

THE SPEECH FOR THE DEFENSE AS A SINGLE AND INTEGRAL WHOLE

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Abstract: The article examines the main means of formulating the content of the speech for the defense: the composition and the language of speech. The defense speech is considered within the framework of speech genre as a complete informative speech with a certain logical constructions.

The composition of the speech for the defense is the organization of the material constituting its content, which is represented in a specific system. The composition is determined by the speaker's goals and the logical conception of the speech. The integrity of the speech is related to its logical construction, focusing on the basic ideas, designing individual semantic fragments and the logical sequence of ideas. N.N. Kokhtev believes that "... the speech is presented to the listener as a complete composition in which each semantic unit takes its place. The speech arrangement is not subject to a formal scheme of composition, but its ideological content" [2, p. 42].

The ancient compositional canon singled out in the judicial speech the following parts: introduction, narrative, proof, refutation, and conclusion. Cicero deduced composition from the nature of rhetoric itself, which demanded that the speaker "first made an introduction, then provided a clear explanation and evidence, reinforcing the arguments and refuting the counterarguments. Conclusions and peroration must be made at the end of the speech" [6].

Each of the compositional parts is subject to the general conception of the speech, and also has specific tasks. In rhetoric composition parts are considered as independent rhetorical arguments. The canon of their arrangement is not specifically rigid but critical for the overall understanding of the principles of speech construction.

The defense speech is a single and integral whole. The main means of its construction are the composition and the language of the speech with integrity, consistency; conciseness and clarity as the main requirements.

"The clarity" of the speech is determined by its clear structure, as well as the simplicity, accuracy of verbal expression of ideas. Clarity contributes to the distinction between the different parts of the speech. Imperceptible transition from one part to another makes the special topics of the speech elusive to the listeners. Clear distinction between the parts of those speeches contributes to a better perception of the speech as a whole by the audience.

“The conciseness” of the speech does not depend on how long it takes to make it, but on the ability to present the ideas concisely. A fundamental rhetoric requirement for a good speech is the appropriateness of speech and its relevance to the facts.

The defense speech is divided into three main parts: the introduction, the body (main part) and the conclusion.

The introduction of the defense speech is supposed to communicate to the judges the nature and the significance of the case, as they are understood by the speaker, to introduce them into the circle of those issues that will form the topic the subsequent exposition. The introduction is a compulsory compositional part of the judicial speech. Its task is to draw the attention of the audience and prepare the judges for the perception of the material and the establishment of communicative contact. Everything in the introductory part of the speech (including the compositional arrangement of micro text, the speaker’s self-sentiment, etc.) is subordinated to the task of establishing a communicative contact with the court and the audience.

The main part of the speech is conventionally divided into several sections: narrative, refutation, presentation, evidence and arguments. The topic of the speech and its content are concentrated in it.

The narrative is an important part of composition; it is appropriate in a defense speech in cases with a fairly complicated plot and varying interpretations from the standpoint of the prosecution and defense, i.e. the defense needs to build a convincing version of the case.

The rules of constructing the narrative were developed by the ancient rhetoric. They are as follows:

- choose the point of view which is the most beneficial for presentation;
- use the most plausible evidence;
- speak briefly and figuratively;
- remember that the interest in the speech depends on the interest in the narrative.

The narrative is different from other compositional parts by the specific nature of stylistic and logical organization of the fragment of the speech; it has a methodological focus, as the presentation of the case version is a special persuasion technique. The necessary quality of a good narrative, according to Quintilian, is “evidence”. The concept of evidence more accurately reflects what many the authors call plausibility.

K.L. Lutsky, commenting on Quintilian’s recommendations noted that “the truth is not always plausible, therefore, it is not enough to tell it, but you have to make it more plausible. The circumstances of the case should be set so as to prepare the minds of the judges to the evidence that will be presented in the future” [4, p. 45].

Plausibility in presenting the material of the case depends on the sincerity of the speaker, the logic of the narrative, the availability of the evidence on the case and the so-called “truth of life”.

Plausibility is the procedural correctness, i.e. the described event cannot be represented in any other form. The narrative depends entirely on the construction of the speech, the logical verbal evidence. The logic of human actions and circumstances, the logic of the participants’ motivation, the logic of the origin of evidence is the subject of the narrative. The attorney’s speech is considered as arguments in favor of the investigation methods and the ways of understanding the case.

Aristotle believed that the main elements of the speech are oratorical presentation and the method of persuasion. At the same time he pointed out that presenting “... the facts that are known to everyone, it is necessary to remind them briefly, but for the majority of cases the detailed story is not essential”. Such an approach to the narrative

was determined by the early rhetorical paradigm according to which “in the rhetoric only the evidence embodies the characteristics of the public speech, and all the rest is its accessories” [1, p. 157].

A modern judicial speech does not quite fit into this paradigm, since the narrative itself can be regarded as a separate argument.

A speech can be constructed as a narrative, if it presents a convincing version that can be developed through the factual material based on evidence.

The proof defines the structure of the entire speech for the defense. It reveals the logic of events investigated by the court. Making the transition from the narrative to the system of argumentation, the defense may focus solely on the faithfulness and indisputability of the presented facts; place the logical and legal emphasis on the evidence that primarily occupied the attention of the court in the narrative. It becomes possible to provide meaningful evidence.

The judge’s conviction, in some cases, can be formed solely by the logic of the arguments. If such a situation is obvious, then the composition of speech is reduced to a refutation and confirmation.

Argumentative part of the composition is not essential in every speech. Usually it consists of “refutation” and “confirmation”, or it can be limited to one of these methods of constructing the proof.

Refutation as well as the narrative can be either rejected by the speaker because of the procedural irrelevance, or it can be presented as a separate part of the speech for the defense, it can also be adopted as a compositional framework, or it can be used as a scheme of the narrative.

Refutation speech, in contrast to the narrative, does not contain detailed descriptions of the events; it is aimed at the destruction of the prosecutor’s arguments.

The basic principle of constructing a refutation speech fits into the general rules of canonical construction expressed by Quintilian: “The essential prosecutor’s argument should be refuted, while the non-essential one should be rejected as irrelevant” [3, p. 389].

The final part of any defense speech is given special attention. Whatever version of the compositional construction is discussed the conclusion is always quoted.

The conclusion is pronounced to draw the court's attention to the overall picture of the case and the most important defense arguments to formulate briefly the upcoming verdict. Quintilian advised: “To conclude a speech you have to repeat briefly the main thing, strengthening the ideas and figures – there is no need to show distrust for the memory of judges” [3, p. 418].

Options for the speech conclusion, even on the same case are different. However, the requirements for this compositional part of the defense speech can be formulated as follows: the conclusion of the speech must be compressed, bright, and convex, it must present the accurate reproduction of the main provisions of the defense, it must be argumentative but slightly pathetic to touch the feelings of the judges and the jury.

Moral and emotional impact of the speech is enhanced in its conclusion, where it reaches its climax. Persuading the court is not only logical but also emotional process. According to G.M. Reznick, “... thinking is never independent of emotions and feelings ... Feelings trigger mental work” [5, p. 93].

The ancient orators had speech digressions. Quintilian distinguished this technique as a singular composite structure: “The digression is the presentation of extraneous stuff, which is not essential but relevant for the defense in the case” [3, p. 247].

K.L. Lutsky formulated the following requirements for digression in judicial speeches: “Speech digression in court should be rare and reasonably brief. It should logically come from the content of the speech to seem almost necessary” [4, p. 48].

Thus, the composition of the defense speech is determined by the direction of the material, the nature of the case, the atmosphere of the process, especially the perception of the court and the listening audience.

Today speeches in court are rarely constructed on such a compositional canon. The composition of judicial speeches has changed with the introduction of the stage of judicial pre-investigation which in its turn has led to the changes in the criminal procedures. Under the current procedure, each speech is a presentation of the report on the investigation made by each party; as a result, the judicial speech cannot be modeled on the ancient orators' canon.

However, today the theoretical concepts of judicial speech composition are greatly indebted to the rhetorical rules that emerged from creative thinking and do not contradict canonical foundations of prosecution and defense. The methodological contents of the parts of the ancient compositional canon influenced the compositional structure of modern judicial speeches. At present, the criminal defense attorney's speech is classified as deliberative speech by type and judicial speech by nature. It's similar to a formal speech, which is rigidly determined by the genre and the specific situation of professional activity. Defense speech is an informative speech, reflecting the fragments of the existing reality.

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Защитительная речь – единое речевое, целостное произведение

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Ключевые слова и фразы: античный канон; аргументативность; защитительная речь; коммуникативность; композиция; логика; опровержение; повествование; речевой жанр; текст.

Аннотация: Рассмотрены основные средства, формулирующие содержание защитительной речи: композицию и язык речи; защитительная речь в рамках речевого жанра как целостная информативная речь с определенным логическим построением.

Verteidigungsrede als einheitliches und ungeteiltes Werk

Zusammenfassung: Im Artikel werden die den Inhalt der Verteidigungsrede formulierenden Hauptmittel: die Komposition und die Redesprache betrachtet. Die Verteidigungsrede wird in den Rahmen des Redegenres als ungeteilte informative Rede mit der bestimmten logischen Konstruktion betrachtet.

Plaidoirie – ouvrage du discours unique et achevé

Résumé: Dans l'article sont examinés les essentiels moyens formulant le contenu de la plaidoirie: composition et langage du discours. Dans le cadre du genre du discours la plaidoirie c'est un discours informatif unique et achevé avec une composition logique.

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