

全国高等院校法律英语精品系列教材

教育部人文社会科学研究项目（10YJAZH114）

法律英语证书（LEC）全国统一考试指定用书



# 法律英语

## 写作教程

中国政法大学法律英语教学与测试研究中心

A Coursebook  
on Legal Writing  
in English

中国法制出版社  
CHINA LEGAL PUBLISHING HOUSE



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## 前 言

涉外法律实践要求从业人员将谈判、咨询、法律研究以及辩论的能力整合在一起,而有一种能力是以上所有能力的基础,这就是高效的法律英语写作能力。法律文书应当是十分清楚、精准、全面而且通俗易懂的,但是,涉外法律文书种类的纷繁复杂给我国涉外法律从业人员的工作带来极大的障碍。为了方便涉外法律从业人员学习法律英语写作,本书详细介绍了几种重要、实用的法律文书的写作方法。

本书共分为三部分,第一部分为律师信函,详尽介绍了几种常用信函的写法。与当事人的沟通信函的主要目的是与当事人明确沟通,因此一般使用通俗易懂的非法律语言,注重的是语言技巧,这是涉外法律从业人员必须轻松掌握并熟练运用的。与对方当事人或其代理律师的沟通信函多是与诉讼相关的信函,涉及大量法律术语,这是希望在法律英语方面提升自己的读者应当重点学习的内容。律师处理日常事务的信函也很有特点,通过本部分的介绍可使欲从事涉外法律事务的人士在处理日常事务时有章可循。

第二部分介绍了法律分析报告或法律备忘录(Law Office Memo)的写法。在英美法系国家,法律分析报告由初级律师撰写,由高级律师最终确定,其内容是通过对该案件的客观分析,预测出适用相关的法律将对其当事人产生的影响。本书该部分内容主要介绍了概括事实的方法、提出案件主要争议点的技巧以及案件剖析讨论的写作方式。

律师辩论书(Briefs)在法律英语写作中占有相当重要的地位。尽管律师辩论书在许多方面与法律分析报告相类似,但是两者在本质上是不同的。法律分析报告是客观地分析究竟哪方当事人的理由更加充分,并且一般要在分析的最后阶段才能得出结论;而律师辩论书的撰写人在写作之前已经知道了基本结论,其主要任务是为结论寻找支持的依据,并极力证明他的当事人的理由更加充分,应当得到法院的支持。因此在写作方法上,律师辩论书也有别于法律分析报告。我国从事涉外法律服务人员应当特别注意,在法律英语写作中,向初审法院和向上诉法院提交的诉状、答辩状等法律文书的要求是不同的,写作方法也是不同的。本书在第三部分着重介绍向初审法院提交的律师辩论书的写作方法和向上诉法院提交的律师辩论书的写作方法。

法律英语证书(Legal English Certificate,简称LEC)全国统一考试旨在为国家机关、涉外企事业单位、律师事务所等提供招募国际性人才的客观标准,同时督促国内

法律从业人员提高专业英语水平。LEC 考试的题型、考查内容与美国律师资格考试相近，同时又突出了法律英语语言运用特色，并结合中国实际增加了法律英语翻译测试。公检法机关和企事业单位涉外法务工作人员，从事涉外法务的律师、公司法律部门的从业人员，高等院校法律、英语、经贸、国际关系等专业学生，愿意从事法律英语教学的教师以及社会上一切法律英语爱好者均可参加 LEC 考试。LEC 考试每年两次，分别在 5 月和 11 月的最后一个星期六举行。有关考试信息请考生关注 LEC 官方网站：[www.lectest.com](http://www.lectest.com)。

本书的参考资料全部来自美国知名法学院学生用原版法律英语写作参考用书，我们力求保证所选资料的原汁原味。同时，书中引用了大量的律师信函、法律分析报告、律师辩论书等主要法律文书的原版范文，在此对原作者表示衷心的感谢！本书由法律英语证书（LEC）全国统一考试委员会组织专家编写，它不仅为欲参加 LEC 考试的考生提供了系统权威的复习指南，也是为全国高等院校学生学习法律英语所精心编写的精品系列教材之一。

书中不当之处，敬请同仁指正。

张法连

2013 年 8 月

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# Chapter 1 Introduction to Legal Writing



从人们学习语言的规律来讲,“写”是最难掌握的语言技能。法律英语学习本身就很难,法律英语的写作可谓难上加难。但是法律英语写作能力对涉外法律工作者来说是一项非常重要技能,非掌握不可。我们经常看到英美影视作品中律师出庭能言善辩,其实这短暂的精彩表现是奠基于诉讼过程中所写的法律文书之上的,所以从这个角度说,英美律师的主要工作是写作而非口头辩论。

英美法学院的学生学习写作主要是学习 Law Office Memorandum 法律分析报告(也译法律备忘录)和 Briefs 律师辩论书的写法。本书都有专章详细介绍其写作基本要求,在此不再赘述。

作为一种语言变体,法律英语在英语基本词汇系统和语法规则的基础上有了一定的规律,如其句法结构形式比较固定,使用陈述句的频率比较高,往往带有一定数量的专业术语等。因此,在词汇、语法、语义、语用、修辞等方面,法律英语又有自己的特点,形成了特定的法律英语语言风格。从写作的角度对这些特点进行分析探讨,会有助于学习者对法律英语文体风格的把握,从而写出正确、规范、地道的法律英语。

传统的书面法律语言通常具有注重庄重性和严谨性的特点,但在 Plain English Movement 简明英语运动的影响下,现代法律语言却越来越崇尚语言的平易性、简约性,力求用不多的笔墨,言简意赅地表述内容,使各种条令、法规能够准确地得到理解和执行。力求简单、直白是现代法律英语总的发展趋势。著名的美国法律写作专家 C. Edward Good 教授总结归纳出 19 条“金科玉律”作为该趋势的体现,供读者参考:

- (1) Use an average of 25 words per sentence. (每个句子的平均用词最好为 25 左右)
- (2) A void putting too many messages in a single sentence. (一个句子中不要试图包含太多信息)
- (3) Put most of your messages at the subject-predicate position. (把最重要的信息放在句子的主语和动词结构中出现)
- (4) For variety or emphasis, invert your sentences. (适当使用倒装句,以突出强调或



使句式有所变化)

(5) Use the art of subordination to smooth out choppy things. (使用从属结构合并句子, 以免句子过于琐碎)

(6) Avoid disrupting your sentences with thought-stopping gaps. (在句子中间尽量不要插入使思想中断的短语, 以保持意义的连贯)

(7) Watch out for the rule of parallel construction. (适当、正确地使用平行结构, 使行文紧凑, 意思鲜明)

(8) Tabulate particular complex information. (对特别复杂的信息须进行列举说明, 以便表达清晰)

(9) Hammer home your point with the powerful, versatile verb. (使用生动有力、内涵丰富的动词, 以便把意思表达明白)

(10) Use the verb to be only when you mean it. (尽量少用动词“to be”结构, 除非用不可)

(11) Get rid of compound prepositions. (尽可能不用复合介词)

(12) Cut adjective, adverb, and noun clauses to other structures satisfying the same function. (尽量把定语从句、状语从句和名词性从句简化成其他结构, 来表达同样目的)

(13) Prefer the active voice, but use the passive to satisfy certain objectives concerning the identity or placement of the actor or the recipient. (尽可能使用主动语态, 但在需要区分动作的执行者或接受者并使其突出时可使用被动语态)

(14) Favor short words over long, fancy words. (尽可能使用短词、小词, 避免用长词、大词、花哨词)

(15) Use concrete words to paint vivid images in your reader's mind. (尽量使用具体词汇, 以给人留下深刻印象)

(16) Use modification to trim down the fat in your language. (写作后进行必要的修改, 以使语言简明扼要)

(17) Use phrases to smooth out the choppy noun-noun modifier. (可以使用短语, 以免过多的名词修饰)

(18) Do not use too many negative expressions. (不要使用过多的否定表达)

(19) Be fair and nonsexist, but don't be stupid. (行文不要带性别偏向, 但也不要做得过头甚至好笑)

“Lawyers in practice are generally judged by the final product they produce: the written, negotiated text. Clearly, in my firm, the first thing new lawyers will be judged upon is their writing. The fastest way to get ahead as a new lawyer is to be an able writer. The fastest way to fail is to be a poor writer.”

—Bryn Vaaler, *Compositional Practice: A Comment on “A Liberal Education in Law,”* 1 J. ALWD 148, 149 (2002). <sup>①</sup>

From this, we can see clearly the importance of legal writing for the law professionals. The general introduction to legal writing is as follows.

## 1. Definition

Legal writing is a special type of writing done by attorneys, judges, legislators and others in law. The purpose of this writing is to communicate various legal rights, analysis, and legal duties etc. Unlike regular writing, legal writing is technical and involves continuous dependence on citations, gives importance to precedence and uses special legalese that sounds very formal. There has been a move to reduce such very formal style of writing and to make legal writing simple enough for the layman to understand. However, one must remember that the purpose of legal writing is to make a precise document and informal style may make a legal document's intentions hazy. <sup>②</sup>

## 2. Features

Legal writing has three features: 1) Authority; 2) Precedent; 3) Terminology. First, legal writing values authority. In most legal writing, the writer must clearly cite the authority. This is accomplished by a unique and complicated citation system, unlike that used in any other genre of writing. The standard methods for American legal citation are defined by two competing rule-books: the *ALWD Citation Manual: A Professional System of Citation* and *The Bluebook: A Uniform System of Citation*. Different methods may be used in other countries.

Second, legal writing values precedent, as distinct from authority. Precedent means the way things have been done before. For example, a lawyer who must prepare a contract and who has prepared a similar contract before will often reuse, with mere changes, the old contract for the new occasion. Many lawyers use and reuse written documents in this way and call these reusable documents templates or forms.

Third, legal writing extensively uses technical terminology that can be categorized in four categories: 1) Specialized words and phrases unique to law, e. g. , tort, plaintiff, and recidivism. 2) Quotidian words having different meanings in law, e. g. , battery (physical interference with another person), discovery (disclosure of information by the opposing party in a lawsuit). 3) Archaic vocabulary: legal writing employs many old words and phrases that were formerly quotidian language, but today exist only in law, dating from the 1500s; English examples are herein,

<sup>①</sup> [http://raymondward.typepad.com/rainman2/2004/12/the\\_importance\\_.html](http://raymondward.typepad.com/rainman2/2004/12/the_importance_.html)

<sup>②</sup> <http://ezinearticles.com/?What—is—Legal—Writing?&id=1223274>

hereto, hereby, heretofore, herewith, whereby, and wherefore ( pronominal adverbs ); said and such ( as adjectives ). 4) Loan words and phrases from other languages; In English, this includes terms derived from French ( jury, breve, and voir dire ) and Latin ( alibi, affidavit, de facto, quorum, certiorari ) and are not italicized as English legal language, as would be foreign words in mainstream of English writing.

These features tend to make legal writing formal. This formality can take the form of long sentences, complex constructions, archaic and hyper-formal vocabulary, and a focus on content to the exclusion of reader needs. Some of this formality in legal writing is necessary and desirable, but when legal content must be conveyed to non-lawyers, formality should give way to clear communication.

Many U. S. law schools teach legal writing in a way that acknowledges the technical complexity inherent in law and the justified formality that complexity often requires, but with an emphasis on clarity, simplicity, and directness. Yet many practicing lawyers, busy as they are with deadlines and heavy workloads, often resort to a template-based, outdated, hyper-formal writing style in both analytical and transactional documents. This is understandable, but it sometimes unfortunately perpetuates an unnecessarily formal legal writing style.

### 3. Categorization

Legal writing is categorized into two types: legal analysis and legal drafting. Legal analysis can be predictive or persuasive writing, while legal drafting creates binding, legal text. In the United States, in most law schools students must learn legal writing; the courses focus on: (1) predictive analysis, i. e. , memorandum; and (2) persuasive analysis, e. g. , briefs. Although not as widely taught in law schools, legal drafting courses exist; other types of legal writing concentrate upon writing appeals or on interdisciplinary aspects of persuasion. ①

Memoranda are documents that lawyer must write to analyze the merits of a case or a particular legal issue. Legal advice to a client is often based on a formal memorandum of law, which is a basic document of legal writing. It is usually written by a clerk or junior attorney for a more experienced attorney to predict what effect application of the relevant law will have on the client's situation. Senior attorneys use memorandum to determine what advice to give a client. The specific guide of writing memoranda is given in Chapter 3 ( Law Office Memoranda Writing ).

The brief is the formal document a lawyer uses both to convince a court that the client's position is found and to persuade a court to adopt that position. Briefs are similar to memorandum in many respects, and many of the principles apply to briefs. Both must honestly state the law, the facts of the case, and the reasons for their conclusions clearly and concisely. But briefs differ from memoranda; Briefs argue; memoranda discuss. How to write the brief is addressed in Chapter 4 ( Basics of Writing Briefs ).

In addition, lawyers write many letters to communicate information to clients, to request

① [http://en.wikipedia.org/wiki/Legal\\_writing](http://en.wikipedia.org/wiki/Legal_writing)

information from government agencies and other lawyers. All letters benefit from clear writing and simple organization. How to write a legal letter is discussed in Chapter 2 (Writing Letters).

## 4. Techniques

There is no one best way of tackling a piece of writing. People use a variety of approaches. Sometimes the same individual uses different ways of dealing with different types of writing. You need to experiment with the way you find best for you.

### 4.1 Planning

Time is money, you cannot afford to spend time on repeated rewriting and revising material which has been poorly planned in the first place. Plan, Write, Revise is a logical approach that fits well with the problem—solving nature of legal work. It is a straightforward strategy that is easily grasped by students who may not have had a very methodical approach to writing in the past.

**Planning** is the key to effective writing. Consider the available time, and divide the task into manageable sub-tasks. You may need to decide who your readers are and what they need to know. By default, assume you are writing for a lawyer without detailed knowledge of the topic under consideration.

The most important stage is **research**. You need to prepare your writing by collecting information. Make full use of printed and electronic documents to find relevant sources. Make notes about your sources, including an accurate reference complying with the rules set out in this document. Always remember you are the only person who is responsible for the accuracy of these references. **Quotations** must be enclosed in quotation marks (“ . . . ”) and must have a pinpoint reference (page or, if available, paragraph number). Short quotations can be included naturally in the text, but anything that runs for more than three lines should be separated from the text in an intervening paragraph and indented from the left hand margin. Large numbers of long quotations should be avoided. Make sure you are aware of and comply with the rules against plagiarism. If the quotation is not attributed, it is kind of plagiarism.

### 4.2 3Cs

You'd better adopt the three Cs as your starting point. Be **Clear, Concise, Correct**, which means:

- (a) use frequently used words and phrases instead of infrequently used ones ;
- (b) avoid clumsy and inelegant words and phrases;
- (c) prefer verbs to nouns;
- (d) use active verbs instead of passive;
- (e) omit redundant words and phrases;
- (f) prefer specific words to vague words and phrases;
- (g) avoid using jargon and technical terms unless there is no alternative; and
- (h) avoid long and complex sentences.

### 4.3 Plain English

The writing and setting out of essential information in a way that gives a co-operative, motivated person a good chance of understanding the document at first reading, and in the same sense that the writer meant it to be understood. ①

Campaigns to promote 'Plain' speaking and writing developed in Britain and the USA in the late 1970s as a method of attacking the over-complicated language used by government, local authorities and businesses to communicate with the public.

Opposition to plain English documents has come largely from the legal profession, which fears the risk of ambiguity and increased litigation they foresee could result from movement away from the tried and tested legal formulations. Nevertheless, lawyers now accept that simplifying grammatical structure, adding punctuation and eliminating archaic and Latin expressions will save them time and money and simplify their job because their documents become more intelligible.

### 4.4 Discrimination

Please pay close attention to the following terms that are often misused in legal writing:

#### **Abandon/relinquish/renounce**

这三个词均有抛弃、放弃的意思。abandon 主要指因挫折、气馁、厌倦等原因而放弃或中止某事,且有永远不再主张之含义。relinquish 含义广,可用于指权利或财产等的放弃,常表示自愿。renounce 则指自愿或正式宣布放弃某事。

#### **accrue/incure**

accrue 增长,通常表示有一个积极正面的结果;incure 招致,通常表示有一个消极负面的结果,比如招致责任、费用或损失等。例如: A's failure to perform the contract caused B to incur [not accrue] losses of over a million dollars.

#### **allude/refer**

to allude 略微提及某事,意思就是间接 refer to(提及)这件事,而没指明是哪一件事。

#### **and/or**

避免使用 and/or 结构,因为它表达的意思不明确。通常单独使用 and 或 or 就能将语意表达清楚。如果你怕语意被误解,可以使用 A or B or both 的结构。

例如: A misdemeanor is punishable by a fine of up to \$ 700 or 90 days in jail or both.

此句能被简写成 "A misdemeanor is punishable by a fine of up to \$ 700 and 90 days in jail." 而不产生任何混淆,因为前面句子中的 and 包含 or 的可能性。"A misdemeanor shall be punished by a fine of \$ 700 and 90 days in jail." 表示这个法令同时要求罚金及监禁。

#### **assure/ensure/insure**

to assure 是保证的意思: The defendant's lawyer assured the court her client would be present at the hearing.

① Cutts, M., Plain English Guide (Oxford: Oxford University Press, 1999).

to ensure 或 to insure 是确保某事会发生: To ensure [ or insure ] the defendant's appearance at the hearing, the court ordered bail set at \$ 100,000.

#### **ability/faculty/capacity**

三个词都有能力含义。ability 较通用,指天生或后天的干好某事的能力,尤指实施法律行为的能力; faculty 主要指某种特殊行为的天赋能力,在离婚案中可指丈夫对妻子提供抚养费的能力; capacity 多表示在法律或其他意义上的一种地位或资格。

#### **because/since/as**

因果关系在法律写作中是不可缺少的。because 最能直接明白地表现出因果关系。since 虽然和 because 同义,但在时间因果关系上的表达不像 because 那样直接清楚。as 和 because 也不能随意替代,因为 as 除了表示“因为”外,也有 while (和……同时)或 when (当……的时候)的意思:“The court enjoined the demonstration as the demonstrators entered private property.”(当示威者进入私人住宅时,法院禁止这场示威运动。)for 也不能和 because 随意替代,因为 for 常被当作一个介词而非连接词来使用。in light of (根据)、being that (因为)、due to the fact that (由于事实是……)和 in view of the fact that (有鉴于……的事实)虽然都有“因为”的意思,但都不像 because 能简洁且强而有力地表达因果关系。

The reason ... is because(……理由是因为……)这种写法欠妥,应写成 The reason ... is that(理由是……)。而 The reason why (理由为何……)也是欠妥当的: The reason why the statute does not apply is because a skateboard is not a motor vehicle. 可改写成: The reason the statute does not apply is that a skateboard is not a motor vehicle. 但此句完全可以用一个更简单的词 because 来表达: The statute does not apply because a skateboard is not a motor vehicle.

#### **dicta/dictum**

dicta 是 dictum(意见)的复数形式,意思是法院以书面意见表示少数法官的观点或评论,所以 dicta 必须跟复数动词搭配使用。

例如: The court's dicta in this case have no effect on the traditional rule of fraud in this state.

dictum 前面通常不需要有定冠词: The court's statement in Hill quoted by Appellant is dictum [ not a dictum ].

#### **disinterested/impartial/unbiased**

disinterested 意为“公平的”, impartial, unbiased 也都是“公平的”意思,然而 disinterested 时常被误认为是 uninterested(不感兴趣的)的意思。

#### **first/firstly**

这两个词都是“第一、首先”的意思。但当列举数个论点时请使用 first, second, 而不要使用 firstly, secondly 等。而且请不要以 First of all 开始一个句子,因为这会增加感情色彩,显得你急躁、高傲、颐指气使。

#### **guilty/innocent/liable**

guilty 有罪的,是刑法用语,常用来指那些被判定有罪的罪犯。不要用 guilty 这个词来指那些在民事案件中应负法律责任的人,这时要用 liable。The jury found Dr. Garrote

guilty of malpractice. 应改成: The jury found Dr. Garrote liable for malpractice. 或说: The jury found Dr. Garrote had committed malpractice.

在刑法中, guilty 的反义词不是 innocent 无辜的, 而是 not guilty.

### **imply/infer**

to imply 是间接表达、暗示的意思, to infer 是由一个证据来下结论, 是“推断”的意思。这两个词并不可替换使用。演讲者或作家 implies, 而听众或读者 infers.

### **motion/move**

诉讼当事人为某事 moves(请求)或 makes a motion(提起一个请求)。诉讼当事人不会 motion for sth., 因为 motion 只用作名词。而诉讼当事人也不会 move the court for sth., 因为 court(法院)不能作为 move 的直接受词, 所以最好这样表达: moved that the court grant sth. (请求法院给予……)

### **prove/show**

事实是被 proved(证实)的: “M can prove the light was red.” (M 能证实当时是红灯。)而法律结论(legal conclusion)不能被证明, 法律结论是被 shown(陈述)的: “S can show [not prove] section 2—209 was not designed to cover her situation.” (S 能表明她的情况不适用第 2—209 款。)has proved(已经被证实)的用法比 has proven(已经被证实)更符合法律英语的表达: “The State has proved [not proven] S was at the scene of the murder.” (该州已证实 S 事发当时就在谋杀现场。)

### **said/stated**

最简单的表达某人说某事就用 said。比 said 更正式的替代语是 stated(陈述)。但下面所列的每个词都有它本身特定的意义以及言外之意, 所以不要将这些词与 said 替换使用。

admitted(承认): 说某事损害说话者的立场。

advised(建议): 给忠告或建议。

alleged(声称): 述说某件还未被证实的事。

asserted(主张): 强有力地或大胆地述说某事。

claimed(根据权利)要求: 声称某事的权利或主张某事。

contended(辩论): 在法律争论中陈述一种立场。

disclosed(透漏): 述说先前因正当理由而不被大众知悉的某件事。

indicated(指出): 间接说或间接沟通某事。

informed(通知): 传达信息给他人或给他人一个正式通知。

represented(表示): 主张某事是真实的, 特别是有关说话者要销售的某物。

revealed(揭露): 说某件先前不被知悉的事。

stipulated(讲明): 在法庭上对某事表示同意。

testified(作证): 在审判或询问中宣誓。

不要将上面这些词的动、名词形式, 如 allegation, contention, stipulation 等交替使用。

当提到你自己或你的当事人所说的话时, 不要使用 alleged, asserted, claimed 或 contended, 因为这些词通常意味着说话者所说的是错的。所以当你提到诉讼另一方的论点时应该使用这些词, 对方 alleges(声称)某事, 但你的当事人 states(陈述)某事。

**the fact that/true facts/fact**

法律英语写作中要尽量避免使用 the fact that(事实是……),因为什么是事实通常会引起激烈的争论。所以你应该只在 the facts 不会引起争议的情况下使用 the fact that 这个短语。

例如: The fact that the court gave a limiting instruction prevented the jury from being unfairly prejudiced by the evidence.

最好将此句重写以避免使用 the fact that: The court's limiting instruction prevented the jury from being unfairly prejudiced by the evidence.

冗长的 despite the fact that(尽管这个事实是……)可被 although(虽然)取代。

true facts(真实的事实)通常被认为是赘文,因为只有“真”的事实,没有“假”的事实。然而在诉讼中双方都提出不同的事实的版本。因为双方的说法不能都是真的,所以有些律师相信区别 true facts(their facts 他们这方的事实)跟另一方的 facts 是必要的,但在诉讼过程中 facts 代表的只是 alleged facts(声称的事实)。所以现在开始用 the really true facts(真正真实的事实)来讲述我方的论点。然而最佳的用法仍是使用没有任何修饰语的 facts 来表示“事实”。

**4.5 Spelling**

English spelling is difficult because words are not always spelt as they are pronounced. There are two main reasons for this. One is that the spelling system introduced by the Normans was mixed with the system we used before the Norman Conquest. The other reason is that spellings have generally not changed, while pronunciation has.

Some people see poor spelling as a sign of intellectual incompetence. Since there are so few rules, however, learning to spell involves memorizing rather than exercising your intellectual skills of judgement, discernment and reflection. Poor spelling may make your reader think you are uneducated, incompetent or unprofessional. Be sure to use a dictionary or spell checker.

**advice, advise(建议)**

advice 是名词, advise 是动词。

**appealed(上诉的)**

appeal 过去式的拼法是 appealed, 只有一个 l, 而不是 appealed。

**capital(首都;资本), capitol(美国州议会大厦)**

在法律写作中, capital 时常被当作名词来使用,指的是钱或其他资产。capital 也时常被当作一个形容词来使用,意思是 involving death or carrying the death penalty(涉及死亡或执行死刑),像是 capital punishment(死刑), a capital offense(死罪)。

**causal(原因的), casual(偶然的)**

causal 意思是 relating to causation or a cause(和因果关系或和某个原因有关)。注意不要将 causal 的 u 和 s 的顺序弄颠倒,否则就会变成另一个词 casual,意思是“偶然的”。

**comparative(比较的)**

虽然 comparative negligence; comparative fault(相对过失)、comparative law(比较法)和 comparisons(比较)有关,但是在 comparative 的拼法, r 后面的字母是 a, 而不是 i。



**council** (地方议会), **counsel** (律师)

council 是一个管辖机构,像是 city council(市议会)。counsel 当名词用是“律师”的意思;the right to counsel(请求律师的权利),而 counsel 当动词用是“忠告、建议”的意思。

**complement** (补充), **compliment** (恭维)

to complement 是“补充”的意思:“The regulations complement the statue.”(这个规定补充了这个法令。)当某人用恭维的话 compliment(奉承)我的时候,I(我)感觉好极了。

**defendant** (被告), **respondent** (被告)

跟 independent(独立的)不同,independent 以 ent 结尾,而 defendant 是以 ant 结尾。在某些州 respondent 被用来代替 appellee(被告)。respondent 跟 defendant 一样都被用来指被告。然而,与 defendant 的拼法不同,respondent 是以 ent 结尾。

**forbear** (克制做……), **forebear** (祖先)

forebear 是“祖先”的意思,而在合同法中 forbear 是“克制做……”的意思,通常是克制对某人收账,或克制对某人提起诉讼。当你的意思是指 refrain(抑制)时,不要把 forbear 误拼成 forebear。

**indictment** (控告)

虽然这个词的发音跟 inditement 很像,但拼法是不同的。

**its** (它的), **it's** (它是)

its 是所有格。it's 是 it is(它是)的缩写形。你不会在法律写作中用到 it's 这个词,因为在正式的法律写作中缩写是不适当的。

**lead, led** (引导)

read 的过去式是 read,但 lead 的过去式是 led,意思是“引导”。

**liable** (负有法律责任的), **libel** (诽谤的文字)

说一个人 liable 表示这个人必须负民事损害赔偿 responsibility。libel 是用写作来作为诽谤的工具。

**occasion** (场合), **occurrence** (发生), **omission** (省略)

最好把这三个词当作一组来记,以比较出其中字母重复的差异。occasion 第一个字母 c 重复二次,当第二个字母 s 则否。omission 第二个字母 s 重复二次,但第一个字母 m 则否。occurrence 和 occurred,前后两个字母 c 跟 r 都重复出现两次。

**paid** (付款)

paid 这个词对大部分的律师及其当事人是非常重要的。pay 的过去式是 paid,不是 payed。不要因 payee(收款人),payor(付款人)或 note payable(应付票据)而把 pay 的过去式拼成 payed。

**parol** (口头答辩), **parole** (假释)

parol 是一个形容词,意思是 oral(口述的),像是 parol evidence rule(口头证据规则)。在 parol 的字尾加上 e,意思就完全不同,是“假释”的意思。

**personal** (个人的), **personnel** (员工)

personal 是 private(私人的)的意思。personnel 是 employee(职员)的意思。

**plead** (辩护), **pleaded**

一般说 plead 的过去式是 pleaded:“The defendant pleaded guilty.”(被告为被控诉有