

法律英语系列教材

法律英语听说教程 上册

Listening & Speaking Course of English for Law

- 唐桂民 主编
- 杜金榜 张新红 总主编
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对外经济贸易大学出版社

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(上册)

Listening & Speaking Course of English for Law
(Book I)

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序 言

杜金榜、张新红两教授主编的《法律英语核心教程》即将问世,我感到十分高兴,愿意竭诚向读者推荐它。我国已经加入世界贸易组织,涉外法律人才的需求日益增加。对外经济贸易大学出版社宓智瑛副总编组稿、策划的这套教材堪称“及时雨”,必将受到广大读者的欢迎。

在专门用途英语(English for Specific Purposes)中,法律英语是最具特色的一种。法律用语和法律文件等,都有鲜明的特点,要求采用严格的、规范的、正式的语体。如果说专门用途英语必须经过“专门的”训练才能学到,那么法律英语应该是属于“最专门的”一种;就是以英语为母语的人也未必具有这样的知识。这就是说,为我国读者编写的法律英语教科书必须从选材、编注、练习体系设计等方面精心安排。这套教材的编者在法律英语的教学方面积累了许多行之有效的宝贵经验,在编写中从我国学习者的特点出发,既注意到读、写、说、译等语言技能的培养,又注意到法学知识的输入;既强调教材体系的连贯性,又强调知识的循序渐进性,覆盖法学的基础知识、国际经济法、法律专题讨论等领域。这就保证了学习者既学到英语,又学到法律知识。从本书的编写说明中可以看出,目前这套教材仅是法律英语系列教材的第一本,接着还会有《法律英语听说教程》、《法律英语阅读教程》、《法律英语写作教程》、《法律英汉翻译教程》等问世。这套系列教材的出版将会大大地有利于法律英语专业学习者的培养,我们翘首以待。

法律语言学(Forensic Linguistics)是在各民族和国家之间关系日益紧密的今天发展起来的一门新兴的语言学科,具有很强的生命力。语言在法律活动中具有举足轻重的地位。我们常说“在法律面前人人平等”,但是,语言不沟通,平等就难以维持。我热切地希望编者能够把法律语言学的一些新进展消化和融合到这套教材里面,使之成为一套实用、先进、科学的教程。

是为序。

桂诗春

前言

随着对外开放步伐的加快,尤其是加入世界贸易组织之后,中国对涉外法律人才的需求急剧增加。为了适应这一要求,尽快培养高素质的法律英语复合型人才,我们特推出“法律英语系列教材”。作为“系列教材”之一,《法律英语听说教程》以法律场景为主线,以对话形式介绍法律知识,同时突出语言结构和功能。本教程的一个显著特点是“听说结合”。与一般的口语教材不同,本教程结合法律场景,把听与说的训练有机结合起来。首先通过“听”介绍与每个单元的主题相关的句型和表达方式,帮助学习者了解这个单元的内容并打下基本的语言基础,接着进行“说”与“听”操练,从简单到复杂,从单一到综合,以逐步提高学习者的应用能力和技巧。本教程编排新颖,内容丰富具体,语言真实自然,练习形式活泼多样,结合各种法律场景,便于学习者学以致用。

《法律英语听说教程》除了适合英语+法律、法律+英语的涉外型、复合型本科学习者使用外,也可供法律、外交、国际贸易、国际金融和国际政治等专业的本科学习者学习法律和英语之用,可供辅修法律或英语的商务、经济、管理、金融、文化交流等专业的学习者之用。本教程还可以作为立法、司法等部门的公务员提高专业和英语水平的教材。

本教程分上、下册,上册着重于基本法律知识的介绍,下册侧重于法律知识在具体场景的应用。每册12个单元,每单元包括9个部分:(1)“热身”练习(Warm-up Practice),这部分主要通过学习者的“说”,让教师了解学习者对本单元内容的掌握程度,教学时有的放矢,同时也让学习者对本单元的主要内容有所了解;(2)词汇表(Vocabulary),这部分主要把每单元中的听力练习、对话和语言要点中的生词和短语列举出来,便于学习者学习和查阅;(3)听力练习(Listening Practice),这部分旨在让学习者泛听本单元所学的主要内容和语法要点,让他们在获得听力练习的情况下对将学的知识有一个感性认识;(4)对话范例(Sample Dialogues),这部分把本单元的主要内容和语言点贯串于具体的对话中,使学习者了解本单元内容和语法结构,同时也供学习者模仿活用;(5)语言要点(Language Focus),分两部分,第一部分列举本单元常用的法律表达方式,第二部分列举一些日常表达方式,这样,学习者既可了解法律的表达方式,又可学习和巩固基本的语法结构;(6)巩固练习(Practice for Consolidation),分为听力和口语两部分,旨在让学习者把本单元所学的主要内容和语法结构融会贯通于听说练习中,从而达到巩固和应用的目的;(7)角色扮演(Role Play),这部分着重提高学习者应用所学知识的能力和技巧;(8)补充词汇(Supplementary Vocabulary),这部分补充一些与本单元内容相关的术语,以充实学习者相关领域的词汇;(9)补充阅读(Supplementary Reading),这部分挑选一篇相关领域的文章,作为学习者的课外读物,旨在增加学习者相关领域的专业知识。

本教程配有由外籍专家朗读的录音磁带,同时,为了方便自学,书后提供录音文本和练习答案。

本教程一共两册。建议第二学年开始使用,每学期一册(每周两学时)。在使用过程中,教师根据学习者的具体情况和水平,对某些单元的内容和练习可有所取舍。

为方便本教材编写者和使用者进行直接交流,我们建立了专门的网页,教师和学习者可以通过<http://www.beschool.net/>参加讨论和反馈意见。

编者在编写过程中,参考了国内外出版的书籍,并得到广东外语外贸大学国际商务英语学院的积极首肯、精神鼓励和物质支持,在所涉法律专业知识方面得到广东外语外贸大学有关法学专家的指导和帮助,从中获益良多,在此一并向他们表示感谢。

鉴于法律英语的特点,加上目前基本找不到可借鉴、参考的听说教材,在编写本教材过程中,我们付出了大量的心血,希望本教材能够起到抛砖引玉的作用。

编 者

2003年8月于广州

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Unit 1

An Introduction to Law

Learning Objectives

- A to know the nature of law
- B to categorize law in different ways
- C to have a clear idea of the sources of law
- D to learn how to express opinions or ideas
- E to learn how to express disagreement
- F to classify an item and differentiate two items
- G to learn some expressions used for deciding a case, citing a case and making law

I. Warm-up Practice

1. Do you know the meaning of the following words? Do they have special meaning when used as legal terms? Write down their Chinese equivalents.

- | | | |
|----------------|-------------------|------------------|
| 1) civil _____ | 2) party _____ | 3) damages _____ |
| 4) fine _____ | 5) judgment _____ | 6) bill _____ |
| 7) case _____ | 8) article _____ | 9) opinion _____ |

2. Tick the answers that you think are the best.

- 1) What is law?

- ☐ a) Law is a set of rules of conduct.
- ☐ b) Law is a command from a superior to an inferior.
- ☐ c) Law is a method of social control.
- ☐ d) Law is a way to ensure rights and impose responsibilities.

- 2) Why do we need law?

- ☐ a) Law is a way to keep social order.
- ☐ b) Law is a platform for human co-operation.
- ☐ c) Law is a medium of dispute resolution.
- ☐ d) Law is a tool of domination.
- ☐ e) Law is a tool to protect individual freedom.
- ☐ f) Law is a tool to fight injustice.
- ☐ g) Law is a way to justice.

3. Do you think people need law anytime anywhere? What problems might be solved by law? Work in pairs, trying to imagine what disputes might happen and how they can be solved by law. The fol-

lowing pictures may help you.



In a family



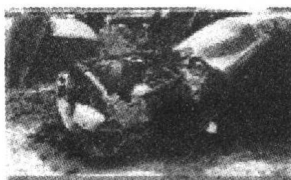
In a workplace



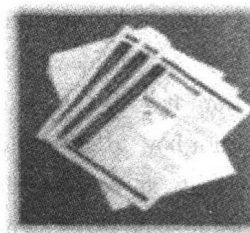
In a bank



At night



In a street



Between companies

4. Match the following Chinese legal terms with their English equivalents by drawing lines between them.

- 1) 民法
- 2) 刑法
- 3) 程序法
- 4) 实体法
- 5) 公法
- 6) 私法
- 7) 普通法系
- 8) 成文法系
- 9) 普通法
- 10) 衡平法

- a) common law system
- b) public law
- c) equity
- d) criminal law
- e) private law
- f) civil law
- g) procedural law
- h) common law
- i) substantive law
- j) continental legal system/civil law system

5. Can you name any famous law schools in the U.K. and in the U.S.?

U.K. (University law schools)	U.S. (University law schools)

II. Word List

1. Listening Practice

Words

alter /'ɔ:ltə(r)/ <i>vt.</i>	改变
arbitrary /'ɑ:bitrəri; (US)'ɑ:bitreri/ <i>adj.</i>	任意的, 武断的, 独裁的, 专断的
associate /ə'səʊʃieit/ <i>vt.</i>	使发生联系, 使联合
chaotic /kei'ɒtik/ <i>adj.</i>	混乱的, 无秩序的
civil /'siv(ə)l/ <i>adj.</i>	民事的
claim /kleim/ <i>n. & vt.</i>	(根据权利提出)要求, 要求权, 主张
Commons /'kɒmənz/ <i>n.</i>	下院
constitutional /kənsti'tju:ʃ(ə)n(ə)l; (US)kənstə'tu:ʃən(ə)l/ <i>adj.</i>	宪法的, 拥护宪法的
copyright /'kɒpirait/ <i>n.</i>	版权, 著作权
corporate /'kɔ:pərit/ <i>adj.</i>	社团的, 法人的, 共同的, 全体的
corporation /kɔ:pə'reiʃ(ə)n/ <i>n.</i>	社团, 法人, 公司
criminal /'krimin(ə)l/ <i>n. & adj.</i>	罪犯; 犯罪的, 犯法的, 刑事的
cyberspace /'saibəspeis/ <i>n.</i>	电脑空间
damage /'dæmɪdʒ/ <i>n.</i>	(pl) 赔偿金
dimension /di'menʃ(ə)n/ <i>n.</i>	尺寸, 尺度, 维(数), 度(数), 元
doctrine /'dɒktrin/ <i>n.</i>	教条, 学说, 主义
enforce /in'fɔ:s/ <i>vt.</i>	执行
explode /ik'spləʊd/ <i>vt. & vi.</i>	使爆炸; 爆炸, 爆发
fine /fain/ <i>n.</i>	罚款, 罚金
impose /im'pəʊz/ <i>vt.</i>	强加
Islamic /iz'læmik/ <i>adj.</i>	伊斯兰的, 伊斯兰教的
legal /'li:g(ə)l/ <i>adj.</i>	法律的, 法定的, 合法
litigation /,liti'geiʃən/ <i>n.</i>	诉讼, 起诉
morality /mɔ'ræliiti/ <i>n.</i>	道德
negotiate /ni'gəʊʃieit/ <i>vi. & vt.</i>	(与某人)商议, 谈判
psychiatry /sai'kaiətri; (US)si-/ <i>n.</i>	精神病学, 精神病治疗
resemble /ri'zemb(ə)l/ <i>vt.</i>	像, 类似
securities /si'kjʊəritiz/ <i>n.</i>	(有价)证券
settlement /'setlmənt/ <i>n.</i>	解决, 和解
taxation /tæk'seɪʃən/ <i>n.</i>	课税, 征税
terrorism /'terəriz(ə)m/ <i>n.</i>	恐怖主义
tort /tɔ:t/ <i>n.</i>	侵权
totalitarian /təʊtəli'teəriən/ <i>adj.</i>	极权主义的

Phrases

in random /'rændəm/

任意地, 随便地, 胡乱地

intellectual property /,inti'lektjuəl 'prɒpəti/

知识产权

2. Dialogues and Language Focus**Words**address /ə'dres/ *vt.*

针对, 向……提出

administrative /əd'ministrətiv/ *adj.*

管理的, 行政的

adopt /ə'dɒpt/ *vt.*

采用

bill /bil/ *n.*

议案

binding /'baɪdɪŋ/ *adj.*

有约束力的

boundary /'baʊndəri/ *n.*

边界, 分界线

categorize /'kætɪgəraɪz/ *v.*

加以分类, 分类

cite /saɪt/ *vt.*

引用, 引证

classify /'klæsɪfaɪ/ *vt.*

分类, 分等

Congress /'kɒŋɡres/ *n.*

(美国等国的)国会

criterion /kraɪ'tɪəriən/ *n.* (pl.) criteria

标准, 准则

derive /dɪ'reɪv/ *vt. & vi.*

源出, 起源于

distinct /dɪ'stɪŋkt/ *adj.*

明显的, 截然不同的

enact /i'nekt/ *vt.*

制定(法律)

equity /'ekwɪti/ *n.*

衡平法

expertise /,ekspə'tɪz/ *n.*

专门知识

Germanic /dʒə:'mænɪk/ *adj.*

德国的

hierarchy /'haɪəɹɔ:ki/ *n.*

层次, 等级

indictment /ɪn'daɪtmənt/ *n.*

起诉书, 公诉书; 起诉, 控告

infringement /ɪn'frɪndʒmənt/ *n.*

违反, 侵害, 侵权

legislation /ledʒɪs'leɪʃ(ə)n/ *n.*

立法, 法律的制定(或通过)

legislature /'ledʒɪsleɪtʃ(ə)r/ *n.*

立法机关, 立法机构

maintain /meɪn'teɪn/ *vt.*

维护, 保持

maintenance /'meɪntɪnəns/ *n.*

维护, 保持

muddle /'mʌdl/ *vt.*

使困惑

override /əʊvə'raɪd/ *vt.*

推翻, 驳回, 使无效

parliamentary /pɑ:lə'mentəri/ *adj.*

议会的

precedent /'presɪdənt/ *n.*

先例

proceeding /prə'siðiŋ/ *n.*

(pl.) 诉讼

promulgate /'prɒməleɪt/ *vt.*

颁布(法律)

Senate /'senɪt/ *n.*

参议院, 上院

statute /'stætju:t/ *n.*

(成文)法规; (制定)法; 规程, 条例

veto /'vi:təʊ/ *vt.*

否决

Phrases

case law	判例法
civil law	成文法(大陆法);民法
common law	普通法
criminal law	刑法
House of Commons /'kɒmənz/	(英)下议院
House of Lords	(英)上议院
House of Representatives /,repri'zentətivz/	(美国、新西兰、澳大利亚等国的)众议院
legal system	法系,法律体制
private law	私法
procedural /prə'si:dʒərəl/ law	程序法
public law	公法
<i>stare decisis</i> /'stɑ:ri di'saɪsɪs/	[拉丁]服从先例
substantive /'sʌbstəntɪv/ law	实体法

III. Listening Practice

- Listen to a passage and decide whether the following statements are true (✓) or false (×).
 - () 1) The rules imposed by morality are not called 'laws' because they do not play an important role in telling what we should and should not do.
 - () 2) Laws both resemble and differ from morality.
 - () 3) Law is necessary because we live in a structured society.
 - () 4) Law must provide a way to some disputes either peacefully or by force.
 - () 5) Ruled by a totalitarian government, a society has cruel and arbitrary laws, so it cannot operate in an orderly manner.
- Listen to a monologue in which a student is describing the course schedule for 2003 session in Harvard Law School. As you listen, complete the following diagram.

First Period: 8:00 – 9:30 a.m.	
Week 1	Week 2
1) _____ Law	1) Corporate Taxation
2) _____ History	2) _____ of _____, Settlement and Conflict Resolution
3) _____	3) _____: Laws of War
4) Negotiating Deals	4) Mass Torts and Complex _____
Second Period: 9:45 – 11:15 a.m.	
Week 1	Week 2

续表

1) Corporate Taxation	1) _____ Law
2) Current Issues in _____	2) _____ Law: Beyond Biology
3) The Exploding Internet: Building Global Commons in Cyberspace	3) _____: Comparative Dimensions
4) Islamic Law	5) United States _____
Third Period: 11:30 a.m. – 1:00 p.m.	
Week 1	Week 2
1) _____ Law: Due Process and _____ Protection	1) Disability Law
2) _____	2) _____ Law and _____
3) Problems with _____ and _____ Law	3) Psychiatry, Medicine, and the Law
	4) United States _____ Law
Fourth Period: 2:30 – 4:00 p.m.	
Week 1	Week 2
1) _____ Law _____	1) Close _____: Making the Deal to Organize or Restructure
2) _____: Recent Developments in _____ and Doctrine	2) International Aspects of U.S. _____
3) Professional Responsibility: _____ for _____	3) World Cities
4) _____	5) _____ of _____: Current _____

IV. Sample Dialogues

Dialogue 1

(Professor Smith is giving a lesson on the nature of law. He and his students Ingrid, George and Louisa are discussing what law is and how law is classified.)

P = Professor Smith; I = Ingrid; G = George; L = Louisa

P: Everyone knows the word 'law', but what is law?

I: As I see it, law often forbids or punishes people.

G: But law also allows us to enjoy rights.

L: I don't agree with either of you. In my opinion, law is a set of rules which regulate people's behavior.

P: Well, you've got a point there. Legal systems are particular ways of establishing and maintaining social order. So law is a formal mechanism of social order. But who knows how law maintains social order?

G: By punishing criminals.

I: I'm not really sure you're right. Sometimes people have conflicts, and they need law to solve the problem. Perhaps none of them is a criminal.

P: So we can say law maintains social order by dealing with disorder or conflict. George, what you said is true of criminal law, but as we'll see law doesn't mean criminal law only. Law can be categorized in a number of ways.

L: Law can be classified into criminal law, civil law, common law and so on.

G: There're also public law and private law. For my part, we categorize law on different bases.

P: Good! A very important point here is the criterion we depend on. When we compare common law with civil law, we're in fact talking about two distinct legal systems. Do you know which countries adopt common law system?

I: The UK and the US.

P: Right. These are two typical common law countries. Then what about civil law system?

G: Germany. Civil law is derived from ancient Roman law and the Germanic tradition. Besides, France and many other European continental countries have such legal systems.

P: Very good! Thank you, George. The two legal systems vary in many aspects and we'll come to that in Unit 2.

L: But, Prof. Smith, the meaning of common law is different when contrasted with equity.

I: Common law and equity are not legal systems. They're sources of law.

P: Yeah, they're sources of English law. Roughly speaking, common law is the law of common people of England. Equity was developed later to complement common law. Do you understand? Ok, I hope you won't be confused by another 'common law'. Can you discern between common law and statute?

L: Common law is judge-made law.

I: Statute is produced by legislature.

P: Both of you are right. Actually, they're also sources of law. We'll discuss this point later. Now let's talk about private law and public law. What are the differences?

G: Word list, private law relates to individual citizens, while public law relates to institutions of government.

P: That's it. We distinguish them by looking at to whom the law is addressed.

L: So contract law is private law; and constitution is public law. Am I right, Prof. Smith?

P: Yeah, you're right. Well, you seemed to be muddled by criminal law and civil law. Are you clear now, George?

G: As far as I am concerned, a civil case is brought by one citizen or body against another citizen or body. A criminal case is brought by...by... Sorry, I'm still a little bit confused.

L: A criminal case is brought by the State against individuals.

- P: Or a corporate defendant. Thank you, Louisa. Are you with us, George? Ok, one more way of categorization I'd like to mention is substantive law and procedural law. Can you differentiate them?
- I: Substantive law defines rights and obligations, while procedural law regulates how rights and obligations are enforced.
- P: Absolutely. So we've sorted law into many categories, but you'll find later the boundaries are not so clear sometimes.

Dialogue 2

(Professor Smith and his students Ingrid, George and Louisa are now discussing sources of English law and American law.)

P = Professor Smith; I = Ingrid; G = George; L = Louisa

- P: In this period, we'll focus on the sources of law. I mean, where does law come from. Generally, law comes from three sources: constitution, statutes and court decisions, but every country has its own features. What we are going to talk about are the sources of English law and American law. Have you got anything to say on the sources of English law?
- L: The sources are legislation and case law.
- G: These are the principal sources. And the subsidiary sources include custom and books of authority.
- P: That's it. Thank you, George and Louisa. Now let's look into these sources one by one. Legislation is law produced through parliamentary system.
- I: There must be a process of law making. Would you say something on that, Prof. Smith?
- P: Sure. A bill first goes through the two Houses of Parliament, say, the House of Lords and the House of Commons. When Royal Assent is given, it becomes law. Get it? And case law is the law created by judges in the course of deciding cases.
- G: So case law, court decision or judicial decision, they mean the same thing?
- L: We sometimes also refer to it as common law.
- P: Yeah, you're right. Well, listen, here pay attention to the doctrine of stare decisis or binding precedent. It refers to the fact that courts are bound by previous decisions of courts equal to or above them in the court hierarchy. We'll discuss court hierarchy in Unit 3. Now let's look at custom.
- L: Does custom have special meaning as a source of law?
- I: No. In my view, it just means social habits, patterns of behavior.
- P: Ingrid is right. Custom is not so important as a source today, but law was originally based on it. Well, however, books of authority are more and more important though they were treated with little respect in the past.
- G: Can they be cited as independent sources in court?
- L: No. To my mind, they're books, not laws at least.
- P: They aren't laws, but some extremely important books can be cited. Ok, these are the sources of

English law. I say, American law is a little bit different. Constitution, statutes, administrative rules and regulations and common law are said to be the four primary sources of American law.

I: In America, each state has a complete government. Each has its own written constitution. State constitutions are also a source of law?

P: Yes. Both state constitutions and federal constitution are sources of law. And statutes are another important source of American law. Statutes are enacted by Congress or the legislature of a state. Sometimes they are called legislation.

L: The legislation process in America is the same as that in Britain?

p: No, not really. A bill must be approved by both Houses, that is, the Senate and the House of Representatives. And then it must be approved and signed by the President before it becomes law.

G: But the President may veto a bill.

P: In that case, it doesn't become law unless the veto is overridden by a two-thirds vote of both Houses. Administrative rules and regulations, if promulgated, have the same force as statutes.

L: Who make these administrative rules and regulations?

P: When they lack expertise in a certain area, legislative bodies often give their power to governmental entities, for example, the Environmental Protection Agency, the Securities and Exchange Commission. As for common law, I won't say any more since I have explained it.

V. Language Focus

1. Useful legal expressions

(1) Instituting a lawsuit

- 1) A civil case is brought by one citizen or body against another citizen or body.
- 2) A criminal case is brought by the State against individuals or corporate defendants.
- 3) The lawyer suggested the agency bring a civil action against Peter Green.
- 4) He brought a suit against the journalist.
- 5) The company decided to commence a legal action in Federal Court asking for a summary judgment.
- 6) The singer filed infringement action against the radio station.
- 7) He was sued for breach of contract.
- 8) The first indictment has been brought against the terrorists of September 11th.
- 9) I finally took legal proceedings against my friend.

Practice 1

Work in pairs, combining the following phrases into sentences with proper expressions meaning bringing a case.

- 1) Mr. Roger, the No. 1 Hospital
- 2) the United States, Judge Cooper
- 3) Catherine, the local TV station, tort
- 4) Brat, his neighbor, yesterday