



CRITICAL THINKING

Consider the Verdict

FOURTH EDITION

BRUCE N. WALLER

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Consider the Verdict

Fourth Edition

Bruce N. Waller

Youngstown State University



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CRITICAL THINKING

Preface

Critical thinking is a valuable skill: whether you are deciding what toothpaste to use or what stocks to buy; which job to pursue or which courses you should take; what candidate to vote for or what cause to support; or which reports to believe and which claims to reject. But one of the most important places for careful critical thinking is in the jury room. Serving on a jury is one of the most significant and basic ways that citizens actively participate in their government, and effective jury service requires a great deal of citizens. Jurors must set aside any biases and judge the issues fairly; they must reason carefully about what laws are involved, and how those laws apply to the particulars of the case at hand; they must evaluate testimony, and weigh both its accuracy and its relevance; they must give a fair hearing to both sides, distinguish sound from erroneous arguments, and ultimately reach a just and reasonable conclusion.

The courtroom demands a high level of critical thinking skill, and it is also a fascinating place for studying the key elements of critical thinking: determining exactly what the conclusion is and who bears the burden of proving it; separating false claims from reliable information; and distinguishing between erroneous and compelling arguments. The skills that make you an effective juror will also make you an intelligent consumer, an effective planner, and a wise citizen.

Critical Thinking: Consider the Verdict, Fourth Edition uses the jury room as the focus for developing basic skills in critical thinking, but it does not stop there. Those skills are also applied to the various arguments and issues that arise in our daily lives as consumers, students, investors, planners, and citizens. Thus, while the

courtroom provides the overall framework, most of the exercises and examples are drawn from advertisements, social debates, political campaigns, and editorials. Critical thinking skills are valuable in the jury room, but they are also valuable in the classroom, the boardroom, the laboratory, and the shopping mall.

This book provides a solid and substantial introduction to critical thinking, and Chapters 8 and 9 offer instruction in symbolic logic. Chapters 8 and 9 are self-contained, and you may do either or both at any point. If you wish to concentrate on informal logic, you may skip Chapters 8 and 9 altogether. The boxed exercises and examples scattered throughout the text are not essential to understanding the chapters, but they do present some interesting material and challenging questions. You can skip them, but you'll miss a lot of the fun.

Acknowledgments

I have received help and encouragement from many quarters. The First Edition of the book was completed while I was teaching at Elon College, and my colleagues and students there were generous in their support and aid. John G. Sullivan read several drafts of the book, and provided insightful, challenging, and constructive criticism—while making my work environment congenial and vastly extending my intellectual horizons. Anne Ponder read early drafts of several chapters, and her comments and criticisms were invaluable. Barbara Plumblee taught me the mysteries of word processing, and was always wonderfully patient in interceding when my computer refused to talk with me. Tom Henricks offered much excellent advice and many words of encouragement. Teresa LePors, the omniscient reference librarian, found the answer to every question I posed. Gayle Fishel helped tremendously with design and structure of the book and suggested ingenious ways of organizing examples. Lillian Pollock was astoundingly efficient in the laborious task of securing permissions to reprint.

George N. Schlesinger encouraged me to write the book, gave helpful guidance throughout, and has continued to provide delightful examples for later editions. Allen Belsheim read the entire manuscript of the First Edition, and made excellent suggestions for improvements. Lia Ruttan has been a wonderful source of fascinating cases and examples, particularly from the Canadian courts.

The Second, Third, and Fourth Editions were completed while teaching at Youngstown State University, and my colleagues at Y.S.U. have offered a stimulating collegial atmosphere in which to work. Tom Shipka's enthusiasm for the

project has been constant, and as a remarkably efficient department chair he has smoothed my path in innumerable ways. Brendan Minogue, Charles Reid, and Larry Udell all used the book in their classes, and their suggestions for improvements have been particularly useful. J.-C. Smith was my guide for how to make my computer talk logic, and also a generous source of suggestions for the chapter on symbolic logic. Lisa Rohrbaugh, Jean Romeo, George Heller, Ellen Banks, and Robert Tupaj have been lifesaver reference librarians, answering every question and making it look easy. Joan Iacobacci and Lisa Bloomberg, our student workers, have provided cheerful help on many of the exhausting details. Our department secretary, Joan Bevan is so remarkably and cheerfully efficient that one hardly recognizes how much she constantly contributes; but without her heroic help, I would still be struggling with the Third Edition, rather than finishing the Fourth. Many other friends and colleagues at Y.S.U. have given aid and advice, and have been generous in both intellectual stimulation and warm friendship; special thanks to Nawal Ammar, Chris Bache, Cynthia Brincat, Barrie Bodden, Ray Caciale, Walter Carvin, Stephanie Dost-Barnhizer, Vince Lisi, Sarah Lown, Mustansir Mir, Bernie Oakes, Dan O'Neill, Gabriel Palmer-Fernandez, Mark Shutes, Donna Sloan, Linda "Tess" Tessier, Victor Wan-Tatah, and Robert Weaver.

My students at Elon College and at Youngstown State University have been of enormous help in the preparation of the later editions. They have been kind enough to point out—often with admirable candor—the flaws and difficulties of earlier versions. But, of even greater benefit has been their enthusiasm for the book—the times they have told me of actually enjoying the reading of a textbook and sharing the book with their friends and families, their fascination with many of the exercises, and most of all, their reports of successful analyses of deceptive advertisements, of political speeches, and of attorneys' arguments during subsequent jury duty. A number of students brought me examples from their own reading and experience, and many of those examples are incorporated into the later editions.

My friend Jack Raver has frequently been helpful as a computer consultant, and is one of the most enthusiastic, energetic, and joyful arguers I have ever encountered. I also benefitted from excellent suggestions made by reviewers of earlier editions: Richard McCarty, Michael A. Principe, and Joan Esposito.

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Bruce N. Waller
Boardman, Ohio

Contents

Preface *xiii*

1	<i>Introduction</i>	<i>I</i>
	Critical Thinking in Everyday Life,	<i>1</i>
	Play Fair,	<i>2</i>
	Seating a Jury,	<i>3</i>
	<i>Jury Research: Eliminating or Selecting Bias?</i>	<i>3</i>
	Impartial Critical Thinking,	<i>4</i>
	<i>Deliberating Together,</i>	<i>5</i>
	Critical Thinking: Adversarial or Cooperative?	<i>7</i>
2	<i>A Few Important Terms</i>	<i>12</i>
	Arguments,	<i>12</i>
	Statements,	<i>13</i>

	Premises and Conclusions,	14	
	Deductive and Inductive Arguments,	17	
	Deduction, Validity, and Soundness,	18	
	Induction and Reliability,	20	
3	<i>What's the Question?</i>		25
	Determine the Conclusion,	26	
	What Is the Exact Conclusion?,	27	
4	<i>Relevant and Irrelevant Reasons</i>		33
	Premises Are Relevant or Irrelevant Relative to the Conclusion,	34	
	Irrelevant Reason Fallacy, <i>The Red Herring Fallacy</i> ,	39	
5	<i>The Burden of Proof</i>		49
	Who Bears the Burden of Proof?	49	
	Appeal to Ignorance,	51	
	The Burden of Proof in the Courtroom,	52	
	<i>Presumption of Innocence</i> ,	52	
	<i>When the Defendant Does Not Testify</i> ,	53	
	<i>Juries and the Burden of Proof</i> ,	56	
	Unappealing Ignorance,	57	
6	<i>Analyzing Arguments</i>		64
	Argument Structure,	65	
	<i>Convergent Arguments</i> ,	65	
	<i>Linked Arguments</i> ,	67	
	Subarguments,	69	
	Assumptions: Their Use and Abuse,	81	
	<i>Legitimate Assumptions</i> ,	81	
	<i>Illegitimate Assumptions</i> ,	83	

7	Necessary and Sufficient Conditions	88
	Necessary Conditions,	88
	<i>Distinguishing Necessary from Sufficient</i>	
	<i>Conditions,</i>	90
	Sufficient Conditions,	91
	Necessary and Sufficient Conditions	
	in Ordinary Language,	92
	Conditional Statements,	95
	Alternative Ways of Stating Necessary	
	and Sufficient Conditions,	96
	Both Necessary and Sufficient,	97
	Valid Inferences from Necessary	
	and Sufficient Conditions,	104
	<i>Modus Ponens,</i>	104
	<i>Modus Tollens,</i>	106
	Fallacies Based on Confusion Between	
	Necessary and Sufficient	
	Conditions,	107
	<i>The Fallacy of Denying the Antecedent,</i>	107
	<i>The Fallacy of Affirming the Consequent,</i>	108
	Detecting Argument Forms,	109
8	Symbolic Sentential Logic	115
	Truth-Functional Definitions,	116
	<i>Negation,</i>	116
	<i>Disjunction,</i>	117
	<i>Conjunction,</i>	118
	<i>Conditional,</i>	118
	<i>Material Implication,</i>	119
	Testing Validity and Invalidity,	121
	Punctuation,	124
	The Truth-Table Method of Testing	
	for Validity,	130
	The Short-Cut Method for Determining	
	Validity or Invalidity,	134

9	Arguments about Classes	150
	Types of Categorical Propositions,	151
	Relations among Categorical Propositions,	152
	Venn Diagrams,	154
	Diagramming Statements,	154
	Diagramming Arguments,	159
	Categorical Propositions That Do Not Fit the Standard Form,	172
	Arguments That Do Not Fit the Standard Form,	174
	Translating Ordinary-Language Statements into Standard-Form Categorical Propositions,	176
	Reducing the Number of Terms,	178
10	Ad Hominem Arguments	181
	The Ad Hominem Fallacy,	181
	Nonfallacious Ad Hominem Arguments,	182
	Ad Hominem and Testimony,	183
	Distinguishing Argument from Testimony,	186
	Tricky Types of Ad Hominem,	193
	Bias Ad Hominem,	194
	Inconsistency and Ad Hominem,	199
	Psychological Ad Hominem,	201
	Inverse Ad Hominem,	202
11	Appeal to Authority	212
	Authorities as Testifiers,	213
	Conditions for Legitimate Appeal to Authority,	213
	Popularity and Tradition,	221

	Cumulative Exercises One (Chapters 1 through 11)	228
12	The Truth, the Whole Truth, and Nothing but the Truth	234
	Eyewitness Testimony, 235 <i>Potential Sources of Eyewitness Error</i> , 236 <i>Judging the Honesty of a Witness</i> , 243	
	The Whole Truth, 246	
	Are the Premises True? 250 <i>Digging for Truth</i> , 250 <i>Consider the Source</i> , 251	
	Language, Truth, and Ambiguity, 253 <i>The Fallacy of Ambiguity</i> , 253	
13	Strawman, Slippery Slope, Dilemma, and Golden Mean Arguments: Their Use and Abuse	263
	Strawman, 263 <i>The Principle of Charity</i> , 264 <i>The Strawman Fallacy</i> , 264 <i>Special Strawman Varieties</i> , 268	
	Slippery Slope, 270 <i>The Slippery Slope Fallacy</i> , 271 <i>Genuine Slippery Slopes</i> , 272	
	Dilemmas, False and True, 276 <i>Genuine Dilemmas</i> , 276 <i>False Dilemmas</i> , 277 <i>False Dilemma Combined with Strawman</i> , 281 <i>Consider the Possibilities</i> , 282	
	Golden Mean, 284 <i>The Golden Mean Fallacy</i> , 285 <i>Constructing Golden Mean Fallacies</i> , 285	
14	Begging the Question	292
	The Problem with Question-Begging Arguments, 292	

Subtle Forms of Question

- Begging, 293
- Synonymous Begging the Question*, 294
- Generalization Begging the Question*, 294
- Circular Begging the Question*, 295
- Self-Sealing Arguments*, 297
- Complex Questions*, 300

False Charges of Begging the Question 303

Cumulative Exercises Two

(Chapters 1 through 14) 307

15 Arguments by Analogy 320

- Illustrative Analogy, 320
- Deductive Argument by Analogy, 321
 - The Fallacy of Faulty Analogy*, 325
 - Analyzing a Deductive Argument by Analogy*, 331
 - The Fallacy of Illustrative Deduction*, 335
 - The Fallacy of Analogical Literalism*, 336
 - Caution! Watch for Analogies That Look Like Slippery Slopes!* 338

Inductive Arguments by Analogy, 341

16 Questions of Cause 361

- Distinguishing Causation from Correlation, 362
- The Questionable Cause Fallacy, 366
- The Method of Difference, 367
- The Method of Agreement, 368
- The Joint Method of Agreement and Difference, 369
- The Method of Concomitant Variation, 369
- Causal Contexts, 371

Cumulative Exercises Three (Chapters 1 through 16)	376
17 Thinking Critically about Statistics	395
All the Children Are Above Average,	395
Empty Statistics,	396
Finding the Appropriate Context,	397
Caught Off Base,	398
Statistical Apples and Oranges,	398
Statistical Half-Truths,	400
Surveys,	401
Consider Your Verdict: Comprehensive Critical Thinking in the Jury Room	407
Case One: <i>Commonwealth v. Moyer</i> , Judge Carroll's Summation and Charge to the Jury,	408 416
Case Two: <i>State v. Ransom</i> , Judge Schwebel's Summation and Charge to the Jury,	417 433
Answers to Selected Exercises	435
Index	453

1

Introduction

You evaluate arguments and assertions every day: when choosing your breakfast cereal, evaluating reports on the effects of the caffeine in your coffee, reading your morning paper, deciding how to cast your vote. But of all the occasions for careful thinking none is more important than when serving on a jury. In the performance of your jury duty you will be expected to weigh evidence, consider competing arguments, reason carefully, and decide impartially. Some of your fellow jurors may disagree with your conclusion, so you must be able to evaluate their arguments and argue cogently for your own conclusions. The impact of your decision is profound: Substantial sums of money may be involved, and personal reputations will often be at stake. Your decision may deprive someone of freedom or prevent imprisonment, or it may be a question of life or death. Whatever the case, you and your fellow jurors will play a crucial role in determining whether justice is done or injustice is perpetrated.

Critical Thinking in Everyday Life

While the focus of this book is on jury deliberation, it is not exclusively concerned with courtroom reasoning. Jury deliberation is profoundly important, but it is only a tiny fraction of the critical reasoning you must do. Every day you are bombarded with advertisements, and to find any helpful substance in them you will have to critically winnow out masses of chaff. You are a citizen in a democratic society, and thus it is your responsibility to carefully and rationally evaluate the policies and programs of your local, state, and federal government and to vote intelligently

(and perhaps campaign) for the candidates you consider most capable. You encounter advertisements, the evening news, news magazines, opinion journals, scientific reports, editorials, textbooks—all making claims (sometimes contradictory) and sometimes slanting the material presented. Sorting these out, distinguishing fact from speculation, weighing competing theories and interpretations require the same reasoning skills that are required of an effective and responsible juror.

The subject of this book is critical reasoning in all its applications. The only way to be effective at jury reasoning is to be good at reasoning, and good reasoning requires practice. It is not something that can be turned on and off like a politician's charm. Critical thinking cannot be hoarded for use exclusively in the jury room. Use it or lose it.

In New South Wales, the defendant was charged with the theft of several cows. The jury finished their deliberations, and returned to the court with this verdict: "Not guilty, if he returns the cows." The judge was outraged, and ordered the jury back for further deliberations. The jurors, deeply offended, soon returned with a new verdict: "Not guilty, and he doesn't have to return the cows."¹

Play Fair

The first requirement for examining arguments intelligently—whether as a voter, a consumer, a reader, or a juror—is to be fair in your evaluations. Bias and prejudice close minds and stifle critical inquiry; the first task in good critical reasoning is to eliminate such bias.

At some point you will be in the jury box, and before the jury is impaneled you will be asked a few questions: perhaps by the judge; by the district attorney, and by the defense counsel if it is a criminal case; by lawyers for the plaintiff (the person suing the defendant) and for the defendant in civil suits. The idea is to seat a fair and impartial jury. This process is called the *voir dire*. (*Voir dire* is French, meaning "to see, to speak." However, *voir* is a corruption of the Latin *verus*, meaning "true"; thus the original meaning is "true talk."²) The *voir dire* process is supposed to detect any bias or narrowmindedness among potential jurors.

If the defendant is your lover, or if you will lose money if the plaintiff wins, or if the defendant recently ran off with your spouse, then it might be more difficult for you to remain completely impartial in considering the case. If from reading newspaper reports you have formed an unshakable conviction concerning the guilt or innocence of the accused, you will not be an open-minded juror.

Philadelphia Assistant District Attorney Jack McMahon advises rookie prosecutors on selecting a jury:

My opinion is you don't want smart people [on the jury]. Because smart people will analyze the hell out of your case. They have a higher standard. They hold you up to a higher standard because they're intelligent people. They take those words "reasonable doubt" and they actually try to think about them. You don't want those people. You don't want people who are going to think it out.³