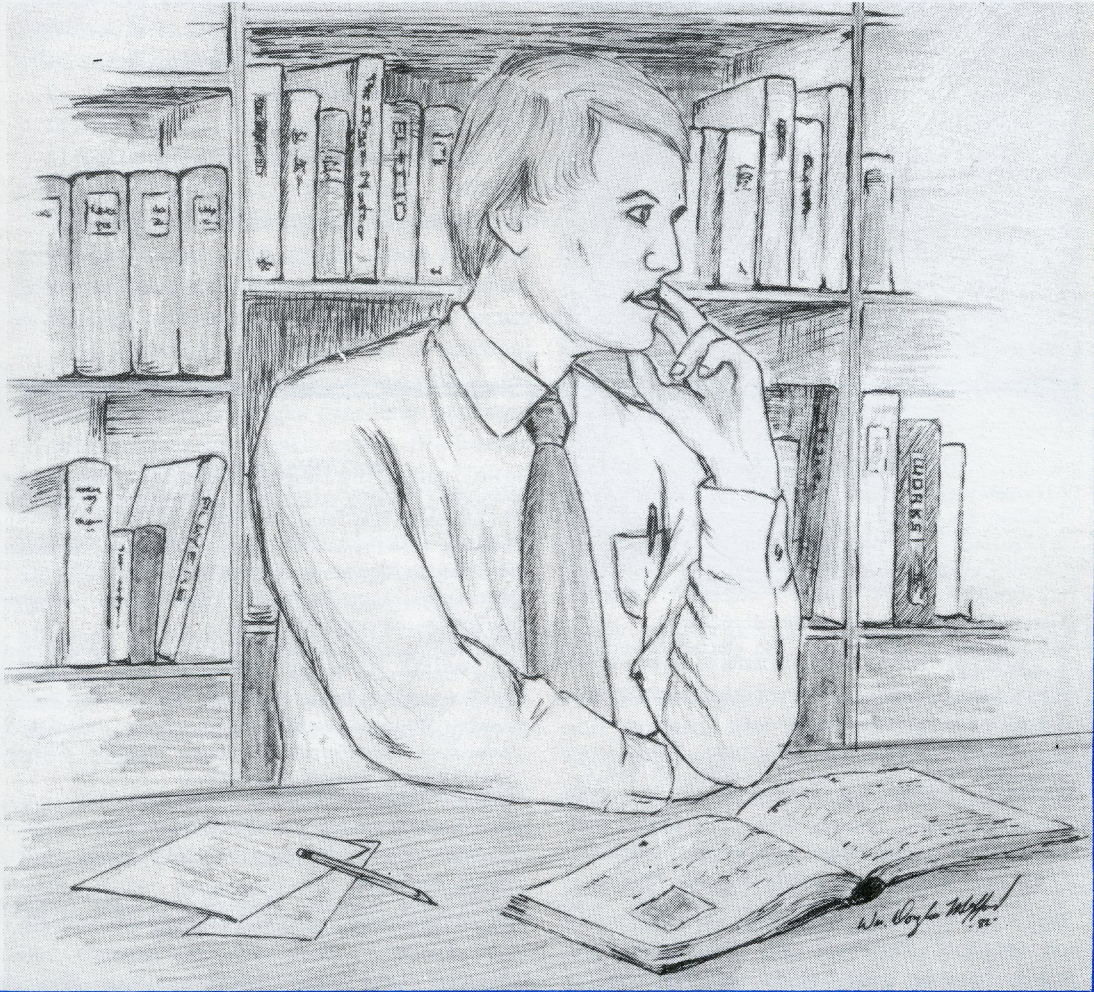


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Larry's Lashes

Editorial Eyesight: As Seen Behind The Lines

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BRING BACK MY COLLEAGUE

Recently I noticed that a young man who was in the tenth grade when I was a first year teacher had been named president of a state university.

As I listened to debates at a national tournament the following week-end I reflected upon the changes that have occurred in debate since those early years. It's been a long time. We were debating that the United States should adopt the British system of education and that the United Nations should be significantly strengthened. But there were other differences. The first affirmative speaker would begin "honorable judge, worthy opponent, and fellow colleague" - I still like that word colleague; it is such a nice word; it adds a certain dignity to the activity.

Also the first affirmative speaker gave what were called "need contentions," and the plan always came in the second affirmative constructive. For Musgrave plainly taught us that the affirmative had two constructive speeches in which they could present their case. The negative constructives were planned speeches defending the status-quo, and refutation did not begin until rebuttals.

There were other differences of course. Those "need contentions" and "plan planks" were repeated slowly and clearly enough so that the judge taking a flow - and



many judges did not take a flow in those days - was nurtured by careful dictation. It was stimulating for me to evaluate a debate and reward the team doing the better debating with a victory. Not only was *delivery* on the ballot, but so was *courtesy* and *humor*.

My, how things have changed. It is not only the rapid fire delivery which leaves no place for wit. There are other things about modern debate that I abhor. Perhaps the years (I have said days should speak multitudes of years should teach wisdom," Job 32-7), perhaps the years have given me the right to list four pet-peeves about modern debate. They may surprise you, but I suggest that they are significant, even symptomatic.

1. *Whatsoever*. I am told by negative

teams that the affirmative case has no harm, or significance, or inherency "whatsoever." This "whatsoever," this paraplegic substitute for reasoning, frequently follows an affirmative presentation of harms totaling billions of dollars, millions of lives and inherency arguments by the score, artfully codified existential, "attitudinal," and structural.

Come on negative teams, tell me that the affirmative has overstated the problem, tell me there are alternate causalities, but don't tell me that they have given no case "whatsoever." "Whatsoever" should be stricken from debate jargon. It has no place "whatsoever" in debate.

2. *Correct.* Debaters, experienced and inexperienced alike, continue to play Perry Mason in cross examination by presenting the argument they want and calling for agreement by saying "correct?" Objection, Mr. Berger, that's leading the witness. Even *Mad* comic's Perry Masonment blows the whistle on you. You will get no confirmation "whatsoever" from any debater worth his salt by saying "correct?"

Rather ask your question; if you get a correct answer, beat it in rebuttals; but don't try to lead a witness and expect him to agree with your conclusion. Correct!?

3. *Later down the flow.* Debaters keep telling me, I'll deal with that argument 'later down the flow,' " This is a NO NO! Wrong!! If a debater takes the time to sign post an argument he should give it then, otherwise it is a waste of time to bring it up. Furthermore, debaters frequently neglect to deal with the argument "later down the flow" as they say they will. It is far better to deal with an argument when it first appears and if it crops up again, tell me that you have "beaten that above." There is no place "whatsoever" for "later down the flow." "Correct?"

4. "*Partner*" or "*pardner*." Debaters are actually calling their colleagues these strange cowboy terms. Oh how my delicate nature cringes at this. "Motor mouth" if you have to, Modern Debaters; and perhaps "honorable judge" and "worthy opponent" are part of an archaic past, but please, bring back my "colleague."

The introduction of this column by one member of the editorial board is designed to stimulate your response to issues relevant to forensic activity which provoke more dinner table discussion than library table research.

Communicator Style as a Determinant of Winning

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Instructors of public speaking usually devote a portion of class time talking about how to present oneself in the public communication setting. The student is advised about poise, dress, eye contact and use of vocal variety; in short, style.

The forensics coach is even more concerned about style because a distinct polished style of communication is usually successful in a variety of competitive

environments.

Miller (1975) reports that an individual's communicator style is apparent to the receiver (judge). Style is a determinant of success because of the high correlation between the Communicator Style Measure (CSM) and effectiveness and interpersonal attractiveness.

The thesis of this paper is that style influences judge decision making. A judge forms an impression of the individual based on the anticipation that the association will be rewarding (Schroeder, 1979a). Impressive qualities are persuasive and attractive. This paper will discuss the CSM factors that are a function of effectiveness and attractiveness. (Schroeder, 1977, 1979b).

What is style? How is style developed? Style has been traditionally viewed from a syntactical perspective. A review of texts concerned with interpersonal, public, and group communication, reveals that when the discussion of the concept is included, it is almost exclusively related to word selection and arrangement. Recent nonverbal concerns in human communicative behavior give emphasis to style as an interactive dimension of paralinguistics. The source of the message is sending more than one message. The verbal message is regarded as the content while the nonverbal message creates a medium and/or a context in which the verbal message is presented. Research suggests additional interactive behaviors that are not exclusively verbal or nonverbal which Mahl and Schulze (1964) classify as extralinguistic, e.g., duration of speech, rate of speech, rate of interaction, latency of response, and related communication cues. These extralinguistic traits, along with the verbal and nonverbal elements, influence communication.

Recent research has indicated that individuals possess particular expressive styles of interaction (Bienvenu, 1971; Miller, 1975; Mortensen, 1972; Norton, 1974a, 1974b; Norton and Miller, 1975; Stein and Lenrow, 1970). These expressive dimensions, i.e., "style" are conceived of as general orientations toward the reality of self and the environment. Allport (1937, p. 48) refers to this expressive dimension of personality as the "dynamic organization within the individual of those psychophysical systems that determine his unique adjustments to his environment," in this case to competitive speech. Eisenson, Auer, and Irwin, (1963, p. 333) make application of this concept noting that "Personality is the expression of the individual's values and attitudes that are modified, if not initially shaped by interaction with a culture at large and a subculture in particular . . . it is an expression of reaction to key persons and to established and expected patterns of behavior." The subculture may be the competitive speech activity while the key person is the

judge rewarding the best presentation. The patterns of behavior that become expected are those exemplified in the final round of the event.

Style reflects individual variations of preferred general modes of organizing a stimulus and interacting with it. "Persons generally vary their behavior in accord with the interactional conditions obtaining . . . favored interpersonal 'styles' distinctive for them by virtue of the frequency and generality . . . 'Style' . . . may be thought of as a discernible tendency to enact sets falling preponderantly within a particular range of interpersonal behavior," (Carson, 1969, p. 142).

The "style" that an individual develops to use in the presentation of self ". . . implies that there are two kinds of reaction: (a) those which determine what, in a given situation an individual will do, and (b) those which influence the reactions or effects on others," (Eisenson, et. al., 1963, p. 333). O'Brien (1974) notes that developing a style of communication that is individually characteristic is necessary. Allport (1955, p. 78) develops this point further: "A personal style is a way of achieving definitiveness and effectiveness in our self-image and in our relationships with other people." Kendon (1967) notes in his research that individuals rely on "old and well established speech habits" supporting Thibaut and Kelley's (1959) concepts of established behavioral sequences and repertoires as a personal constant in a variety of interactive situations. Giffin and Patton (1974, pp. 66-67) explain this method of communicative response as a matter of latitude in the communicator's style.

Some people appear to have a narrow or rigid orientation to all or nearly all others in about the same way. On the other hand, many persons have a wider repertoire of responses, and can appropriately react in different ways to differing interpersonal behaviors of others.

The term communicator style is used generally in reference to the method or

manner by which an individual interacts with others. This concept encompasses paralinguistics, extralinguistics, behavior sequences and repertoires, and communication cues that distinguish the way in which a message is presented from the content.

A behavioral model, therefore, dominates the competitive speech experience. If the students desire success then their style is altered as much as possible within their range of latitude to conform to the winning styles.

There appears to be a generally accepted style. Schroeder (1977) found four distinct characteristics for effectiveness using a factor analytic analysis of the communicator style measure. The four dimensions of effectiveness include contentious, dominant, communicator image and impression leaving.

The individuals displaying a contentious style are more argumentative in their approach, suggesting to the judge that they will argue for their position. Nonverbally a message is communicated to the critic that the speaker is positive that the point of view or thesis is correct; they are committed to their thesis, by the attitude that is revealed in their poise and use of voice.

The individual displaying a dominant style is in command of the situation. The speaker moves with a sense of confidence. This style characteristic includes control of the conversational setting, tending to speak longer, louder and to the point.

The third dimension of effectiveness is communicator image. The effective speaker has a high image of his/her communicative ability. This confidence displays itself in the two previous dimensions. The confidence shows in the approach to the podium in front of the room and in leaving, being attentive to the competition and nonverbally communicating to both competitors and the judge that they know why they are in the round.

The last dimension of effectiveness is impression leaving; (does the judge remember the individual clearly after the round). Obviously, if the individual possesses the previous style dimensions the speaker will

leave a positive impression. The speaker should be aware that the impression leaving dimension is extremely important because the judge completes the ballot after the round and in most cases after the contestant has left the room.

A major point to consider when discussing style is that style does not begin in the round. Since style is both nonverbal and a verbal aspect of communication, the contestant should be aware that behavior out of the round is as important as in the round.

Effectiveness is but one consideration in a competitive environment as Schroeder (1979b) notes. The other major variable is interpersonal attractiveness. This variable does not exclude physical beauty but implies that physical beauty is not the sole concern in interpersonal attractiveness.

The factor analytic procedures identified four communicator style dimensions that correlated highly with interpersonal attractiveness (Schroeder, 1977, 1979b). Those dimensions are open, dominant, communicator image, and impression leaving. The open dimension indicates that the more the speakers can subtly reveal about themselves the more attractive they become to the critic. This may be accounted for due to the increased knowledge or due to a sense of intimacy. The preponderance of research indicates that the receptive, encouraging, and friendly participant is more attractive. Stass and Willis (1967) and Mahrabain (1968) report that male and female judges respond more positively to individuals who look at them when communicating. Holstein, Goldstein and Bem (1971) report that smiling behavior correlates positively with attractiveness. Lerner (1965) found that vocal quality affects attractiveness. Mehrabian (1969) reported closer distances between individuals attractive to one another. Attractiveness has been noted empirically as a usable resource in social influence (French and Raven, 1959; Horai, Naccari, and Fatoullah, 1974; Mills and Aronson, 1965; Mills and Harvey, 1972; Snyder and Rothbart, 1971; and Tedeschi, 1972). Inter-

personal attraction implies more than a simple evaluative reaction to physical attributes; it is but one antecedent to interpersonal attractiveness (Berschied and Walster, 1974). Interpersonal attraction involves interpersonal association (Byrne, 1971; Cooley, 1909; Jennings, 1950; Moreno, 1934; and Newcomb, 1961). Lott, Lott, Reed, and Crow (1970, p.285) develop this associative concept by noting that "liked persons . . . evoke anticipations of pleasant consequences . . . (and) are expected to mediate behavior of an approach nature." Eisenson, Auer, and Irwin (1963, p. 341) note that we "assess persons by their speech behavior: we seek the company of some and avoid the company of others . . . if our emphatic reactions make us uncomfortable, we are apt to avoid the cause of discomfort. If our emphatic reactions are comfortable, we are likely to seek the source in the future." Simons (1973, p. 218) notes the "attraction of a subject to a stimulus person increases as the proportion of his reported attitudinal similarities to the subject increases."

Therefore, the competitor that makes the round enjoyable and expresses attitudes similar to the judge will be more attractive. Dion, Berschied, and Walster (1972) concluded that interpersonally attractive individuals were socially desirable, reporting that attractive persons were perceived as more sincere, more stable, and warmer.

Delivery is an old and often mentioned "canon" or rhetoric; however, very little research appears in print about delivery or effective styles of presentation. This article is intended to provide some information about the communicator style measure and the impact of style on effectiveness and interpersonal attractiveness.

When an individual appears before others, his actions influence the definition of the situation. A person who is attracted to others is interested in proving himself attractive to them, for his ability to associate with them and reap the benefits expected from the association is contingent on their finding him an attractive associate and thus

wanting to interact with him. Their attraction to him, just as his to them, depends on the anticipation that the association will be rewarding. To arouse this anticipation, a person tries to impress others. Attempts to appear impressive are persuasive in the early stages of acquaintance. Impressive qualities make a person attractive and promise that associating with him will be rewarding (Blau, 1964, p. 38).

Therefore, contestants reflecting a high communicator style profile will be more effective and interpersonally attractive to the judge and more successful in forensics and life in general.

References

- Allport, F.H. *Becoming*. New Haven: Yale University Press, 1955.
- Allport, F.H. *Personality*. New York: Holt, Rinehart, and Winston, 1937.
- Berschied, E. and Walster, E. Physical attractiveness. In Berkowitz, L. (ed.) *Advances in experimental social psychology*, (vol. 7). New York: Academic Press, 1974.
- Bienvenu, M.J., Sr. An interpersonal communication inventory. *Journal of communication*, 1971, 21, 381-388.
- Blau, P.M. *Exchange and power in social life*. New York: Wiley, 1964.
- Byrne, D.E. *The attraction paradigm*. New York: Academic Press, 1971.
- Carson, R.C. *Interaction concepts of personality*. Chicago: Aldine, 1969.
- Cooley, C.H. *Social organization*. New York: Scribner, 1902.
- Dion, K.K.; Berscheid, E. and Walster, E. What is beautiful is good. *Journal of personality and social psychology*, 1972, 24, 285-290.
- Eisenson, J.; Auer, J.J.; and Irwin, J.V. *The psychology of communication*. New York: Appleton-Century-Crofts, 1963.
- French, J.R.P., and Raven, B. The bases of social power. In D. Cartwright (ed.) *Studies in social power*. Ann Arbor, Michigan: Institute for Social Research, 1959.
- Giffin, K. and Patton, B. *Personal communication in human relations*. Columbus, Ohio: Merrill, 1974.

- Holstein, C.M.; Goldstein, J.W.; and Bem, J. The importance of expressive behavior, involvement, sex, and need approval in inducing liking. *Journal of Experimental Social Psychology*, 1971, 7, 534-544.
- Horai, J.; Naccari, N.; and Fattoullah, E. The effects of expertise and physical attractiveness upon opinion agreement and liking. *Sociometry*, 1974, 37, 601-606.
- Jennings, H.H. *Leadership and isolation* (2nd ed.) New York: Longmans, Green, 1950.
- Kendon, A. Some functions of gaze-direction in social interaction. *ACTA Psychologica* 1967, 26, 22-63.
- Lerner, M.J. Evaluation of performance as a function of a performer's reward and attractiveness. *Journal of Personality and Social Psychology*, 1965, 1, 355-360.
- Lott, A.J.; Lott, B.E.; Reed, T.; and Crow, T. Personality-trait descriptions of differentially liked persons. *Journal of Personality and Social Psychology*, 1970, 16, 284-290.
- Mehrabian, A. Inference of attitudes from the posture, orientation, and distance of a communicator. *Journal of Counseling and Clinical Psychology*, 1968, 32, 296-308.
- Mehrabian, A. A significance of posture and position in the communication of attitudes and status relationships. *Psychological Bulletin*, 1969, 71, 359-372.
- Miller, L.D. *Perceptual accuracy as a function of communicator style in dyads*. Ph.D. Thesis, University of Michigan, 1975.
- Mills, J. and Aronson, E., Opinion change as a function of the communicator attractiveness and desire to influence. *Journal of Personality and Social Psychology*, 1965, 1, 173-177.
- Mills, J. and Harvey, O.J. Opinion change as a function of when information about the communicator is received and whether he is attractive or expert. *Journal of Personality and Social Psychology*, 1972, 21, 52-55.
- Moreno, J.L. *Who shall survive*. Washington, D.C.: Nervous and Mental Disease Publishing Co., 1934.
- Mortensen, C.D. A report on the construct of speech intensity, a paper presented at the Speech Communication Association Convention, Chicago, 1972.
- Newcomb, T.M. *The acquaintance process*. New York: Holt, Rinehart and Winston, 1961.
- Norton, R.W. Foundations of a communicator style, a paper presented at the Speech Communication Association, Chicago, 1974a.
- Norton, R.W. Communicator style: theory and applications, a paper presented at the Speech Communication Association, Chicago, 1974b.
- Norton, R.W. Foundations of a communicator style construct. *Human Communication Research*, 1978, 4, 99-112.
- Norton, R.W. and Miller, L.D. Dyadic perception of communicator style. *Communication Research*, 1975, 2, 50-76.
- O'Brien, M.J. *Communications and relationships in nursing*. St. Louis: Mosby, 1974.
- Schroeder, A.B. *Effectiveness and attractiveness as a function of communicator style in triads*. Ph.D. Thesis, University of Michigan, 1977.
- Schroeder, A.B. A theoretical foundation of communicator style. *ERIC*, 1979a, ED 168 089.
- Schroeder, A.B. Effectiveness and attractiveness as a function of communicator style in triads. *ERIC*, 1979, ED 180 051.
- Simons, H.W. Introduction: interpersonal perception, similarity, and credibility. In Mortensen, C.D. and Sereno, K.K. (eds.) *Advances in communication research*. New York: Harper and Row, 1973.
- Snyder, M. and Rothbart, M. Communicator attractiveness and opinion change. *Canadian Journal of Behavior Science*, 1971, 3, 377-387.
- Stass, J.W. and Willis, F.N. Jr. Eye contact, pupil dilation, and personal preference. *Psychonomic Science*, 1967, 7, 375-376.
- Stein, K.B. and Lenrow, P. Expressive styles and their measurement. *Journal of Personality and Social Psychology*, 1970, 16, 656-664.
- Tedeschi, J.T. *The social influence process*. Chicago: Aldine-Atherton, 1972.
- Thibaut, J.W. and Kelley, H.H. *The social psychology of groups*. New York: Wiley, 1959.

The Australian and American Courtrooms:

A Challenge for the Student of Nonverbal Communication

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Although a latecomer, the communication researcher finally discovered the jury trial and all its potential for study. The discovery was a particularly exciting find for students of suasive discourse and the past decade has produced a wide range of communication inquiry into one of the United States' oldest and most hallowed institutions. The findings in these "diggings" have by no means been depleted by the rhetorical scholar, and the exploration by the student of nonverbal communication may represent a new and special challenge. These pages offer, then, a brief examination¹ of the nonverbal communication dimensions as they are contrasted between the Australian² and American jury trials with the hope of encouraging future study in this stimulating arena.

The jury trial as a unique communication event. Observing nonverbal communication in any debate setting may be both interesting and productive; however, a jury trial has several communication facets which go beyond a traditional debate forum. First, the jury members are almost always new to the courtroom situation and are either in awe of or intimidated by the anticipation of the duty they are going to be asked to perform. This state likely renders the juror more "vulnerable" or at least more sensitive to matters such as the proximate environmental conditions and the artifactual trappings on the scene.

The jurors, after all, are not there to listen to a debate and then return home; they are the central decision-makers who will decide the fate of an accused person. Thus, the messages and impressions left by proximate and artifactual matters are likely to be more vivid and more significant.

Further, the kinesic dimensions are far more complicated than in any ordinary debate. For example, both verbal and nonverbal messages barrage the jury throughout the course of the trial from (1) each attorney, (2) the judge, (3) the defendant, (4) the defendant's family and other spectators, and (5) a variety of witnesses ranging from police officers to ordinary citizens. The nonverbal matrix during the course of a single criminal trial is so intricate and complicated as to offer a genuine challenge to the serious communication student.

Courtroom artifacts. The typical scene during trial in the U.S. is somewhat barren of artifactual phenomena beyond what one could find in other debate settings. There is, of course, the fact that the judge wears a black robe as his symbol of authority. The advocates on both sides will choose business suits and the defense attorney will likely help the defendant select appropriate clothing, again a business suit (often very similar to his lawyer's) is to be expected. Some lawyers take this issue of dress quite seriously and seek to dress for power and/or credibility for themselves, the witnesses they call, and their client.³ Apparently, these matters can have an impact on jurors during the course of a trial as well as affecting their first impressions.

Even the most casual observer, however, will be struck by the difference inside an Australian courtroom. First, the judge not only wears a "gown" but he also wears a flowing white wig. Correspondingly, both the crown prosecutor and the defense barrister wear gowns and wigs. The standard "uniform" identifies these officers of the court immediately for the jury and stamps each officer with an identifying mark of authority, with the judge's more elaborate head gear being the most dramatic. Little attention is paid to the dress of the

defendant who is not seated with his lawyers during the trial, but (as discussed later) sits in the back of the room in almost total isolation.

This wardrobe for the lawyers seems to give them a certain "facelessness" and also may be somewhat restrictive for them in a nonverbal sense. The significance of these matters may be questionable but their presence is certainly noticeable.

Proximate environmental courtroom factors.

At first glance, one might conclude that a comparison of Australian and American courtroom proximities should prove interesting but yield little more than cosmetic results. Conversely, my observations have led me to believe that jurisprudence and due process can be critically influenced by these factors. I also believe that the proximate environmental conditions present in the Australian courtroom represent deep, substantive contrasts to the American courtroom.

The U.S. setting during a trial is very familiar. The judge sits at his desk at one end of the room and the jury is seated, usually to the judge's left, sometimes both judge and jury being slightly elevated from the main floor. The defense and prosecution advocates are seated in front of the judge or in some way toward the center of the main floor. The defendant is seated with his attorney or attorneys. As pointed out earlier, these main floor participants will probably all be wearing business suits and the jury may find it difficult to distinguish one from the other (including the defendant) until the judge introduces the parties at the outset of the trial.

But the Australian courtroom is different. First, the judge and the jury tend to be elevated several feet above the main floor giving the main floor an "arena" or "pit" atmosphere. Spectators are usually also seated around the arena at both the same and higher levels.

But the defendant is missing! He is placed at the extreme end of the room opposite the judge in the "dock." This is a rectangular enclosure often including a trap

door and stairs descending to a holding cell from which the prisoner is brought.⁴ An armed law officer guards the prisoner. The spectators are actually between the dock and the advocates so that the defendant is farther away from the scene than anyone else in the room.

The ramifications of the dock are dramatic and shocking at first to an American observer. In both countries, of course, the jury is instructed on the meaning of presumption and is told to presume the defendant innocent until proved guilty. That is not difficult for an American juror to do when the defendant sits by his attorney and could be himself confused for a lawyer. But the Australian defendant is more like a "prisoner" in his isolation from the proceedings and it is nearly impossible to imagine a juror being able to grant psychological presumption to him. One sage barrister from Melbourne jokingly told me that the dock is there so that everyone can know exactly "who the guilty one is." My belief is that the dock erodes the concept of presumption and has no place in the courtroom. The setting, it would seem, for a trial should be like that for any other debate and should not include an arrangement which denigrates one side or another.

Kinesic communication system. There are likely subtle intercultural differences between the Australian and American advocates' sending of nonverbal messages to the jury. As already mentioned, the Australian barrister may even, in his required wardrobe, be restricted in his ability to send such messages. It is also possible that the American advocate, so bombarded with the body language "cult," may be somewhat more sensitive in this arena of communication. Some highly refined research study might be productive in answering these questions, but it seems probable that the differences here are slight.

There are two areas, however, where the kinesic differences between the two courtroom scenes appear to be quite distinct. The first lies in the nonverbal coaching of the defendant. The U.S.

advocate often spends considerable time with his client rehearsing the proper nonverbal messages to be sent at appropriate times during the trial. Items such as when to show remorse, rage, disbelief, etc., often are orchestrated carefully. The U.S. defense attorney often finds himself whispering these instructions at intervals during the trial as he finds his client forgetting his "nonverbal lines." Yet, this is almost wholly absent from the Australian jury trial. The defendant isolated in the dock is barely a part of the trial and in this kinesic coaching sense, he is tantamount to being absent. It is only during his testimony, if he testifies, when this aspect becomes a factor.

Yet, there is still another difference between the two courtrooms. In most state courts in the U.S., for example, the advocate has almost unlimited time to interrogate the prospective juror during *voir dire*.⁵ He may during this time ask almost any question he wishes so that he may challenge off those jurors whom he views as less than friendly to his case or cause. When he asks sensitive value-laden questions, he may learn more from the nonverbal response than from the verbal answer. The best American courtroom rhetoricians become extraordinarily skilled in reading the body language of a juror in response to a series of carefully planned questions.

But the Australian system allows for no questions whatsoever during *voir dire*. The Australian barrister, then, must exercise his challenges of a prospective juror based on observing the juror walk from his seat in the courtroom to the jury box. He must judge the prospective juror on his dress, his walk, his posture, etc. The result is that the Australian advocate must make quick judgments about the socioeconomic status, the value belief system, etc. of an individual in order to exercise a challenge or to accept the juror on the panel. One barrister told me, for example, that some crown prosecutors automatically challenged off all "scruffy-looking blokes" on the theory that lower socioeconomic class individual likely would identify better with the defendant. Some defense

barristers, likewise, tend to challenge off those who appear upper middle or upper-class in dress and manner. Admittedly, it may be impossible to determine the impact of these factors on the final outcome of a given trial; still, it is possible to conclude that these differences are neither slight nor inconsequential.

Paravocal factors. Although subtle, there appears to be a tonal or paravocal difference between the Australian advocate and his American counterpart. The Australian as he argues seems to have a certain "matter of factness and non-involvement" quality in his argument. He appears to be laying out options for the jury to consider as opposed to "advocating" a clear position. If my observations were correct, there may be a plausible explanation for this difference. The Australian defense barrister, after all, is not engaged by his client but by the defendant's solicitor. The barrister is only brought into the case just prior to the trial and is involved less closely or allied to the case than he might have been had he been with the defendant from the outset. These tonal or qualitative paravocal nuances may be impossible to quantify or identify in any controlled fashion, but they are likely present at least to some degree. In fairness, however, it should be noted that there are zealously vocal barristers just as there are pale and insipid U.S. advocates.

Conclusion. Whatever else may be true, the contrasting Australian and American courtrooms present a fascinating arena for communication inquiry. The potential seems almost limitless for the serious student of both intercultural and nonverbal communication. In the process, it seems probable that through such study we may not only enrich our insights into human communication, but we may simultaneously enhance our general understanding of the idea of trial by jury as a segment of jurisprudence.

Footnotes

1 My field examination of the Australian jury trial involved the direct examination of trials in process and numerous interviews

with trial lawyers, judges, court administrators, law professors, and law students. No opinion surveys or other devices were employed in any effort to quantify my observations. Rather, during this first trip, I chose to gain a broad communication perspective of trial by jury in Australia which might allow for a more specific research focus at another time. My time was spent largely in the two populous states of Victoria and New South Wales, with their cities of Melbourne and Sydney respectively. I also visited New Zealand and will include a footnote reference to one element of that country's system.

2 For a more complete discussion of the Australian jury trial, see Richard J. Crawford, "All-Powerful Judges, Obsequious Lawyers, and Passive Juries," *Barrister*, 6,

No. 2 (Spring, 1979), 46-49.

3 See especially Chapter 12 entitled "For Lawyers: How to Dress Up Your Case and Win Judges and Juries," in John T. Molley, *Dress for Success*, (New York: Warner Books, 1975), pp. 186-196.

4 Not all docks have these stairs and in New Zealand I found some portable docks which could be rolled away and which often are removed at the outset of a trial in favor of a simple table at the end of the room for the defendant.

5 For a detailed discussion of the verbal and nonverbal intricacies of jury selection in the U.S., see Richard J. Crawford, "Defense Voir Dire: Communication Strategy," 6, No. 3 (May-June, 1979), 5-8.

The Origin of the Genera in Proposition Selection

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Of the many problems that forensic directors must face, the quest for annual debateable propositions is of special importance. The educational value of the program relates directly to the topic selection. If the proposition lacks debateable substance, the inquiry process and the experimentation in devising rhetorical strategies soon deteriorates into a tedious routine of compiling evidence "facts" and a file of eccentric and often bizarre case structures. "Squirreli-ness" is at least partly due to a proposition which is detached from speaker and audience concern. In the years B.C. (Before CEDA), national topic selection became a national commitment for most collegiate debaters and upon it hinged their total absorption if not their rapt enjoyment. Other

factors notwithstanding, the failure to adopt a resolution of substance and durability was the catalyst which finally dissolved the rigid constraints placed on debaters locked into a one-topic pursuit. Though it might be argued convincingly that optional topic choices have improved the system, there are still symptoms of genuine dis-involvement by debaters from their topic. The common assumption that a departure from policy to value (or at least value-laden) resolutions places more demand on the need for more extemporaneous analysis than evidence stacking, is partly born of faith. Faith, however, does not always move mountains, and in this instance, a lot of shovelling remains to be done.

The problem to be examined here is one of determining a procedure for selecting a topic which is meaningful and attractive enough so as to engage the practitioner in a worthwhile pursuit which in turn will promote more creative analysis. The first