

# The Final Round<sup>1</sup>

Everett Rutan

[ejrutan3@ctdebate.org](mailto:ejrutan3@ctdebate.org)

## Connecticut Debate Association

### Joel Barlow High School

October 8, 2016

**Resolved: The Courts should set State education policy.**

## A Note about the Notes

I've reproduced my flow chart for the Final Round at Joel Barlow High School augmented by what I remember from the debate. The notes are limited by how quickly I could write and how well I heard what was said. I'm sure the debaters will read them and exclaim, "That's not what I said!" I apologize for any errors, but I hope debaters will appreciate this insight: what a judge hears may not be what they said or what they wish they had said.

There are two versions of the notes. The one below is chronological, reproducing each speech in the order in which the arguments were made. It shows how the debate was actually presented. The second is formatted to look more like my written flow chart, with each contention running across the page as the teams argued back and forth. It's close to the way I actually take notes during the debate.

## The Final Round

The Final Round was between the E.O. Smith team of David Liu and Tim Watson on the Affirmative and the Westfield/Watkinson team of Ben Mione and Maxwell Shulman on the Negative. The debate was won by the Negative.

### 1) First Affirmative Constructive

- a) Introduction
- b) Statement of the Resolution
- c) Definitions
  - i) State courts should set the funding for schools
- d) Comment: the legislature is conflicted because each supports local interests
- e) Key Voting Issue: which side provides the better solution to the education problem
- f) A1<sup>2</sup>: The current system fails to provide an equal and adequate education
  - i) School should prepare students for life
  - ii) There are wide funding difference between school systems
    - (1) E.g., Fairfield vs Bridgeport
  - iii) Top five spenders rely heavily on local revenue
  - iv) The educational system expands social class disparities.

---

<sup>1</sup> Copyright 2016 Everett Rutan. This document may be freely copied for non-profit, educational purposes.

<sup>2</sup> "A1" indicates the Affirmative first contention, "N2" the Negative second contention and so forth.

- g) A2: A non-local funding system is better
  - i) Equal funding will lead to an equal and adequate education
  - ii) A diverse workforce is the best result for the economy
    - (1) Widen the idea base
    - (2) If the same demographic is always on top, you always see the same ideas
- h) A3: Each child deserves an equal and adequate education
  - i) All students are considered equal
  - ii) This implies they deserve an equal education
  - iii) With A2, expanding educational equality leads to a more productive workforce
- i) Summary by reviewing A1, A2 and A3
- 2) Cross-Ex of First Affirmative**
  - a) Do you have any other definitions? We are talking about Connecticut.
  - b) What about “education policy”? Funding
  - c) Is education policy more than funding? Primarily economics
  - d) That’s all of education policy? It falls under the resolution
  - e) Are the courts mutually exclusive with the legislature in setting education policy? The courts are more efficient and not conflicted.
  - f) Aren’t legislative “conflicts” part of democracy? Yes
  - g) Are the courts accountable? They make informed decisions
  - h) Are judges experts? They attend conferences under our plan
  - i) So unelected judges will make law? They are still accountable, chosen for good reason
  - j) Is there anything else in your plan? [time]
- 3) First Negative Constructive**
  - a) Intro
  - b) A1: Neg won’t argue that the status quo is good
    - i) We intend to simply argue against the Aff plan and the resolution
  - c) A2: Non-local funding is a good policy change
    - i) The issue is it’s a bad route, as the courts are undemocratic
  - d) A3: It violates the constitution if education isn’t equal and adequate
    - i) But the courts can’t legislate, and shouldn’t try to legislate
  - e) N1: Resolution is judicial over reach
    - i) It voids the separation of powers
    - ii) Courts review laws and void them when they violate the constitution
    - iii) Laws are made by the legislature, which is accountable to the people
    - iv) Aff threatens democracy with despotism, disrupts the balance
    - v) Courts are a bad route
  - f) N2: Judges are not qualified
    - i) Consider legislature vs. the judiciary
    - ii) Legislature meets as a group, debates and votes
      - (1) Many have an education background
      - (2) Voters pressure them to make the right decision
    - iii) Judges are not experts in education policy
      - (1) Their expertise is the law
      - (2) Sending them to seminars won’t fix this

- g) N3: Increases the amount of “judicial law”
  - i) Aff has courts stepping into the legislature’s rule
  - ii) Judges are unelected and unrepresentative
  - iii) Judges interpret law, they don’t make law

**4) Cross-Ex of First Negative**

- a) Judges aren’t qualified? No
- b) Are member of the US House of Representatives experts on climate control?  
They aren’t scientists, but they get expert testimony
- c) Don’t judges hear witnesses? Is Aff advocating this? (answer with a question)
- d) Doesn’t it make sense? Not as much as letting the legislature make policy
- e) Isn’t this a strain on the legislature? Democracy not the cleanest way, but the best
- f) Isn’t funding distinct from the curriculum? Different facets of education policy
- g) Are the courts representative? No. The legislature is democratic and representative
- h) Does the legislature have the resources and time to pass necessary legislation?  
Yes

**5) Second Affirmative Constructive**

- a) Intro
- b) Neg then Aff
- c) N1: Efficiency outweighs over reach
  - i) The legislature has failed to solve the problem
  - ii) Now it’s up to the courts
- d) N2: Qualification issue cuts both ways
  - i) Most legislators are not experts either
  - ii) Like courts they depend on testimony
  - iii) Courts can do this more efficiently
- e) N3: Judges are appointed by elected officials
  - i) Therefor they are an extension of the public will
  - ii) The legislature could equalize funding, but the fact is they haven’t
- f) A1: Whatever the intention, reality is unequal funding
  - i) E.g., Cromwell vs Hartford
- g) A2: Cromwell relies 95% on local funding
  - i) They spend \$30,000 per student per year
  - ii) This means better access to education
  - iii) Children don’t vote and can’t relocate
  - iv) Courts may not be perfect, but will be better
- h) A3: We can clearly make education more equal

**6) Cross-Ex of Second Affirmative**

- a) Courts are more efficient? Yes
- b) Doesn’t this sacrifice democracy? It’s not a sacrifice
- c) Some harms to democracy? No, not less democracy. A significant gain in education equality
- d) Do you support judicial action in other areas? Just education policy
- e) Do we want speed or a thorough review? It depends on the need
- f) Doesn’t the legislature make law? Yes

- g) Since they are busy, are they required to solve all problems? The point here is to make better education laws
- h) Every time the legislature fails you'd have the judiciary act? In this case, yes.
- i) The benefits are worth more than the Constitution? In this case yes
- j) How do you know it's a small sacrifice? [Time]

**7) Second Negative Constructive**

- a) Intro
- b) Aff then Neg
- c) The Aff only shows there is a harm
- d) A1: We agree.
  - i) But the debate is not about the harm, it's about the solution.
  - ii) So this contention falls out
- e) A2: This contention doesn't link to the resolution
  - i) Court might switch to non-local funding
  - ii) But there is nothing here about who should do it
- f) A3: We agree children deserve an equal and adequate education
  - i) But the debate is about who should remedy the issue.
- g) Why does "who" matter?
  - i) Aff says courts have time and resources
    - (1) But courts avoid proper review
    - (2) Unelected individuals become education tyrants
  - ii) Judges are undemocratic
    - (1) They are appointed not elected
  - iii) Judges are not accountable
    - (1) Appointed for life, so don't face consequences of decisions
  - iv) Judges are not a diverse group
    - (1) Aff argues diversity is good for decision making
    - (2) Less diverse means worse decisions
  - v) Judges are not representative
    - (1) They are appointed not elected
- h) N1: Montesquieu argued the separation of powers was important for democracy
- i) N2: Judges don't know education or how to make policy
- j) N3: Policy should be made by the legislature

**8) Cross-Ex of Second Negative**

- a) Judges lack ability? They set legal precedent
- b) So judges can't make good decisions? Not good laws
- c) Are legislators able? In specific areas
- d) For all policies? Yes
- e) Are children being harmed now? Yes, and in the past and future.
- f) Why is it undemocratic if judges fix a problem lawmakers have ignored? Judges are appointed, unelected, unaccountable and less diverse
- g) Isn't it just a case of avoiding bad appointments? No, the problem is judges making laws
- h) Don't we solve the problem? It's not appropriate to reform the Constitution this way. Representative democracy is not swift.
- i) Aren't children suffering? Your solution would cause more harm

### **9) First Negative Rebuttal**

- a) Intro
- b) We see three issues: the problem, the solution and authority
- c) Problem: Both sides agree there are problems in education
  - i) This is not an issue in the debate
- d) Solution: Aff argues judges are swift and effective
  - i) Neg says swift yes, effective no
  - ii) Judges are experts in the Constitution and law
  - iii) They don't know education
  - iv) Judges as a group are less diverse, mostly white males
  - v) Judges are less representative, one versus many in the legislature
- e) Authority: Aff infringes on the separation of powers
  - i) It's unconstitutional
  - ii) It's a dangerous precedent
  - iii) "Swift" is often an excuse for a power grab
  - iv) Adopt the resolution and we let judges make law

### **10) First Affirmative Rebuttal**

- a) Key voting issue is to solve the education problem
  - i) Neg agreed with this need
  - ii) Neg has no proposal to do so
    - (1) They don't support the status quo
    - (2) They don't present a counterplan
  - iii) Aff provides a solution
- b) Problem: this is covered by my discussion of the voting issue
- c) Solution: it's not democratic to leave a problem unsolved
  - i) A2 proposes changing the funding system to solve the problem
- d) In cross-ex we discussed judges capabilities
  - i) Judges can benefit from experts
  - ii) Judges will consider the issue properly
- e) Neg has dropped N3

### **11) Second Negative Rebuttal**

- a) Intro
- b) Thank everyone for attending
- c) Inefficiency: legislature and courts have equal access to expertise
  - i) Legislature is better on policy, practical not idealistic
- d) Democracy: elected legislators versus appointed judges
  - i) Appointed for life, so not accountable
  - ii) One bad judge could cause a huge problem
  - iii) Legislators are a diverse group
    - (1) Reflect the population
  - iv) Democratic reform is better than fast judicial reform
- e) Slippery slope: this could lead to judges making all policy
  - i) E.g., gun control, criminal justice
- f) Aff plan could clearly be implemented by the legislature
- g) Aff ignores the future harm done by removing the separation of powers

### **12) Second Affirmative Rebuttal**

- a) Intro
- b) A1: establishes the harm of educational inequality
- c) A2: not touched by Neg.
  - i) We provided examples of next door towns with unequal funding
  - ii) E.g., Cromwell and Hartford
- d) A3: this is the point of the debate
  - i) The courts can fix the problem
  - ii) Constitutional issues are minor points
  - iii) Aff fixes education, Neg does not
- e) Repeat A1, A2 and A3
- f) Neg answered education problem is, has been and will be
  - i) Neg ignores the problem
  - ii) Slippery slope arguments are not relevant