



普通高等教育“十一五”国家级规划教材

◎ 大学英语选修课 / 学科课程系列教材

法律英语 (上)

International Legal English 1

■ 《大学英语选修课 / 学科课程系列教材》项目组 编
■ Amy Krois-Lindner and TransLegal®



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《大学英语选修课/学科课程系列教材》总前言

随着我国经济、文化和科技的不断发展,社会对大学生的英语水平提出了更高的要求,大学英语教学改革已成为社会关注的热点之一。为了推动大学英语教学改革,教育部在总结近年来教学改革经验的基础上,对2004年颁布的《大学英语课程教学要求(试行)》进行了全面修订,并于2007年8月正式颁布了《大学英语课程教学要求》。与以往的《大学英语教学大纲》相比,新的《大学英语课程教学要求》从以下三个方面为大学英语教学带来了新的变化:1. 培养目标的变化。《大学英语课程教学要求》提出,大学英语要培养学生的英语综合应用能力,在坚持其通用基础学科定位的同时,提出了与专业学习相结合的专门用途英语,以及以人文、国际交流为核心的文化素质课程的定位;2. 教学思想的变化。提出了自主学习的思想,鼓励学生自主选择学习内容和学习方式;3. 教学模式的变化。鼓励在教和学的过程中使用以计算机为基础的教育技术,拓展英语学习的渠道,增加语言练习的机会,提高语言输入和输出的质量。

面对新的改革形势,我们明显感到,现行的以英语基础能力发展为核心的大学英语教材体系难以适应新形势的需要,广大师生也盼望着更多与国际文化知识、专业知识、学术交流相结合的新型英语教材,满足正在出现的大学英语的多重定位、学生自主选择学习内容和基于计算机技术的自主学习方式等变化的需要。为此,我们提出开发《大学英语选修课/学科课程系列教材》。

本系列教材为“普通高等教育‘十一五’国家级规划教材”,主要供完成《大学英语课程教学要求》中规定的“一般要求”后,继续学习“较高要求”和“更高要求”英语课程的学生使用,也可供研究生及广大专业技术人员学习专业英语、学术英语,提高英语综合应用能力使用。

本系列教材包括语言技能发展、跨文化交际能力发展和通用学术交流能力发展三个子系列。语言技能发展系列教程着重提高学生的通用英语技能。在该系列教材的开发中,我们将分期、分批建设若干门大学英语高级技能发展课程教材,其中包括:网络视听、翻译实践、网上阅读、高级阅读、口译技巧、应用写作等。跨文化交际能力发展系列教程着眼于扩展学生的国际文化视野,培养学生将英语作为国际交流语言使用的能力。在该系列教材的开发中,我们拟建设的教材有中西方文化概论、英语文化解读、英语演讲与辩论、跨文化交际、世界文明与文化导论、科技与人文、文学选读、经典作品欣赏、影视欣赏等。通用学术交流能力发展系列教程重在培养学生使用英语进行相关专业学术交流的能力。在该系列课程的开发中,我们将重点建设两大类别的专业学术英语课程,即A类教材和B类教材。其中,A类教材以学术研究和职业技能为基础,包括学术写作、学术会议、批判性思维等;B类教材以专业知识为基础,提供能供双语教学使用的专业通用基础教材,从而将专业学习与语言学习有机地结合起来。

本系列教材的开发是一个新的尝试,新教材强调英语学习与文化学习、专业学习、学术交流和工作的结合,突出英语学习的实用性、学术性和人文性,充分反映国内外新式教学思想和理念,突出学生的参与和自主学习,强调信息技术的使用和教材的立体开发。我们相信,本系列教材的出版一定会给广大师生带来新的感受和新的教学体验,进而深化我国大学英语教学改革,创造出大学英语教学的新范式。

《大学英语选修课/学科课程系列教材》项目组

2008年1月

前言

在全球化的时代背景下,社会迫切需要越来越多具有国际视野和跨文化交际能力的法律从业人员,法律英语教学在各法学院(校)的英语教学中受到高度关注,也成为英语教学改革的重点。而高质量的法律英语教材是完成法律英语教学的基础,是实现培养目标的关键。

英国剑桥大学出版社出版的《法律英语》是由Amy Krois-Lindner和律师语言学家协会(Translegal)共同编著的,在各种法律英语课程中发挥着重要作用,同时可以帮助考生准备由剑桥大学考试委员会ESOL考试部与欧洲主要的律师语言学家协会(Translegal)共同研发的新国际法律英语证书考试(ILEC)。该书自出版以来,备受欢迎。既适用于学生自学,也可以用于课堂教学。为满足中国法学院学生和涉外律师的需求,高等教育出版社引进改编了该教材。

高等教育出版社出版的《法律英语》将原著改编为上下两册,一些在商法领域内颇为重要的话题(例如:公司法、合同法、知识产权法、不动产法、劳动法和货物买卖法等)被选作各单元的法律主题,为使学习者对英美等国的法律体系有更为全面的了解,又增加了宪法、刑法、民事诉讼法、刑事诉讼法等话题,更加完善了法律英语的覆盖面。许多练习题都鼓励学习者将本国法律与书中所讲述的英美法律制度进行对比,藉此培养国际视野。

本教材具备以下几个主要特点:

一. 在法律英语教学中将法律知识学习与专业语言技能训练相结合。通过学习本教材,学生能够在特定的语境中准确把握法律英语专业词汇和法律文书中常用语言,熟悉法律英语的语言特点,同时系统了解英美法律制度与特征,提高阅读和理解法律文书的能力,例如法律期刊、商事立法、法律函件和其他商事法律文件。

二. 本教材以英美法律制度和部门法为主要内容,将英美等国法律活动的真实内容引入课堂教学,体验真实的法律活动的诸多方面。本教材为法律英语教学提供了大量真实、生动的素材,提高学生对法律相关的各种情形中所使用的法律英语口语的理解能力,增强口语表达技能,从而更有效地参与法律谈判。同时,学生可以了解英美法律制度及部门法,以达到在体验法律活动中学习语言、提高法律活动交际能力的目的。

三. 角色扮演和案例学习将提高学生的语言交际能力。本教材的突出特色是任务式和体验式的教学活动设计。每个单元都有角色扮演和案例学习等交际任务,例如与客户会晤、与同事讨论和合同谈判。每个交际任务都以真实的法律事务情景为参照,交际任务目标明确,鼓励学习者在完成交际任务的过程中复用所学语言知识,提高交际能力,将自己的经历和观点融入交际活动中。

四. 教学设计严谨, 为进一步提高法律英语水平打好基础。本教材的每个单元以短文文章为基础, 设计为相关的阅读、听力、口语和写作等形式, 中间穿插形式多样的任务活动, 进行法律事务技能的学习。最后, 在充分学习和掌握相关内容和技能的基础上, 进行案例学习。

本书的编写分工如下: 徐新燕负责第一、二单元; 刘华负责第三单元; 张清负责第四、五、六、七、八、九单元; 齐筠负责第十单元; 张美常负责各单元的翻译部分; 李立对全书进行了统稿。

书中如有失误或不妥之处, 请广大读者不吝赐教, 给予批评、指正。

主编 李立

2010年7月于中国政法大学

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THE LEGAL SYSTEM



Reading: Bodies of law

1. Read the excerpts below from the course catalogue of a British university's summer-school programme in law and answer these questions.

- 1) Who is each course intended for?
- 2) Which course deals with common law?
- 3) Which course studies the history of European law?

A) Law 121: *Introduction to English law*

This course provides a general overview of English law and the common-law system.

The course will look at the sources of law and the law-making process, as well as at the justice system in England. Students will be introduced to selected areas of English law, such as criminal law, contract law and the law of torts. The relationship between the English common law and EC law will also be covered.

The course is designed for those international students who will be studying at English universities later in the academic year. Other students with an interest in the subject are also welcome to attend, as the contact points between English law and civil law are numerous. The seminars and all course materials are in English.

B) Law 221: *Introduction to civil law*

More individuals in the world solve their legal problems in the framework of what is called the civil-law system than in the Anglo-Saxon case-law system. This course will introduce students to the legal systems of Western Europe that have most influenced the civil-law legal systems in the world. It aims to give students

an insight into a system based on the superiority of written law. The course will cover the application and development of Roman Law in Europe to the making of national codes all over the world. The course is intended to prepare students who are going to study at a European university for the different approaches to law that they are likely to face in their year abroad.

2. Match these bodies of law (1-3) with their definitions (a-c).

1) civil law

a. area of the law which deals with crimes and their punishments, including fines and/or imprisonment (also penal law)

2) common law

b. (1) legal system developed from Roman codified law, established by a state for its regulation; (2) area of the law concerned with non-criminal matters, rights and remedies

3) criminal law

c. legal system which is the foundation of the legal systems of most of the English-speaking countries of the world, based on customs, usage and court decisions (also case law, judge-made law)

3. Complete the text below contrasting civil law, common law and criminal law using the words in the box.

based on

bound by

codified

custom

disputes

legislation

non-criminal

precedents

provisions

rulings

The term 'civil law' contrasts with both 'common law' and 'criminal law'. In the first sense of the term, civil law refers to a body of law 1) _____ written legal codes derived from fundamental normative principles. Legal 2) _____ are settled by reference to this code, which has been arrived at through 3) _____. Judges are 4) _____ the written law and its 5) _____.

In contrast, common law was originally developed through 6) _____, at a time before laws were written down. Common law is based on 7) _____ created by judicial decisions, which means that past 8) _____ are taken into consideration when cases are decided. It should be noted that today common law is also 9) _____, i.e. in written form.

In the second sense of the term, civil law is distinguished from criminal law, and refers to the body of law dealing with 10) _____ matters, such as breach of contract.

4. Which body of law, civil law or common law, is the basis of the legal system of China?

Types of laws

The word *law* refers generally to legal documents which set forth rules governing a particular kind of activity.

5. Read the following short texts, each of which contains a word used to talk about types of laws. In which kind of document do you think each appeared? Match each text (1–5) with its source (a–e).

1 The new EU Working Hours **Directive** is reported to be causing controversy amongst the medical profession.

2 When a **statute** is plain and unambiguous, the court must give effect to the intention of the legislature as expressed, rather than determine what the law should or should not be.

3 The purpose of this **Ordinance**¹ is to regulate traffic upon the Streets and Public Places in the Town of Hanville, New Hampshire, for the promotion of the safety and welfare of the public.

4 These workplace safety and health **regulations** are designed to prevent personal injuries and illnesses from occurring in the workplace.

5 Mr. Speaker, I am pleased to have the opportunity to present the Dog Control Amendment **Bill** to the house. It is a further milestone in meeting the changing expectations we have about what is responsible dog ownership.

- a. court ruling
- b. local government document
- c. newspaper
- d. parliamentary speech
- e. brochure for employees

¹ (UK) by-law/bye-law

6. Find words in Exercise 5 which match these definitions. Consult a dictionary if necessary.

- 1) rules issued by a government agency to carry out the intent of the law; authorized by a statute, and generally providing more detail on a subject than the statute
- 2) law enacted by a town, city or county government
- 3) draft document before it is made into law
- 4) legal device used by the European Union to establish policies at the European level to be incorporated into the laws of the Member States
- 5) formal written law enacted by a legislative body

7. Complete the sentences below using the words in the box.

bill directive ordinance regulations statutes

- 1) The Town Council will conduct a public hearing regarding a proposed _____ concerning property tax.
- 2) According to the _____ concerning working time, overtime work is work which is officially ordered in excess of 40 hours in a working week or in excess of eight hours a day.
- 3) Early this year, the government introduced a new _____ on electronic commerce to Parliament.
- 4) A number of changes have been made to the federal _____ governing the seizing of computers and the gathering of electronic evidence.
- 5) The European Union _____ on Data Protection established legal principles aimed at protecting personal data privacy and the free flow of data.



Speaking 1: Explaining what a law says

There are several ways to refer to what a law says. Look at the following sentences:

The law **stipulates that** corporations must have three governing bodies.

The law **provides that** a witness must be present.

The patent law **specifies that** the subject matter must be 'useful'.

These verbs can also be used to express what a law says:

The law **states** / **sets forth** / **determines** / **lays down** / **prescribes** that ...

8. Choose a law in China that you are familiar with and explain what it says using the verbs listed in the box above.

Types of courts

Courts can be distinguished with regard to the type of cases they hear.

9. Match each of the following types of courts (1–9) with the explanation of what happens there (a–i).

- | | |
|---|---|
| 1) appellate court (or court of appeals, appeals court) | a. This is where a person under the age of 18 would be tried. |
| 2) crown court | b. This is the court of primary jurisdiction, where a case is heard for the first time. |
| 3) high court (or supreme court) | c. This is where small crimes are tried in the UK. |
| 4) juvenile court | d. This is where law students argue hypothetical cases. |
| 5) lower court (or court of first instance) | e. This is where a case is reviewed which has already been heard in a lower court. |
| 6) magistrates' court | f. This is where cases involving a limited amount of money are handled. |
| 7) moot court | g. This is where serious criminal cases are heard by a judge and a jury in UK. |
| 8) small-claims court | h. This is where a group of specially chosen people examine legal problems of a particular type, such as employment disputes. |
| 9) tribunal | i. This is usually the highest court in a jurisdiction, the court of last resort. |

