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## An Analysis of Speech Acts in Caprio's Speech in American First Instance Court Pleadings

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### Abstract

The current study deals with the analysis of speech acts utilized by Judge Frank Caprio in American first instance court pleading. The study attempts to determine the types of speech acts used in the selected data by the judge Caprio. It also aims to identify the most frequent major functions of illocutionary acts, as well as determining the level of directness (direct or indirect speech). Searle's (1976) classification of speech acts is used as a model to analyze the utterances. The results indicate that the judge Caprio employs the four types of speech acts based on Searle's theory, including directive, assertive, expressive, and declarative. Asking and stating are the most frequent functions used in the judge Caprio's speech. Finally, the study concludes that direct speech act represents

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the majority of Judge Caprio's speech which indicates the high value of clarity in his utterances.

**Key Word** : types of speech acts, US initial court, legal language, Judge Caprio, and function of illocutionary act

## تحليل أفعال الكلام في خطاب كابريو في مرافعات المحكمة الابتدائية الأمريكية

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### المستخلص

تتناول الدراسة الحالية تحليل أفعال الكلام التي استخدمها القاضي فرانك كابريو في مرافعة محكمة البداية الأمريكية. تحاول الدراسة تحديد أنواع أفعال الكلام المستخدمة في البيانات المختارة من قبل القاضي كابريو. ويهدف أيضًا إلى تحديد الوظائف الرئيسية الأكثر شيوعًا لأفعال الخطاب، وكذلك تحديد مستوى المباشرة (الكلام المباشر أو غير المباشر). يستخدم تصنيف سيرل (1976) لأفعال الكلام كنموذج لتحليل الكلام المنطوق. تشير النتائج إلى أن القاضي كابريو يستخدم الأنواع الأربعة من أفعال الكلام استنادًا إلى نظرية سيرل، بما في ذلك التوجيه والحزم والتعبير والتوضيح. السؤال والتعبير هما أكثر الوظائف شيوعًا المستخدمة في خطاب كابريو القاضي. أخيرًا، خلصت الدراسة إلى أن قانون الكلام المباشر يمثل غالبية خطاب القاضي كابريو مما يشير إلى القيمة العالية للوضوح في أقواله.

**الكلمات الدالة:** الكلام المباشر أو غير المباشر ، أفعال الكلام ، محكمة البداية الأمريكية

## 1. Introduction

Meaning appears to be both the most obvious part of language and the most challenging to comprehend. It is clear since we use language to efficiently interact with one another and convey "what we mean." One area of linguistic study called pragmatics explores how language meaning changes depending on the situation. The study of the

relationship between language and comprehending the underlying context description language is known as pragmatics, according to Levinson (1983:9).

In the 1960s, speech act theory evolved in opposition to theories that focused on analyzing descriptive aspects of particular sentences and language structure. J. L. Austin in his 1962 book "How To Do Things With Words" states that the foundation of speech act theory is the idea that utterances can be characterized in terms of the actions they carry out. Speech-act theory offers an approach to understanding the apparent gap between what we say and what we mean. It also offers a taxonomy of the various roles that utterances may perform (O'Keefe, Clancy, and Adolphs, 2011: 84).

Austin's theory (1962:12) holds that language is routinely used by speakers for purposes other than self-expression; as a result, an utterance may be viewed as a speech act. Additionally, he asserts that "to speak" something is the same as "to do," meaning that words serve a higher purpose than simply communicating the facts. The same theory is further developed by Searle (1976:10), who adds refinements and new classifications for speech acts based on their intentionality. Searle (1969 :16) states that speaking a language means performing many speech acts, acts such as: warning, requesting, promising, ordering...etc. He claims that the fundamental unit of human communication is the utterance which is a performance of certain types of speech acts rather than the production of the word, symbol, sentence or mark. As demonstrated by Searle's theory "speech acts are the basic or minimal units of linguistic communication". However, Lyons (1977: 726) has an entirely different viewpoint concerning Speech Act Theory. He argues that the term "speech act " relates to something more abstract than the act of speaking itself, he contends that it is misleading. As said by Lyons, neither Austin nor his followers acknowledge that gestures and other types of signals may be explained using the idea of speech acts. They focus on using speech act theory to analyze language utterances.

Catoto (2019:19) points out that the fundamental idea of linguistic communication is speech acts. It refers to how and where speakers use language to communicate, as well as how listeners comprehend or recognize that use of language by speakers. Hence, it is now

the speakers give their words meaning and how the listeners interpret what they hear. According to Atchison (1999: 99) utterances can have certain impacts that can be achieved by doing distinct actions. In other words, the speaker's words have an impact on the audience by forcing them to take a certain action.

Additionally, Bach and Harnish (1979:3) expand on the idea that verbal acts of communication include speech. To communicate, a particular attitude must be stated, and the speech act used must match the type of attitude being communicated. A speech act also succeeds as a communication act when the audience understands the attitude being expressed and agrees with the speaker's intended message.

## **2. Classification of Speech Acts**

Speech acts can be classified into five categories as Searle in Levinson (1983: 240) states that the classifications are assertive, directives, commissives, expressive, and declarations. Also, Haung (2007:106) mentions that Searle attempts to classify those categories along with four dimensions: (i) illocutionary point, (ii) direction of fit, (iii) expressed psychological state, and (iv) propositional content. The five kinds of speech acts and the fifth forms of speech that shows the functions can be summarized as follows:

### **a. Assertive**

Assertive speech acts (or representations) bind the speaker to the veracity of his or her assertions. A speaker makes a statement as a result of his or her observation of certain events, followed by the expression of a fact or opinion based on that observation. In using the phrase "she is beautiful," one can either be stating a fact or expressing a personal opinion regarding the subject's appearance (Levinson 1983: 240). Based on Haung (2007: 106) assertive has a word-to-world direction of fit, meaning that the speaker adapts his words to communicate an established belief. The following examples are mentioned by Salsabila (2021: 15):

**Stating** is a formal statement or written expression of opinion, as well as an action. For instance: (20) It aims to develop students' math skills.

**Suggesting** means expressing an idea, a possible plan, or a course of action for others to consider. Example: (21) Why don't you sit down and relax for a while? I am sure it has been a tiring day for you.

**Boasting** refers to expressing excessive pride or joy about one's accomplishments or possessions. For instance: (22) And I don't know if I'm obligated to brag now, but we won three Grammy awards in 2012 alone.

**Complaining** is an expression of dissatisfaction or objection; for example: (23) Fred complained to the manager.

**Claiming** is the act of asserting that something is true, regardless of its lack of proof or others' disagreement. Example: (24) They claim they are battling a dastardly conspiracy.

#### **b.Directive**

In Searle's view, speakers use directive speech acts to urge listeners to do a certain action. This kind of communication instructs the listener to perform a certain task. Making requests, asking questions, giving commands or orders, and making suggestions are all examples of these speech acts. Someone who asks, "Can you close the door, please?" is asking the hearer to perform a specific action, such as closing the door. (Levinson, 1983:240). According to Haug (2007:106), this is an illocutionary act that gives the addressee instructions on what to do (or not do). By doing this, a word is expressed in the form of a world-to-word directive that the recipient is expected to heed. The following examples are mentioned by Salsabila (2021: 15-16):

**Order** is providing an authoritative directive or instruction for a specific action. For instance: (25) Last week, my brother instructed to purchase the tickets.

**Command** denotes having the power or authority to issue orders. Example: (26) Ensure that you have compared prices thoroughly before making your purchase.

**Request** signifies the act of politely or formally asking for something. Example: (27) Kindly add extra chocolate to my ice cream, please.

**Advise** involves offering guidance and counsel to someone. Example: (28) I advised her to follow the competition.

**Invite** means extending a polite, formal, or friendly invitation for someone to join or partake in an activity. Example: (29) We received an invitation to attend a dinner at the Embassy.

**Permit** is a form of authorization or consent given to someone, allowing them to engage in a specific activity. For instance: (30) The law grants councils the permission to conduct monitoring of any smoke-emitting factory.

**Recommending** is expressing an opinion that something or someone would be acceptable for a specific task or use, or that a specific course of action should be taken. For instance: (31) We recommend that all application letters be submitted before December 2012 (Umar, 2016:15).

### **c. Commissive**

A commitment is an utterance that obliges the speaker to perform a specific action in the future. In order to make a commitment, one may promise, threaten, offer, refuse, or pledge. The speaker's promise that "I will be back" is interpreted as an assurance that they will do so (Levinson 1983: 240). Haung (2007:106) asserts that the speaker adapts the world to his words. The following examples are mentioned by Salsabila (2021:18):

**Promising** is a declaration or undertaking that something will happen; it is a guarantee to someone that something will be done, given, or arranged. Example: (32) He promised to send me a bucket of flower.

**Threatening** is a statement that expresses the intention to cause harm or loss to another person. Example: (33) I will fire you if you don't get serious at work.

**Refusing** denotes demonstrating or expressing an unwillingness to perform a certain action or comply with a request. Example: (34) I will not accept any kind of gift from him.

### **d. Expressive**

The term "expressive" refers to the way in which speech acts are used to convey a psychological state. Among these speech acts are thanking, apologizing, welcoming, and congratulating. An example of this is when someone states, "Don't be shy; my home is your home." This statement conveys the speaker's welcome to the listener (Levinson, 1983: 240). Haung (2007:106) explains that this type of speech act lacks any appropriate direction. The following examples are mentioned by Salsabila (2021:17):

**Thanking** means to express gratitude to someone, particularly by saying "Thank you". Example: (35) Mac thanked her for the meal and left.

**Congratulate** is the verb form of praise used to express approval or happiness for a noteworthy or uncommon accomplishment. For instance, (36) Congratulations on the birth of your beautiful baby son.

**Apologizing** involves forgiving someone for something they say or do. This word is often used in polite expressions. Example: (37) Pardon, sir, could you explain again?

**Condolence** is an expression of sympathy or grief for someone. Example: (38) The priest condoled with Mrs. Maria.

**Deplore** is an expression of strong disapproval for something. Example: (39) We deplore this violent act.

**Welcome** is a cheerful, polite, or friendly greeting given to someone upon their arrival. Example: (40) Hotels should welcome guests in their own language.

#### **e.Declarative**

It is common for speech acts called declarations to rely on elaborate extralinguistic institutions and have a direct effect on the current state of an institution. These speech acts include excommunicating, declaring war, christening, and firing from employment (Levinson 1983: 240). According to Haung (2007:106), the direction of fit of this type is both words-to-world and world-to-word; consequently, their utterance impacts the world. For example, "I declare the meeting delayed". The following examples are mentioned by Salsabila (2021:18):

**Resigning** is the act of leaving a job or position by notifying your employer of your intentions. For instance: (41) I would be grateful if you could confirm the acceptance of my resignation.

**Dismissing** something or someone is deciding that they are unimportant and not worth your time. For instance: (42) We'll dismissing class early today.

**Christening** occurs when a baby is christened and admitted to the Christian Church; for instance: (43) Six weeks after her christening, the princess was vaccinated, this being the first occasion she had done so.

**Naming** is the act of naming. For instance: (44) I refer to this adorable infant as Budi.

**Appointing** is the process of selecting someone for an official position or responsibility. For instance: (45) They appointed Yussy as manager.

**Sentencing** is the penalty imposed on a person who has been found guilty by a court or established by law for a specific offense. For instance: (46) Her husband is currently serving a three-year fraud sentence. Figure (2.1) summarizes speech acts and their direction: (Muhammed, 2022: 33)

### **3. Legal Language**

Linguists and lawyers have shown a lot of interest in the study of the connections between language and the law. Studies concentrating on the interrelation (and, to some extent, dependency) between the two areas are called "Law and Language" studies. The term "Language and Law" is preferred here given the supposition that language may be viewed as a constitutive element, or a fundamental requirement, of the law (Galadia,2009: 63–64).

Courts, legislators, and government organizations decide the meaning of legal terminology, sentences, and even longer passages of speech, therefore it frequently deviates from common use. Such a jurisdiction's effect on the evolution of legal language has frequently resulted in issues with its comprehension and interpretation (Tiersma



2008: 23). Stygall (1994: 5-6) also draws attention to the fact that studies of legal language have made the assumption that the social explanation for the development of such a language is the straightforward association between the existence of the legal profession and a distinguishing legal language.

#### **4 Speech acts and legal language**

Legal papers' performative nature is one of its most remarkable pragmatic characteristics. Each legal framework additionally includes rules that have legal consequences simply by being said, such as "regulation X is hereby revoked." In this case, the legislator's statement neither describes nor prescribes a behaviour; instead, it creates, or to use a specialised phrase, constitutes a new state of affairs. According to Carcaterra and others (1990:117), the traditional division between descriptive and prescriptive discourse is insufficient to account for these kinds of legal production, therefore an examination of their performative role is necessary.

Fletcher (2003: 85) determines that the law is "the arena of speech acts par excellence. Speech act theory is particularly important for comprehending the functional nature of legal texts because it demonstrates that speech acts have a fundamental constitutive function rather than just describing legal prepositions (Anesa, 2011: 47)

To sum up, legal language is the language used by people related to the law field or the legal profession. In this study, judge Frank Caprio's legal language in an American first-instance court is English and is analyzed according to speech-act theory.

#### **5. Methodology**

The current study is carried out using a combination of qualitative and quantitative methods of analysis. It will follow Searle's (1979) classification of speech act which is the main model in analyzing the speech acts used by Judge Caprio in the court. The selection of Searle's speech act theory for analysis of Judge Caprio's speech was preferred over all other frameworks given by Austin and others because it was found to be one of the most suitable frameworks for the analysis of the legal language produced by the judge. It helps to break down the judge's statements into different types of speech acts

based on his intended functions or purposes which is essential for interpreting the meaning. Following that, the researcher determines and categorizes these statements in accordance with the class of Speech Acts to which they belong: assertive, directive, commissive, expressive, and declarative which are all based on Searle's Speech Act Theory (1979). The functions of illocutionary acts are also specified. Finally, the level of directness, whether direct; in which the judge means exactly what he says, or indirect; in which case he means more of what he says, are determined.

## 6. Results and Discussion

For the sake of being systematic, the researcher analyzes the judge's speech in this case "The Judge Throws The Book". In order to identify the types of speech acts, the function of illocutionary acts, and the level of directness depending on the model adopted in the study.

**Table (1): Caprio's types of speech acts in the episode "The Judge Throws The Book"**

No.	Utterances	Levels of directness	Types of speech act	Functions of illocutionary act	Explanation
1	Mary Craig	Direct	Declarative	Declare	The type of speech act in the judge's utterance is declaration. The defendant is officially identified and the judicial process is started when the judge calls her name at the opening of the pleading.
2	Mary had one ticket on point straight, August coffee shop.	Direct	Assertive	Inform	The type of speech act in the judge's utterance is assertive. The judge Caprio informs Mary about the ticket and the name of the shop.
3	Now these are the city ordinances...	Indirect	Assertive	Instruct	The type of speech act the judge's utterance is assertive. The judge Caprio intends to instruct the woman to pay attention to the city ordinances.
4	And you I know you are from Rehoboth	Direct	Assertive	Assert	The type of speech act in Caprio's utterance is assertive. In this utterance, the judge

					asserts that the woman is from Rehoboth.
5	We have an unofficial rule that anyone from Rehoboth has to read the city ordinances before they clock in Providence.	Direct	Assertive	State	The type of speech act in Caprio's utterance is assertive. The judge makes a statement about an unofficial rule and to read the city ordinances before clocking in. He is also asking a question about whether they have curb cuts in Rehoboth.
6	Do you have curb cuts in Rehoboth?	Direct	Directive	Ask	The type of speech act in Caprio's utterance is directive. He is also asking a question about whether they have curb cuts in Rehoboth.
7	You don't have any curbs no sidewalks	Direct	Assertive	State	The type of speech act in Caprio's speech is assertive. The judge Caprio's utterance can be seen as conveying information and seeking confirmation or clarification.
8	Have any parking regulations there?	Direct	Directive	Ask	The type of speech act in Caprio's utterance is directive. He is asking question about parking regulations. The judge's intention appears to be to gather relevant information.
9	No, oh	Direct	Expressive	Surprise	The type of speech act in Caprio's utterance is expressive. Caprio's response can be seen as a reaction to the woman's statement. It doesn't fit neatly into a specific speech act category, but it can be considered an expressive speech act reflecting surprise.
10	Isn't it in the United States?	Direct	Directive	Ask	The type of speech act in Caprio's utterance is directive. By posing the question, the judge Caprio seeks confirmation or clarification from the woman by using negative form. The judge's utterance serves to prompt a response or provide an opportunity for clarification.

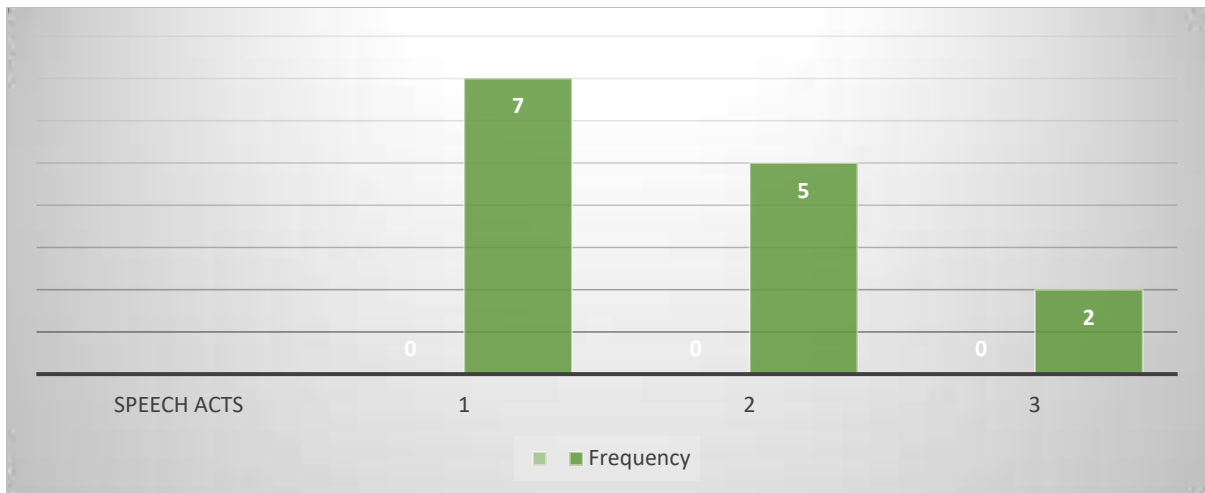
<b>11</b>	Texas might be (real) low there	Direct	Assertive	State	The type of speech act in Caprio's speech is assertive. The judge's utterance is a statement of possibility regarding the possibility of Texas having a low ranking.
<b>12</b>	All right Mary I'm (gonna) dismiss it	Direct	Declarative	Dismiss	The type of speech act in judge's utterance is a declarative. The judge is making a definitive statement of his decision and indicating an action he will take, which is to dismiss the case. Caprio's utterance is to exercise his authority and exercise his power to dismiss the case.
<b>13</b>	Remember the future.	Indirect	Directive	Advice	The type of speech act in Caprio's utterance is directive. The judge's statement is to provide advice and motivate Mary to reflect on the future. By uttering the sentence, the judge intends to impact the woman's thoughts and actions, urging to remember the future.
<b>14</b>	You learned a lot being here	Indirect	Assertive	Assert	The type of speech act in Caprio's utterance is assertive. The assertion aspect is present in the statement "you learned a lot being here," where the judge acknowledges the woman's past experiences and asserts that she has gained valuable knowledge from her time in that particular situation.
<b>15</b>	Oh, well hang around you may want some other thing.	Indirect	Directive	Suggest	The type of speech act in Caprio's utterance is directive. The suggestion aspect in judge's utterance is evident in the statement "you may want some other things," indicating that there are potential desirable opportunities or experiences available if the woman chooses to stay.

### **6.1 Findings**

Based on the analysis, the researcher found four types of speech acts, namely assertive, directive, declarative, and expressive. However, the commissive type is not found in this sample of data. The data findings are presented in Table (2) and figure (1). The table displays that assertive utterances occur (7) times, which occupies a percentage of (46.66%) out of 15 utterances. This percentage makes the assertive speech act takes the peak and it's the most frequent type of utterances among the four types used in the selected data. Directive speech act occurs (5) times, which occupies a percentage of (33.33%) out of 15 utterances. Declarative speech act occurs (2) times, which occupies a percentage of (13.33%). Expressive speech act occurs (1) times, which occupies a percentage of (6.66%).

**Table (2) Frequency and Percentage of the types of speech acts in the analyzed of selected data.**

<b>The Major types of Speech Acts</b>		<b>Frequency</b>	<b>Percentage</b>
1	Assertive	7	46.66%
2	Directive	5	33.33%
3	Declarative	2	13.33%
4	Expressive	1	6.66%

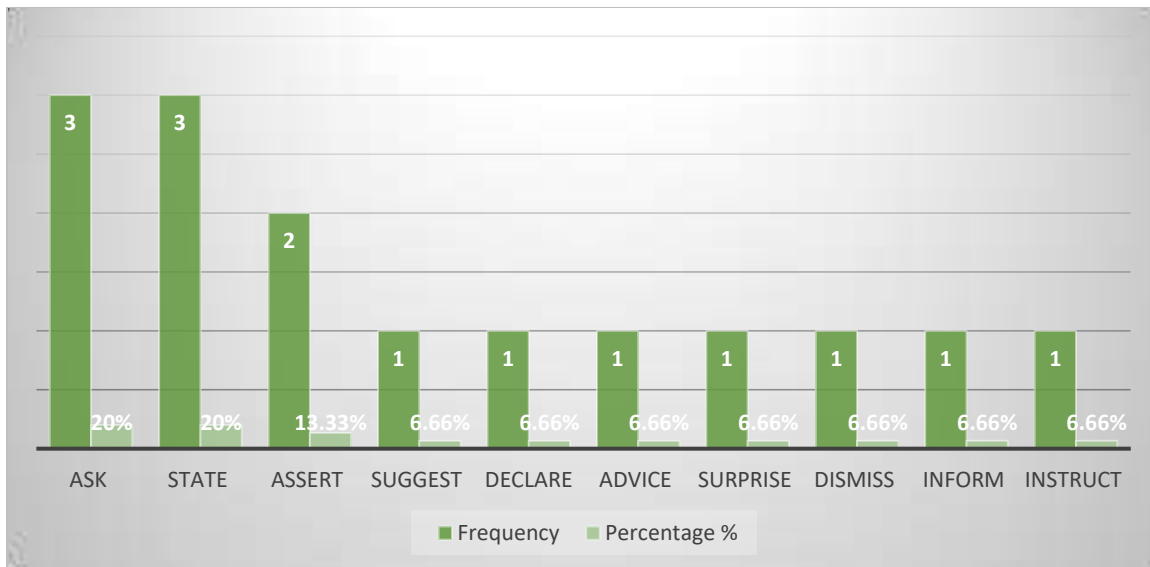


**Figure (1) The Major Types of Speech Acts**

In the Judge Caprio’s utterances in “The Judge Throws The Book” episode, there are several functions contained in his speech. The researcher finds several functions of illocutionary acts uttered by the judge which are presented in table (3) and figure (2).

**Table (3): Frequency and Percentage of the functions of illocutionary acts.**

No.	Function	Frequency	Percentage %
1	Ask	3	20%
2	State	3	20%
3	Assert	2	13.33%
4	Suggest	1	6.66%
5	Declare	1	6.66%
6	Advice	1	6.66%
7	Surprise	1	6.66%
8	Dismiss	1	6.66%
9	Inform	1	6.66%
10	Instruct	1	6.66%



**Figure (2) The Functions of Illocutionary Acts**

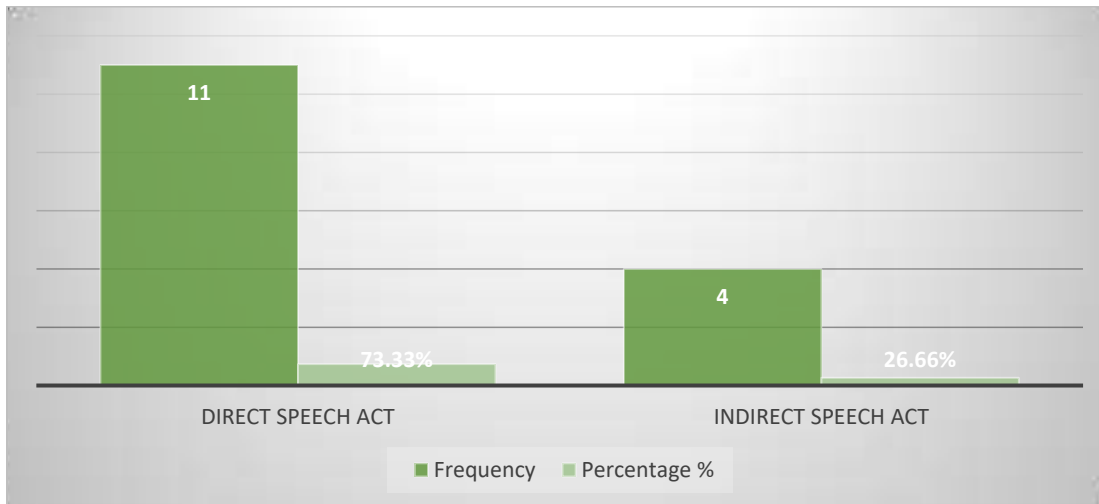
Table (3) and figure (2) show that the most frequent functions of illocutionary acts used by the judge Caprio are asking and stating, with (3) utterances and percentage of (20%). The second highest frequency is the function of asserting with (2) utterances and percentage of (13.33%). In this data selected, there are other functions with the lowest number of occurrences, namely advice, declare, suggest, surprise, dismiss, inform, and instruct with 1 utterance and percentage of (6.66%).

Regarding the level of directness, direct and indirect speech acts, they are identified depending on the relationship between speech acts types and the functions of illocutionary acts. Caprio’s speech are performed directly (11) times with a percentage of (73.33%), hence direct speech acts represent the majority of the total number. Whereas indirect speech acts come second with a frequency rate amounting to (4) with a percentage of (26.66%). Direct speech acts are often preferred in legal proceedings to ensure clarity and precision in conveying the judge's decisions, instructions, and rulings. This is shown in table (4) and figure (3):

**Table (4): Frequencies and percentage of Direct and Indirect Speech Acts**

No.	Degree of Directness	Frequency	Percentage %
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1	Direct Speech Act	11	73.33%
2	Indirect Speech Act	4	26.66%



**Figure (3) The Level of Directness**

## 7. Conclusions

It seems clear from the results shown above, that judge Caprio uses four types of speech acts during US initial court for the case of *The Judge Throws The Book*". The four types of speech acts include: assertive, directive, declarative, and expressive. But, from the five types of speech acts proposed by Searle, one type cannot be found in the speech, and that is the commissive act. Asking and stating are the most frequent functions performed by Judge Caprio in this case. The data analysis reveals that Judge Caprio uses these functions as the most frequent functions, but it is among other functions used in his speech, including advising, declaring, suggesting, surprising, dismissing, informing, and instructing. It is also noteworthy to mention that the judge Caprio uses direct speech acts more than indirect speech acts in courtroom when delivering instructions, making legal rulings, asking questions, or providing guidance to courtroom participants. This



streamlined communication style also enhances efficiency during proceedings, preventing unnecessary elaborations and keeping the focus on relevant matters.

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