

上海市涉外法律人才培训中心 组织编写

法律英语

● 董世忠 赵建 主编

English for the Legal Profession

复旦大学出版社

上海九十年代紧缺人才培训工程系列教材

法 律 英 语

上海市涉外法律人才培训中心 组织编写

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内 容 提 要

《法律英语》是一本法律专业英语教材,供具有大学英语三级以上英语水平的法律系学生及法律工作者使用。编写这套教材的宗旨,是使其既具有法律内容上的系统性,又在语言上由浅入深,循序渐进,具有外语教材所必备的可操作性。

本教材的八个单元,简明而完整地介绍了美国法律的八个部分:导论、宪法、民事诉讼、财产、合同、票据、公司、侵权。每单元有三到六篇课文,并配有大量口笔头练习,帮助学生熟练掌握课文内容。此外,每单元还配有较多的案例阅读材料,以帮助学生深化对课文的理解。

使用本教材可达到一举两得的效果:取得对美国的司法制度及主要的民事商事法律的初步了解,并掌握基本的法律词汇和概念的英语表述。因此,对于有志于日后从事涉外业务的法律专业的学生和法律工作者,它将是一本不可多得的理想教材。

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法律英语

董世忠 赵 建 主编

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序

上海市副市长 谢丽娟

由上海市人民政府教育卫生办公室、市成人教育委员会、中共上海市委组织部、市人事局联合组织编写的“90年代上海紧缺人才培训工程教学系列丛书”将陆续出版。编写、出版这套丛书是实施上海紧缺人才培训工程的基础工作之一,对推动培养和造就适应上海经济建设和社会发展急需的专业技术人才必将起到积极的作用。

90年代是振兴上海、开发浦东关键的十年。上海要成为国际经济、金融、贸易中心之一,成为长江流域经济发展的“龙头”,很大程度上取决于上海能否有效地提高上海人的整体素质,能否培养和造就出一大批坚持为上海经济建设和社会发展服务,既懂经济,懂法律,懂外语,又善于经济管理,擅长国际竞争,适应社会主义市场经济新秩序的多层次专业人才。这已越来越成为广大上海人民的共同认识。

目前上海人才的状况与经济建设、社会发展的需求矛盾日趋显著。它集中表现在:社会主义市场经济的逐步确立,外向型经济的迅速发展,新兴产业的不断崛起,产业产品结构的适时调整,城市建设和管理任务的日益繁重,使原来习惯于在计划经济体制下工作的各类专业技术人才进入了一个颇感生疏的境地,使原来以面向国内市场为主的各类专业技术人才进入一个同时面向国内外市场并参与国际竞争的新天地,金融、旅游、房地产、城市建设和管理等以及许多高新技术产业又急切地呼唤一大批新的专业技术人才。这就加剧了本市专业人才总量不足、结构不合理的矛盾。此外,本市的从业人员和市民的外语水平与计算机的应用能力普遍不高。这种情况如不迅速改变,必将影响上海的经济走向世界,必将影响上海在国际经济、金融、贸易中的地位和在长江流域乃至全国经济发展中的作用。紧缺人才培训问题已引起市委、市政府的高度重视。

“机不可失,时不再来。”我们要大力加强紧缺人才的培训工作和外语、计算机的推广普及工作。鉴于此,及时编写、出版本丛书,是当前形势之急需,其意义是现实的和深远的。诚然,要全面组织实施90年代上海紧缺人才培训工程,还有待于各有关方面的共同努力。

在“90年代紧缺人才培训工程教学系列丛书”开始出版之际,感触颇多,简述代序。

编 者 的 话

《法律英语》是一本法律专业英语教材,供具有大学英语三级以上的大学法律专业学生以及法律工作者学习专业英语使用。

本教材有以下特点:

一、**内容上的完整性:**本教材的八个单元介绍了美国法律的八个重要部分:导论、民事诉讼、宪法、财产、合同、票据、公司、侵权。每个单元的课文力求用最简练的语言,勾划出一门法律的全貌。因此,每学一个单元,就会对美国的一门法律有一个总体概念,并掌握这一门法律所常用的术语和基本概念的表述。

二、**使用上的可操作性:**本教材的课文文字由浅入深,词汇重复率高,符合外语学习循序渐进的要求。每课配有大量口头与笔头练习,旨在帮助学生理解课文、操练基本法律词汇和用语。书后附有答案,无论对教师 and 自学者都十分方便。

三、**使用对象的兼容性:**由于课文内容浅显,注释充分,具有一般水平的学生通过自学完全能够理解。如果能做完练习的Ⅰ、Ⅱ、Ⅲ部分,则达到了巩固的效果。练习的Ⅳ、Ⅴ部分有一定难度,供水平较高的学生使用。每单元配有的案例阅读材料,是课文中涉及的法律原则在实际中的体现,可作为泛读材料,用以加深、拓宽对课文的理解,也可作为教师的参考资料,用以解释课文。

参加本教材编写的,除主编外,还有刘海虹同志。她担任编写了第四单元(财产法)和第八单元(侵权法)。

本教材在编写过程中,得到了上海市司法局教育处戴鸿儒处长、黄立群干事和复旦大学出版社张永彬同志的大力支持,特在此表示感谢。

我们热诚欢迎使用本教材的教师和学生对其中的问题加以指正。

编 者

1996年8月

作者简介

董世忠,男,1934年生,瑞士日内瓦高等国际研究院国际经济法硕士,曾任中国出席联合国第三次海洋法会议和联合国关于常规武器裁军会议代表团法律顾问,美国哈佛大学法学院、柏克莱加州大学法学院客座教授,复旦大学法律系主任等职。现任中国国际经济法学会副会长、关税与贸易总协定上海研究中心副主任、复旦大学法学院教授、上海市人大常委会立法咨询员等职。

出版的著作与译著有:

《法的任务》(译著)、《国际货币金融法》、《国际金融法》、《中国投资与贸易机会——中国的经济与法律架构》(英文版)、《国际环境法律与法规》(英文版)、《涉外经济法律实用手册》等。

赵建,复旦大学法学院国际经济法系副教授,复旦律师事务所兼职律师。1965年毕业于解放军外国语学院英语系师资班;1987年毕业于美国史密斯女子学院研究生院美国学专业。1992-1993年作为中美法学教育交流委员会的交流学者赴美国杜克大学法学院进修法律。曾参与《大学英语》等英语教材的编写。

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UNIT ONE GENERAL INTRODUCTION

LESSON ONE

Definition , Classification & Sources

Text

What is law? Though we use the word “law” in everyday conversation , we use it in so many ways that there is no simple answer to the question.¹

The definition of law depends on how we look at its purposes or functions.²

A basic purpose of law in our society is to maintain order and to resolve disputes. In this connection we must bear in mind that law is not simply a set of rules of conduct. It is also the means to impose responsibility and to enforce social justice.³

Law has also been defined as a command from a superior to an inferior. The tax law fits in well with this concept of law.⁴

Law is also a method of social control. The law brings about changes in our society and society brings about changes in the law. In this sense law is both an instrument of change and a result of changes.⁵

Laws can be classified in many ways too. Laws are sometimes referred to as substantive or procedural.⁶ Substantive law defines rights, and procedural law establishes the procedures by which rights are protected and enforced.⁷

Law is also frequently classified into areas of public and private law. Public law includes laws that affect the public generally. It can be further divided into constitutional law, administrative law and criminal law. Private law deals with the relationships between individuals in an organized society. It covers contracts, torts and property, each of which can be subdivided into several subjects.

The phrase sources of law is used here to describe methods and procedures by which law is created and developed. American law comes from four basic sources; constitutions, legislation, judicial decisions, and administrative rules and regulations.

Judicial decisions as part of law is a unique characteristic of American law. This concept of decided cases as a source of law is often referred to as the common law system, which must be contrasted with the civil law system developed in continental Europe.⁸ The

civil law countries have codified their law so that the main source of law in those countries is to be found in the statutes rather than in the cases.⁹ Under the common law system, statutes as well as cases are sources of law.

Words & Expressions

definition [ˌdefɪˈniʃən]	<i>n.</i>	定义
function [ˈfʌŋkʃən]	<i>n.</i>	功能
resolve [riˈzɒlv]	<i>vt.</i>	解决
dispute [disˈpjuːt]	<i>n.</i>	纠纷, 争端
to resolve a dispute		解决争端
connection [kəˈnekʃən]	<i>n.</i>	联系
in this connection		说到这里, 有关这点
conduct [ˈkɒndʌkt]	<i>n.</i>	行为
rules of conduct		行为规则
impose [imˈpəʊz]	<i>vt.</i>	强加
enforce [inˈfɔːs]	<i>vt.</i>	实施, 执行, 力促
justice [ˈdʒʌstɪs]	<i>n.</i>	正义, 司法
define [diˈfaɪn]	<i>vt.</i>	给……下定义, 界定
to be defined as		被界定为……, 定义是
command [kəˈmɑːnd]	<i>n.</i>	命令
superior [sjuːˈpiəriə]	<i>n.</i>	上级
inferior [inˈfɪəriə]	<i>n.</i>	下级
to fit in with		符合
concept [ˈkɒnsɛpt]	<i>n.</i>	概念
to bring about		造成
instrument [ˈɪnstrumənt]	<i>n.</i>	工具
classify [ˈklæsɪfaɪ]	<i>vt.</i>	把……分类
refer [rɪˈfəː]	<i>vt.</i>	指称
to be referred to as		被称为……, 被说成是……
substantive [ˈsʌbstəntɪv]	<i>adj.</i>	实体的
procedure [prəˈsiːdʒə]	<i>n.</i>	程序
procedural [prəˈsiːdʒərəl]	<i>adj.</i>	程序的
establish [ɪsˈtæblɪʃ]	<i>vt.</i>	确立
public law		公法
private law		私法
divide [diˈvaɪd]	<i>vt.</i>	分
constitutional [kɒnstɪˈtjuːʃənəl]	<i>a.</i>	宪法的
administrative [ədˈmɪnɪstrətɪv]		行政的

criminal [ˈkriminal]	刑事的
cover [ˈkʌvə] <i>vt.</i>	覆盖, 包括
contract [ˈkɒntrækt] <i>n.</i>	合同
tort [tɔ:t] <i>n.</i>	侵权
property [ˈprɒpəti] <i>n.</i>	财产
subdivide [ˈsʌbdiˈvaɪd] <i>vt.</i>	再分
to be divided/subdivided into	被分(再分)成
legislation [ˌledʒɪsˈleɪʃən] <i>n.</i>	立法
judicial [dʒuːˈdɪʃəl] <i>adj.</i>	司法的
regulation [ˌregjʊˈleɪʃən] <i>n.</i>	法规, 规则
unique [juːˈni:k] <i>adj.</i>	特殊的, 独特的
characteristic [ˌkærɪktəˈrɪstɪk] <i>n.</i>	性质, 特征
common law (system)	普通法(系)
civil law (system)	大陆法(系)
continental Europe	大陆欧洲(不包括英国和爱尔兰)
codify [ˈkɒdɪfaɪ] <i>vt.</i>	编纂
statute [ˈstætju:t] <i>n.</i>	(成文的)法规

Notes

1. ... we use it in so many ways that there is no simple answer to the question.
它的用法如此之多, 使这个问题没有简单的答案。
2. The definition of law depends on how we look at its purposes or functions.
法律的定义取决于我们如何看它的目的或功能。
3. In this connection we must bear in mind that law is not simply a set of rules of conduct. It is also the means to impose responsibility and to enforce social justice.
说到这里我们必须记住, 法律不单是一套行为规则, 它也是明确责任和力促社会正义的手段。
4. The tax law fits in well with this concept of law.
税法很符合这种对法律的认识。
5. In this sense law is both an instrument of change and a result of changes.
从这意义上说, 法律既是变化的工具又是变化的结果。
6. Laws are sometimes referred to as substantive or procedural.
有时候法律被称作实体的或程序的。
7. Substantive law defines rights, and procedural law establishes the procedures by which rights are protected and enforced.
实体法界定权利, 程序法则确立保护权利并使其生效的程序。
8. This concept of decided cases as a source of law is often referred to as the common law system, which must be contrasted with the civil law system developed in continental