

## A Study of the Thematic Progression in Legal English Discourse

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### Abstract

Being a special kind of language application, legal English enjoys its unique stylistic features, which are concise, logic, coherent and rigorous. It is quite meaningful and fruitful to study these features in discourse, which is the study of discourse analysis. System-functional linguistics provides distinguished perspective for discourse analysis, and once Halliday, the founder of System-functional linguistics, pointed out the system-functional grammar and its theories can be applied to legal English studies. This essay mainly discusses, analyzes and focuses on the discourse analysis of legal English and takes *The Constitution of the United States of America* as corpora to study from the perspective of Thematic Progression. It tries to explain how the Thematic Progression worked in developing the legal English discourse and how it helped legal English discourse to reach its features. Meanwhile it also hoped to inspire the application of linguistic theory into legal English studies.

**Key words:** Thematic progression; Legal English discourse; System-functional linguistics; *The Constitution of the United States of America*

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### INTRODUCTION

Legal English covers a wide range of categories: constitutions, rules and regulations, legal contracts, economic contracts, product guarantees, etc. The linguistic study has classified legal English discourse into three categories, namely: legislative discourse, judicial discourse and court discourse (Liao, 2004). Among them, the legislative discourse mainly refers to the legislation enacted by the legislative department, including various legal provisions, decrees, regulations, regulations and so on. The judicial discourse mainly refers to the interpretation and approval of the judicial authorities under the laws and regulations. The discourse in court mainly refers to the interactive language used by judges, lawyers and other legal practitioners in court (Ibid). All the three kinds of discourses are rigorous, solemn, logical in style, and avoid ambiguity. In order to convey complex information, a variety of connectives are logically arranged in sentence, without any misinterpretation. The legal discourses are commonly appeared in the long sentence and complex sentences. Sometimes a clause in a legal document or article constitutes only one sentence. Thus, the characteristics of legal English discourse lie in its number and intensity of the paragraphs and statements.

### 1. LITERATURE REVIEW

#### 1.1 Theme and Rheme-From the System-Functional Perspective

Vilém Mathesius, the Czech linguist, literary historian and co-founder of the Prague Linguistic Circle, is considered one of the founders of “structural functionalism” in linguistics (Marek, 1999). Mathesius first proposed the concept of “rhetoric-rhetoric” (Firbas, 1964) in order to analyze the different roles of different elements of the sentence in language communication. He regarded the beginning of the sentence in the process of communication

as a special role in the composition of the discussion: the starting point, or in other words, the theme. Other components of a sentence are rheme.

Halliday (2000) the famous British linguist developed this “theme-rheme” theory. Halliday defined “theme” from the system-functional point of view. Different from Mathesius, Halliday argued that subject is the starting point of the message and the main concern of the clause. (“Clause” here is the linguistic term). The same with Mathesius, Halliday regarded rhetoric as the starting point of information organization in a sentence, while he also regarded it as the topic of the sentence. Moreover, theme is divided into three categories: simple theme, multiple themes and clause theme (Zhu & Yan, 2001). Hu Zhuanglin held that “Halliday’s main contributions are: (a) distinguishing of the theme- rheme theory from the theory of information, the former is on the syntax layer, the latter on the phonetic layer; (b) proposing that theme is the starting point of communication, and the rest are rhemes; (c) setting up the concept of theme-rheme which means theme-rheme does not equal the concept of subject-rhyme, and subject is just one of the functions which expresses the functional concept of theme; (d) making summaries and organizations of various forms of themes in all kinds of sentence patterns” (Hu, 1998).

### 1.2 Thematic Progression

Since the vast majority of discourses are composed of two or more sentences, for a single sentence and the one before or after, there will be some kinds of connection and changes among the themes and rhemes, rhemes and rhemes and themes and rhemes. This is what we called progression. With the advancement of themes, the whole discourse gradually unfolds till forming of a complete meaning (Zhu, 1995).

In 1969, Czech linguist F. Danes sorted out complex rhetorical relations in discourse, and proposed the “Thematic Progression” in three basic models: constant theme progression, linear progression and derived theme progression (Danes, 1974). Fries, van Dijk, Halliday etc. also made contribution in this field. Since the system-functional linguistics introduced into China, Chinese scholars put forward their own views and made supplements on Danes’ model: Zhu (1995) proposed four basic models of the thematic progression according to his theoretical framework. Xu (1982) divided the progression into four types: the parallel development model, the continuous development model, the concentrated development model and the overlapped development model. Huang (1995) made seven types of thematic progression.

## 2. THEMATIC PROGRESSION IN LEGAL ENGLISH DISCOURSE

In linguistic studies, especially the system-functional linguistic studies, most commonly, the thematic

progression is been divided into five categories or five models, namely:

a) Continuous development (parallel)model: The same theme, different rheme, that is, all the following sentences have the same theme with the first sentence, and the rhemes of them are different.

b) Linear development model: Rheme of the first sentence is the theme of the later sentence, rheme of the second sentence become theme of the third sentence and so on.

c) Derived development model: All the minor themes and rhemes of the rest sentences derived from theme and rheme of the first sentence.

d) Continuation and parallel development model: The first and the last theme are the same, but are separated by a linear sequence of theme developments.

e) Coherent development with interruptions model: The sequence of theme developments is interrupted by a new theme never mention before (Yang, 2004, p.8).

### 2.1 Continuous Development Model

The feature of continuous development model in thematic progression is that all the themes have the same characteristic, which is also known as parallel or radial type. Each sentence has the same theme, and rheme can be different, as follows: (T for theme and R for rheme, hereafter)

**Table 1**  
**Continuous Development Model**

T1	-----	R1
T2(=T1)	-----	R2
Tn(=T1)	-----	Rn

Thus the continuous development model in thematic progression has a strong commandability. It is for this feature that why many the legal provisions takes this development model to develop the legal English discourse. Example can be seen as follows:

*Each House (T1) shall be the judge of the elections, returns and qualifications of its own members,*

*Each House (T2) may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.*

*Each House (T3) shall keep a journal of its proceedings, ...be entered on the journal.*

(Section 5. Article I, *The Constitution of the United State of America*<sup>1</sup>)

Theme of each sentence in this example is “House” and they are all the same. This theme states the obligations and responsibilities of the members in the House of

<sup>1</sup> All the examples in this essay are from *The Constitution of the United States of America* Delegates of the Constitutional Convention. (2016). *The Constitution of the United States and The Declaration of Independence*. New York: Racehorse Publishing.

Representative and the Senate granted by the Constitution of the United State of America. The same theme clearly highlights the central statement in the Constitution of the United State of America. This development model can fully emphasize the obligations and responsibilities in legal English discourse.

## 2.2 Linear Development Model

According to the linear development model, rheme or part of rheme of the preceding sentence is the theme of the latter sentence, and rheme of the second sentence is theme of the third sentence, thus this model is also known as “continuation” or “ladder”. It is forming a sequence of development as a line or it demonstrates a form of development as a ladder. The former one’s ending is the next one’s beginning.

This type of development has a strong logic and reasoning power. The first theme proposed a logical proposition. It is followed by the narrative proposition, and the following themes try to make analysis.

**Table 2**  
**The Linear Development Model**

T1----- R1
T2(=R1) -----R2
Tn(=Rn-1) -----Rn

In this model, there is a close and logical connection between theme and rheme, example as follows:

*The House of Representatives (T1) shall be composed of members chosen every second year by the people of the several states, (R1) and the electors (T2) in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature (R2).*

(Section 2, Article I, *The Constitution of the United State of America*)

In the example of linear development model, after specifying the conditions of becoming a member of the House of Representatives, the requirements of number of elected members in the House of Representatives are immediately stated. R1 in the first sentence acts as T2 in the second sentence, that is, in the second sentence; the rheme in the preceding sentence is further developed and becomes the topic.

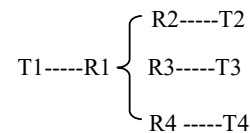
## 2.3 Derived Development Model

The derived development model forms a generalized structure with its themes and rhemes. The general theme or rheme of the very first (or beginning) sentence produces minor themes or rhemes in the following sentences, which are defined as the sub-theme to illustrate the general-specific relationship between the first theme or rheme and the following themes or rhemes. The sub-theme is derived from the general theme or rheme. Then the sum of these sub-themes is the general theme or rheme, example as follows:

*Immediately after they (T1) shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes (R1). The seats of the Senators of the first class (T2) shall be vacated at the expiration of the second year; (R2) of the second class (T3) at the expiration of the fourth year; (R3), and the third class (T4) at the expiration of the sixth year; so that one third may be chosen every second year (R4).*

(Section 2, Article I, *The Constitution of the United State of America*)

This thematic progression development can be seen in the following figure:



**Figure 1**  
**The Derived Development Model**

From this example, we can see the statement firstly classified the Senate members (T1, “they” in the statement) into three classes (which is R1): First class, second class and third class, thus the R1 can be derived into T2, T3, T4, respectively, to elaborate different classes clearly. But all the T2, T3 and T4 are just a branch of R1. It can be shown in the following chart.

## 2.4 Continuation and Parallel Development Model

Continuation and parallel development model is the variation of the first and second type of development models. According to this model, in a discourse the first and the last theme are the same, but they are separated by other themes, which have a parallel and continuous or other characteristic. For example:

*The House of Representatives (T1) shall be composed of members chosen every second year.... No person (T2) shall be who shall not have attained to the age of twenty five years.... Representatives and direct taxes (T3) shall be apportioned among the several states....The actual Enumeration (T4) shall be made within three years after the first meeting of the Congress of the United States... When vacancies happen in the Representation from any state, the executive authority (T6) thereof shall issue writs of election to fill such vacancies. The House of Representatives (T7) shall choose their speaker and other officers...*

(Section 2, Article I, *The Constitution of the United State of America*)

In the entire discourse, there are various themes: T1 began to state the regulation of the House of Representatives, and then it expanded to T2 to T6. T2 states about the age for being a House of Representative; T3 about the distribution of numbers of members in the House of Representative among all the states; T4 mainly states about the Enumeration, and T5 and T6 discuss about the number of members and right and duty of the House of Representatives. Finally T7 returned back to the beginning theme-the House of Representatives itself. In this way the Continuation and Parallel Development

Model worked and convey the exact requirement to the reader of the Constitution.

### 2.5 The Model of Coherent Development With Interruptions

Different from all the models discussed about, the model of coherent development with interruptions does not bear a very obvious regularity. Its rule mainly lies in the interruption in development. Unlike the former kind of model: Continuation and parallel development model, in this model, the interrupted theme and rheme will not be continued in the following statements. For example:

*A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, (T1) shall on demand of the executive authority of the state.... No person shall be a Senator (T2) who shall not have attained to the age of thirty years....The Vice President (T3) of the United States shall be President of the Senate, ... . The Senate (T4) shall choose their other officers....*

(Section 2, Article IV, *The Constitution of the United State of America*)

In this legal English discourse, T1 and T2 form a continuum about the crime of treason and to put forward the situation for common people who commit this kind of crime. But it is clearly to be seen that T3 turned into the concept this crime from the perspective of vice president. Then the T4 continued the statement about R3, but did not return to the perspective of common people who committed crime of treason in the T1 and T2. Since the T3 broke the coherent statements made by T1 and T2, the theme or rheme never returned but started a new statement and form its own coherent discourse. On some degree this kind of thematic progression development is regards as a combination of different kinds of development model (Models 1-4). This is why in some studies there only list four kinds of development model rather than five kinds.

## 3. FUNCTION OF THEMATIC PROGRESSIONS MODELS IN LEGAL ENGLISH DISCOURSE

The analysis of *The Constitution of the United States of America* as a legal English discourse illustrates that different models of development in thematic progressions plays different effects in legal English discourse.

### 3.1 Function of Continuous Development Model

In *The Constitution of the United States of America* and other legal discourses, the continuous development model of theme or rheme is the most frequently used model. It featured as to make a discourse, esp. legal discourse strong, structured, and profound. This development model reflects the rigorous and accurate characteristics of legal

English discourse, and becomes the key model of thematic progression in legal English discourse.

### 3.2 Function of Linear Development Model

The linear development mainly makes specific provisions or statements or items of the legal English discourse more stringent. It avoids a loophole in some special circumstances and enhances the logic and ration. With increasing of complex legal situation in nowadays' law issues, new types of cases keeping on emerging, linear development will be reflected in more and more legal English discourse.

### 3.3 Function of Derived Development Model

The derivative development model increases the persuasiveness of discourse, and can more accurately reflect the legal statement. It also works for making a better understanding of the legal discourse by the public, and it is often able to make the complex abstract legal content specific and clear.

### 3.4 Function of Continuation or Parallel Development Model

Continuation or parallel development is a compound thematic progression model, which can be used to make expression of complex meaning, and making legal texts free from lengthy and repetition. It also lays emphasis on important legislative points.

### 3.5 Function of the Model of Coherent Development With Interruption

Coherent development with interruption mainly helps to convey complicated meanings. It makes the behavior clear and concise. To a certain extent, it improves the monotonous deficiencies in the legal language, but because it may lead to the inadequacy of argument and the impact of coherence, it may have limited appearance in legal discourse.

## CONCLUSION

Through the studies of thematic progression in the viewpoint of system-functional linguistic, the essay tried to take the US Constitution as an example of legal English discourse to make analysis and exploration and to discuss its stylistic features. There is no doubt that the study of the thematic progression is of great help in the coherence of discourse and semantic structure analysis of all kinds of discourse (Zhu & Yan, 2001) Thematic progression plays an important role in the organization, development and coherence of legal English discourse and can fully reflect the feature of legal English discourse, which are: accurate, rigor, clarity, coherent, logical and so on. Legal English discourse displays a typical rule, that is, the relying on "a tendency, that is, what kind of pattern is usually used in a certain type of discourse" (Zhu, 1995). Thus it is why the legal English discourse would make a

good illustration and demonstration of the processing of thematic progression. Of course, legal English discourse can also be analyzed from a variety of perspectives and in various ways, such as cognitive linguistics. Further and better studies are still requiring.

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