

高 等 学 校 法 学 教 材

新编法律英语 阅读教程

A New Legal English Reader

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前 言

随着我国加入世界贸易组织,法律制度日臻完善,涉外法律服务市场和服务领域日益扩大,迫切需要更多既懂法律又懂外语的高素质、复合型法律人才。法律英语作为独立的一门学科也日益受到广泛的重视。本着帮助读者“通过提高英语水平的手段提高法律专业水平”(陈忠诚语)的宗旨,我们精心编写了这本《新编法律英语阅读教程》,供高等院校法律专业师生用作专业英语教程或辅助阅读材料,亦可供法律工作者、法律英语爱好者作为提高法律英语水平和了解美国法律制度的读本。

与目前市场上其他法律英语教材相比,本书定位于通过大量阅读,提高法律英语水平和运用能力的目标,故本书法律专业术语十分丰富。本书具有以下特点:(1)选材广泛,信息量大。本书基本包含了美国法律制度的主要方面,并且增加了国际法、国际经济法、世界贸易组织法律制度和我国“入世”文件选读。文章长度多介于 2000 至 3000 词,避免了其他同类教材文章篇幅过短、选材面过窄的缺陷。(2)文字浅显,结构严谨,行文流畅,语言地道。所有的文章均由美国等英语国家法律专业人士写作,在编选时,除极少数文章因技术需要略作删节外,力求保持原文风貌,避免一些同类教材用汉语材料译成英语的语言生硬的翻译痕迹,让读者享受纯正的法律英语。(3)编排体例合理,方便读者提高能力。本书增加了文章导读,言简意赅地介绍文章基本线索,便于读者快速阅读和理解文章主旨。词汇部分主要汇集法律专业词汇,以降低阅读难度,增加读者专业词汇数量。注释力求简单明了,方便读者了解法律知识。书后附有练习答案,便于读者自学,自测学习效果。

本书虽经多届学生试用,并根据他们的建议和意见多次修改,仍可能存在不足,敬请读者提出宝贵意见。

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Unit 1 Classifications of Law

〔导读〕 法有多种分类。根据法系、渊源、调整对象、内容和功能的不同,法可以分为普通法和民法、宪法和一般法、成文法和判例法、公法和私法、民法和刑法以及实体法和程序法。

Law may be classified in several ways: by system (common and civil law), by source (constitutional, statutory, and case law), by the parties involved (public and private law), by substance (civil and criminal law), and by function (substantive and procedural law). Each of these classifications is discussed in the sections that follow.

Common Law and Civil Law Systems

The two primary systems of American law are the common law system and the civil law system. The common-law system, which developed in England, is the most prevalent system of law in North America. The civil law system in North America is strongest in Louisiana in the United States and in Quebec in Canada; it is also prevalent in Mexico.

The common-law system is based on precedent and the principle of *stare decisis*. Although the legislative bodies at the federal, state, and local levels enact written statutes, and sometimes collect portions of those statutes into “codes”, there is no formal, comprehensive code of common law. Instead, the common law is stated in court decisions, and it is changed or modified by subsequent cases or statutes.

The civil law system may be traced back to the Roman law from which most European law systems originated. It was brought to the Western Hemisphere by the French, Spanish, and Portuguese. The civil law system as it exists in Europe is the result of Napoleon Bonaparte's efforts: he provided for the drafting of the Code Civil or Code Napoleon^[1], which restated the earlier principles of Roman law in more modern terms. In the civil law system, the Code Civil is a general statement of legal principles that is looked to in the interpretation of statutes and cases, and civilian courts do not follow the principle of *stare decisis*. The civil law system also does not have a division between law and equity.

Constitutional Law

A constitution is the basic framework for a legal and governmental system. It defines basic principles of law that all other laws must follow and delegates authority to various officials and agencies. Constitutions are created by the people acting in their collective capacity as sovereign in the nation or state in which they live.

Unit 1 Classifications of Law

The United States Constitution is the supreme law of the United States. No other federal or state law, statute, or case may impose upon its provisions.

The U. S. Constitution is divided into three parts. The first part, Articles I & VI, divides governmental power among the three branches of government (legislative, executive, and judicial) and between the federal and state governments, describes the relationships between the states, and sets out the means for amending the Constitution. Two methods are provided for proposing amendments (two thirds of both houses of Congress, or a Constitutional Convention called for by the legislatures of two thirds of the states), and two methods are provided for ratifying the proposed amendments (three fourths of the legislatures or three fourths of the conventions called in each state). By requiring a supermajority (i. e. , at least two thirds), the framers made sure that any constitutional changes would have such general acceptance throughout the nation that the possibility of a legal challenge or outright rebellion would be minimized.

The second part of the Constitution is the Bill of Rights^[2], which consists of the Constitution's first ten amendments. The Tenth Amendment specifies that powers not reserved by the U. S. Constitution for the federal government reside with the states. The first nine amendments provide for and protect individual freedoms.

The third part of the Constitution — the additional amendments that have been added over the past 200 years — reflects the efforts to keep it current with respect to changing social and political needs. These amendments cover a wide range of subjects. States also have constitutions, which are often more detailed than the U. S. Constitution. When a court is interpreting a state constitution, it may find correctly that the state constitution gives people within that state more rights than the same language contained in the U. S. Constitution. Because of the supremacy clause of the U. S. Constitution, however, no state can give its people fewer rights than those in the U. S. Constitution.

Statutory Law

Statutes are enacted by the legislative branch of government (whether federal or state) to regulate areas within the legislature's jurisdiction, as granted by the Constitution.

The United States Congress (by authority of Article I, Section 8, of the Constitution) has reserved to itself the power to regulate certain activities and functions, including patents, trademarks, copyrights, federal taxation, customs matters, the postal system, admiralty matters, bankruptcy, and diplomatic matters. It has the exclusive right to pass laws affecting these subjects. Congress also has power to pass legislation in areas not specifically assigned to it by the Constitution — such as labor and pollution control — that fall within its enumerated powers.

A law passed by Congress is not effective until it is signed into law by the president or has been repassed over the president's veto by a two-thirds majority of each house of the Congress, or if the president takes no action within 10 days of receiving it. Laws are published at the end of each session of Congress in the Statutes at Large (Stat.), where the laws are arranged chronologically, and are ultimately compiled in the United States Code (U. S. C.)^[3], where the

laws are grouped by subject. (Various private publishers also publish annotated editions of the United States Code.) This Code is organized into 50 titles or general subject areas.

Each year the state legislatures also pass many laws, which become effective when they either receive gubernatorial approval or are passed over the governor's veto.

Relationship of constitutions, statutes, and the courts

Because of the supremacy clause in the Constitution, federal laws must comply only with the federal Constitution, but the laws of any state must comply with provisions of both the state constitution and the federal Constitution. In a conflict between a federal and a state law, the federal law preempts the state law.

Statutory law is superior to case law as a source of law, and courts ordinarily are bound to apply the relevant statutory law to the cases that they decide. However, if a state legislature were to pass a law in violation of the state constitution — for example, a law requiring that all textbooks be submitted to a review board — the appellate court in the state could declare the law unconstitutional. Courts will also interpret statutes and supply legal principles when no rule exists. Once the court issues a decision, the decision becomes part of the case law on the subject.

Case Law

Case law or common law is the law made by courts. It is known as case law because it derives from judicial decisions in legal cases rather than from written statutes. This means that as a court decides and reports its decision concerning a particular suit, this case becomes part of the body of law and can be consulted in later cases involving similar problems.

Prior to the development of constitutional and statutory law, controversies were decided on the basis of established customs. If there were no established customs, judges decided a case on the basis of what they considered to be right and wrong. As these decisions began to be recorded, judges were directed to look for guidance to the decision in a prior case that had similar facts. This use of precedents is known as *stare decisis* — literally, “to stand by (previous) decisions”. *Stare decisis* is important because it provides for consistency in the application of common law and offers some assurance to a person seeking relief in the courts as to the rules governing the likely outcome of the case.

Cases are published in reporters (such as United States Reports^[4]) that are produced either by the government or a private publishing firm. Not all cases are published.

Equity law

A review of the common law is not complete without examining equity law, which has its origins in English common law.

Although a few states in the United States still have separate courts of equity and courts of law, most jurisdictions have merged the procedures of law and equity courts. Although the procedures are merged, the question of whether remedies are legal or equitable is important for

determining whether a plaintiff is entitled to a jury trial. Equity law continues to provide unusual and personal remedies for legal disputes of a civil nature. Two of the most familiar equity decrees are the injunction and specific performance. An injunction restrains a party from doing something that would cause irreparable harm if not enjoined or temporarily halted. For example, an injunction may order a manufacturer to stop dumping certain chemicals into a river. Specific performance requires the performance of a duty agreed on in a contract or other agreement.

Public and Private Law

Another classification of laws is based on the scope of the laws, that is, on the parties to whom they apply. This classification includes public and private law.

Private law governs the relationship between private citizens. Disputes may involve property, contracts, negligence, wills, and any number of other matters. Occasionally, as in marriage and divorce, the state may be involved indirectly, but, as the state is not itself a litigant, the matter remains one of private law.

Public law is a branch of law concerned with regulating the relations of individuals among themselves and with the government as well as the organization and conduct of government itself. Public-law disputes involve the state or its agencies in a direct manner. Usually the state is a litigant; it is often the plaintiff, the party bringing the suit to court. Examples of public law are municipal law, township law, criminal law, admiralty law, securities law, social security law, and aviation law.

When individual laws are referred to, however, there is a different kind of distinction between public and private laws. Specifically, a private law is a law that affects only selected individuals or localities, while a public law affects the welfare of the whole governed unit. A private law provides a kind of exception to the public rule.

Administrative law has become a major part of public law. Administrative law comprises the rules and regulations framed and enforced by a federal or state administrative agency as well as any rulings that the agency makes. Administrative bodies, while primarily executive in nature, may be delegated some legislative or judicial authority. The rules and regulations created by the federal administrative agencies are first published chronologically in the Federal Register (Fed. Reg.) and then later organized by subject in the Code of Federal Regulations (C.F.R.).

State and local governments also have administrative agencies that issue rules, regulations, and rulings. They may be a part of an executive department of the state government or they may be independent entities. These agencies tend to regulate areas not preempted by federal agencies, but they may also be found in fields subject to both federal and state regulation. State administrative agencies often have jurisdiction over these areas: unemployment and workers' compensation, taxation, education, motor vehicles, zoning, and health and safety. States publish their administrative law in compilations similar to the Federal Register and Code of Federal Regulations.

Civil and Criminal Law

Cases that come before a court may generally be divided into two categories: civil and criminal. Civil law deals with acts that injure a person or a person's rights. Civil law provides remedies, such as monetary damages or declaratory relief^[5], that are intended primarily to compensate the injured party. Civil law covers numerous areas, including real estate, domestic relations, partnership, taxes, contracts, and wills and trusts.

Criminal law declares what conduct is criminal and prescribes the punishment to be imposed for it. A criminal action is always prosecuted in the name of the federal government ("The United States of America"), the state ("The People of the State"), or a political subdivision, because the case is based on the alleged violation of the rights of all the people. The remedy sought in a criminal case is intended to punish the offender. The major categories of crimes are crimes against the person (as homicide or assault) or crimes against property (as arson or theft). A single act may be the basis for both civil and criminal penalties.

Substantive and Procedural Law

Substantive + law consists of the statutory and case law setting forth rights and obligations upon which a controversy is based, whereas procedural or adjective law states the rules by which a person can secure his or her substantive rights. Thus, procedural law consists of the rules of procedure or practice according to which the substantive law is administered. Procedural law deals with pleadings, which are papers that pass between the parties; practice, which refers to the conduct of litigation; and evidence, or the admissibility of evidence to achieve fairness while avoiding unnecessary expense or delay.

Although procedural law does not state the law, it outlines the procedures that must be followed in applying the substantive law. Procedural law enables the attorney to decide whether a case should go to federal or state court. It will tell the attorney when a lawsuit must be started, what pleadings are required of all parties, and what kind of evidence can be presented at trial. Procedural law can be as important as the substantive law in determining the outcome of a case because a case may be thrown out if the proper procedures are not followed.

Words and Expressions

judicial[ˈdʒuːdɪʃ(ə)l]

adj. 司法的; 审判的

constitutional[kənstiˈtjuːʃən(ə)l]

adj. 宪法的; 拥护宪法的

statutory[ˈstætjʊtəri]

adj. 法令的, 法规的

substantive[ˈsʌbstəntɪv]

adj. 表示实在的; 独立的

prevalent[ˈprevələnt]

adj. 流行的, 普遍的(+ among/in)

precedent[ˈpresɪdənt]

n. 先例, 判例 adj. 在先的, 前面的(+ to)

originate[əˈrɪdʒɪneɪt]

vi. 发源; 来自 vt. 引起

| | |
|------------------------------------|--------------------------------------|
| hemisphere[ˈhemisfiə(r)] | <i>n.</i> 范围, 领域 |
| equity[ˈekwiti] | <i>n.</i> 公平, 衡平法, 抵押资产的净值 |
| delegate[ˈdeligət] | <i>n.</i> 代表; 代表团团员 |
| sovereign[ˈsɒvrɪn] | <i>n.</i> 君主, 元首, 主权国家 |
| provision[prəˈviʒ(ə)n] | <i>n.</i> 规定, 条款 |
| legislature[ˈledʒisleɪtʃə(r)] | <i>n.</i> 立法机关, (美国的) 州议会 |
| supermajority | <i>n.</i> 投票数至少占总票数的五分之三 |
| outright[ˈaʊtraɪt] | <i>ad.</i> 全部地; 彻底地 |
| reside[riˈzaɪd] | <i>vi.</i> 居住; (权力、权利等) 属于 |
| redress[riˈdres] | <i>vt.</i> 赔偿, 补偿; 补救 |
| grievance[ˈɡri:vəns] | <i>n.</i> 不平; 抱怨 |
| repeal[riˈpi:l] | <i>vt.</i> 撤销(决议等); 废除(法令等); 取消 |
| enact[ɪˈnækt] | <i>vt.</i> 制定(法律); 颁布(法案) |
| admiralty[ˈædmərəlti] | <i>n.</i> 海事法庭, 海事法 |
| enumerate[ɪˈnju:məreɪt] | <i>vt.</i> 列举; 枚举 |
| veto[ˈvi:təʊ] | <i>n.</i> 否决; 否决权 <i>vt.</i> 否决 |
| chronologically[krənəˈlɒdʒik(ə)li] | <i>ad.</i> 按年月顺序地, 按时间先后 |
| annotate[ˈænəuteɪt] | <i>vt. vi.</i> 注解, 给……作注解 |
| seat[si:t] | <i>n.</i> 席位, 职位, 所在地 |
| surety[ˈʃʊəriti] | <i>n.</i> 保证, 担保; 担保人; 担保物 |
| census[ˈsensəs] | <i>n.</i> 人口普查; 人口调查 |
| conservation[kənsəˈveɪʃ(ə)n] | <i>n.</i> 保存, (对自然资源的) 保护, 管理 |
| asylum[əˈsaɪləm] | <i>n.</i> 避难; 政治避难权, 庇护权 |
| intoxicating[ɪnˈtɒksikeɪtɪŋ] | <i>adj.</i> 使兴奋的 |
| observance[əbˈzɜ:v(ə)ns] | <i>n.</i> 遵守, 奉行 |
| uniform[ˈju:nifɔ:m] | <i>adj.</i> 相同的, 一致的 |
| veteran[ˈvetərən] | <i>n.</i> 老兵; 老手 |
| insular[ɪnˈsju:lə(r)] | <i>adj.</i> 岛屿的, 海岛的 |
| gubernatorial[ɡju:bənəˈtɔ:riəl] | <i>adj.</i> 州长的 |
| appellate[əˈpelət] | <i>adj.</i> 上诉的; 受理上诉的 |
| contingency[kənˈtɪndʒənsi] | <i>n.</i> 意外事故; 偶然事件 |
| chancellor[ˈtʃɑ:nsələ(r)] | <i>n.</i> 大法官 |
| chancery[ˈtʃɑ:nsəri] | <i>n.</i> 衡平法院, 衡平法 |
| injunction[ɪnˈdʒʌŋkʃ(ə)n] | <i>n.</i> 命令; (法院的) 禁止令; 强制令 |
| litigant[ˈlitɪɡənt] | <i>adj.</i> 诉讼的 <i>n.</i> 诉讼当事人 |
| register[ˈredʒɪstə(r)] | <i>n.</i> 登记, 注册 |
| ruling[ˈru:lɪŋ] | <i>n.</i> 统治; 裁决, 裁定; |
| preempt[priˈempt] | <i>vt.</i> 以先买权获得; 先占有 |
| zone[zəʊn] | <i>n.</i> 地带; 地区 <i>vi.</i> 分成区; 分成带 |

| | |
|-----------------------------|--------------------|
| arson['a:s(ə)n] | n. 纵火(罪), 放火(罪) |
| homicide['hɒmisaɪd] | n. 杀人, 杀人犯 |
| adjective['ædʒɪktɪv] | adj. 有关程序的 |
| admissibility | n. 进入(或被接受、被采纳)的资格 |
| assault[ə'sɔ:lt] | n. 侵犯人身, 施暴, 强奸 |
| statutes at large | 一般法律, 法律全书 |
| insular possessions | 属岛 |
| specific performance | 实际履行 |
| Federal Register | 联邦公报 |
| procedural or adjective law | 程序法 |
| the Bill of Rights | 《权利法案》 |
| Code Civil | 《民法典》 |
| stare decisis | 依照先例 |
| redress of grievances | 昭雪冤屈 |
| admiralty matters | 海事 |
| surety bonds | 履约保证, 担保债券 |
| customs duties | 关税 |
| established customs | 惯例 |
| case law | 判例法 |
| review board | 审查委员会 |
| the Court of Chancery | 衡平法院 |
| scope of the laws | 法律调整的范围 |
| breach of confidence | 失信, 违约 |
| declaratory relief | 宣告式救济 |
| classifications of law | 法的分类 |

Notes

[1] Code Napoleon, 《拿破仑法典》, 也称 Code Civil, 即法国民法法典, 于 1803~1804 年间编纂。

[2] the Bill of Rights, 《权利法案》, 美国《权利法案》的基础是联邦宪法和宪法修正案(特别是前十条)。

[3] The United States Code, 《美国法典》, 收集所有有效的联邦制定法, 每 6 年修订一次。

[4] United States Report, 《美国最高法院判例报告》。

[5] declaratory relief, 宣告式救济, 原告寻求宣告其权利时援用的救济方式。根据美国 1934 年《宣告式判决法》, 如果诉讼发生时原告不能肯定他的权利, 可以申请法院判决确认其权利。

Exercises

I. Answer the following questions (multiple choice).

1. How is law classified according to the text?
 - A) by system, by source, by the parties involved, by power, and by function
 - B) by system, by source, by the parties involved, and by area, and by social classes
 - C) by system, by source, by area, by race, and by living standard
 - D) by system, by source, by the parties involved, by substance, and by function
2. What is the constitutional law?
 - A) It is the most powerful law.
 - B) It is the most basic law.
 - C) It is the last law to be used.
 - D) It only defines the nature of certain crimes.
3. How are the governmental powers divided in the United States?
 - A) Two branches: legislative and judicial
 - B) Three branches: legislative, executive, and judicial
 - C) Four branches: legislative, executive, amending and judicial
 - D) Five branches: legislative, executive, amending, judicial and eliminating
4. How many parts is the United States constitution divided? What are they?
 - A) Two parts: governmental power division, and additional amendments
 - B) Three parts: governmental power division, bill of rights, and additional amendments
 - C) Four parts: governmental power division, bill of rights, types of crimes, and additional amendments
 - D) Five parts: governmental power division, bill of rights, types of crimes, the levels of laws, and additional amendments
5. In what condition is a law effective?
 - A) After it is passed by Congress
 - B) By the approval of the president only
 - C) After passed by Congress, signed by the president, or repassed over the president's veto by a two-thirds of each house of the Congress
 - D) By the public vote
6. The congress had all the following rights except _____.
 - A) making, amending, passing and eliminating all the laws within the United States
 - B) regulating certain activities and functions, such as patents, the postal system, diplomatic matters

- C) passing legislation in areas not specifically assigned to it by the Constitution
 - D) passing the laws within its power range, such as patents, the postal system and diplomatic matters.
7. Which is more authoritative when there exists a conflict between a federal law and a state law?
- A) What is in common in the two laws is more authoritative.
 - B) Both law are equivalent in effect.
 - C) The state law is more authoritative since it has considered specific conditions of the state.
 - D) The federal law is more authoritative than a state law.
8. What is the difference between private law and public law?
- A) The former deals with the relationship between private citizens, while the latter the relations of individuals among themselves and with organizations or even the government
 - B) The former covers wider range than the latter.
 - C) The former is less authoritative than the latter.
 - D) The state is never involved in the former, while always involved in the latter.

II. Fill in the blanks by choosing the words from the blocks and using their proper forms.

amend, sovereign, enact, veto, contingency, plaintiff, prevalent, judicial, litigant, substantive, negligence, preempt, provision, annotate, appellate, irreparable, controversy

- 1. Both sides have to act according to the _____ of the agreement.
- 2. The Labor Party and the Conservative Party are in _____ against each other on this issue.
- 3. The two businessmen made an _____ to the contract they had signed earlier.
- 4. The president of the United States _____ the bill submitted by the congress.
- 5. Bad colds and flu are _____ in the winter.
- 6. Who are the _____ of this law case of juvenile delinquency?
- 7. On the stage, John _____ the part of the parent.
- 8. We can safely say that there is no absolutely complete _____ system in the world, even in America.
- 9. A _____ law defines the essential rights of the people.
- 10. _____ is furnishing explanatory or commentary information to a text or a book.
- 11. The People's Republic of China is a _____ country.
- 12. Discussion of the water shortage will _____ the other topics on this week's agenda.
- 13. We must always be prepared for every _____.
- 14. The flood caused _____ damage to the village.

Unit 1 Classifications of Law

15. The animals were thin and ill because the farmer's _____.
16. The _____ court will hear appeals and to review the decisions made by the lower courts.
17. The _____ is the party that institutes a suit in a court, while the other party is called defendant.

III. Translate the following terms into Chinese.

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|--|----------------------------|
| 1. statues at large | 2. insular possessions |
| 3. injunction and specific performance | 4. Federal Register |
| 5. precedural or adjective law | 6. Bill of Rights |
| 7. Code Civil | 8. stare decisis |
| 9. redress of grievances | 10. admiralty matters |
| 11. surety bonds | 12. customs duties |
| 13. established customs | 14. case law |
| 15. review board | 16. the Court of Chancery |
| 17. scope of the laws | 18. breach of confidence |
| 19. declaratory relief | 20. classifications of law |

Unit 2 *The American Court System*

[导读] 美国的法院体系分为联邦法院和州法院两个层次。联邦法院包括美国最高法院、美国上诉法院、美国地区法院、美国联邦索赔法院、国际贸易法院和美国税务法院。州法院体系则包括州最高法院、中级上诉法院、一般管辖权法院、有限管辖权法院、有限管辖权专门法院。美国还设立印第安部族法院。

The American judicial system is composed of the federal courts, created by the Constitution or Congress under its constitutional powers, and the state courts, created by state constitutions and legislatures.

The Federal Court System

The federal courts form a part of the federal judicial system, the jurisdiction of which is prescribed by Article III of the Constitution. The federal court system consists of a Supreme Court of the United States, 13 federal courts of appeals, a large number of district courts that serve as courts of general jurisdiction, and a number of specialized courts created by the Congress under the necessary and proper clause of Article I.

The Supreme Court of the United States The Supreme Court of the United States was created in accordance with Article III, Section 1, of the U.S. Constitution and was organized on February 2, 1790. The Supreme Court is made up of the Chief Justice of the United States and a number of associate justices; currently there are eight associate justices. The president has the power to nominate the justices, and appointments are made with the advice and consent of the Senate. The Supreme Court's term runs from the first Monday in October of each year until business is completed, usually about the end of June. The nine justices sit en banc (in full court). Six justices constitute a quorum (minimum number required to constitute a lawful bench), but certain cases can be acted upon by a single justice acting as a circuit justice.

Article III, Section 2, of the Constitution defines the original and exclusive jurisdiction of the Supreme Court as (1) all controversies between states, and (2) all actions or proceedings against ambassadors or other public ministers of foreign states or their domestic servants, not inconsistent with the law of nations. The Court has original but not exclusive jurisdiction over (1) all actions or proceedings brought by ambassadors or other public ministers of foreign states or to which consuls or vice consuls of foreign states are parties, (2) all controversies between the United States and a state, and (3) all actions or proceedings by a state against the citizens of another state or against aliens.

The Court only occasionally hears cases in original jurisdiction, however; its chief function is as an appellate court. The Supreme Court may review cases from the U. S. courts of appeals either by writ of certiorari^[1] (a written mandate to call up the records of a subordinate court) granted to petitioners that are party to any civil or criminal case, or by certification of a question of federal law in a civil or criminal case by a court of appeals. Both of these appeals are granted at the court's discretion. There is also a very limited right of direct appeal from a three-judge district court panel. A majority of Supreme Court cases come on petition for certiorari.

The Supreme Court may also review, by writ of certiorari, the final judgment of the highest court of a state in which a decision on a case may be rendered if (1) there is a question as to the validity of a treaty or statute of the United States, (2) the validity of a state statute has been questioned as being unconstitutional or illegal, or (3) a title, right, privilege, or immunity is claimed under the Constitution or treaties or statutes of the United States.

The Supreme Court also possesses statutory power to prescribe rules of procedure to be followed in the lower federal courts. Studies are carried out and rules recommended by the Judicial Conference of the United States, the main policy-making group for the federal judiciary. The Supreme Court has set rules of procedure governing such matters as bankruptcy proceedings, copyright cases, appellate proceedings, civil law, and criminal law. These rules of procedure for the federal courts are published with the decisions of the Supreme Court in the United States Reports^[2] and also as appendices to some of the titles of the United States Code.

United States Courts of Appeals The courts of appeals were created in 1891, to relieve the Supreme Court of the task of considering all appeals for cases originally decided by the federal trial courts. By statute, they are empowered to review all final decisions and certain provisional decisions of federal district courts, except when direct review by the Supreme Court is provided for. The courts of appeals are also empowered to review and enforce orders of many federal administrative agencies, and also to review appeals from the Tax Court of the United States. Decisions of the courts of appeals are final but subject to discretionary review by the Supreme Court. Each of the 50 states is assigned to one of 11 judicial circuits. There is an additional circuit for the District of Columbia, and another for the Federal Circuit. Each court of appeals usually hears cases in divisions consisting of a panel of three judges; however, it may sit en banc with all judges present. The number of judges assigned to each court of appeals is fixed by statute. Individual judges make decisions for the court only in procedural matters.

United States District Courts The district courts are federal trial courts with general federal jurisdiction. There is at least one district court in each state, while some larger states have as many as four. There are in all 92 federal district courts in the 50 states plus one in the District of Columbia and one in Puerto Rico. The number of federal district court judges is fixed by statute. Normally only one judge hears a case, but in certain cases a three-judge panel is required.

Each district court is served by a clerk, a U. S. attorney, a U. S. marshal, and one or more U. S. magistrates, bankruptcy judges, probation officers, and court reporters. Magistrates are federal judicial officers who serve under the general supervision of the federal district, but who