

# *Agricultural Law - Rhetoric handout*

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*October 13, 2016*

All knowledge depends on memory, and we shall be taught to no purpose if whatever we hear escapes from us. It is the power of memory that brings before us those multitudes of precedents, laws, judgments, sayings, and facts of which an orator should always have an abundance and which he should always be ready to produce. Accordingly, memory is called, not without reason, the treasury of eloquence.

- Quintilian

**T**HIS handout introduces you to some basic principles of rhetoric for oral presentation. Rhetoric is the art of persuasion. It is one of the original 7 liberal arts. Training in rhetoric has formed part of the training of the legal profession since ancient times. The need to make speeches before a court of law necessitated some form of training in public speaking and persuasion. Under the influence of American writers in the 19th century western rhetoric moved away from an emphasis on public speaking and towards an attempt to apply it to written text. We will return in this class to the classical literature with its emphasis on public speaking.

In china, the rules of rhetoric were developed Chen Kui 1128-1203 in the Wen Ze 1170 陈《文则》 and later western Memoria was introduced to China by Matteo Ricci in Xi Guo Fa 西国法.

In the medieval canon the 7 liberal arts were broken into the Trivium: Logic, Grammar, Rhetoric and the Quadrivium: Arithmetic, Geometry, Music, Astronomy.

Another earlier example of chinese rhetoric scholarship is the 鬼谷子

RHETORIC, is traditionally divided into five parts:

- invention
- arrangement (plan the talk)
- expression
- memory
- delivery
- action

## *Memory*

The first to teach an Art of Memory is said to have been Simonides, of whom a well-known story is related: That when, for a stipulated sum, he had written in honor of a pugilist who had won the crown, an ode of the kind usually composed for conquerors in the games, half of the money was refused him because, according to a practice very common

Western Rhetoric and particularly the western art of memory was introduced to China by the Jesuit Priest Matteo Ricci 利玛窦 in the 17th century

with poets, he had made a digression in praise of Castor and Pollux, for which reason he was told to apply for the other half to the deities whose praises he had chosen to celebrate. 12. The deities, according to the story, paid it. During a splendid entertainment in honor of that victory, Simonides, being invited to the banquet, was called away from it by a message that two young men, mounted on horses, earnestly requested to see him. 13. When he went out, he found nobody, but he discovered, from what followed, that the deities were not ungrateful to him, for he had scarcely passed the threshold when the banquet room fell down upon the guests and crushed them so horribly that those who went to look for the bodies of the dead, in order to bury them, were unable to recognize, by any mark, not only their faces, but even their limbs. Simonides, by the aid of his memory, is said to have pointed out the bodies to their friends in the exact order in which they had sat. - Quintilian Institutes of Oratory Book 11, Ch. 12

### *Arrangement*

A speech has two parts. You must state your case, and you must prove it. You cannot either state your case and omit to prove it, or prove it without having first stated it; since any proof must be a proof of something, and the only use of a preliminary statement is the proof that follows it. Of these two parts the first part is called the Statement of the case, the second part the Argument...

- Aristotle, Rhetoric, Book 3, Part 13.

Traditional division or arrangement of a speech is more complicated (parts of a speech):

- Introduction
- Statement of facts
- Division
- Proof
- Refutation
- Conclusion

### *introduction*

INTRODUCTIONS, are of two kinds, the **direct opening** or the **subtle approach**. Which approach you should use depends on your cause.

There are four kinds of causes: honourable, discreditable, doubtful, and petty.

### *The Direct Approach*

Use the direct approach the audience will be in your favor or you can simply begin with the law or an argument supporting your case. Doubtful (partly honourable partly discreditable) causes demand the direct approach as well, you need to establish goodwill Petty causes (unimportant matters).

ONLY USE THE SUBTLE APPROACH WHEN YOUR CAUSE IS DISCREDITABLE.

YOUR AIM IS TO make the listener **receptive, well disposed and attentive**.

Tell the listener what you are going to discuss, make it clear they will hear something new and important and that it relates to them.

### *The Subtle Approach*

Use the subtle approach when:

- 1) when your cause is discreditable (subject matter alienates the hearer)
- 2) the listeners have been convinced by previous speakers
- 3) the listeners are tired

1) Introduction, concede some ground hypothetically, you can argue that if what your opponent says were true then indeed they would have case then show why it isn't true.

2) If the listeners appear convinced by your predecessor use INDECISION, appear to be unsure of yourself, then gain confidence as you speak.

3) If the listeners are tired start with a story or a joke.

### *Statement of facts*

**BREVITY, CLARITY, PLAUSIBILITY**

### *Proof*

There are three types of issue:

- Conjectural
- Legal
- Juridical

Conjectural issues involve disputes of the facts, legal disputes on textual matters, or the reading of legal texts, juridical disputes concern disputes over the rightness or wrongness of an act.

Legal issues pertain to the following controversies:

- Letter and spirit (of the law)
- Conflicting laws
- Ambiguity
- Definition
- Transference (more time, need, change location or judge)
- Reasoning from analogy (e.g. a similar case)

Juridical issues

- Absolute issues (the act itself was right, regardless of other matters)
- Assumptive issues (acknowledgement, rejection of responsibility, shifting guilt, comparison with alternative courses)

### *Progymnasmata*

Quintilian on Progym's:

Other points, whether treated in real or fictitious discussions, are much the same, for the fault of any law must be either in words or in matter. 37. As to words, it is questioned whether they be sufficiently expressive, whether there is any ambiguity in them, as to matter, whether the law is consistent with itself, or whether it ought to have reference to past time or to individuals. But the most common inquiry is whether it be proper or expedient. 38. Nor am I ignorant that of this inquiry many divisions are made by most professors; but I, under the term proper, include consistency with justice, piety, religion, and other similar virtues. The consideration of justice, however, is usually discussed with reference to more than one point; for a question may either be raised about the subject of the law, as whether it be deserving of punishment or reward or about the measure of reward or punishment, to which an objection may be taken as well for being too great as too little. 39. Expediency, also, is sometimes determined by the nature of the measure, sometimes by the circumstances of the time. As to some laws, it becomes a question whether they can be enforced. Nor ought students to be ignorant that laws are sometimes censured wholly, sometimes partly, as examples of both are afforded us in highly celebrated orations. 40. Nor does it escape my recollection that there are laws which are not proposed for perpetuity, but with regard to temporary honors or commands, such as the Manilian law, about which there

is an oration of Cicero. But concerning these no directions can be given in this place, for they depend upon the peculiar nature of the subjects on which the discussion is raised and not on any general consideration.

Attacker:

- unclear
- impossible
- unnecessary
- counterarguments
- unjust
- cost
- unacceptable
- morally repugnant

Defender:

- clarity
- legality
- just
- utility
- practicality
- moral acceptability

### *Assignment*

Your task: 10-15 minute talk attacking or defending the proposed law (State Question 777 on the right to farm) addressing the above points. The talk should be structured along classical lines, you may use the Aristotelian arrangement (Statement of facts + Proof) to keep things simple. The attacker should address the points listed above for the attacker and the defender should address the points listed for the defender. The statement of facts should be brief, clear and claimed facts should be plausible. Proofs should be logically coherent and used to establish the points claimed. Evidence of drawing rhetorical approaches to proof should be shown.