances to its free play; second, that the elective system throws on busy parents a responsibility hitherto wholly assumed by the schools. Surely these two points concern us vitally; but, so far as I know, they are admitted by everybody. So much is common ground. The last objection mentioned above — a kind always urged against any reform, namely, that the new system will not put a stop to all educational wastes — is conceded by all its defenders.

There remain, beyond the clash of opinion on this question, the two additional arguments already outlined in favor of the elective principle; namely, that it arouses the interest of pupils as no other system can, and that it responds more effectively than any other plan to several important needs of modern public schools.

In thus defining the question and ruthlessly narrowing the issues, as I have done in a somewhat arbitrary way, and in seeking a clear path among opinions, assertions, and generalities more or less connected with the subject, I have found considerable drudgery and many a lesson in patience; advantages, by the way, which, some people contend, go only with

enforced work. On some aspects of this matter only opinions can be given; on others, sound reasoning; on still others, the results of scientific investigation. Such results are most valuable, for, in dealing with questions concerning which the organization of contemporary educational experience gives facts, it is an old and pernicious habit to guide practice by mere individual opinion. On such questions your opinion is as good as mine, mine is as good as yours, and the chances are that neither is worth much. Consequently, wherever I have found it possible to collect specific evidence on any phase of the subject at hand, I have done so, with the result that my own attitude has passed from doubt — a good old-fashioned doubt — to the conviction that in all the public high schools of the country the studies should be wholly elective.[1]

Whatever differences of opinion there may be concerning the value of the elective system, no one can deny that its progress — like that of reform everywhere — has been slow and painful. At every turn it has met a stone wall of conservatism. For one educated under the old prescribed régime, and indoctrinated with the venerable idea of what constitutes a liberal education, it is difficult to eliminate the personal equation. Scholars cling naturally to old ideas, old ideals, old methods; no body of men is more stolid, more averse to change. In business such men fail, driven to the wall by competition with those who are ready to adopt new methods. But education fosters conservatism; as a rule, men prefer to teach the things they were taught, and to teach them in the same way. So the mistakes of fathers are visited upon children and upon children's children, unto how many generations only the history of education can tell.

Just at this point the reply is made that in all ages conservative forces have been valuable safeguards to progress.

[1] This introduction, though it is admirable for its thoroughness and lucidity, and though it is well adapted for the purpose for which it was written, may be criticised as being somewhat heavy and rigid for the general purposes of popular presentation.

True, conservatism often means needed restraint; it curbs and tempers the ultra-radical. In education, however, conservatism has oftener meant stagnation — a fact so conspicuous that not even the most ardent opponents of the elective system venture to deny it. Nearly every progressive step has been made against violent, prolonged, and often vicious opposition. For hundreds of years schoolmasters kept their backs to the future, and vainly endeavored to ignore the crying demands of the present. We congratulate ourselves that we have now turned about; that with every effort to think clearly and independently we are feeling the pulse of present need and striving even for glimpses of the future. Shall we not, then, in all fairness to the friends of the new, as well as to ourselves, endeavor to look on this question without prejudice?

The elective principle can be justified in the first consideration only by proving that each pupil is better able to choose for himself alone — not for any other pupil or for the fictitious "average boy," but for himself alone — than is any individual, however wise, or any body of men, however experienced, to choose for all pupils. This proposition is fundamental. To it the advocates of prescribed studies reply that certain studies should be required of all. At the risk of wearisome repetition, I reduce their argument, for the sake of clearness, to this syllogism:

First, there are certain studies essential for all pupils in public high schools.

Second, students left to their own choice will not elect those studies.

Conclusion: therefore those studies should be prescribed.

If either premise is false, the conclusion does not follow.

First, then, is it true that there are studies which should be required of all pupils in public high schools? Are we sure that any subjects naturally belonging to high-school years should be forced on all pupils, boys and girls, rich and poor, weak and strong, bright and dull, regardless of their aims, aptitudes, desires, ambitions, temperaments, capacities? It

seems at least doubtful. In these important respects no two individuals are alike. We need no master of psychology, no profound student of education, to tell us that each high-school pupil is an infinitely complex organization, the duplicate of which does not and never will exist. By heredity and by environment he differs widely from all other human beings in passions, adaptabilities, emotions, desires, powers, health. In no other creature are they associated as they are in him. His will-force, enthusiasm, interest, moral purposes are aroused and used in ways wholly his own. In the rate of physical development, in bodily endurance, in home influences, in time of entering school, in regularity of attendance, in future possibilities — one could stretch out this enumeration to the crack of doom, for in an endless number of particulars each individual is unlike all the others in any school. What then, shall we attempt to cast this mind into one mold with all others, and subject it to the same treatment, the same work, the same tests, the same influences for the same length of time? Shall we, in prescribing for our own children, neglect the universal principle of endless diversity, and plan our public high-school programmes for a purely imaginative child — the "*genus homo*," the "average high-school pupil" — who never did and never can exist? If so, we must inevitably neglect all the species, all the living potentialities, all the vastly dissimilar individuals who knock at the doors of public high schools in a democratic community.

There is, it is true, another side to this question of individuality. Not all the variations are worthy, and it is said that the least commendable may be eliminated by prescribed studies; there is a limit to the desirable development of personal traits. If, indeed, any course of study prescribed for all could search out and stunt in each individual his unworthy variations from the normal, we should have to yield a point in favor of required work. But the argument is not sound. In the first place, it assumes that schoolmen are sufficiently wise to decide just what variations from the normal are good

and what are bad — just how far it is well to encourage the development of individuality. To accord such wisdom to the makers of programmes is to ignore the experience of centuries. Furthermore, there are as many variations as there are individuals, as many special problems as there are pupils. No one answer will suffice. Studies prescribed for large groups — as they must be in public high schools — cannot satisfy manifold special needs.

Many types of the abnormal have no place at all in public high schools; much less have they a right to influence the course of study for the ninety and nine per cent of the normal. For the extremely defective there are special public institutions, as there always must be; and there are private schools which find possibly their only convincing and permanent justification in their ability to care for extreme cases as public schools certainly cannot do.

The time has come when the public high school should fit the work to the pupil, and cease forcing upon the unhappy teacher the impossible task of making the pupil fit the work. At least, let us cease condemning the teacher because out of these innumerable differences among individuals he is unable to produce "uniform nonentities." Certainly this is not the purpose of the best teachers of prescribed work; many of them are doing as well as they can to discover and develop the individual; and they do much. That they accomplish no more is the fault of a system which does not encourage or respond to their efforts.

Dean Briggs, of Harvard University, expressing "Some Old-Fashioned Doubts about New-Fashioned Education," phrases a sound and generally accepted principle when he says: "Education should always recognize the fitness of different minds for different work." It is at least pertinent to ask whether the word "always" is not sufficiently comprehensive to include the high-school years. Prescribed courses do not recognize the fitness of different minds for different work; on the contrary, such courses hinder the differentiation of those

various individuals in our public schools who are soon to take widely different places in the world outside the schoolroom. No studies should be required of all.

I know that men may still be found clinging to the mediæval doctrine that certain subjects alone train certain faculties of the mind — one subject for the reason, another for the memory, still a third for the imagination, and possibly one royal subject (their specialty) which trains all the faculties. I also know of men who would go hungry rather than sit at a table of thirteen. But ideas which have long been banished to the vast limbo of educational absurdities cannot well affect this question in the present day. The advocates of the elective system believe that it takes an ingenious child to choose a high-school course of studies which (if properly taught — the necessary proviso) will seriously neglect the training of any important faculty of the mind.

For reasons soon to appear, I shall spend but little time on the discussion of educational values. I believe that the prestige of the studies which have been imposed on students most commonly — say, Latin, geometry, algebra — is due to tradition; it is the heritage from an age when the field of knowledge was much narrower than it is to-day, when science had no place; it is due to this, as well as to the conservative influences so strong in education, and to the remarkable body of teachers and well-organized methods and materials which these subjects, more than others, have had in the past.

But the opponents of the elective system free its advocates from the need of any discussion of relative values of studies; the reason is plain — the final, incontestable reason why no high-school studies can be sensibly prescribed for all — the opponents of free choice are utterly unable to agree among themselves as to what the prescribed course should be. In proof I could fill volumes with suggested schedules. I have before me more than a hundred different courses of study prescribed for high schools, agreeing in one point only, namely, in prescribing something. For example, some prescribe

physiology the first year; others prescribe it the last year; others omit it entirely. When there are not a half-dozen high schools in the entire country, under separate management, with identical courses of study, is it not preposterous to maintain that there is a vital, fixed interrelation and one natural sequence of subjects?

Says S. D. Brooks: "So in a programme — much should be insisted on"; and he insists on one programme. Says W. T. Harris: "All studies should be required"; and he insists on another programme. This diversity of opinion is typical, and, as Professor Greenough says, "fairly represents the breaking up of all the old opinions as to what should constitute a liberal education."

Albert Stickney, a radical adversary of the elective principle, said before the New York Harvard Club: "As to what this prescribed course of study should be, we laymen do not pretend to say; as to that point we are profoundly ignorant." That is just the crux, the fatal weakness in the whole case against the new system. That is at least one difficulty on which both sides must agree, for as to any studies which should be required of all students in all public high schools the advocates of the elective principle are also "profoundly ignorant."

The disagreement as to what those "certain essential studies" are indicates a fallacy in the whole argument. That fallacy is the assumption of the educational value of each subject for all students, whereas contemporary literature, teachers' conventions — all educational discussions — prove that we have no such definite knowledge to guide us. Studies undoubtedly vary in educational worth just as food products vary in nourishing value. But is it sensible to say that therefore a schoolmaster should prescribe the same curriculum for all his pupils, and a physician the same diet for all his patients? Certainly not, for in both instances the value of the food depends on the power of the individual to assimilate it. The schoolmaster, as well as the physician, must diagnose

each case before prescribing. It is impossible to determine, even at a given time, a fixed educational value of any subject for all pupils: there is no such thing.

Still another difficulty is suggested in a recent number of the *School Review*: most of us are inclined to think that the particular studies which we ourselves have pursued are on the whole superior, and that the one study to which we have devoted most time is the aristocrat of the whole group. It is certainly difficult for a teacher to eliminate the personal equation; and if he could do so, I wonder if we should want him.

These, then, seem to be the main reasons for the general disagreement as to what should constitute the prescribed course: the impossibility of successfully educating different individuals by one régime, of determining the fixed value of any study for all pupils, or of eliminating prejudices.

Whatever the reasons may be, the fact remains — a stubborn one for those who decry the elective plan — they cannot agree.

Added to all this we have the lessons of history. I shall not here attempt to epitomize the wearisome account of centuries of prescribed studies. Every age has had its ideal curriculum. We now see, or think we see, that for centuries these have all been wrong. No country at any time has ever devised a school programme which to us appears to have been perfectly adapted to the needs of all its people. Still there are men who, unmindful of the infinite diversity among individuals, oblivious of the fatal disagreements among themselves, and regardless of the plain lessons of history, are so presumptuous as fondly to imagine that at last to them — to them alone — has been revealed the one prescribed course which we can safely impose — nay, which we must impose — on all our children.

If at this point we take another look at our syllogism, we find that the combined testimony of both sides of the question overthrows the first premise: with it falls the syllogism. Still, not all the advocates of required studies will be satisfied with the foregoing argument. Here is a man who wishes

to test the second premise; to inquire whether the studies most frequently urged as essential for all are not very largely neglected when prescription is removed. He acknowledges the wide disagreement as to what the fixed course should be, but he believes that his own ideas are right; he is sure that no study or group of studies can take the place of Latin; he is sure that, however widely and variously abnormal an individual may be, the one subject he must take is Latin — or is it physiology? The opinion of such a man — even though mere opinion — should not be lightly set aside. He has a right to ask whether students under the elective system will not avoid the studies which are closest to his own heart. And although the answer cannot affect the judgment of those who accept the preceding argument, the answer is at least interesting.

If students to any extent avoid the studies most commonly defended, surely investigation concerning the actual working of the elective system will show that result. Let us see. The High School in Galesburg, Illinois,[1] the first to make all studies elective, has now had nine years' experience with the elective system. The superintendent says: "There has been no disposition on the part of the pupils to omit the so-called disciplinary studies for those said to be easy; they have not been inclined to allow their own whims to govern them, nor, what is worse, to follow the whims of others." But is this the experience of the whole country? In answering this question, we may consider the reports of the United States commissioner of education as fairly accurate; at any rate, they are the best evidence available for the whole country, and, if they err at all, are as liable to favor one side as the other. The reports which concern us most closely are those from 1889–1890 to 1900–1901, during which time the elective principle made greatest progress in public high schools.

Now, although there are no subjects included in all prescribed curricula, there are several subjects more frequently insisted

[1] September, 1895.

on than others, and of these most fear is expressed for Latin, geometry, and algebra. During the onward march of the new principle, what has been the fate of these subjects? Has the number of boys and girls studying these subjects decreased while the number enrolled in other subjects increased? The theorizing of our opponents leads us to think so. Yet the official reports of the United States commissioner of education for the ten years show that the number of students in Latin has increased 173 per cent; in history, 153 per cent; in geometry, 150 per cent; in algebra, 141 per cent. In no other subject (except English) has the gain in enrollment been so great.

TABLE I

STUDIES	1889-1890	1900-1901	Per cent of Increase
Latin	100,144	273,314	174
History	82,909	210,813	152
Geometry	59,781	150,788	147
Algebra	127,397	308,557	141
German	34,208	83,702	131
French	28,032	44,889	60
Physics	63,644	99,666	50
Chemistry	28,665	40,964	43
Greek	12,869	14,232	9

This is significant. The studies about which there is most fear are the very studies which have actually progressed most, side by side with the elective system.

This is true for the whole country, but is it true for the largest cities where the freedom of choice has been greatest? The answer is given in the same reports. Compare the tables for the public high schools of the largest fifty cities in the United States with the tables for all other public high schools. The ratio of the number of students taking Latin to the whole number of students in the largest cities does not vary three

tenths of one per cent from the similar ratio in the rest of the country.

But still the man of doubt may ask: What are the figures for the North Atlantic Division of the country where there has been widest acceptance of the system? Here in Table II are the results compiled from the report for 1899–1900 of the commissioner of education:

TABLE II

PUBLIC HIGH SCHOOLS

Latin	Greek	French	German	Algebra	Geometry
50.45	2.63	8.29	15.45	56.96	27.83
47.01	5.44	18.48	19.89	50.12	27.66

The table gives the percentage, in each subject, of the whole number of students enrolled in the public high schools — the first row across for the United States, the second for the North Atlantic Division. Surely there is not here sufficient difference to cause the slightest alarm.

Table III gives further evidence on this question — evidence which may be misleading without a note of explanation. The table gives the number of elections in each of twenty-eight subjects for each of nine public high schools of the city of Boston. This material I have collected for the sake of its bearing on the question of elective studies. I have therefore omitted the Boston Latin School and the Girls' Latin School, in which only a part of the work is optional. The table shows that of the 5318 pupils enrolled in these nine high schools in the year 1903–1904, only 1154 elected Latin. This small proportion is due to the fact that the majority of boys and girls in the city who desired classical courses elected one of the two schools which are not shown in the table. For the whole city the number of high-school students studying Latin is about

one half the whole number enrolled, which is the proportion given by the commissioner of education for the entire country.

TABLE III

Showing the Number of Elections in Each of Twenty-eight Subjects for Each of Nine Public High Schools of the City of Boston

No. of Pupils	Boston High Schools	English	History	Civil Government	Commercial Law	Economics	Latin	Greek	French	German	Spanish	Algebra	Geometry	Higher Mathematics	Biology
291	Brighton	273	159	8	8	12	113	11	143	50	7	98	47	12	51
226	Charlestown . .	175	96	13	12	0	23	0	121	17	0	40	4	0	33
1078	Dorchester . . .	1030	535	54	67	14	318	0	672	203	23	244	71	87	263
424	East Boston . .	402	297	0	27	0	83	5	209	23	0	107	32	26	118
834	English High . .	818	423	48	81	10	88	0	571	104	28	437	122	61	25
898	Girls' High . . .	972	855	94	0	0	194	0	622	142	0	218	164	21	361
533	South Boston . .	522	243	5	0	0	103	5	248	83	64	161	35	13	117
671	Roxbury	652	304	0	30	0	123	34	334	262	0	222	80	0	102
363	West Roxbury .	357	282	0	7	0	107	7	201	61	0	132	48	20	59
	Total	5201	3194	222	232	36	1152	62	3121	945	122	1659	603	240	1129

No. of Pupils	Boston High Schools	Commercial Geography	Physiology	Physical Geography	Physics	Chemistry	Astronomy	Drawing	Bookkeeping	Phonography and Typewriting	Household Art	Music	Gymnastics	Military Drill	Hygiene
291	Brighton	11	33	0	7	14	2	114	84	135	22	250	167	80	117
226	Charlestown . .	...	8	9	9	11	0	103	95	86	0	179	128	46	107
1078	Dorchester . . .	67	39	15	126	109	0	366	446	205	0	834	630	305	759
424	East Boston . . .	27	30	16	17	77	0	130	193	116	0	392	314	78	185
834	English High . .	81	0	0	69	62	0	256	324	238	0	187	153	743	760
898	Girls' High . . .	46	77	0	130	91	14	347	397	157	0	826	864	0	457
533	South Boston . .	37	10	0	18	58	9	261	131	200	0	451	380	150	219
671	Roxbury	0	26	24	11	137	0	376	237	297	45	360	480	138	185
363	West Roxbury .	0	0	23	37	56	0	110	110	68	16	266	237	81	323
	Total	269	223	87	424	615	25	2065	2017	1502	83	3745	3353	1621	3112

TABLE IV

Table for Nine High Schools of Boston (1903-1904)

	Per Cent of Offerings	Per Cent of Electives
English	8.5	19.7
French	8.6	13.4
Mathematics	9.0	10.3
Bookkeeping	4.9	9.8
History	7.0	9.2
Phonography and Typewriting	9.8	8.3
Drawing	7.1	6.2
Latin	9.7	5.3
Biology	3.5	4.7
German	7.4	4.0
Chemistry	4.5	2.8
Physics	3.5	1.8
Commercial Geography	1.2	0.7
Commercial Law	1.4	0.6
Physiology	0.4	0.5
Manual Training	0.4	0.5
Civil Government	1.2	0.5
Spanish	3.6	0.5
Greek	3.7	0.3
Physical Geography	1.1	0.3
Household Art	0.8	0.3
Astronomy	0.9	0.1
Economics	1.0	0.1

All this goes to prove that in the country as a whole, in the largest cities, in the North Atlantic Division, in the city of Boston — everywhere in the United States — the most rapid growth in the last ten years has been in classics, mathematics, history, and modern languages — a fact which overthrows nine tenths of the theory regarding the probable fate of certain studies. Under the elective system, students have not to an alarming extent avoided these subjects.

Still we are not done with the first part of the issue; it is further held that pupils will choose foolishly, in that they will elect easy courses, or those for which they are not prepared, or those taught by favorite teachers, or those of little value, or disconnected courses. On these points there has been almost endless theorizing. Schoolmasters are fond of the *a priori* assumption that such things must be; they are not fond of the labor of ascertaining just how things *are*, nor does their daily work leave them the time or the energy for such investigation. Some of this work has been done by the Harvard Education Seminary in the years 1900 to 1904. . . .

In order to secure information regarding the working of the elective system in the public high schools of the United States, the Harvard Education Seminary secured from the graduating classes of fifty-four schools answers to a series of questions. Only those schools were included which allowed a large measure of freedom to pupils. A total of 2485 individual sets of answers was received. Regarding the motives which determined the choice of studies, the following questions were asked:

Has your choice of studies been determined by any of the following reasons:

a) Temporary interest due to the recommendation of other students?

b) The advice of teachers, parents, or guardians?

c) Deliberate choice in accordance with your own tastes?

d) The desire to avoid difficult subjects?

e) If two or more of these reasons have determined your choices, please say so. If other reasons than those enumerated have determined your choices, please give them.

Of the 2485 students who replied to these questions, 302, or 12.1 per cent, replied that they had been influenced in their choice of studies by temporary interest due to the recommendation of other students; 1852 or 74.5 per cent, replied that their choice of studies had been determined wholly or in

part by the advice of teachers, parents, or guardians; 2162, or 87 per cent, replied that they had deliberately chosen all or the greater part of their studies in accordance with their own tastes; 285, or 11 per cent, replied that in one or more choices they were influenced by the desire to avoid difficult subjects.

Of the 1557 pupils in the first thirty-five schools included in the first investigation, 511 (that is, about one third) gave, in reply to question *e*, various motives for choice which may be included under the general term "vocational needs."

Regarding the extent to which pupils are influenced in the selection of studies by the action of their associates, a comparison of the programmes of one class of pupils for four years gives good evidence. For this purpose take the High School of Galesburg, Illinois. The 125 reports sent to the Harvard Education Seminary by the members of the Senior class of this school exhibit 119 different programmes of study; they seem to show independent, deliberate choice.

The 2485 pupils represented in the investigation gave copies of their programmes of study for each year of their high-school course. An examination of those few reports which gave temporary interest or the desire to avoid difficult subjects as motives for choice showed that the resulting programmes of study differed but little from the programmes of other students. In such a large number there were undoubtedly some mistakes, yet, in the opinions of the principals, so far as those opinions were given, all the programmes were better suited to the individuals than any one prescribed course could be.

As to the value of these replies from students there may well be difference of opinion. My own belief is that the reports as a whole may be taken as the honest, careful judgment of each individual as to the motives which determined his choice of studies. The replies were collected and tabulated by men of varied opinions regarding the elective system, who were not striving to make the reports read one way or

the other. Furthermore, wherever the student gave as a reason for choice the desire to avoid difficult subjects, the choice was not one that could be condemned without a knowledge of the individual pupil. For example, one pupil said frankly: "Took German instead of Latin; it was easier, and I always like to have things as easy as possible." Shall we say that even this was *surely* an unwise choice? Not if the elective system is offered with its necessary proviso, *that what a boy chooses, that he must do well.*

The table of replies is not exact, and the significance of the investigation cannot be given in figures. It was not always easy to determine what the student tried to say. Here, for an extreme instance, is one reply to the question concerning motives for choice:

> Contrary to the recommendation of my grammar teacher I choose the English course in preference to the Latin course because of the advice of my father and in accordance with my own tastes because I had determined to give my time and attention and energy to art after I graduated and I thought Latin unessential for such a course and thus laid greater stress on Mathematics. [What could the boy have studied in the *English* course!]

How can it be that nearly all of these 2485 elected programmes of study are apparently better for the particular pupils than any prescribed course could be? Why are not these programmes "freaky," disconnected, or unduly specialized; why do they not go far astray? The reason is that pupils are protected from unwise choices by many natural safeguards. This the opponents of the system have admitted in urging that absolutely free choice is not possible. To be sure, it is not. So, when such a strenuous opponent as Mr. W. J. S. Bryan, of St. Louis, points out the inherent difficulties in the way of free choice, he slips over, apparently unwittingly, to the goodly company of elective-system advocates. The system, as it is and must be administered, is protected in many ways.

Of these natural safeguards there are at least eight worth mentioning. Each points the course through safe channels;

together they prevent the wrecks which are feared. First of all, there is the advice of teachers and parents, which no system can eliminate. Happily such advice becomes more and more intelligent, more and more valued by pupils, hence more and more effective in preventing mistakes as the chances for election increase. There is also powerful tradition concerning studies, which exerts such influence that nearly all are loath to stray far from blazed paths. There is the capacity of the pupil — physical and mental — which limits the number of possible choices. There is the fixed number of school hours per day, which restricts the scope of school programmes. There is the limited teaching force, which cannot undertake to teach "fringe" courses elected by the scattering few.

Still another restriction affects an increasing number of students — the entrance requirements of higher institutions: students who find their work laid out for them in college catalogues have only restricted options. Another safeguard lies in making choice deliberate: pupils on graduating from grammar schools are asked to consider what they will study in the high school. Pupils already in the high school are asked to choose tentative programmes for the following year, and during the long vacation they have time to think over their choices. At the opening of the school year there are conferences, that the pupils may not go about their work blindly.

Beyond all these safeguards there is one of even greater importance — the exceedingly restrictive limitation due to the sequence and dependence of studies, not a human, but a divine principle. A pupil cannot elect second-year Latin before he has completed the beginners' course; he cannot pursue higher mathematics without the foundations; other courses he cannot elect until he reaches the year in which it is deemed wise to offer them. Ah, but does not such restriction destroy the elective system? On the contrary, without these natural safeguards there would be nothing we could properly call a "system." Hedging electives in this way is not abandoning the principle. It is offering guidance precisely where guidance

is most needed — in order to protect rational choice, and destroy the chance for "crazy patchwork."

In the advice of friends, in tradition, in physical and mental limitations, in the number of hours and the number of teachers available, in college requirements, in deliberate choice, in the laws of dependence and sequence applied to the order of studies — in all these ways, and more, nearly every pupil is amply protected from the dangers of foolish choice.

In urging the inability of pupils to choose wisely, the opponents of the new system often employ amusing illustrations which prove nothing, and false analogies which are unfortunately accepted by a prejudiced public as substitutes for evidence and reason. A fair example of this kind of talk is the following editorial article from a Chicago paper:

> The average high-school boy has hardly got beyond the period when he is puzzled to decide whether he will be a general, an admiral, or a circus clown. To throw open a course of study to the election of such immature minds would be as edifying a spectacle as to allow an infant to experiment with different-colored candies, for the similitude could be extended to the ultimate effect on brains and bowels.

This quotation was deemed worthy a place in the report of the National Educational Association for 1900 (p. 435). It is the kind of argument which is constantly urged against the elective system. Yet the first sentence not only assumes that there is such a being as "the average high-school boy," which, for the purpose at hand, not all of us are ready to admit, but it also begs the entire question as to the maturity of high-school pupils. The second sentence, making no distinction between infancy and adolescence, employs a false analogy. This would seem to be fallacy enough to pack into one brief quotation, but a little thought will discover yet another false assumption — that the elective system offers the child much that is useless or really harmful, as the colored candies are assumed to be. The truth is that if any curriculum

embraces studies which are useless, or harmful, or prematurely offered, the fault is not with the elective system, but with those who allow such studies any place in the programme.

More than all this, such fallacious argument emphasizes a positive virtue of the system it decries. The history of education and the present varied and rapidly changing ideas concerning the essential studies show the probability of many mistakes in school programmes. The studies may be ill-timed, ill-suited, or ill-taught — note that. Under either system some errors must be made. The question is whether we shall impose these on all alike, or leave open the possibility of avoiding them. Which are worse, the mistakes of a few persons, or mistakes which are prescribed for all? The latter are like the rain of heaven, not in its gentle quality, but in falling on the just and the unjust. There is no escape. Prescribed errors ravage not only the dull, lazy, shiftless boys and girls — who are not to be harmed much by anything in education — but also the bright, the energetic, the mature. Public educational enterprises should be managed not primarily for the customer who is looking for a chance to toss his precious bundle under the counter and run out, but for the one who is determined to have the best in the store for his particular needs.

It must be conceded that the training in the choice of studies, like every form of training in independent action, leaves open some chance for error. The elective system does not pretend to stop all educational mistakes and wastes; but the monstrous prescribed mistakes and wastes of the old system it reduces to a minimum.

The objection is raised that the foolish pupils will choose "favorite teachers" in preference to necessary subjects; here is another chance for them to go astray under the elective system — although it must be admitted that to popular teachers this danger seems slight. How, indeed, can we have any faith in an objection which is founded on the necessary study fallacy? Beyond that foundation the objection contains only

one of the distinct merits of the new system, for the election of teachers is often more important than the election of studies All honor to the system which enables a boy or girl to escape a hated teacher — a teacher who may instill in that particular pupil aversion to all study. Let him choose his "favorite teacher," whatever the subject may be.

My personal experience in choosing a teacher regardless of the subject she taught is not exceptional. In the high school I elected a course in history for the sake of getting closer to the teacher. At the end of the year it would have puzzled me to remember what the course was about, except that some queen or other was or was not justified in killing some other queen, who was very beautiful. But one purpose I did grasp so firmly that it has not escaped: through the influence of that teacher I came to feel the value of a higher education and a life worth living. Shall we call that course a failure because I learned merely that I wanted to do something well? Or shall we deem it a wise system which allows the pupil to choose his favorite teacher?

We have now to consider the propositions of those who seek for compromises between the elective and prescribed systems which will secure the good and eliminate the evil of both. The group system is suggested. It began by offering two courses, one called "classical" and one called "scientific." Soon a "business course" was introduced, and, in many schools, an "English course," so called apparently because it especially neglected English. The number of groups multiplied until in some schools (the Detroit High School is an example) nine courses were offered — nine distinct groups. Most significant of all is the argument that the group system is not too rigid, since, by special permission, a pupil who has elected one group of studies may make substitutions from other groups. A good plan, indeed! But what has become of the system? When its only distinct feature, namely, the lines between the groups, is abolished, there is left only the elective system.

The faults with the group system are that the units of choice are too large, and it attempts to enforce specialization. The tendency is always toward the multiplication of groups — a happy tendency, say the friends of the elective plan, for a group system so far differentiated as to provide for the needs of each student is an ideal system. It offers the ideal programme, which must be an individual programme.

Another proposed plan is partial election. Prescribe the main substance and allow the pupil to choose the fringe. The main fault with this suggestion has already been discussed; to one who believes the propositions above defended a system of partial election seems a farce. However important the trimmings may be the student has a right to cut out the cloth of his education; he has a right to do this when he is hesitating, with a grammar-school diploma in his hand, between earning a few dollars a week as an unskilled workman and entering the high school. Furthermore, elective and prescribed studies side by side are not easily compatible; each brings out the worst features of the other.[1] Partial election will not suffice.

The third division of our issue concerns the effect of the elective system on teachers. It is notably good. Give the pupils a chance to choose, and you have given teachers a chance to see the effect of their work, and schools a chance of ridding themselves more easily of inefficient teachers. Under the prescribed plan, an intolerant, sluggish, unprogressive teacher is annually apportioned a roomful of victims, regardless of their mental attitude toward their persecutor. The elective system tends to force such persons to become better teachers or leave the profession.

[1] "Prescribed studies, side by side with electives, appear a bondage; elective, side by side with prescribed, an indulgence. So long as all studies are prescribed, one may be set above the other in the mind of the pupil on the ground of intrinsic worth; let certain studies express the pupil's wishes, and almost certainly the remainder, valuable as they may be in themselves, will express his disesteem." Professor George H. Palmer. *The New Education.*

The elective system demands the devotion and sympathy of teachers and principals. It requires much conference among teachers, parents, pupils, thus offering incentives to personal contact, which incentives are deplorably lacking under a fixed régime. The pupil sees at the start that his teachers, who are helping him to plan a course with his own highest interests in view, are true friends, worthy of his confidence and his gratitude. Far from being a *laissez-faire* policy, the free-choice plan demands the highest ability of teachers and increases their responsibility.

To good teachers this added responsibility means added pleasure. To come into more sympathetic relations with the adolescent mind, to become counselors and friends in the highest sense, to treat individuals always as individuals — to do this is to gain the legitimate reward of every workman, joy in labor. The system which contributes most largely to this reward is the one which tends to abolish the worn treadmill, the taskmaster, and reluctant, forced pupils — the system which discovers and respects the individual.

We come now to the moral argument. At once we meet the drudgery theory which holds that it is good for boys and girls, who are naturally inclined to rebel against authority, to be compelled to do work which they dislike, in order to learn submission to the external order of things. Such is the conventional moral defense of prescribed studies. Many teachers are like bicycle dealers who should persist in offering nothing but solid tires, with the idea that pneumatic tires are immorally easy. Many schools are still run on hard tires.

The elective system is morally defensible because it honors the will and stimulates the interest, willingness, sense of responsibility, and enthusiasm of pupils as no compulsory system can. When a pupil is studying physics because he likes it, because of personal interests or mental aptitudes, he puts his heart into the work. In no other way can he make it excellent. Mechanical diligence, passive docility, unreasoning acceptance of commands, patient drudgery — these may

be fostered by the whip, as they were in slave ships of old; these may be cultivated in some pupils by the old prescribed curriculum. But the aim of modern education should be to replace these qualities by spontaneous attack, interest, reasoning choice, enthusiastic work.

The elective system makes the student conscious of what he is doing, trains him in independent choice, and so uplifts his character. In pursuing his own ideal, there is moral worth, even though there be no pot of gold at the end of the rainbow; but in submitting to overwhelming force, there is no moral worth. Comenius told us all this long before it had practical application in our schools. He said:

> The attempt to compel nature into a course into which she is not inclined is to quarrel with nature and is fruitless striving. Since the servant is the teacher, not the master or reconstructor of nature, let him not drive forcibly when he sees the child attempting that for which he has no skill. Let every one unhindered proceed with that to which, in accordance with the will of Heaven, his natural inclination attracts him, and he will later be enabled to serve God and humanity.

As a last argument in favor of complete election for the public high school, we may note its adaptation to several needs of modern democratic communities. First, it attracts more pupils to high schools and keeps them longer there. The emphasis on those studies usually deemed the foundation of a liberal education prevents the public high school from being truly public. If it is to belong to the people, it must serve them regardless of the demands of higher institutions. The public high school is not primarily to prepare pupils for higher schools. According to the latest report of the United States commissioner of education, of the total enrollment of American students, — public and private, elementary, secondary, collegiate, normal, law, medical, theological, technological, — 94.38 per cent were in elementary schools, 4.21 per cent in secondary schools, and 1.41 per cent in all the rest put together. Of every hundred pupils in America, ninety-four

do not reach the high school; of every hundred high-school pupils, only eleven are prepared for college. The public high school should aim to secure more than 4.21 per cent of the school population, and should provide primarily for the large majority of pupils who will never enter higher schools. There should be laid out a straight road to college, but there should also be roads leading to the various lives which various pupils are to lead. So much is commonplace.

"The higher education," says Lord Kelvin, "has two purposes: first, to enable the student to earn a livelihood, and, second, to make life worth living." An industrial democracy which neglects either of these functions fails to accomplish the purpose of education — to make men and women as useful and as happy as possible, to prepare for "complete living." Consequently, in spite of the defenders of the classics, who warn us to beware the utilitarian spirit of the age, modern schools have discarded the programmes of ancient and mediæval times as wholly unsuited to the present needs of the majority of the people. To the 94 per cent of pupils who believe that they cannot afford four years at high school something should be offered at the start which clearly will be of value to them in the coming life-work.

Complete election in the first year of high school surely increases the attendance. Evidence is on every hand. Two years after the introduction of the new system in the public high school at Galesburg, Illinois, the school building had to be more than doubled to accommodate the applicants for admission. Formerly one pupil out of eleven in the lower schools entered the high school and thirty-six graduated; two years later, one out of five entered high school and ninety graduated. The one great cause of these increases was the elective system.

There is another important advantage of the elective system which is frequently overlooked. Many are kept in school through the entire course who do not take the college preparatory studies, but who afterward decide to go to college. The pupils thus influenced to continue their education would

early have been driven out of school, had they not been permitted to elect a course which seemed to them suited to their needs.

Having already carried this paper to what may seem an unnecessary length, I shall not add a detailed conclusion. The sixfold argument in favor of the complete elective system in public high schools, which it has been my purpose to prove, is carefully outlined in the introduction. To that I refer the reader who desires a summary of the whole argument.

XXIX

A GOOD FORENSIC

Forensic F

Is Ulster Justified in her Opposition to Home Rule?

The interest of America in the question of Home Rule for Ireland has been deep and long sustained, indeed remarkably so. Unquestionably much of this is traceable to the politician who makes of the "wrongs of Ireland" a bait for the Irish-American vote. But there is a deeper, more powerful and more enduring reason why Americans watch with unabated interest the progress of the agitation for Home Rule. Their own experience in government has taught them the wisdom of leaving, so far as possible, the administration of its own affairs to each local group. They have realized in their own political system the strength of that happy adjustment of centripetal and centrifugal forces known as the "federative balance." To the American, Home Rule means that measure of local sovereignty and autonomy that the American Constitution leaves to each of the constituent states of the Union. It is upon such broad, general principles that American opinion expresses itself, unanimously, we may say, in favor of the government of Irishmen by Irishmen. But what shall Americans say

when confronted with the statement that it is not England alone that stands in the way of Irish self-government, but that it is opposed, as well, by a great body of the Irish themselves who insist that it would be ruinous to them? For a long time the opposition of Ulster to Home Rule has been frequently and forcibly manifested. It is scarcely two years since a mammoth convention was held in Belfast to denounce the Gladstonian programme. The question thus becomes complicated by this internal difficulty, and it becomes important to determine just how serious it is. The claims of Ulster must be considered, and if they are found really weighty, we must, at least, hesitate to maintain the assumption that Home Rule is absolutely desirable. What are these claims? Briefly they are these: (1) Ulster is loyal to the Union; (2) Ulster is overwhelmingly Protestant and should not be subjected to Roman Catholic domination; (3) Tried by every test of progress, wealth, education, and the comfortable dwellings of the people, Ulster is far in advance of the other parts of Ireland.[1] These reasons in the minds of those who put them forth lead easily and inevitably to the conclusion that it would be a gross wrong to disturb the present status by the legislation embodied in the Gladstonian programme. Even accepting their premises, we are by no means compelled to follow them in their conclusion; but we prefer rather to examine their premises and determine how far they are in agreement with the actual facts. The purpose of this article is then very clear. It has nothing to do with the question of Home Rule *per se*. There may be very weighty reasons which argue against it. There may be weighty reasons which Ulster would be justified in putting forth against Irish rule of Ireland that might also appeal to other parts of the country. These general reasons do not concern us here. We are to consider the special reasons assigned by Ulstermen against Home Rule that form the basis of their opposition. If they do not bear

[1] For an authoritative expression of this, see Professor Dicey's article in the *Contemporary Reveiw*, July, 1892.

the light of investigation, if we can demonstrate clearly the insufficiency of the evidence upon which Ulstermen rest their case, then it would seem that Ulster is not justified in her opposition to Home Rule.

The first reason usually assigned is that Ulster is loyal to the Union with Great Britain, while the other parts of Ireland are disaffected. It might be urged that no better way of showing her loyalty is possible than by accepting whatever shall be the decree of Parliament in this matter. Instead of that there are all sorts of dire threats as to what will happen if Home Rule is "forced" upon Ulster. Such conspicuous representatives of Unionism in Ulster as Colonel Saunderson, M.P., and Mr. T. W. Russell, M.P., have not hesitated to say that Ulster was armed ready to resist rule from Dublin. Even the more reserved Professor Dicey broadly hints at it.[1] We have been assured that Ulster will offer a stubborn, forcible opposition to the attempt to institute local government in Ireland. And yet Ulster is loyal! He who suspects that Ulster's loyalty is not, after all, the patriotic, unselfish thing that it is assumed to be will have his suspicions confirmed by a consideration of the advantages flowing from the present status, the loss of which would inevitably follow, in great part, from the adoption of the change proposed. In the *Contemporary Review* for July, 1892, appeared a striking article from the pen of an Irish Presbyterian minister — an Ulsterman — entitled "Ulsteria and Home Rule." The article bears the stamp of genuineness, its simple, direct, forcible statements carrying conviction at every point. The writer begins by saying: "As I am about to tear the veil from the face of hypocrisy, and expose the cherished bogeys that are used to scare the timid, my facts will be impugned, and my inferences derided, and the displeasure of my friends will wax hot, in proportion to the fullness of knowledge with which I bring light to bear on their arguments and proceedings." It is

[1] *Contemporary Review*, Vol. LXII, pp. 23–24.

significant that his article was never answered. The *Contemporary Review* gave far more space to the Home Rule question than any other magazine, one article calling forth another as a reply. Yet no one seemed bold enough to enter the lists against the Presbyterian minister. His article might well be quoted from at length, so rich in material it is, but we must content ourselves with a limited use of it. In showing the distribution of offices in Ireland he gives the following table upon the authority of President Hamilton's *History of the Irish Presbyterian Church.*

	Roman Catholics	Episcopalians	Presbyterians
Irish Peerage	13	174	—
Irish Privy Council	9	36	—
Lieutenants of Counties	2	29	4
Judges	5	11	1
County Court Judges	6	14	2
Resident Magistrates	25	53	2
Inspectors-General of Constabulary	1	4	—
County Inspectors of Constabulary	9	30	—
District Inspectors of Constabulary	37	188	5
Royal University Senators	17	9	8
Intermediate Education Commissioners	4	3	2
National Education Commissioners	10	6	3
National Secretaries and Heads of Departments	5	3	1
Board of Works, Commissioners, etc.	3	18	—
Local Government Board,—Members, Secretaries	5	16	1
Superintendents of Lunatic Asylums	5	19	—
Land Commissioners, Chief	3	2	—
Land Commissioners, Assistant	7	3	—

Is it a matter of much wonder that the Protestant majority of Ulster are exceedingly anxious that the *status quo* be not disturbed? Of the 810 governmental offices in Ireland, they and their Episcopalian friends in other parts of the country hold 618, i.e. to about one third of the population go three fourths of the offices. The "Protestant majority" is hardly

an accurate phrase in this connection since in the distribution of offices the Presbyterians are but little regarded, although they are a fourth of the population of Ulster.[1] Loyalty is a great word, but it sounds very cheap when used as Ulstermen use it, as a pretense for the maintenance of a grossly unfair advantage. One is reminded of Dr. Johnson's definition of patriotism. It would require too extended a historical survey to show how Ulster has always been favored; indeed it is unnecessary, as scarcely any educated man is unaware of the restrictions imposed upon the Catholic portion of Ireland even to so late a day as 1870 when Gladstone succeeded in disestablishing the Irish Church. Ulster was savagely against Catholic emancipation, disestablishment, land bills, etc., just as it is to-day against Home Rule. It was "loyal" then, just as it professes to be loyal now. The disaffection of the South is but natural when one considers how heavily the burden of misrule has fallen upon them.[2]

It is realized by the Unionists of Ulster that the settlement of the Irish question is in the hands of their fellow-Protestants, so a strong appeal is made to them on the score of religion.[3] Ulster is represented as overwhelmingly Protestant, and Americans generally have been led to believe that the North of Ireland is all Protestant, the South all Catholic. If this were true there would seem to lurk a danger in Home Rule. A Dublin Parliament might conceivably — though with the checks proposed in Gladstone's measure the probability is very remote — in some way enact legislation that would oppress Ulster. But Gladstone's checks are hardly necessary, as we were told by Hon. Edward Blake, M.P. — himself a Protestant — inasmuch as the Protestant majority in Ulster but little outnumbers the Catholics. Oppression which would work injury to almost as many Catholics as Protestants would hardly be entered upon under any circumstances. For fully

[1] *Contemporary Review*, Vol. LXIII, p. 779.
[2] See Professor Cairnes. *Political Essays.* p. 198.
[3] Dicey. *Contemporary Review*, July, 1892, p. 1.

46 per cent of the population of Ulster is Roman Catholic. The entire Catholic population of Ulster is 744,353 as against a Protestant population of 873,171. The following table shows clearly the relative proportion: —

Ulster Counties	Catholics	Protestants
Donegal	142,639	42,572
Tyrone	93,569	77,709
Cavan	90,329	21,350
Monaghan	63,084	23,005
Fermanagh	41,149	32,888
Total	430,770	197,524
Armagh	65,906	77,150
Londonderry	67,749	83,917
Total	133,655	161,067
Antrim (including the populous city of Belfast)	106,464	321,504
Down (including the populous city of Belfast)	73,464	193,429
Total	179,928	514,933
Grand total	744,353	873,524

Gross population of Ulster . . . 1,617,877
Gross Protestant majority . . . 129,171

It is clear from this table that in five of the nine counties the Catholics predominate, in two others they fall not far below the Protestants in number, while in two counties only — Antrim and Down — is there a large and decisive Protestant majority. Even in these two counties the Catholics are a third of the whole population. It is only in the northeast corner of the province — about one fourth of the whole area — that the Protestants predominate. A recognition of these facts ought to still any apprehension for the safety of Ulster interests under a Home Rule Parliament. We may add that of the thirty-three members of Parliament sent from Ulster seventeen are Home Rulers and Nationalists.

Clearly then, Ulster's professions of loyalty to the Union cannot weigh seriously against Home Rule; much less her

pretensions of fear of Roman Catholic ascendency, since we have seen how nearly evenly balanced are the numbers adhering to the opposing faiths. If Ulster's opposition is to be justified it must be in the remaining reasons urged by her against Home Rule. Let us examine them.

It has become a commonplace to hear the progress, wealth, and education of Ulster adverted to, and it has been accepted practically without question that in these things Ulster is far in advance of the other parts of Ireland. One would naturally expect from the advantages she has enjoyed that such would be the case to a marked extent; and yet too much may easily be granted, and so it has been, we think, in the case of Ulster. The bearing of these Unionist claims need hardly be pointed out. It is that under the same laws which are regarded as oppressive and unjust by the other parts of Ireland, Ulster has prospered and grown wealthy, from which the corollary naturally follows that a better condition will result to the South not from any measure of Home Rule but from an emulation of the industry and provision for the future shown by Ulster. Moreover it would be political foolishness to enact legislation to benefit the unintelligent, unprogressive portion of the community at the expense of the intelligent, prosperous, progressive portion. Here again something might be said on the general principles involved, but we prefer rather to test the truth of these statements of fact. In doing so we avail ourselves of the information conveyed in two elaborate articles that appeared in the *Contemporary Review* for June and July, 1893. One is a reply to the other. By using one as a check against the other we should be able to get pretty near the truth. We shall put forward no statement from the one clearly controverted by the other, and as the reply was from the Unionist standpoint, the danger of over-statement cannot be great.

First as to the progress of Ulster in the matter of population. — From tables to which both writers agree it is apparent that since 1841 Ulster has actually lost 32.2 per cent of her

population. The loss by decades is shown in the following table: —

Census Periods	Population	Decrease
1841	2,386,373	———
1851	2,011,880	374,493
1861	1,914,236	97,644
1871	1,833,228	81,008
1881	1,743,075	90,153
1891	1,619,814	123,261
	Total decrease since 1841	766,559

Ireland as a whole has lost since 1841 43.26 per cent of her population. In the last decade 1881–1891 Ulster lost more than a third more than in the preceding decade. Let us look into the loss a little more carefully, and see how much of it is due to emigration, an important consideration when one remembers that from a prosperous country emigration is scarcely ever very brisk. In the forty years from 1851 to 1891 3,742,746 people left Ireland as emigrants. Of these Ulster furnished 999,135, or more than one fourth. The distribution is as follows: —

Decade ending	Emigrants
1861, March 31	341,261
1871, " "	201,240
1881, " "	240,110
1891, " "	216,524

It would seem from this showing that so far as the growth of population is concerned the evidence points toward a decline rather than the other way. It will be asked, however, how are the Unionists able to point to any advance in this direction. They do it by calling our attention to Antrim, the county in which the greater part of Belfast is situated. Belfast has made rapid progress — from 75,308 in 1841 to 221,600 in 1881 and 273,055 in 1891. Apart from Belfast, however, every Ulster county shows a decrease in population.

Counties	Popul. 1841	Popul. 1881	Popul. 1891	Decrease 1881–1891
Antrim (part of Belfast excluded)	290,428	237,738	215,229	22,509
Down " " " "	361,446	248,190	224,008	24,182
Cavan	243,158	129,476	111,917	17,559
Donegal	296,448	206,035	185,635	20,400
Fermanagh	156,481	84,879	74,170	10,709
Londonderry	222,174	164,991	152,009	12,982
Monaghan	200,442	102,748	86,206	16,542
Tyrone	312,956	197,719	171,401	26,318

The total population of Antrim and Down, Belfast included, was in 1881 694,050; in 1891, 695,187. The gain in Belfast was but little more than sufficient to keep the whole number up. Let us recall, in this connection, the fact that there is not a single country of Europe, no matter how depressed and down-trodden it may be, that fails to show an increase of population.[1] We must anticipate the objection that is likely to be made here. It may be urged that the great loss to Ulster has come through emigration from the Celtic and Catholic portions. A glance at the tables on p. 594 and on this page convinces one that this is not true. Let us admit that the North has not lost so greatly as the South,[2] but let us also remember that this is to be explained in large part by the more favorable circumstances always enjoyed by Ulster. But while giving due recognition to this fact, the broad truth must be acknowledged that Ulster, boasted Ulster, has lost steadily and seriously in population — in half a century, 32 per cent. It is impossible to reconcile this fact with the claim to that unusual prosperity so invariably attributed to Ulster by Unionist orators. On the other hand the figures indicate a grievous decline, but little less grievous than that recorded for other parts of Ireland.

So much for the question of population. Let us turn our attention to the figures relating to agricultural holdings in Ulster and the rest of Ireland, and see if they indicate th

[1] Marshall. *Principles of Political Economy*, Vol. I. p. 249.

[2] Cf. table at the head of the page.

great prosperity for the former generally assumed. The total population on agricultural holdings for each province of Ireland is as follows[1]: —

Ulster	1,019,168
Munster	762,716
Connaught	629,196
Leinster	567,390

Taking into account the value of the holdings, the percentages per province are as follows[2]: —

	Over £15 ratable value	Under £15 ratable value
Leinster	42.6	57.4
Munster	41.8	58.2
Ulster	31.2	68.8
Connaught	13.4	86.6

Ulster here comes third, having a very low percentage of holdings over £15 ratable value. She is third again in holdings exceeding £100 ratable value, being preceded by Leinster and Munster whose populations are much smaller. These are the figures: —

POPULATION ON AGRICULTURAL HOLDINGS

	Over £100 not exceeding £200	Over £200 not exceeding £300	Over £300
Leinster	49,341	21,382	38,313
Munster	50,250	15,549	22,968
Ulster	44,241	12,523	16,353
Connaught	12,601	4,925	11,427

Let us look further at the acreage of the holdings. Again we find that in a table showing the number of holdings above fifty acres Ulster comes third.

[1] *Contemporary Review*, Vol. LXIII, p. 773.
[2] *Idem.* (Table 60, *General Report.*)

For 1890	50–100 acres	100–200 acres	200–500 acres	Over 500 acres
Leinster	13,886	6917	2803	396
Munster	22,281	9264	2822	384
Ulster	14,115	3677	1030	269
Connaught	6,289	3167	1718	545

From the agricultural standpoint, then, Ulster's position is far from being the superior one usually assigned her without question. Instead her position is decidedly inferior, looking at Ireland as a whole. And all this despite the unusual privileges as to landholding enjoyed by her.

Having examined the character and value of the agricultural holdings in the various provinces of Ireland, we may turn for another instructive comparison to the statistics relating to houses. The *Report* furnishes this table showing the sort of accommodation.

	1st Class	2d Class	3d Class	4th Class
Leinster	7.4	50.9	37.7	4.0
Munster	5.1	50.2	39.1	5.6
Ulster	5.1	49.5	43.2	2.2
Connaught	3.1	41.4	51.8	3.7

The inference from this statement is very clear, and again indicates a condition contrary to that generally assumed. It may be argued that Ulster's percentage is brought down by the poverty of certain districts, such as Donegal. In reply it need only be said that the other provinces have also their poor districts. But if this be not specific enough, it may be shown that *Down* and *Antrim*, the peculiarly Protestant counties of Ulster, and those whose prosperity is most confidently assumed, fall below six other Irish counties in the percentage of first-class house accommodation.[1] It may be said, however, that the second-class houses ought to be included in order that the real degree of comfort in housing enjoyed by Ulster may be rightly appreciated. Let us grant this and see what sort of story the figures tell.

[1] Colclough. *Contemporary Review*, Vol. LXIII, p. 771.

Counties[1]	Percentages 1st and 2d class	Counties	Percentages 1st and 2d class
Wicklow	68.8	Leitrim	55.5
Carlow	66.2	King's	55.4
Down	66.	*Monaghan*	55.3
Dublin	64.5	Sligo	54.6
Kilkenny	64.4	*Cavan*	54.5
Tipperary	61.9	*Londonderry*	53.5
Waterford	61.6	Limerick	52.3
Cork	60.5	*Tyrone*	51.5
Wexford	60.2	Kildare	50.4
Fermanagh	59.9	Meath	50.4
Antrim	58.9	Roscommon	49.5
Westmeath	58.3	Louth	48.9
Clare	56.7	Galway	38.4
Longford	56.7	Kerry	38.4
Armagh	55.6	*Donegal*	37.3
Queen's	55.5	Mayo	24.4

This table clearly indicates the position of Ulster counties. In neither first- or second-class houses does Ulster head the list. We find Down in third place, while Antrim, where the Catholics form only twenty-five per cent of the population, is below Fermanagh, where they form fifty-six per cent. This ought to be sufficient answer to the suggestion that the poor showing made by Ulster is traceable to the Catholic portions of the province.

After this showing as to population, agricultural holdings and housing, we need not be surprised if there remains something to be said on the questions of wealth and education. It would be wearisome to go into these with the detail which seemed desirable and necessary in the consideration of the other questions. Moreover the student of finance learns soon to know that the apparent meaning of a table of figures on a financial question is often different from the real meaning, which can only be discovered by "reading between the lines," as it were. Nevertheless there seems no reason to doubt that the real indications of the figures we shall quote are those

[1] Ulster counties in italics.

which at first glance seem obvious; for the figures are for such broad, general facts that error is scarcely possible. We shall take the ratable valuation of the four Irish provinces, and determine the amount per inhabitant in each province.

	Population 1891	Ratable valuation	Valuation per head
Leinster	1,187,760	£4,756,002	£4 0s. 1d.
Munster	1,172,402	3,373,242	2 17 7
Ulster	1,619,814	4,468,591	2 13 10
Connaught	724,774	1,435,761	1 19 7

Ulster is here again third, despite its large excess of population over that of either of the other provinces. Another indication of the relative standing of the provinces is found in the table giving the percentage of ratings over £20 in the various Irish counties.

County[1]	No. of ratings over £20	No. per 1000 of the popul.	County	No. of ratings over £20	No. per 1000 of the popul.
Dublin	9653	64	*Fermanagh*	2891	39
Meath	4885	63	Louth	2500	35
Kilkenny	5108	59	Longford	1794	34
Wicklow	3470	56	*Armagh*	4484	31
Westmeath	3564	54	*Monaghan*	2651	31
Carlow	2092	51	*Tyrone*	4675	28
Cork (East Riding)	9950	50	*Londonderry*	4311	28
Tipperary	8677	50	Cork (West Riding)	4219	28
Wexford	5515	49	Clare	3361	27
Kildare	3362	48	*Cavan*	2611	23
Limerick	7405	46	Roscommon	2450	21
Queen's	2907	45	Galway	4327	20
Down	9575	44	Kerry	3628	20
King's	2817	43	Leitrim and Sligo	2701	16
Waterford	4252	43	*Donegal*	2798	15
Antrim	8104	39	Mayo	2196	10

It is very clear from this table that in not one of the Ulster counties is the number of ratings over £20 equal to five or more for every hundred of the population; in only one are

[1] Ulster counties in italics.

they above four for every hundred. Were we to indicate the returns made from the income tax, the same relative positions would be found given to the four provinces. But certainly sufficient evidence has already been brought forward to show the utter untenableness of the claim that Ulster ranks above her sister provinces in the matter of wealth.

There remains but one more item to be considered, the question of education. It is the uniform practice of Unionist speakers to claim for Ulster a far higher rate of popular education than in the other parts of Ireland. Let the census answer.

	Percentages of persons who read and write
Leinster	74.6
Munster	71.7
Ulster	70.7
Connaught	61.8

Here again we must anticipate an objection that is likely to arise. It may be said that Ulster's poor showing is due to the great illiteracy of the Catholic portion of the population. But there seems to be no adequate reason why the Catholics of Ulster should be more illiterate than the Catholics of other parts of Ireland. Certainly we have never seen any assigned. If there is not, why should not the presumed better condition of the Protestant population *lessen* the average of illiteracy, and put Ulster in the front rank, instead of the third?

We have gone into a consideration of the third claim made to justify Ulster's opposition to Home Rule at much length, for it is one which cannot be satisfactorily dealt with hastily. It needs a thorough consideration of facts and figures to combat the assumption, so constantly and so confidently made, of Ulster's superiority in the questions of population, wealth, education, etc. We think it is abundantly evident from what has been shown that Ulster's opposition to Home Rule can find no sort of justification on any of the grounds alleged in her behalf. Her "loyalty" is but a pretense for the

maintenance of an unfair advantage, her overwhelming Protestantism a myth, her boasts of superiority in population, wealth, education, and the comfortable dwellings of the people flatly contradicted by the actual facts. Her position gives her no sort of claim to dictate to the rest of Ireland what shall be the form of its government. Home Rule may be a serious political mistake. While we do not think so, we candidly admit that it will be only a partial settlement of the Irish question, whose solution, difficult and trying as it must prove to be, will fall to the Irish themselves. The event may justify the fears of those who antagonize Home Rule at the present time. We have not attempted to consider this, for our problem has been simply to examine the grounds upon which the special opposition of Ulster is based. We have found them wanting in every respect, and freely and emphatically express our conclusion that Ulster is *not* justified in her opposition to Home Rule.

XXX

A PERSUASIVE FORENSIC

Forensic G

Should there be a Reform in our Pension System?

(To be read before a G. A. R. Post)

It has been said that the pension system is one which cannot be discussed with freedom by the leaders of opinion in either political party, by men who did not serve in the army or navy, by the new generation who have inherited the results of the war for the preservation of the Union, nor even by those who served in the army or navy, but who are fortunate enough to escape being wounded, or suffering from disease. So deeply seated is the desire to honor and rightly reward those who have suffered in the service of their country, that

all of these classes of citizens instinctively feel a delicacy in taking a position on the subject of pension legislation which will give an excuse to any man who has suffered to point to them and say: "You are not with us because you are not of us. We have suffered in the service of our country, you have not: you are ungrateful." This feeling is a strongly controlling one, and I confess to you, gentlemen, that it is for me an exceedingly difficult task to address you upon this subject, realizing as I do how presumptuous is the undertaking. It is a task which should fall to some one who has stood in the ranks and followed the old flag in the dark days of the country's danger — some one who has earned the right to speak, as I have not. What, then, is my excuse for speaking? Simply this, I come before you as one who has given some considerable study to current political questions; in the course of this study it has fallen to me to investigate the pension system and its workings. At the outset, I confess to you, gentlemen, that this investigation has resulted in some painful and startling revelations. So lamentable did I find the extent of the evils which have grown up about the system that it seemed to me that ignorance of them alone explained the apathy of the public generally, and of the old soldiers especially, upon a subject of vital importance to the whole country. It seemed to me that if the old soldiers themselves could be brought to a realization of the present condition of the system with which their interests and their honor are so intimately bound up they would not hesitatingly or tardily set about to secure the eradication of the evils. I am sure that every one of you earnestly desires that the pension roll shall be a roll of honor, that it be jealously guarded from all taint of corruption and fraud. Secure in that belief I feel that what I have to say will cause you to forget the presumption of the speaker, and bear with him patiently in the ungrateful task he has before him. I need hardly remind you of the exalted position you hold in the minds of all your fellow-citizens. The memorial services which we witnessed but a few

weeks ago have a peculiar beauty of their own. They mark in many respects the most interesting of our anniversaries. They bring back to us the hours of the country's peril and of its new birth. They commemorate deeds of bravery and devotion which it is our pride and joy to recall. They break in upon our busy and calculating lives with inspiring memories of heroism and self-sacrifice. But will Memorial Day always keep its dignity and its charm? Is there no danger that these hours may lose their sanctity and the glowing eulogies we utter become an empty and hollow mockery? It is a painful thing to say, gentlemen, but the truth shall not be disguised.

Whenever the people shall come to look upon the Grand Army as an organization whose purpose in great part is to secure pension legislation from Congress, to secure for its members a reward from the national treasury, then will there be the danger that the soldier's worth be underestimated, his past services but faintly remembered, and the honor that is his due be reservedly and grudgingly given. Is there danger that the people may come to take this view? Frankly I say that there is, in my opinion. The people are not discriminating, and the evils that they see attaching to the pension system will, in great part at least, be laid by them at the door of those for whose benefit that system is maintained. This may be a grave injustice, and yet it is within your power to guard against it, by boldly throwing your influence on the side of just legislation and honest administration of the laws. That you will do so, I have not the slightest doubt, when you come to realize the gravity of the situation and the need for prompt and energetic action.

Of the general character of our pension system I need say nothing as it is familiar to you all. I wish first to point out some reasons which are leading people to consider the question, and then to point out some of the more flagrant evils that have come to be identified with the system.

We are facing to-day the most unfavorable condition of national finances that has confronted us for a long period, a

condition which calls loudly for an economical administration of the government and a material reduction of expenditures. The surplus which a few years ago was a bone of contention has vanished and in its place has appeared a deficit which has made it necessary for Secretary Carlisle to resort to the questionable expedient of issuing bonds. I need not remind you how bitter was the criticism of this action, of the unavailing attempts of the Knights of Labor to prevent the issue, and of the unwillingness of the Democratic Congress to assume responsibility for the action. These facts are fresh in all our minds. With the enormous revenues enjoyed by the government the people ask where all the money goes, and it is found that in an annual budget of nearly half a billion dollars almost a third is set aside for the payment of pensions, a sum so vast that we may well pause in astonishment at the figures. For such an enormous expenditure one seeks in vain for any precedent. In 1891 France paid for military and naval pensions $30,000,000; Germany, $13,000,000; Austria, $12,245,000; Russia, $18,000,000; England, $25,000,000 (including the pay of general officers and the retired pay). From but thirteen millions in 1866 the pension expenditure has run up to 165 millions in the present year, a sum in excess of the cost of maintaining any of the great standing armies of Europe. Moreover under the law of 1890, with whose provisions you are all familiar, it is estimated that the annual expenditure must soon rise to $200,000,000 or more than half a million a day. Is it any wonder, then, that public attention is turned toward the question? Now let me point out frankly and without reserve what seem to me the highly objectionable features of this vast expenditure. Carried to its present extent it does not seem to me truly a rightful charity, but a profuse extravagance to catch the soldier vote. By this I do not mean that the basis of gratitude is entirely wanting, but that the extension of pension legislation to its present extraordinary limit has come not from a disinterested attitude on the part of Congress, but chiefly

from a desire to secure and hold the favor of the old soldiers. General Grant believed the limit had been reached in 1880, and yet within three years after his death the appropriations had reached three times the amount for 1880. Let any one but read the debate in Congress on pension appropriations — for instance the most recent bill, that of 1890 — and he cannot fail to see through the flimsy protestations of devotion to the soldier cause. Is it a compliment to the honorable veteran to have the nation's expression of gratitude become the instrument by which dishonest politicians seek to maintain their hold upon their offices? Is n't it rather disgusting to hear the soldier's praise sounded in vociferous fashion at this late day by one who in the troublesome times of the Civil War was a notorious Copperhead, thoroughly disloyal to his country? Can we think such a man sincere when we remember that in a few months he is to go before the legislature of his state, where old soldiers are politically powerful, and ask to be returned to the Senate? There can be no question that your past Commander in Chief, General Burdett, is right when he ascribes the present state of pension legislation largely to "the engagements and promises which rival parties and politicians seeking the soldier vote thought it necessary to enter upon to secure party or personal success."

It is true that such debts as the nation owes its defenders cannot be measured in dollars and cents and from this point of view any payments from the Treasury might be considered small; but it is also true that it cheapens the sense of patriotism to suggest that such debts have a money value, or that the dollars given are intended as a full requital of the services rendered. Had this been your conception of your duty thirty years ago, few of you, I am sure, would have left your homes for the battlefield, and there would have been few graves for you to strew with flowers on every returning Memorial Day. A sad comment on our Republic would it be that when her hour of peril came, her defenders, for the first time in the world's history, had calculated the cost of

their sacrifices before throwing themselves into the struggle; or had presented their bill of expenses when the struggle was over. Fortunately for us you did no such thing. As with all brave men who have gone before you, the victory of the cause for which you fought was your sufficient recompense; and the provisions for your welfare which the nation added afterwards were accepted with dignity and gratitude. I am firm in the belief that the blame for the present situation is not to be thrust upon the soldier, but upon his professed "friends" and the pension attorneys, whose only care has been to reap a rich harvest by pushing "claims" which they have sought to get hold of in every possible way.

But while the soldier is blameless it is not possible that he will be held so. The people, as I have said before, are not discriminating, and they will hold you responsible for the conditions to whose making you either did not contribute at all, or, if you did, contributed unwittingly and unintentionally. There will result in the minds of others a deplorable depreciation of the great service you have rendered your country. They will be unable to reconcile the onslaught on the Treasury with disinterested devotion to country, and the memory of the soldier's severe trials and brave struggles will become dimmed. Nothing is more unfortunate than this. The veteran should be revered and honored, and his example serve as an inspiration to the men of to-day to give themselves freely, regardless of what the sacrifice may be, when our country may have need of their services.

But I must not dwell too long upon these general considerations, for it is my desire to put before you with some definiteness the defects of our pension system, and indicate, possibly, in what way its reform might be brought about. In the first place, it is my belief that the pension laws should be revised and more safeguards thrown about their administration. The pension laws are too lax. The Act of June 27, 1890, provides, among other things, that "all persons who served ninety days or more in the military or naval service

of the United States during the War of the Rebellion, and who have been honorably discharged therefrom, and who are now or may hereafter be suffering from a mental or physical disability of a permanent character, not the result of their own vicious habits, which incapacitates them from performance of manual labor in such a degree as to *render them unable* to earn a support shall . . . be placed upon the list of invalid pensioners of the United States and be entitled to receive a pension not exceeding $12 per month, and not less than $6 per month, proportionate to the degree of disability to earn a support." I would have you note that the disability of the applicant need not at all be due in any way to his service as a soldier, and that but *ninety* days are requisite. I confess that I can see no justification for the giving of a pension on such a narrow ground as this. It practically throws open the doors to all, for what might be, if strictly construed and strictly administered, a saving clause — the inability to earn a support — is practically of little avail. The degrees of inability are not considered, nor the actual need of the applicant, who is not called upon to say whether there is any necessity for his asking aid. I am glad to say that the injustice of granting pensions for mere service has been vehemently opposed by a considerable body of the G. A. R. Again as the law is administered it does not take into account the fact that one may be incapable of manual labor who is yet able to support himself quite comfortably by intellectual toil. I need hardly remind you of a flagrant case of this sort which only recently has attracted attention. Judge Long of the Michigan Supreme Court, receiving a salary of $7000 per annum for his services on the bench, applied for and received a pension for total disability — $72 per month. The present Commissioner of Pensions, Judge Lochren, suspended the pension, but was forced to restore it. Another case is that of a wealthy manufacturer right here in Massachusetts who receives also $5000 a year from the government for his services as a Congressman. Judge Long and General Draper

are but conspicuous examples of a large class of well-to-do men who think it no sin to receive an unearned stipend from the national treasury. It is disgusting that such a state of affairs should exist, but alas it receives all too much encouragement from the present system.

I have already alluded to the discreditable influence of the pension attorneys. Let me quote from Lieutenant Foote, founder of the Society of Loyal Volunteers. He says: "As though it was feared that those who volunteered to serve their country would not volunteer to accept the bribe thus offered them, sixty thousand pension attorneys have been commissioned, about twenty thousand of whom are in active practice, to hunt up the old soldiers, and coax, urge, and tempt them to make oath that they are 'unable to earn a support by manual labor.' For this work of corrupting the loyalty, honor, and honesty of the 'Boys in Blue' the government offers a reward to the pension attorneys of ten dollars each. These pension attorneys are reënforced by senators and representatives in Congress, who in one year have made 154,817 requests on the Commissioner of Pensions for the 'condition of claims.'" Comment upon such a deplorable picture is superfluous.

The defects in the pension laws already pointed out ought perhaps to be sufficient to make clear the need of reform, but they are not all that exist. The laws place a premium on dishonest marriages by the provision that a woman who shall have been married to a soldier before June 27, 1890, shall, on his death, be entitled to a pension. Numberless cases have been cited where young and robust women have married old and decrepit soldiers merely that they may enjoy the pension which would fall to them when the husband dies; numerous cases have been cited where women have preferred, after the death of their husbands, to lead an irregular life rather than openly to enter the marriage relation again, in order that they might retain the pension which the government was giving them. "The extent of this can be

imagined when it is noted that in a single county of one of our Middle States, having a population of 84,000 where special inquiry was made on this point there were found four families of illegitimate children, of eight, three, and three children and one child respectively, whose fathers and mothers were living and whose mothers were drawing widows' pensions. In two of these cases, upon the pension being stopped, the parents promptly married." There are still on the pension rolls twenty widows of the Revolution, six thousand six hundred and fifty-seven widows of the War of 1812, although there were but one hundred and sixty-five survivors of that war. I am sure, gentlemen, that you agree with me that something ought to be done to rid the system of this dishonest and demoralizing practice.

Not only are the pension laws strikingly lax, but the provisions for their administration are also exceedingly defective. They do not require that the evidence supporting the applicant's claim shall be given under such safeguards as in ordinary business would be deemed essential. For instance, if the applicant can give no better testimony that of two of his comrades is considered. Now, gentlemen, I submit that this gives opportunity for collusion and fraud which, even among your honorable body, many may be found unable to resist. The looseness of the system seems an invitation to an evasion of the requirements. The soldier is made to feel that it is only a little technicality that stands in the way. Why let it defeat the evident desire of the government to deal generously with the veteran? There is so little investigation of the merits of claims possible under the plan that the government has been made the victim of numerous unfounded and exorbitant claims. Instances of this sort doubtless suggest themselves to many of you. Congressman Warner in the *Forum* for June, 1893, cites a number of cases. Let me repeat one of them. A veteran pensioned for rupture was proved to have been ruptured before the war, and it was discovered that he had been personated at the original muster by a

physically sound man, whom he had hired for $25 to take his place for the occasion. His name was removed from the rolls after he had received $2000. Under the law of 1890 he became again a ward of the nation and now receives $12 a month for total disability (from the rupture which occurred before he enlisted and to conceal which and to get into the army at all he committed perjury). There are yet other defects in the system of procedure in pension cases, but I need not weary you with their recital. My purpose in chief part, will have been accomplished if I succeed in impressing you with the vital importance of the subject. Once you realize that, I am sure your line of action will be that to which patriotism and a sense of high honor impel. I shall call your attention to but one more aspect of the pension question, which seems to me to call not for reformation only but for entire abolition. I have in mind the private pension bill.

The private pension bill (which I need hardly tell you is a special act of Congress giving to a certain person a stipulated pension) has come to be a common measure in Congress. In the fiftieth Congress no less than four thousand two hundred and ninety-five such bills were introduced, and in the fifty-first Congress the number was up to six thousand four hundred and ninety-nine. You see at once, gentlemen, how impossible it is that there should be any adequate consideration of their merits. The records of Congress committees are enormously increased. These bills are introduced indiscriminately by Congressmen who are often ignorant of their merits. In 1892 a prominent Southern member introduced a bill to restore a soldier's widow's pension. Investigation showed that an exact duplicate of this bill had become a law in 1891 and that the Pension Bureau had been unable to find the beneficiary. The Congressman was forced to admit that he knew nothing of her, and had no recollection of the matter. He had simply reintroduced the bill as a matter of course, without any question as to its previous history. The result is that the pension granted to Sarah A. Phelps is yet without a claimant. As in this

instance, so scores of other bills are reintroduced without any inquiry as to whether the conditions remain to justify doing so. Another consideration must be urged by way of condemnation of the special act, a consideration which I am sure will commend itself to the soldier who loves his flag. It is that the private bill provokes a feeling of resentment in the minds of the less favored who have not the acquaintance or influence necessary to secure the passage of a bill. Here, as in so many other cases of political action, a "pull" is sure to give its possessor an unusual advantage. It may be well asked why there should ever be such a thing as a private pension bill. We are told that it is to enable deserving claimants to secure relief denied them by the technicalities of the Pension Office. But with lax and extremely liberal laws administered in the freest sort of manner is it probable that a really deserving claim could meet with difficulty in the Pension Office?

I have pictured to you some of the evils attaching to our pension system, and I have done so, I must say, with a sparing hand. The picture might be darker, I regret to say, but as I have given it to you is it not dark enough to demand your most serious attention? Is not a system that costs annually $165,000,000 and promises to cost many millions more; that places nearly a million of persons in an attitude of dependence upon the national government; that degrades loyal and patriotic sentiment; that fosters corruption and fraud — is not such a system, I say, in need of reform? And are not you the men to whom we should first look to take up the task of eradicating the evil?

Gentlemen of the G. A. R., you have a new duty, requiring a fine courage, a true perception of patriotism, a noble loyalty, as in 1861. It requires you to defend your honor from the defamation that is coming on it unawares, through the unholy greed that corrupts men who have made use of the gratitude of a generous people and your silence to gain their selfish ends. May you hold the memory of those who fell by your side as a sacred trust, guarding your own honor with a jealous pride,

inspired with a sense of loyalty to the nation, and a high ideal of the true dignity of American citizenship. Emphasize the separation that exists between you and those who are actuated in their clamor for pensions by the lustful greed of selfish gains. Let your names be inscribed upon a roll of honor that shall mean to all who see it that you were loyal when loyalty required courage, that you were honorable when dishonor was made profitable. Then you shall leave a record that shall teach the coming generations lessons of the highest and most enduring value. Yours is a glorious past; the present affords you another glorious opportunity to deepen the gratitude of a thankful nation whose preservation was your work. May the beautiful anniversary which we have so recently celebrated never lose its ancient charm, but rather grow more beautiful and more tender every year as one by one the members of the Grand Army hear the silent call that bids them welcome to the ranks of those who have gone before.

XXXI

AN ARGUMENTATIVE ESSAY

Forensic H

The Extermination of the Gypsy Moth

Gentlemen:

At your own request I am here to-night to tell you about the gypsy moth in all its aspects. Those evils which we escape by precautionary measures of prevention we can never realize in their full content until we receive a careful explanation of them. It is for this explanation, gentlemen, that you have asked because you have heard the many alarms from the farmers of the east relative to their orchards and crops, and because you have also heard rumors and declarations that tell you the work of extermination is a farce; that it is the result

of a private combination to draw money from the state; that the work as done now is clumsy, so that less is accomplished than might be; and that the work could be done with less expenditure. These are grave charges, gentlemen! Yet you have heard them thoughtfully and have acted wisely — you have asked that the danger be explained before declaring that you will have nothing more to do with this expenditure. You realize, gentlemen, that your most vital interests are here at stake; that if this insect be only half as bad as the blackest stories make it, you will have to deal with a terrible pest; you will yourselves have to protect your vegetables in the fields and guard your apple, plum, pear, and all your other trees. I am here to-night to tell you what is known about this insect, to explain its habits, to show you the methods of extermination used; and then you may judge for yourselves whether these evils will come if the moth is now unheeded; whether you may best fight the insect at a distance or on your own farms. I have been selected to give you these facts because I have had experience in the field work, and because (although I am not personally connected with the Commission now) I have made a thorough study of the subject. I know what the outsider's impression of the work is. He sees a man looking at a tree; he watches that man walk very slowly around that tree looking up into space — at least, so it appears to him; but he does not know what that workman is looking for; if he were shown a nest or a pupa, or even one little caterpillar as the result of a day's work by several men, he would be — well, enraged; he would cry out, "I tell you this whole business is a farce. These men receive two dollars a day from the state, and they do nothing!" His arithmetic based on what he sees, or what he thinks he sees, is something like this: "If it takes a dozen men to kill one caterpillar in one day, how long will it take the three hundred men employed by the state to kill the millions of caterpillars they tell us are here? How do they ever expect to exterminate the bug?" "I tell you," he concludes, "it's all one big robbery."

But, gentlemen, there may be another side to this. To understand it let us consider a few facts about the habits of the insect and the characteristics that make it dangerous.

"The eggs are laid in the summer, soon after the emergence of the moth, in round or oval clusters usually containing from four to five hundred eggs (although clusters have been found that contained a thousand eggs), and are covered with yellow hairs from the body of the female moth. These egg clusters are usually found in sheltered places on the bark or in the crevices of trees, stumps, and undergrowth; also on fences, buildings, and in the crevices of stone walls and other objects near the plants or trees on which the insect feeds. The moth thus passes the fall, winter and early spring, in the egg. These eggs resist very strongly the action of the elements, both by reason of their hairy, asbestos-like covering and because of their own nature. Even if scraped from their places and exposed to the severity of the winter, they are not destroyed. They hatch in the latter part of the spring. When first hatched, the caterpillars are less than a fifth of an inch in length; they feed on plant life and grow larger as they pass through the stages of molting. There are usually five molts, never are there more than seven. I have seen these caterpillars reach a length of two inches or more with a diameter of half an inch — surely not a pleasant thing to have drop on one from the trees. During their growth, in June, July, and early August, they gather in the daytime in clusters upon trees or in cavities and other hiding places. When fully grown this caterpillar sheds its outer covering and becomes a pupa or chrysalis. This usually occurs in July or August. The pupæ may be found in the same situations as the eggs. In Massachusetts the insect usually deposits her eggs near the abandoned pupa case, and within a few hours after emerging from it. She dies soon after. The male moth is a rapid flyer. The female does not fly."[1]

[1] See *House Report 200*, pp. 3–4, for this exposition of the evolution and following statement on the caterpillar.

Gentlemen, I have purposely been terse in this description of the evolution of the insect, because that does not concern us as much as do its habits of feeding. The gypsy moth feeds only when in the larval or caterpillar state. In Massachusetts the eggs begin hatching about April 20, and the young continue to emerge until the middle of June. The length of larval life varies somewhat according to circumstances, but probably averages at least ten weeks; therefore the feeding season in this country lasts about four months. When the caterpillars are first hatched from the eggs they are light in color and covered with whitish hairs. In a few hours they assume a dark hue. They usually remain on or near the egg cluster until they change in color, and should the weather be cold they sometimes remain for several days in a semi-torpid condition upon the egg cluster. If the temperature is favorable they usually search for food before they are twenty-four hours old. Their feeding habits are so uncertain that no rule can be given which will apply to individuals, but before they are half grown they generally begin to manifest their gregarious instincts. During the first few weeks of their existence, they remain most of the time on the leaves, feeding mainly on the underside. At that time and for the rest of their existence as caterpillars, they spend a large part of the day clustered in sheltered situations, and feed principally at night, going up the trees and out on the branches after dark and returning before daybreak. Yet when they are so abundant that the food supply is insufficient they evince much restlessness, and feed in numbers during all hours of the day and night. They may then be seen hastening to and fro, both up and down the trees. Those who have fed sufficiently are at once replaced by hungry newcomers, and the destruction of the foliage goes on incessantly.

At such times the trunks and the lower branches of the trees are covered with a moving mass of caterpillars, hurrying throngs are passing and repassing, and nearly every leaf or denuded stem holds up one or more of the feeding insects.

The rustling caused by their movements and the continual dropping of excrement is plainly audible. This statement may sound exaggerated, but, gentlemen, hundreds of people in Malden and the surrounding towns testify to the truth of this: let me give you one or two of their statements. One lady says, "Many a time I have swept the caterpillars off by the dust-pan-full from the under pinnings of the house"; another, "A few years ago the caterpillars were terrible in Glenwood. You could not go down Myrtle St. without getting your shoulders covered. . . . We spent hours killing caterpillars, but there seemed to be two to every one we killed." Except when in great numbers, the caterpillars scatter throughout the trees, eating a little from each leaf, as for example early in the season when they are small and few in number. Then their ravages are scarcely noticed, but as they grow larger and more numerous, their inroads on the tree decrease the foliage area night by night, until suddenly all the remaining leaves are eaten, and the tree is stripped as in a single night.

Gentlemen, if I were addressing an audience in the city I should appeal to them by showing the effect on their parks, their summer resorts, their wood preserves; I should paint to them the actual experience of West Medford in 1889, when "huge hairy, full-grown caterpillars were constantly dropping on people on the sidewalks beneath the trees, while the smaller larvæ hanging by invisible threads were swept into the eyes and upon the faces and necks of the passers; when the myriads that were crushed under foot on the sidewalks gave the village streets a filthy and unclean appearance; and when, in the warm, still summer nights, a sickening odor arose from the masses of caterpillars and pupæ in the woods and orchards." But, gentlemen, I think that the destruction that this insect threatens to bring on your orchards will be of greater weight with you. The gypsy moth is known to destroy the foliage of nearly all native and introduced trees and plants of economic importance. The list of its food plants includes nearly all evergreen and deciduous trees, most bushes, shrubs, vines,

and vegetables, and it has been seen to eat grass and grain. Whenever the caterpillars become numerous they move slowly, devouring nearly every green leaf and bud as they go. They feed during a much longer season than the cankerworm or the tent caterpillar. In the months of June, July, and August, 1891, trees which had been stripped early in the season and whose leaves had again put out were again defoliated by these caterpillars, and kept bare all summer; therefore not only was all prospect of a first harvest destroyed, but many trees were killed by this continual defoliation.

Yet I hear some one ask, "How do the farmers in Europe get along? Has not the gypsy moth been there since all time?" Yes, gentlemen, the gypsy moth has been in Europe from time immemorial. European farmers simply have to stand it. They do their little best to keep down the insect on their estates, and pocket their losses in the years of great devastation as best they can. But do you wish to become accustomed to it? Do you wish to add to your lesser insect enemies a great one? Gentlemen, my time is short, and I have a great deal more to say, yet I feel that I must read you a letter from Professor Henry of the School of Forestry, Nancy, France, dated July 27, 1895. He says: — "The gypsy moth is well known to French foresters. This caterpillar is a plague to fruit trees, oaks, chestnuts, lindens, elms, poplars, and other trees, on all of which it thrives. In 1868, more than one hundred and forty-eight acres of oak woods were entirely stripped by it. It was so common in 1880 on the sides of Mount Veuloux near Avignon, that the legions of caterpillars covered the ground and entirely destroyed vegetation. In Savoy, it made an invasion in 1887 upon the chestnut and fruit trees. There is not a year passes in which the caterpillars do not show themselves in our territory, if not in one place then in another." [1]

Gentlemen, this letter is only one of many from all parts of Europe. Entomologists in Holland, Russia, Germany, and

[1] *Gypsy Moth Report*, 1896. p. 283.

all other European states tell us the same thing, if we take the trouble to examine their works. Notwithstanding the general damages to all kinds of vegetation in Europe the greatest complaint comes from the fruit-growing districts where the insect shows a preference for the foliage of fruit trees. I ask you again, gentlemen, do you wish to be subject to any such inroads as this when by a trifling expenditure you can keep it from you? A little forethought on your part, gentlemen, will keep it confined where it is now in a comparatively small area bounded on the north by Manchester, Middleton and North Reading, on the west by Lexington and Waltham, and on the south by Newton and Brookline. You are very fortunate, gentlemen, to have no larger area to look after than this. It is truly remarkable that the moth, having spread for twenty years before the public action for extermination began, got no further.

It is truly providential that the natural condition of the country kept the moth in the limited area that it now occupies during the twenty years of freedom before public action began. Had those obstacles to a rapid spreading disappeared earlier, or had the public been roused to action later, Heaven only knows what troubles we should be facing to-day.

Introduced into America in 1868 or 1869 by Leopold Trouvelot of Medford, as a possible silkworm, the moth escaped from his custody and began to spread rapidly. But it was hindered in these early years by conditions which now no longer exist, — mark you, gentlemen, those conditions no longer exist. It had to encounter a new and changeable climate. Isolation and the small numbers of the species made it at first peculiarly sensitive to all the attacks of new enemies which surrounded it. Forest and brush fires that by chance occurred in the neighborhood where the moth was first at large checked its spreading. When the pest did attract attention he was hardly held in check by the efforts of some of the residents of Medford who for ten or twelve years persistently fought the moth on their own property.

They did not realize what the pest was, they saw their gardens, their shade trees, and their fruit trees attacked and destroyed, and they did their best to prevent the destruction. In 1889 a tremendous outbreak occurred; the town was deluged with caterpillars, and individuals could do nothing. On January 15, 1890, a petition for legislation for the extermination of the gypsy moth was presented to the Legislature by the selectmen of Medford.[1] Other towns joined in the movement; Arlington, Everett, Winchester, Stoneham, and Westfield petitioned and the Massachusetts Horticultural Society took an active part in the movement, petitioning the Legislature as follows: —

The Massachusetts Horticultural Society recognizing the dangers threatening the agricultural interests of the State by the sudden appearance in the town of Medford of a dangerous insect pest, petitions the Legislature to support the citizens of Medford and adjacent towns by State aid in stamping it out.

The Legislature acted on these petitions and appointed a commission to employ men to carry on the work of extermination. That commission has seen that the best methods should be sought for this end; its entomologists have experimented and found out the exact laws governing the habits of the moth; the field forces employed have gradually brought about the evolution of the present methods of work to reach the end aimed for — extermination. Gentlemen, let me show you what this work consists of, but before I do that let me say that it is the best method of destroying the moth that has yet been devised, — it is the result of the experience of carefully trained men, and it has received the approbation of the leading entomologists of both continents. Let me sketch the process briefly. First in the winter and spring the work of cutting and burning. By this I mean the cutting down of all undergrowth and burning it, the burning the ground over with the cyclone burner — an apparatus consisting of a pump

[1] *Gypsy Moth Report*, 1896. p. 86.

for throwing oil through a long rubber tube running through a long iron pole. The fire caused by lighting the spray of oil from the nozzle is tremendous in its heat and effectually destroys all animal and plant life. This method which is used only in badly infested regions is most effective. It kills all forms of the moth that are in hiding on the ground, and by destroying the plant life for the season forces the caterpillars to starve — if any may have escaped the fiery ordeal — provided a careful watch is kept on the trees surrounding the burned area. Burlapping is the second step in the year's work. This process consists in placing bands of burlap at a convenient height from the ground, around the trees in the infested region. Thanks to the caterpillars' habit of coming down the tree in the daytime to seek a hiding place, the men engaged in the work of turning the burlaps can kill them very easily as they are clustered under it for protection. No bad results can come from this method. Experience has shown it to be the surest way of killing large numbers of the caterpillars. Yet there are four things which must be done, and which are done efficiently by the Commission's force, to insure the greatest measure of success in the use of the burlap. They are: judicious pruning and trimming of trees; treating and filling cavities; removing loose bark; removing and destroying rubbish, undergrowth, and weeds. Besides these methods, the work embraces a very careful scouting system in August and in the fall, that is, a thorough search for all forms of the moth. When nests are found during the search they are treated with creosote and effectively destroyed.

I forgot to mention poison spraying as a part of the spring work. This method of destruction is not largely resorted to owing to the danger of hurting the trees and a little uncertainty as to the absolute death of the moths. However, in some localities, arsenate of lead has been used with great effect. There is no danger in eating the berries or fruit on the sprayed trees a few days after the spraying takes place

Gentlemen, I told you that I had worked at this job in the field and I tell you that the ideas of the outsider about the lightness of the task are all wrong. The men at work realize the danger of further spreading, and after they have been employed a few days are eager to find any form of gypsy-moth life and stamp it out. I remember at one time the gang I was with were working four sections, two of which were very badly infested, the two others almost without signs of the moth. I remember how hard work those men thought it was to search carefully looking into every crevice up every tree, bending now forward and now backward in the hardest kind of exertion, fruitless exertion. No, not fruitless either, for the killing of one or two bugs found there was probably a greater step toward the end extermination, since the one or two stray ones show us that we are nearing the end, that only one or two can remain, while the thousands say, "Come on, there are plenty of us left." The work moves by degrees; the statistics of each succeeding year show the gradual approach to the minimum, to zero, to "no more bugs." So you see, gentlemen, that the estimates of the outsider — that I told you of earlier this evening — do not hold true.

No, gentlemen, the work is not a failure. The state is doing a good work and doing it well. I entirely agree with Mr. C. H. Fernald, our state entomologist, when he says, "I have never seen nor heard of a person who believed it possible for private individuals to exterminate this insect, even though the strictest laws were enacted to enforce the work."

You ask if extermination is possible under any conditions. Gentlemen, if the work accomplished nothing more than holding the moth in check in its present limits, it would be conferring a great protection and boon on you. But as to extermination, judge for yourselves. On the one hand you have the enormous reproductive capacity of the moth. These wonderful reproductive powers and its remarkable tenacity to life provide for a rapid increase and redistribution in an infested locality if even a few eggs have been overlooked in its inspection.

Also consider the many food plants of the caterpillar, thus necessitating the examination of all species of trees, and making it more expensive to locate all the colonies than it would be were the insects confined to a few food plants. Another obstacle to extermination lies in the fact that the infested centers are densely populated, and that there is greater danger of spreading by persons passing and repassing than would be the case were the district thinly populated.

But on the other hand, gentlemen, consider that the infested region has already been reduced as a result of the work of extermination. The region now occupied by the gypsy moth is considerably less than was occupied by it eight years ago when the work was begun. "In the Saugus woods, where caterpillars taken in past seasons have been estimated at thousands of bushels, it is difficult to find egg clusters to-day. In the woodlands of the Mystic valley, outside of Medford, the same condition prevails, and egg clusters can now be found only by long and tedious search."[1] Two colonies in Peabody were entirely wiped out two years ago;[2] and there are many other cases that prove the possibility and probability of extermination. This very fact that the moth is confined to a limited area on the coast is a strong argument in favor of extermination; it cannot spread at all on one side — toward the sea. Then, too, the infested district, as I said, is in the most populous portion of the state; therefore the extermination of the moth directly interests a large number of people. Greatest of all the points in favor of extermination are the facts that the female does not fly, and that the moth hibernates in the egg. Could the moth fly, the species would probably have spread over all New England long ago. But no, she lays her eggs almost beside her pupa case, and makes them conspicuous by their yellowish covering. They can be sought for and destroyed during the fall and winter months when the trees are leafless and the insects are doing no damage.

But the advantage must be taken. The fact that the moth cannot fly must not lead us to neglect the killing. Without

[1] *House Report 200.* p. 12. [2] Personal experience.

organized efforts it may, nay it would, as surely as the night follows the day, spread over your farms and cause you irreparable losses. Between you and these losses stands your protector, the Commission.

"The conduct of this work has been repeatedly indorsed by leading agricultural organizations, the State Grange, Patrons of Husbandry, adopted at its annual meeting in Worcester in December a resolution urging the Legislature to appropriate sufficient money to carry on the gypsy moth work vigorously."[1] But, gentlemen, you have objected to wasting the state revenues; you say, "Get the work done for less money." Let me give you a few cold figures. "The value of the agricultural products of this state, as given by the census of 1895 is $50,000,000 in round numbers. About half of these products in value are at the mercy of the gypsy moth, and may be entirely destroyed by it, while the remaining products will be affected to a greater or less extent. A very conservative estimate of the average annual loss caused by the insect in this State is $1,000,000."[2] So much for possibilities. A few more figures:—

"The value of the taxable property in this state is $2,429,832,966, and an appropriation (for this work) of $200,000 is a tax of less than one twelfth of a mill on the dollar. A man having taxable property to the amount of $5000 would have to pay a tax of only 41 cents and 6 mills. This beggarly sum of money would make but a small showing in the work of clearing gypsy moth caterpillars from an infested $5000 farm."[3] Gentlemen, do you realize that you are paying an exceedingly small premium to insure yourselves against the ravages of this moth? "This premium on $1000 would be eight and one third cents, and for fifty years would amount to only $4.16. This protection would extend not only to farmers and owners of forest lands, but also to residents in villages and cities who own lands with trees or shrubs on them, and to vegetation wherever grown within the limits of our Commonwealth."[3]

[1] *House Report 200.* p. 18. [2] *Idem.* p. 24.
[3] *Gypsy Moth Report*, 1896. p. 251.

In the winter of 1896–1897 Professor J. B. Smith, State Entomologist of New Jersey, after a critical examination with the special object in view of determining the possibility of extermination, expressed his opinion most emphatically in his report, "Extermination is possible provided sufficient appropriations are made for that purpose." The same opinion is given by Dr. L. O. Howard, Entomologist of the Department of Agriculture, Washington. He expresses great satisfaction at the work Massachusetts is trying to do, and declares extermination to be not only possible but probable.

Now, gentlemen, there has not been as much done by the commission as they wished to do because their appropriations have never been enough. In 1892, $165,000 was asked for and only $100,000 was granted by the Legislature; in 1893 the same cutting down took place. In 1895, finding that the smallness of the appropriations had allowed a slight increase in the infested area, the commission demanded $200,000; but only $150,000 was obtained. The next year only $100,000 was appropriated. And so on. I will weary you with no more figures. You have seen how slight a tax the appropriation asked for will be on your resources. Now "What valid reason can any candid person give why the undivided opinion of all economic entomologists in America, who are the only experts in a case like this, should not be adopted, and the amounts estimated by those who are best informed and who have given the closest study to every detail of the work be appropriated?"[1]

Gentlemen, let me read you what the Entomologist of the Board of Agriculture at Washington says about this matter, that you may see what are the ideas of one who is in a position to know as much as possible about a question of this sort. I refer to Dr. Howard, our national entomologist, who, in his general review of the warfare against the gypsy moth, says: —

"At the present time there can be but little doubt that the extermination of the insect is possible, and that it will be only

[1] *House Report 200.* p. 29.

a question of a few years if adequate state appropriations are continued. The simple fact that it has unquestionably been exterminated over considerable stretches of territory, and that extensive colonies existing in the most disadvantageous territory for the prosecution of remedial work have been so thoroughly destroyed that not an individual had been found for three years with the most rigid annual inspection, is sufficient proof of this possibility, for what can be done for one section like this can be done for all, if the means be sufficient."

"After a review of the entire work . . . it cannot but be admitted that the effort of the state to exterminate the moth has been wise. It is true that a large amount of money has been expended, and it is also true that much more money must be expended before extermination can be accomplished; but it is undoubtedly safe to say that the money which has been and will be spent by the state in this work is but a drop in the bucket to the loss which would have been occasioned by the insect had it been allowed to spread unchecked. . . . The questions as to whether the state has done the right thing in appropriating for the extermination of the insect instead of holding it in subjection, and as to whether the money has been used in the best possible way to forward this end, may both be answered emphatically in the affirmative. . . . The writer believes that the condition of the entire infested territory at the present day is such that, with the prompt appropriation asked for by the commission at the beginning of the coming session of the Legislature, the work that will be carried on during 1898 will be of so effective a character that even those who most gravely doubt the policy of the state's efforts will be convinced of the efficacy of the work. A continuation of the appropriations for a few years is unquestionably a necessity. Were the appropriations to lapse a single year, the work which has been done during the past six years would largely be lost."

Massachusetts is grappling with a task unlike any that has ever fallen to the lot of her sister states. Her duty to keep

this pest from spreading over the whole country is undoubtedly as great as the danger to be feared from that spreading. Congress might take the matter up. Indeed, it has been repeatedly recommended that the moth be exterminated by national action. But until the national government does this, does stand ready to take the place of the state instanter, we cannot let the matter slip by. We have the moth now confined to a small strip of territory; we know the strong probability of extermination under present conditions; we know how great is the danger of a lapse of a single year in the work.

Gentlemen, you must stand firm in your present attitude of self-protection, and continue this work to the happy end — extermination.

XXXII

AN ARGUMENTATIVE SPEECH

Forensic I

A New Plea on an Old Subject

Mr. Toastmaster, Graduates of Phillips Exeter Academy, Friends: —

As I look up and down the rows of faces which line the table to my right, and to my left, and note the half incredulous expression which my subject has aroused on some faces with which I am familiar, I am irresistibly reminded of an experience similar to this which I once had in Exeter. Then, as now, youth and uncalculating earnestness were my sole weapons. My only listener was that honored teacher to whose memory we have heard so many tributes tonight, — Bradbury Longfellow Cilley. I was a middler; Professor Cilley was my pilot through the mazes of Asia Minor with Xenophon. Having been induced, one day, by athletic friends whose time was limited to the running track, to help them

out in their campaign of subscriptions to the track team, I went to Mr. Cilley after the class and diffidently asked him if he would not contribute. Mr. Cilley seemed a bit puzzled, at first. He said,

"Why, you are not an athlete, are you?"

"No," I replied.

"Are you interested in athletics?"

"Not personally," I stuttered, "but I think it is a good thing for us all." I soon felt that I was talking better than I had hoped, and that my plan really promised excellent results, so I argued long upon the merits of my appeal. Mr. Cilley, after vigorously clearing his throat, finally pulled a dollar from his pocket and put it in my hand, saying,

"Well, B——, if you are the best man the track team can get to solicit subscriptions, I think they must be in need of help. I'll help them."

Although Mr. Cilley tempered the sweet of a contribution with the bitter of a justifiable judgment, subscriptions came freely afterwards, and the track team met Andover that spring and defeated it sixty-four to thirty-one. The memory of my failure to make a satisfactory plea before Mr. Cilley has often recurred to me in the past in connection with my final good luck in securing funds. So, when your toastmaster asked me to speak before you this evening on one of the great needs of the Academy, the need of reviving and increasing the athletic interests of its students, I reflected that although I was not an athlete at Exeter, and have not been since I left there, perhaps my very weakness in acting as the advocate of such needs would induce you to regard the subject in a favorable light and say, as did "Old Brad" —

"Well, if you are the best man the athletes can get to solicit our interest, they must be in need of help, and I'll help them."

It is help that the athletes need at Exeter, or I should not trust myself to speak before you on a subject of which I am personally so poor a representative, and before you, who

have had and have still so many calls upon you for money and time. But the chances to improve the condition of athletic training at Exeter are so opportune, the boys themselves are so helpless in their eager desire to make a beginning, and you as fellow-alumni whose expressions of loyalty have just testified to your continued interest are so willing to do all you can, that I hope if not the needs of the situation, at least my own lame plea may induce you to take hold and help.

The condition of athletics at Phillips Exeter has long been in a somewhat precarious state, not only from the absence of a suitable cinder track near the Academy and the lack of a locker building on the campus, but from the tardiness with which financial support and vigorous enthusiasm have consequently been lent the candidates for track and field honors.

With the present campus, whose extent is accurately stated in the little blue-covered catalogues Professor Tufts annually issues, we are all acquainted. It has been the scene of many a festive bonfire and midnight prank; it has been the scene of many an Exeter victory at football or baseball; and, alas, it must be said, of many a defeat. We are all familiar with the appearance it presents early in the fall, when the football candidates begin earnest training, and with its scragged appearance in the spring, when the frost leaves the ground and the baseball candidates begin outdoor work, and the sun lies warm on the cinder track by the bleachers. We can all remember how the creek looks through the trees, as it winds its tortuous way through Gilman Park, with just a glimpse of the throttled cannon on the river bank, to the Swampscott. We are all familiar with varied scenes which the memory of the campus brings back to us. The field has been of inestimable service to the Academy's athletics. On it have played a McClung, a Heffelfinger, and a Trafford. Over its expanse of grassy field many a student famous afterwards in college athletics has taken his first lesson in outdoor sports. The faces of some of them I see around me, more are absent, some are divided from us by the width of a continent.

But useful as the field has been to us in the past, and useful as it is now made for the service of the athletes of the Academy, for several reasons serious inconvenience is suffered by those using it. In the first place, the field is too far from the Academy for the convenient use of the students. It never seemed far to us when we marched down Front Street, shouting our throats hoarse over a victory against the little school on the hill. But for the athlete who helped win the game, that we might shout, the distance has proved not only inconvenient but injurious. When combined with the absence of a locker building, the odds the athlete must face are depressing. Daily during the season of training he must put on his suit at the gymnasium and run up to the campus, where for half an hour or more he may wait around in a cold air, in unsuitable attire, until his turn comes to go on the track or field. His exercise over, there is no building to which he can depart for a bath and a rub-down. He must jog back to the gymnasium and there complete the details of his daily work which are so essential to maintaining his necessary form and condition.

It is not of ideal conditions I speak in comparison. Ideal conditions cannot, perhaps, ever be found where winter comes so soon upon the fall training season and spring so tardily clears the ground of ice and snow. It is not of ideal, but of practical conditions which a cordial assent from you here to-night may produce, that I wish to speak. Phillips Exeter has managed to get along with its present campus for many years and undoubtedly could do so longer were it not for outside considerations which hamper the utilization of even so poor a field.

Those of us who have attended the interscholastic meets in Mechanics Building have often wondered why our old Academy, once so supreme in all that spells athletics, is now relegated to a back seat and a few paltry points. Some of us who have seen this showing made year after year have almost despaired of any hopeful change. "It is in the nature

of things," I heard an old graduate say upon one of these occasions, "Exeter has changed since I was there and victory has left her."

Those of us who have not attended the meetings in which Exeter has contested with other schools for the possession of a much-prized banner have still, I am sure, wished often that our old Academy might lift its head high again in the possession of athletic honors. For, little as athletic honors mean to us who are absorbed in business cares, there is not one of us, I feel assured, who does not remember how important a place pitching a ball straight over the home plate, or circling the end of an opposing eleven, or rushing the puck down over the ice to the opponent's goal once seemed to us. And whether we ourselves were athletes or not, many of us have sons whose interest in tennis, baseball, football, or hockey revives in us the feeling of how good a thing it is to be a boy with a strong arm, active legs, and a clear eye. Even if we have never felt these regrets for our youth and hopes for the youth of our sons, and I am sure not many of us have escaped both experiences, we are all, as fellow-alumni of a cherished academy, anxious that its sons rank in the activities of their college life high up among those best famed.

Once we had no need to utter the wish; it was expressed in real life, both at New Haven and in our oldest university across the Charles. But our day of athletic supremacy in these institutions seems to some of us to have become darkened, as we look in vain over the summaries and scores of Harvard-Yale games, to see names made familiar to us because their bearers are sons of Exeter. Friends, the change has been real; it is not a fiction or an illusion raised by our increasing years and separation from the active interests of the Academy. Exeter has not been securing the honors in athletics we wish it should secure in Harvard and Yale, and it is partly our fault that this is so.

Newer schools, with better facilities, have arisen to contest the supremacy of the track, diamond, and gridiron with us,

and to our shame be it said, have often been successful. But the conditions, discouraging as they seem to the younger of us, need be but temporary. The magician's wand may be waved over Exeter's athletics and presto! change. Once more the old school will have its celebration after a football victory over Andover, once more the Academy nine will return to the precincts of Abbott Hall, jubilant in the flush of another victory, once more our successors in the old room on Front Street may hang over their windows printed shingles and red ribbons whose cabalistic figures denote victory on track or field of the red and gray. Once more we can go to the interscholastic games and renew our youth while cheering a runner from the old Academy, and across the Charles or down at New Haven we can have a corps of earnest, loyal young men working out in the channels Exeter has opened to them the no less important victories of college athletics. Friends, this forecast is all possible. The wand need only be waved, and it will come true. We need only pledge our earnest support, our continued interest, and financial backing, and Exeter will stand once more where we love to think it has long been and should always be.

When I speak of the conditions of the past in Exeter and of the possibilities of the future, I assume, I hope justifiably, that we are all interested in athletics and in the position of Exeter graduates in our colleges. For such of us as are young in years, the influence of the recent development of athletics, I feel sure, has gained approbation for a plan to better the conditions at Exeter; to those older in years, but still young in spirit, the plan equally appeals, although its details may be less familiar and its necessity less real. But however we may differ, from age and the results of experience, in our views of the project, we are all one in the spirit of loyalty to Phillips Exeter and in a desire to do what we can for it. This spirit it is which may safely guide us, for it is born of unselfishness and generosity, and is akin to the sacrifices of many graduates who have given their all, even their lives, to

the life of the school. If a Sibley has spent a laborious life, whose literary labors add fresh laurels to the list of Exeter graduates, he has devoted the savings of his whole lifetime that poor students, such as he himself once was, might be assisted to enjoy in the beloved Academy those advantages which he had prized so highly. If a Kingman has lived a life of honorable and unceasing toil, he has not forgotten at the close of his exertions the Academy where he first won the educational equipment which made his life possible. So we all, though not Sibleys nor Kingmans, have in our breasts a touch of that same loyalty and devotion which can blossom out into fitting deeds when we learn how the test can be applied to our own lives.

The bettering of athletic conditions at Exeter, friends, is a real way, a lasting way, a way sure to result in all we could desire. To make Exeter a school among schools, to bring it up to the high standard now set by other schools in athletics, we need better equipment, better athletic grounds, a better track, a locker building, in other words, those conditions which will stimulate the athletic work of the students without depriving them of that vigor, that distaste for ease and luxury, which we have been proud to own Exeter has bred in our bones. It is not for an easing of athletic work or training I plead, nor for conditions which would untemper the strong manhood of its students. A dressing room on the athletic field, baths near at hand, and an athletic field sufficiently large to hold all the school and sufficiently near to induce all the school to come out, are not conditions of luxury or effeminacy. They are just the forming conditions which have led other schools to forge ahead of us, and whose absence has retarded the athletic evolution of the boys at Exeter, soon to be, like us, loyal alumni, proud of a diploma and the years of happy life it denotes.

In suggesting a plan for our coöperation in the revival of athletics under better conditions at Exeter, friends, I have not come to you empty-handed. Already a generous graduate of the school, whose modest countenance I see before me, near our

honored toastmaster, has taken the lead. To carry out a plan for better athletic grounds, friends, our fellow-alumnus, Mr. William Chadwick, has already offered to purchase for the use of the athletes at Exeter a large athletic field near the school, of sufficient size and of great attractiveness, which contains all the requirements the most scrupulous of us could demand. Mr. Chadwick has offered to purchase and give to the school a large field situated on Court Street, not a block from the Academy building, which we can all remember, lying as it does at the entrance to Gilman Park, and commanding a view over the river to the woods beyond, and down Court Street to Kensington Hill. No better location could possibly be found for our needs, and it is ours for the asking. "For the asking," did I say? Yes and no. For there is a condition attached to the gift. That condition is nothing more than that we shall proceed to justify our possession of the field by taking steps immediately to lay out suitable athletic fields upon it. There is room for two football fields, two baseball diamonds, practice fields for both sports, a cinder track, and inside the track a space for field events. These are all needed, both to fulfill the conditions of the gift and to make its possession suitable for our use. Besides this, the time is opportune for the erection upon it of an athletic building, of small size, but conveniently large, to contain a trophy room for our banners and cups (for we have earned many such and hope to earn more), a large shower bath, dressing rooms and lockers. Such a building, I have found, will not cost more than $1500 or $2000, and together with the cost of rolling the field, laying out the diamond and gridiron, and making the cinder track, need cost us but a few thousand dollars. About $5000 will be supplied by the sale of the old campus, so that but $4000 is the contribution for which we can earn the everlasting praise of Exeter youth and repay the obligations so many of us feel to the old Academy.

This contribution made and our interest assured, Exeter will have conditions for the athletic training of her youth of

which we may be proud, conditions which will, I confidently believe, and I am sure many of us confidently believe, put her once more in the front rank of preparatory schools of New England. Besides this, the laying out of a new field and the provision of better athletic equipment will arouse among the boys such a spirit of enthusiasm as may well bring us gratification, since it is sure to result in a more enthusiastic support of the athletic teams and a new birth of athletic sports.

Fellow-alumni, our opportunity lies before us. I will not call it "duty" for that word is too often misapplied to indicate what is unpleasant. And then it is as a privilege rather that we like to look at the chance of helping the boys who are now where we once were, and testifying our loyalty to the dear old Academy whose sons we proudly own ourselves to be. It is within our power to wave the wand of promise over Exeter and rejuvenate her athletics. It is within our power to see her sons prominent once more in victories won over Andover, to see her alumni once more on the Harvard and Yale elevens, eights, and nines, and to know that there is growing at Exeter a healthy love for athletics, for the good of the body, which will combine some day with the rising tide of athletic interest in our country to make a new race of stronger, abler, clearer-eyed men.

Already, friends, we have an initial gift, one which it would be the hardest for us to fulfill if we were to begin at the start. But the start has been made, and we are already on the road to our desire. We need but say the word, now, and we shall have what we need at Exeter, what Exeter wants, and what we want. Fellow-alumni, shall we say that word?

XXXIII

SPECIMEN DEBATE

SUBJECT

The following facts being presupposed:

1. The existence of money claims by a European government against a South American state;
2. Such claims submitted by consent of both parties to the Hague tribunal for arbitration;
3. An award by said tribunal in favor of the European government;
4. The time and amount of payment fixed by the award;
5. Default of payment according to terms of the award;
6. A system of absolute free trade existing in the debtor state;

RESOLVED: *That the United States should permit the European government to seize and hold permanently territory of the debtor state not exceeding in value the amount of the award*

FIRST SPEAKER FOR THE AFFIRMATIVE

Ladies and gentlemen: In South America and in every land where the language of Spain is spoken, the people have a favorite word, — mañana. It tells you the time when they pay their debts. They are in the habit of putting off their creditors until to-morrow. This habit has given us — has suggested our question to-night. We have six presupposed facts, and the affirmative believe that if ever a European nation can acquire a right to territory in South America such a right exists under our presuppositions. A European country holds money claims against a South American state. These claims may have arisen because of injury to property or to citizens, or they may arise because some president has resigned and the succeeding administration has refused to pay for bonds which he issued. However, these claims have arisen, and if we judge by the experience of the past, they have been the subject of diplomatic negotiations for a period

of years. During this time the European government has been patient and forbearing. She might have insisted upon immediate payment; she might have made use of her superior strength and collected by force, but she has not done this. She has been willing to pursue the methods of peace. She has conferred with this debtor state and consented to submit her claims to arbitration by the Hague tribunal. She has done all that a creditor could be asked to do.

The South American republic was an equal party to this arbitration. It was a free agent and acted voluntarily and under no compulsion. It was not in the position of an ordinary defendant at civil law. Such a defendant has no option as to whether his case shall be heard by any particular court or not; he is often brought into court against his will, but when a decision is rendered he is compelled to accept it in full. In the present case there has been no compulsion. The debtor state has consented to arbitration. She has bound herself to accept the terms of the decision given by the referee. And if any decision of human minds can be called accurate and just we may presume that a decision by the Hague tribunal does full equity to both parties. This court has doubtless taken into consideration every fact that ought to influence its decision. The court understood the probable revenue of the state, its present financial condition, and all probable contingencies. So a time was set by which this debtor state could, with ordinary care, have put aside enough revenue to meet this obligation. If it had chosen to pay the money it could have accumulated funds. But it has chosen to default. It has broken its pledge and this can only be taken to mean an unwillingness to pay. Our question then presents this question: A republic bound to accept the decision of a referee chosen by common consent has defaulted the obligation and injured a fair-minded creditor.

At this moment the decision of the Hague tribunal either means something or it means nothing. If it means anything it means that on the last day set for payment the creditor

state has a right to full satisfaction. There comes a time in the dealings of nations when all trifling with a creditor nation must cease, and this time has come. This debt has reached the final point in its history. This date was not the date on which the republic might begin paying, it was the date before which it ought to have paid. If this award intended anything it intended that by the final day this debt should be absolutely extinguished, and therefore any proposition which continues this debt either in part or in whole is a nullification of this award. If any one suggests that the creditor power be paid later he is overthrowing this award. The creditor nation is entitled to full and immediate satisfaction at this time. If the judgment stands for anything it must mean that. Now at law when one man has a judgment against another, he has an immediate right to levy on property. He can satisfy himself and in full out of the existing property of his debtor. It is such a proceeding as this that we recognize between nations, for under this award by the Hague tribunal the creditor nation is entitled to full and immediate satisfaction. Up to the time set for payment this satisfaction should have come in the form of cash, but under the presuppositions of our question the debtor state has by its own act indicated that cash is not forthcoming, and therefore the only thing upon which this award can fall, the only immediate way for the creditor state to carry out the intention of the award is by the seizure of land.

Now the seizure of land is a form of collecting debts recognized in international law. It is approved by the highest authorities on that subject. "When a debt remains unpaid from one nation to another, the injured state may make use of force to collect that debt, and one of the things it may do is to seize and hold permanently land," so Gen. Halleck says in his work on international law. If one state be injured by another it may seek redress by war and require not only indemnity for the past but security for the future, and to secure itself it may take away the property of the state. The

same position is taken by Dr. Hall, Mr. Wheaton, and other students of international law. And this right has been exercised more than once. We cite the case of Madagascar in 1883. In that year the government refused to pay for injuries done to French citizens, and the republic of France seized certain ports of Madagascar which she holds to-day.

There is no chance under our presuppositions for a preposterous claim, for a trumped-up case of land grabbing. There is a just debt to be satisfied, and the value of the land to be taken is to be justly arrived at. When this land is taken, this definite, limited amount of land, a just act will have transpired between the creditor state and the debtor state. Justice is on the side of the creditor state. Now what should be the position of the United States of America? We propose that the United States allow this just thing to take place. We propose the normal policy of non-interference in the affair of other countries. One nation cannot interfere in the affairs of another without the gravest reason. Mr. Wilson, professor of international law at Yale University, has said: "Whatever be the interference, it can only be justified as an extreme measure." In the words of Chancellor Kent the doctrine of non-interference is a cardinal principle of international law, the burden of proof resting on those who would dislodge it. Intervention, then, is an abnormal policy in any case, but under the facts of our question, ladies and gentlemen, any act of intervention would be a peculiarly serious move. This is not a mere squabble between two countries. There is a higher principle involved. We have seen that here is the decision of a referee chosen by common consent and the creditor nation, acting within her rights, is proceeding by the only means open to her of fulfilling this award of the Hague tribunal. If another state can interfere and say, "You shall not have that which is your just due, but you must take a different sort of thing at a different time," then the principle of arbitration is challenged. If a third party for some selfish reason can interfere to prevent the enforcement of this

decision, then this decision is no more than a memorandum. If this judgment does not absolutely end the debt, then, ladies and gentlemen, it is only another milestone upon an endless journey. Any nation whose attitude brings about such a result as this will be acting against the general good of mankind, and of all the nations we know, this one ought to be the last to take such a step. There is one country which has done more than any other to have the disputes of nations settled in the ways of peace, there is a nation whose courts are always ready to recognize the decision of a referee chosen by both parties. The United States of America has pledged herself to the cause of international arbitration and should take no step to make arbitration less effective.

First Speaker for the Negative

Ladies and gentlemen: We take issue with the assertion of the preceding speaker, that the only way in which the decision of the Hague tribunal can be carried out is by the seizure of land. This is not carrying out the decision of the Hague tribunal. The preceding gentleman asserts that the creditor nation should have the right to immediate remedy. We fully agree with the gentleman, but we ask why should not the creditor nation make at least some effort to carry out the award of that tribunal which, as he states, has taken everything into account and has given a decision of money and not of land? Our first objection to the proposition of the affirmative is that it is too broad and sweeping to be statesmanlike. These six conditions could never exist by themselves. There would inevitably be other conditions, and as these conditions vary the case at issue will vary in most important particulars, and it is incumbent upon the affirmative to justify the seizure of land whenever and wherever these conditions exist in South America.

Let us suppose for instance that the debtor nation has been accumulating money with which to pay the claims which are

held against her and a panic sweeps over the country or a revolution breaks out or it becomes burdened with war. Shall we allow the creditor nation to take advantage of the debtor's misfortune? Or suppose the debtor nation asks for a short extension of time and has good prospects of ability to fulfill her promise, shall we allow the European nation wantonly to seize land? Is a sovereign state, whose rights are far greater than those of an individual, to be allowed no grace? Even if the principle of the seizure of land were not so obviously untenable, shall we allow no equity of redemption? Suppose there are eight or ten creditor nations, as in the case of Venezuela, shall we allow that nation to be divided and its very life destroyed? Or again, suppose we are on the brink of war with the creditor nation, shall we permit it to seize land near the Isthmian canal or any portion of the Caribbean Sea? The proposition is simply this: Resolved, that we permit the seizure of a South American state which has failed to pay a debt, regardless of how much land would be taken, regardless of where situated, whether in Patagonia or Panama, regardless of our relations with the creditor nation, regardless of the number of European nations, regardless of the motive of the nation in seizing the land, regardless of whether the claims are for damages or injury or interest, regardless of whether a mere protest would prevent the seizure, regardless of the possible ability of the state to pay, regardless of the reason for the default of the debtor state, and regardless of the interests of the United States. The position of the affirmative declares that the United States has no interest in South America and can have none. Even if we have no interest there, we cannot allow the seizure of land under these conditions, for if our peace and safety are menaced at all they will be menaced by the amount of land taken, the situation of this land, and our relations with the creditor state, the conditions attending the seizure of the land, and the other conditions I have mentioned. It is not the negative but the affirmative whose policy is hostile to

the success of arbitration. The preceding gentleman has laid great stress upon the decision of the Hague tribunal. We affirm that his position is also too broad because it assumes that the moment the debt falls due there is a complete breakdown of arbitration. Surely we should demand that the creditor nation at least make some effort to collect the award itself before it throws the award over. As I have just said, it is the policy of the affirmative that is hostile to the success of arbitration.

Suppose a case to arise six months from now where a South American state refuses to arbitrate a debt and fails to pay it when matured. The interest of arbitration demands that we should permit the seizure of land in a case like that, otherwise we should be upholding the policy that where a nation refuses to arbitrate its land cannot be taken. This would place a penalty upon arbitration and a premium on non-arbitration. For if no land can be taken from a nation that does not arbitrate and land can be taken of a nation that does arbitrate, every state in South America will keep just as far away from arbitration tribunals as it can. And obviously we cannot allow European nations free license to seize land wherever they have claims against South American states. If we cannot permit the seizure of land in both cases, we cannot permit it in one.

In the second place we are opposed to the proposition of the affirmative because it is a radical departure from our policy of three quarters of a century. Whatever may have been the intention of Monroe, one thing is certain, — the result of the policy which bears his name has been the total negation of every attempt of a European nation to extend its dominion over this hemisphere. The strength of this policy lies in the fact that we have allowed no exception. The attempt of Great Britain to take from Venezuela and add to British Guiana eighty thousand square miles shows the use which even a friendly nation makes of an entering wedge. There will be many a better pretext than an unpaid debt for

the seizure of land, and here once more we take exception, for the seizure of land in payment of a money claim is unwarranted by precedent among the civilized nations. The preceding speaker has called attention to the case of Madagascar, but perhaps you noticed that the seizure of land was made as the result of war and not in payment of a debt. And the better the pretext, the more will we be bound to permit the seizure. Allow one infraction of this policy and you begin to draw it down. So soon as the United States admits the right of a European nation to seize land under the pretext of unpaid debt, this policy becomes wavering, indefinite, and inconsistent. It is far more difficult to construct a policy than it is to destroy it. And we ask the affirmative to show some good reason for advocating the departure from a policy of such long standing and giving Europe just such an opportunity as she desires and has been awaiting for years. As I have pointed out, if we are to permit the seizure of land where there has been arbitration, we necessarily must permit the seizure of land where the debtor nation refuses to arbitrate. And here we ask of the affirmative, who shall prevent the creditor nation from seizing land exceeding in value the amount of the award? For unless the United States shall interfere or some one else shall interfere, manifestly South America is at the mercy of Germany and all the other states of Europe. The proposition of the affirmative is this: That we should totally disregard all the conditions attending the default of payment by the South American state. Resolved, that we throw open to Europe a country closed for eighty years.

But the affirmative may ask what right has the United States to interfere. We have a dozen rights. We have a right to protect the states from oppression; we have a right to protect the Isthmian canal; we have a right to insist that the creditor nation carry out the award; we have a right to provide for self-defense in time of war; we have a right to continue our own destiny unhindered by diplomatic friction;

we have a right to free ourselves from European entanglements in which European countries have been involved for centuries; we have a right to maintain friendly relations with South America; we have a right to continue a policy so beneficial in the past; we have a right to continue a policy so long maintained and which has received the sanction of all usage.

SECOND SPEAKER FOR THE AFFIRMATIVE

Ladies and gentlemen: I think there is one thing upon which we will all agree, and that is that this question was certainly prolific of presupposed conditions. The gentlemen would put a few more presuppositions on the question. They would say presuppose that a revolution has taken place in the South American republic; presuppose that there has been an invasion by a foreign nation; presuppose a hundred and one things; and the gentlemen would say that we still must support the proposition that is laid down for us, namely, that we would allow the European states to seize land. We agree with the gentlemen that if a revolution takes place and overthrows all of the conditions existing at the time the award was made, the European state has no right to seize territory. We agree with the gentlemen that if the South American state sends money to pay its debt and the ship in which it is sent is lost at sea the European power would not have a right to seize land. But we must discuss this question under normal conditions. Under a normal state of affairs should we allow the seizure of land? We say that the seizure of land is the only means of carrying out this award. The gentleman has told us it is not. But what other means he has given us I was not able to ascertain. The fact of the matter is that there is one means and only one. The gentleman says the European state might have given a few more days of grace. I concede they might do that, or they might do a few more things, but the European state has waited as long as any

patient and fair-minded nation has or can ever be asked to wait. The Hague tribunal has considered every circumstance in determining the time when the debtor state could pay if it desired to pay. And now we say that the seizure of land is the only means left to the creditor nation. But, the gentlemen say, the seizure might be excessive. We again refer the gentlemen to the question before them, — the United States should allow the seizure of land not exceeding in value the amount of the award. But, the gentlemen assert, this seizure is not recognized by international law. We would refer the gentlemen to the case of Kiau Chau in 1897 when Germany seized that port. We would refer the gentlemen to the case of Burmah where Great Britain seized land in the same year. So that if this question of ours means anything, it means that on the day set for payment by the Hague tribunal there is an amount of money or its equivalent due to the creditor state; that the extinguishment of the debt was contemplated on that day, and that any policy by which that debt shall continue after the date set is a nullification of the Hague tribunal award. We say, ladies and gentlemen, no less than the gentlemen of the negative, that the Monroe doctrine has been a splendid policy in the past. We say that under ordinary conditions that policy should be maintained, but we say that when that policy interferes with the exercise of a just legal right, where it interferes with an arbitration award and overthrows the principle of arbitration for which the United States has stood first of all among the nations of the world, in that case that doctrine must in all justice and honor yield. In taking that position we are very far from abandoning the doctrine and allowing European states to come in under any conditions. We confine the case to a case of absolute right on the part of the European state. We still maintain the right to protect the South American states in a case where they are deserving of protection. We still maintain the right to prevent oppression of every sort on the part of a European nation. We simply give up the power to protect the South

American state in dishonesty and willful wrongdoing. In supporting this sort of Monroe doctrine, we say that we can still exercise it in every case where it has been exercised in the past. Take the case of 1823. There it was used to prevent an alliance from subjugating the South American states. We could use it again in a case like that of 1867 when France attempted to force an empire on the republic of Mexico. In a word, we would retain the Monroe doctrine intact in every instance except where it conflicts with the just rights of a European state and overthrows the principle of arbitration.

In adopting this policy we will teach the South American states an invaluable lesson in international morality. These states to-day, according to no less an authority than the famous author of *The American Commonwealth*, are lax in meeting their obligations. Our policy will teach them first of all responsibility; it will teach them that pledges are made to be kept and not broken; it will teach them that national debts are to be paid; that if these nations would take their places among the nations of the world they must assume responsibilities; it will teach them moreover respect for the principles of arbitration; it will teach them that if they desire fair play they must grant fair play themselves. They will learn that consent to arbitrate means to abide by the award and that the United States will be unwilling to insist upon arbitration where adherence to the award is not a matter of absolute certainty. It will teach them that the strong republic of the north will protect them where their cause is just but will not protect them in the repudiation of an honest obligation. It will teach them not to make their weakness a cloak for their wrongdoing. By teaching them these lessons in international morality, it will not only do this, but it will prevent a recurrence of those conditions which have made our question possible to-night. Let a South American state once realize that the United States will not protect it in contingencies of this sort; that the loss of land is a certainty under conditions such as these, and it will soon learn not to allow

these conditions to arise again. So the entering wedge of which the gentleman speaks is but a myth.

Ladies and gentlemen, this policy of ours will not only do justice to the European states, it will not only uphold the arbitration principle intact, it will not only teach the South American states invaluable lessons in responsibility, respect for arbitration and international self-reliance, but it will give the United States a position unique among the nations of the world. It will show these nations that there is one strong power above the petty bickerings of the Old World; that there is one power that will not allow selfish considerations to weigh against honesty and justice. It will show these people that there is one power that stands for justice in every instance whether that justice conflicts with an arbitrary policy or not.

Second Speaker for the Negative

Ladies and gentlemen: We too would punish the South American state and teach it never to do so again. We would bombard it, blockade it, punish it in any way, but take its land, its very life blood, never! The gentleman has spoken of Germany seizing the port of Kiau Chau, but I would have you notice that China merely ceded the port to Germany — that Germany did not seize it permanently, and that it was taken, not in payment of money claim, but as a punishment for killing German missionaries. The resolve of the affirmative to always permit the seizure of land, regardless of circumstances, is too indiscriminate and means the abandonment of our policy and the dismemberment of the South American states. I wish to show you how this seizure of land will menace the welfare of the United States. Glance for an instant at the history of Europe for one hundred years. It has been a history of war and quarrels between neighboring states, each nation forced to exhaust its resources in maintaining armies against its restless, jealous neighbors. But the United States is free to devote all its energy to industry,

commerce and the arts of peace, for it is protected from all dangerous neighbors by three thousand miles of ocean. England to be sure owns Canada, but there is little reason to fear that we shall ever again have war with England. All the other great world powers own scarcely a foot of land in this hemisphere. Warlike Germany, for instance, owns practically no land within three thousand miles. Without a base of operations, hostile fleets could not live for six weeks on this side of the Atlantic. For eighty years the United States has stood secure and we must never allow Europe to lodge near us. Through the storm and stress of these wars we have held to this policy, and we stand to-day tranquil and secure in our ocean stronghold. But this priceless policy the affirmative proposes we shall give up. We shall allow Europe not merely coaling stations but great bases of operations. That the Panama canal shall be kept open is of vital importance to the whole world. Columbia and the United States alone guarantee its neutrality and in time of war what would Columbia's guarantee be worth? Allow the German empire a base of operations in Venezuela and our shores would be exposed, and the great canal, to-day well-nigh unassailable, would be at the mercy of Europe. Does not this constitute a menace to our welfare? If we are to be assailable we too must have great armies and a great navy; we too must devote to militarism that energy which is to-day making us the greatest industrial nation of the world. Is not this a menace to our welfare? Not only are we now free from war and its burdens, but from all the disputes and friction and diplomatic entanglements which never fail to arise between neighboring states. See the United States and Canada — the Alaskan boundary dispute, the northeast fisheries dispute. If we have these and fifty other squabbles with Canada, our friend, imagine the friction that would ensue were France and Russia and Italy and Germany lodged near us. Take the case which is in all our minds to-night — Venezuela. Suppose she had free trade. England, France, Germany,

Spain, Italy, Belgium all have claims against Venezuela. Suppose England gets a decision from the Hague tribunal and seizes land. Just as if a business man becomes bankrupt, if one creditor goes to law all the other creditors are forced to follow suit. So allow England to seize Venezuelan land, and the other creditor nations may also demand land, and can we consistently deny to Germany and Italy what we have allowed to England? Imagine nine nations grabbing slices of Venezuela; nine nations wrangling over how much land shall be taken; whose land shall be where. Such a squabble the United States would be inevitably involved in. And this is the result in an actually existing case of the resolution of the affirmative. Is not this a menace to the welfare of the United States?

But there is another consideration. Since their birth we have watched over the little republics of South America as they have struggled to work out the great problem of self-government. For eighty years we have protected them, and shall we now allow the worst injustice that can be done to any state, allow their land to be taken from them? The law punishes the mechanic and the lawyer, but it never takes from the mechanic his tools or from the lawyer his books. So with the defaulting republic; bombard it, blockade it, punish it in any way; but to cripple it by depriving it of its land, a portion of its sovereignty, is an act unwarranted by all the precedents of civilization. Not only is it unjust to take any land, but once allow Italy or Germany to be lodged in Venezuela and what is to prevent their taking more land or destroying this republic? Russia took a little strip of Poland. Austria and Prussia joined in, and to-day where is Poland? The justice of the policy we advocate has been acknowledged by the European powers. "Her Majesty's government concurs in the opinion that any fresh acquisition in the western hemisphere would be an inexpedient change." Mr. Balfour says that England has striven to help the preservation of the Monroe doctrine. In the recent dispute

England and Germany sent us assurances that they would seize no land.

In 1899 this government and all the great powers assembled at the Hague, and our representatives reserved the right again that has been enforced for eighty years, and never has Europe entered one formal protest against it. If this is the attitude of the European powers, shall we now abandon a policy that renders this country unassailable? Abandon the policy of Washington and Jefferson, of Calhoun and Webster, of Lincoln and Garfield, of Cleveland and Roosevelt! Abandon now the one great policy for which the United States has stood for eighty years, and all this for a paltry claim of money!

THIRD SPEAKER FOR THE AFFIRMATIVE

Ladies and gentlemen: The affirmative has no desire to abandon the grand and glorious policy of the United States. We simply say that when that policy protects injustice, when that policy protects irresponsibility and dishonesty, that policy ought to be modified. The gentleman's contention is that the retention of this small section of South American territory will constitute a danger to the United States. It is very noticeable that the gentleman has not pointed out the definite danger. He has spoken of danger to the mainland of the United States. Doubtless he realizes that Venezuela is two thousand miles from New Orleans. He realizes doubtless that portions of the rivers Rio Grande and Amazon are twice as far from the United States as are the rivers of Germany. Just how proximity is going to endanger the United States the gentleman has not made entirely clear. I would like to ask the gentleman if he remembers that ever since its birth as a nation the United States has been surrounded, north, east, and south, by the naval stations in the power of European nations. Canada is stretched all across the north. He has referred to disputes between Canada and the United States, but the thing to remember is that those disputes have been

settled by arbitration, and if the gentleman throws over arbitration to-night, how will such disputes be settled in the future? Down in the South until recently Cuba and Porto Rico have been in the power of a European state. Five hundred miles away is Jamaica which has been for a score of years in the possession of the strongest naval power in the world. The United States has proclaimed its right to protect the new canal. If the gentleman has followed the discussion in the Senate of the United States he will find that Senator Spooner has said over and over again that the United States retains the right to own, operate, maintain and fortify the canal. When you remember that the United States must protect the canal against the naval stations of European powers set within a few hundred miles of the canal, will not these measures also protect it against these small sections of South America of which we are speaking to-night? Another thing to remember is that the United States is the preponderating power in the Caribbean Sea. Captain Mahan says of Porto Rico: "Porto Rico is to the future Isthmian canal what Malta is to Egypt." With Porto Rico in the possession of the United States, it would be very difficult for any European fleet to maintain operations in the Caribbean Sea. The United States has also retained the right to establish naval stations in Cuba. Captain Mahan says that when compared to Cuba even Jamaica cannot be considered a supporting point to the United States.

It is not any trifling thing, it is not any remote or indefinite thing that will warrant our interference in the affairs of another state. All the authorities of international law agree that it must be an important and pressing danger to the interests and security of the United States. But the gentleman is very much alarmed that this will be an opening wedge and allow a dozen European states to grab a great deal more South American territory. The question we are discussing to-night, the presuppositions of our question to-night, say that there is one European state and one only, and the affirmative

is not called upon to defend all these things that the gentleman has been speaking about. There is one European state that has arbitrated its claim; one state that has established its claim according to international authority, proceeds to seize and hold territory of the debtor state. But there is, ladies and gentlemen, a pressing danger to the United States which the gentlemen of the affirmative and the negative must keep in mind, and that is this: If the United States insists upon interfering in the affairs of two sovereign states where she has no right to interfere, the injured European government will resist with the full strength of her navy. In 1895 we were in imminent danger of war with England because we compelled her to arbitrate her claims. If after those claims were arbitrated, after England's right had been established to that territory, the United States had said, "Your claim is legitimate but it is contrary to our interests for you to fulfill your just rights," every gun of the British navy would have been brought to bear on the United States, and, if we had been Englishmen, we would have been the men behind the guns.

There is a right to this question. On the day of the default that European nation has a right to immediate and complete payment of its claim. If the South American power had presented the money the claim would have been settled. After the day set for payment there was to be no continuation of the debt. That debt was to be wiped out. The state not getting the money had the right to demand the only other means of payment, and that is land. And the European state is going to assert its rights in international law. A few years ago the United States had occasion to collect money claims against Turkey. We sent our battle ships over to Turkey. If Germany had stepped in and said, "You must arbitrate this claim," our Yankee blood would have boiled to the fighting point. If we had established our claims, after they had been settled by arbitration and we had a right to take lawful means to obtain satisfaction of the debt, and Germany had said, "You are a Western hemisphere power, you cannot collect your

debt over here," how would the United States have resisted such unwarranted interference? The gentlemen may say they would not have allowed the United States to seize territory. Of course not; the United States would have no desire to seize territory. The point is this: If the United States were proceeding according to methods themselves lawful, in the enforcement of their claim, then Germany would have no right to interfere. Then there is the danger of war if the United States insist upon interfering with these states, and it is no remote or imaginary danger; it is an immediate and pressing danger, and the position taken by the negative means to-night that for the sake of protecting our interests against a remote and indefinite danger they would plunge the United States into the danger of an immediate and unjust war, because that European nation, recognizing its rights, will insist upon those rights.

And finally there is another danger, greater than the danger to the United States, and that is the danger to the cause of arbitration. In our question to-night the European nation has submitted to arbitration, and by mutal consent the debtor state has also consented to arbitration. We are discussing to-night a violation of a decision of the Hague tribunal. It has been violated and disregarded, and the gentlemen of the negative are asking the United States to insist upon the Monroe doctrine. Interference is a doctrine of pure force. They are asking the United States to assist by a doctrine of pure force a violation of one of the decisions of the world's highest tribunal of peace, and it is not right. There is justice to be considered in our question to-night.

Third Speaker for the Negative

Ladies and gentlemen: True, we helped establish the Hague tribunal, but in signing this convention our delegates made a reservation; they asserted that in signing it the United States did not give up its traditional policy. If the Hague tribunal itself should have given a decision of land,

the United States would not have been bound by it because we made that reservation. The case of Turkey has been mentioned here. We have been asked, Would the United States have brooked interference by Europe? Did we try to seize land, do you think for one moment that England or any other nation of Europe would allow us to seize land in Turkey? The gentleman says he would not have allowed it because we would not want to seize land. The case of Venezuela has been mentioned. That case is not applicable; there is no question in that case that can be discussed in this debate. It has been argued here that there would be only one state. The position is that if there was one state that goes to the tribunal and gets an award the European creditor may seize land, but if there are two or ten creditor states that go to the Hague tribunal and then there is a default by the debtor state, land cannot be taken. Do you think the United States can uphold such a policy? It has been suggested that we allow this seizure of land to punish the South American state. President Roosevelt in his message of December 3, 1901, says that the Monroe doctrine does not guarantee any state against punishment, provided that it does not take the form of acquisition of territory by a non-American power. Punish the state, but never take its land! Secretary Foster who is to assist in settling the Alaskan boundary question says that the Monroe doctrine means that no land can be permanently held by any non-American state in this hemisphere. The proposition of the affirmative is too broad. It affirms that we have no interest in South America and can have none. Every one must admit that we have some interest in South America, and in this debate we have shown that our interests are many. The affirmative asserts that wherever in South America these conditions exist we should allow land to be taken regardless of what our interests may be, regardless of where the land is situated, regardless of the reason why the debtor state has defaulted, regardless of the purpose with which the European state seizes the land, regardless of all

other conditions. The negative has maintained the position of upholding the policy in force for nearly a century and founded on principles recognized by international law, a policy which at once strengthens our position for self-defense and gives us the right to interfere to protect the South American states from oppression. What would become of the Monroe doctrine if we allowed land to be taken? Would it ever be respected again? Either of these grounds is sufficient for our case, but since the gentlemen wish to discuss the justice of the situation it will be my purpose to show you that to seize land in this case would be an act of injustice against the debtor state since the award might be enforced without actual war. The gentlemen ask us how. It might be enforced by sending battle ships and if necessary establishing an actual blockade. Technically this would be war, but in this case it would not constitute a state of war. Since the South American state has absolute free trade, not even a tariff for revenue only, an actual blockade by stopping all commerce would quickly bring her to terms. Another way of satisfying the award would be to seize ships in reprisal as in '62 and '63 Great Britain seized ships. Still another way is suggested by the question itself. Because the government of the South American state has absolutely no tariff at the time of the default, it does not prevent the creditor nation from seizing the port and levying a tariff. In China, Sir Robert Hart has for years successfully administered a tariff. This would be a fair and satisfactory way of satisfying the claims even if the state defaulted because it had no money at the time of the default. Still another way would be to seize certain ports and hold them temporarily. The negative does not object to a temporary retention of land, but we do object to the permanent holding of territory. We would point out that Germany in seizing this port in China has taken a ninety-nine years' lease and has not taken it permanently. There are many ways in which the money award might be enforced without war. The creditor nation who would throw away

the award and seize land and hold it permanently talks of justice, and the gentlemen of the affirmative urge the justice of seizing land when methods of collecting exist. Now let us consider the practical difficulties and serious consequences of the plan of the affirmative. In what portion of the country is the land to be seized? Who is to determine its value? Are interested persons to determine its value? To bring this question home to us, take the case most commonly in mind. If Venezuela had free trade and should default in the payment of a claim held against her by a European nation, then that European nation would have the right to seize land and hold it permanently. How long would Venezuela remain a free republic with ten European nations permanently holding land along her coast? How long before the United States would be drawn into conflict with these European nations? If this would not be extending the European system to our shores, what would?

The gentlemen of the affirmative have said that if this award is not paid at the time set for payment, if the creditor nation could not get some security, there would be a nullification of arbitration. But while we have pointed out ways of enforcing the award, the plan of the affirmative in every case means actual war, for when we consider the temperament of the people of our South American states it becomes apparent that no nation would allow its territory to be taken and held without a life-and-death struggle. With this means of collection of the debt, if the debt is not paid, on the day of the default, or if some security is not obtained, how about this case? Suppose there was a war as long as the Boer war. From this consideration of the causes of such a war it would seem that no nation would take this method of satisfying a debt unless the land was desired for use against this country. In either case, debt or no debt, the United States is bound to prevent the permanent retention of land. From this discussion of the practical difficulties and serious consequences in the way of the position of the affirmative it is

seen that they would be so great as first to threaten the existence of the republics of South America, and inevitably to draw the United States into complications with European states.

In this debate we have shown that the position of the affirmative is too broad to be statesmanlike; that it means the abandonment of a policy which we have shown our right to maintain; that it subverts rather than favors the cause of arbitration; that in every case it means actual war. We have shown that the award might be collected without actual war; that no nation would take this expensive means of enforcing the award unless the land was wanted as an opening wedge; and lastly that the practical difficulties and serious consequences would be so great as to threaten the very existence of the South American states and inevitably draw the United States into conflicts with European governments.

First Rebuttal Speech for the Negative

Ladies and gentlemen: The gentlemen of the affirmative have said that our interference in South America would inevitably result in war. I would point out to you the fact that we have interfered in South America twenty times in the past and war has never come. We have interfered to prevent one European nation transferring its own territory to another nation and war has never come. And I ask whether any one in this audience to-night can believe that any European nation would risk a war with the greatest power in the Western hemisphere merely to collect a few dollars which it could collect without a war by waiting. I could show you that all the European nations have recognized the justice of our policy, and are they going to make war now against a policy they have recognized to be just? The affirmative must prove that war would result in every instance where we interfere, for unless they prove that war would result in every instance they would be maintaining that because war might happen

some time we should allow the seizure of land when there is no necessity of it. The gentleman has denied the isolation of the United States and said there is no danger to it. Let me give you one instance and then say whether we are isolated from danger. There are in the world to-day four great world powers; the United States, England, Russia and Germany. England is our friend, Russia's interests are in a far part of the world. Should then the United States ever become involved in a great struggle, it would be with Germany. She is a great and powerful nation, with every citizen a trained soldier. Her leaders are men of unyielding will and vast ambition. Germany is extending her possessions and her statesmen are openly discussing the possibilities of South America. Moreover the whole world knows that her policy is hostile to the United States and that she is jealous of our industrial success. To-day Germany could not menace us for she owns practically no land within three thousand miles. Allow Germany a foothold in South America and we would have the devil's own time with her. Can you forget the destruction in time of peace of Venezuelan property? If the United States allowed such a dynamite factory as Germany on the shores of South America, there would be in time of war an instant explosion against our shores, and in time of peace there would be constant dangers. An eminent historian has said that should Germany be lodged in Brazil there would be friction between the United States and Germany all the time. I point this out to you as a single instance of why we say we are to-day isolated from danger.

The gentlemen have referred to a single instance of seizure of land. I would point out that no South American country to-day owes money to only one European creditor. When a run on a bank starts the depositors are forced to join in the rush for self-protection, so if one nation seizes land all the other nations will be forced to seize land, and there will be not one but many seizures of land.

First Rebuttal Speech for the Affirmative

Ladies and gentlemen: The gentleman who has preceded me is alarmed lest there shall be a great number of seizures of South American territory. Allow me to call your attention to the fact that before there can be any seizure of land the Hague tribunal has had to decide the legitimacy of the claim; that the Hague tribunal has to tell these nations how long they have got to wait before they can recover the amount of their claims. I ask the gentleman what these presuppositions were put in for if we were not to discuss claims decided by that tribunal. It is important to consider the position of the Hague tribunal as to our discussion. This decision meant payment on a certain date. It meant immediate and complete payment on that date. It meant that payment must be made in money or its equivalent — land. The Hague tribunal considered all the circumstances. It said, This length of time that we have allowed will give the debtor ample time. Now then, if on the date set for payment this money is not forthcoming, then the creditor nation has a right to seize the only other method of collecting payment, and that is to take land; and if the gentlemen object to the seizure of land they object to the decision of the Hague tribunal, and therefore they deal a blow to the whole cause of arbitration. For if we allow this precedent to be established that one nation can interfere to interpret the decision of the Hague tribunal, then you deal a blow to the whole cause of arbitration. We believe that there comes a time in the lives of nations when personal considerations must yield to considerations of public duty, — duty to the other nations of the world. The European nation has said, We are going to take this legal method of satisfying our claim. We have a right to take any method that is legal and is precedented. If I am doing something lawful, what right has another man to say, You cannot take this method? It is not suggesting to another power to take another means, it is compelling them to take another means, and that is why

I say they will go to war with the United States, and that unjust war is the result of the position of the gentlemen of the negative. They have suggested several alternatives for the seizure of land. Each one of those alternatives says that after the date appointed by the arbitration award the debt shall continue. That award meant that the debt should be wiped out. Their method says the debt shall be continued indefinitely. It is a dilatory method of payment, and no such method will meet the award of the tribunal. That is why we are justified in saying that this is a violation of the Hague tribunal's intention. I desire to call your attention to the words of Secretary Root, "Any man who watches the signs of the times will see that the American people will either have to abandon the Monroe doctrine or fight for it." The Secretary of War thinks we shall have to fight for it. If we stretch this Monroe doctrine so that it will protect irresponsibility, so that it will interfere with the rights of European states; if we stretch the Monroe doctrine contrary to justice and fair dealing and international fairness we shall have to fight for it.

Second Rebuttal Speech for the Negative

Ladies and gentlemen: We have pointed out a way in which the award of the Hague tribunal might be collected. The affirmative does not propose to collect the award but to seize land, and the only objection the affirmative have had to offer to these ways of collecting the award is that while the debt was being collected the debt must still continue to exist. In our first speeches we pointed out to you that they would not allow their soil to be seized without a life-and-death struggle. Let us ask the gentlemen what would become of the debt during this struggle. Would it continue to exist, or would it be wiped out on the very day of the default? In our first speeches we pointed out that if you allow the seizure of land in this case you must allow it in cases where there

has been no award. The gentlemen of the affirmative say they propose to allow the seizure of land only in cases where there has been an award. Very well, but suppose the debtor states refuse to arbitrate and refuse to pay the debt. If the state refuses to arbitrate, then we will not allow the land to be taken. Again, suppose a case of the default of a debtor state to pay an undisputed debt, we must allow the seizure of land in that case. The debt being undisputed there would be nothing to go to the Hague tribunal about, and yet we could not deny the right of the creditor nation to take land when there was nothing to arbitrate about. We cannot interfere. Would we be immediately endangered by the acquisition of land by a foreign nation on the Isthmus of Panama? Would Europe be endangered if we acquired land in Turkey? Yet she would not allow that. We as statesmen must think of the future. If other nations were here in 1823, if they do not menace us now, why was it that in 1823 this document was issued by President Monroe? We must have an interest in South America, and if we have an interest, we have a right to see that injustice is not perpetrated. We have shown you that to seize land is an injustice. If you admit that you must admit our case. It is comparatively easy to keep European nations out of South America, but once let them in and the very weakness of the country is sufficient cause for their spreading. They may have to conquer the entire territory in order to have a suitable government in existence where they have taken land. We have shown you that the policy means the abandonment of the Monroe doctrine; that South America may be punished but her land must not be taken. By the terms of the Hay-Pauncefote treaty we are absolutely forbidden to fortify the Isthmian canal. Germany cannot attack the canal to-day, but give her a base of operations and she can attack that canal.

Second Rebuttal Speech for the Affirmative

The affirmative have in this case rested their contention upon the right of the European government, to the absolute right, to the immediate satisfaction of their claim on the day of the default. The gentlemen of the negative have spoken of alternative methods of collecting. The question is, Shall the United States interfere to prevent a legal method of collecting a debt when chosen by a creditor state? It is not a strong case, gentlemen, that cannot stand when placed under a magnifying power. The gentlemen have tried to confuse the issue by speaking of ten states having claims. They forget that under the presuppositions of our question the Hague tribunal has set the date for payment, and in considering the time when the government can pay the amount of the award the tribunal does not place the claims of all on the same day. If we allow this one seizure it will have a good deal of effect in making the republic come up on the other dates when its claims fall due. The gentlemen have admitted the right of the European creditor to immediate satisfaction, and they admit that the seizure of land is the only immediate satisfaction possible. The gentlemen speak of the collection of internal revenues by a trustee. They speak of temporarily holding land. If they fear danger from the permanent holding of land, let me point them to Egypt and show them what this means. Where is England? Still in Egypt!

Gentlemen, we rest our case upon the fact that the United States has no right to interfere, that she cannot afford to interfere, with the just choice of a method of collection by this creditor nation. What is the only motive for such action the gentlemen have presented to us? They have told us that it would be dangerous for the United States to let Germany find lodgment near us. They say one port will prove a menace to the United States. It might be possible to persuade a German audience, not so an intelligent body of American men and women. There was a European power that had such a port

to which to send her fleet. Where, gentlemen, is the fleet of Cervera? In Poland!

But the gentlemen of the negative have argued with apparent sincerity. They have convinced me, and I hope you, of this, that it would be a technical advantage for the United States to keep an aggressive rival out of South America. Therefore we say, we are perfectly willing to say, that it should be the part of our diplomatic representatives to prevent the acquisition of this right by foreign governments to South American territory. But the mere advantage to be gained is not sufficient to justify the United States in interfering to prevent the carrying out of an award of the Hague tribunal. There was a time when such a motive would have been sufficient for a nation. Napoleon would have acted and would have broken whatever promises he had made. Alexander wanted to extend his sphere of influence; but to-day such an advantage or disadvantage ought not to be enough to influence the United States in entering on such a policy. Our position then is this, that we have held up a higher motive than has dominated countries in the past; we have held up the motive of international justice and arbitration.

Third Rebuttal Speech for the Negative

Ladies and gentlemen: If Egypt were located in Venezuela and not where she is to-day, England would not be permanently retaining Egypt. Allow me to carry your attention back to the second speaker upon the affirmative. The second speaker said that if there had been an earthquake just before the debt fell due we would not allow the seizure of land; if the South American state sends money to pay its debt and the ship in which it is being sent is lost at sea, we would not allow the seizure of land. But in looking over the resolution I fail to find any seventh condition which reads that the United States shall not permit the seizure of land if there has been an earthquake. I fail to find any eighth condition

that the United States shall not allow the seizure of land in the event that the ship in which money is sent to pay the debt is lost at sea, and I fail to find any ninth condition which says that the United States shall not permit the seizure of land if there has been any other good reason why the debtor state has defaulted.

Gentlemen and ladies, in closing this debate for the negative, I would emphasize the fact that the first consideration should be the interests of the United States, and as we have pointed out, if we are to adopt this resolution, our safety will in many cases be endangered. If we are to protect those interests we should continue the policy we have continued for eighty years. Allow me to compare the position of the affirmative with that of the negative. We have pointed out to you methods by which the state might be compelled to pay its debts. Nations in the past have never found any difficulty in collecting debts. To-day one of the most bankrupt states in South America has made arrangements for the payment of her debts. And yet the nation we are discussing is a free-trade nation and can exist without even a tariff for revenue only. It has great internal resources. We are perfectly willing to adopt some means to insure the collection of the debt, but the permanent seizure of land, the loss of which cannot be estimated from the standpoint of the debtor states, and the value of which cannot be estimated from the point of view of the creditor states, is far more than a mere punitive measure. Punishment should be temporary, not permanent. At the beginning we pointed out that the position of the affirmative was too broad and sweeping. But the affirmative have seen fit to consider these six conditions as if separate and apart from all other conditions. Once more we call to your attention the fact that they must prove that wherever and whenever these conditions exist we should permit the seizure of land. We proceeded to show that the position of the affirmative was a radical departure from our policy of the past eighty years. Once more we decline to discuss the intention

of President Monroe, but the fact remains, and the very strength of the doctrine lies in the fact that we have never allowed any exception, any opening wedge. We have enforced it in more extreme cases than that outlined, and it has never once called forth a protest from a single European government. What value does the affirmative put on the seizure of a strip of land in South America that a European nation would be willing to go to war with the United States? We do not see that the fact that there may be difficulties in following up a policy proves that the policy is bad. Everything that amounts to anything has some difficulties in its way, but as we have pointed out — [Bell.]

Third Rebuttal Speech for the Affirmative

Ladies and gentlemen: The position of the negative is summed up in this sentence: Our first consideration should be the interests of the United States. The position of the affirmative is that our first consideration should be the best interests of the world at large. We maintain, ladies and gentlemen, that the one great consideration in this question is the adherence to the principle of arbitration. The United States has been the leader in this principle and in carrying it out in the years past. We say that if the United States, the leader in that principle, once repudiates it, what can we expect from other nations? What can we expect from international arbitration? The gentlemen throughout this debate have not endeavored to deny one contention that has appeared throughout this discussion, namely, that on the date stipulated for payment the European state has the right to extinguish the debt. The gentlemen say that we must under no conditions allow the immediate settlement of the debt by the seizure of land. Suppose the European state had then allowed another three years in which the South American state should pay its debt. That time is up, and the South American state has not paid. What then shall we do? Let them take

possession and seize the revenues and collect them as they see fit? Ladies and gentlemen, if there is anything that is uncertain, it is the revenues of a South American republic. And ladies and gentlemen, if the European state once gets temporary possession, not of a small piece of territory, but of a whole country, we say that that European state would stay there once and for all. The gentleman has said that if Egypt were in South America the English would not be there. I might say that Russia and France are just as eager to get England out of Egypt as we would be to get her out of South America. I cite, moreover, the case of Cyprus. Great Britain still has Cyprus and there is no prospect that Cyprus will ever get out of her hands. The proposition of the other side is that the European state shall take uncertain, dilatory means of payment — means of payment that will in no way satisfy the award. We say the European state has certain rights, including the right to seize land since that is the only means of obtaining immediate payment at hand. And we say that the European state will fight if that right is interfered with. If as has been said the European state is so hostile to the United States that if it once gets into South America it is going to get into constant conflict with us, is it not likely they would fight in this case? The danger is in the danger of interference. The danger is not in allowing the European state to seize land in South America, for once they have learned that the United States will not protect them in repudiating an honest obligation, these nations, if they believe in retaining their sovereignty, will never allow these conditions to arise again. Teach them self-reliance, teach them financial responsibility and honor, and not only South American interests but the interests of the world at large demand that the United States in this case permit the seizure of land.

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