

法律英语证书 (LEC)
全国统一考试指定用书

英美法律 术语双解

Common Law Terms
You Need to Know

张法连 编著



北京大学出版社
PEKING UNIVERSITY PRESS



法律英语证书 (LEC)
全国统一考试指定用书

英美法律 术语精解

Common Law Terms
You Need to Know

张法连 编著



北京大学出版社
PEKING UNIVERSITY PRESS

图书在版编目(CIP)数据

英美法律术语双解/张法连编著. —北京:北京大学出版社, 2016. 10

(全国高等院校法律英语专业统编教材)

ISBN 978-7-301-27614-3

I. ①英… II. ①张… III. ①法律—英语—名词术语—英国—高等学校—教材 ②法律—英语—名词术语—美国—高等学校—教材 IV. ①D956.1-61 ②D971.2-61

中国版本图书馆 CIP 数据核字(2016)第 236303 号

书 名 英美法律术语双解

YING MEI FALÜ SHUYU SHUANGJIE

著作责任者 张法连 编著

策划编辑 郭栋磊

责任编辑 李 娜

标准书号 ISBN 978-7-301-27614-3

出版发行 北京大学出版社

地 址 北京市海淀区成府路 205 号 100871

网 址 <http://www.pup.cn> 新浪微博: @北京大学出版社

电子信箱 345014015@qq.com

电 话 邮购部 62752015 发行部 62750672 编辑部 62752027

印刷者 北京大学印刷厂

经 销 者 新华书店

787 毫米×1092 毫米 16 开本 21.5 印张 375 千字

2016 年 10 月第 1 版 2016 年 10 月第 1 次印刷

定 价 56.00 元

未经许可, 不得以任何方式复制或抄袭本书之部分或全部内容。

版权所有, 侵权必究

举报电话: 010-62752024 电子信箱: fd@pup.pku.edu.cn

图书如有印装质量问题, 请与出版部联系, 电话: 010-62756370

前 言

法律英语是法律科学与英语语言学有机结合形成的一门实践性很强的交叉学科,是 ESP(English for Specific Purpose)最重要的分支之一。法律英语是以普通英语为基础,在立法和司法等活动中形成和使用的具有法律专业特点的语言,是指表述法律科学概念以及诉讼或非诉讼法律事务时所使用的英语。当今世界的发展日新月异,经济全球化进程突飞猛进,国际交流合作日益加强,涉外法务活动空前频繁。中国共产党十八届四中全会提出要加强涉外法律工作,运用法律手段维护国家的发展利益。经济全球化过程中我们所面临的很多问题其实都是法律问题,而这些法律问题中的绝大多数又都属于涉外法律的工作范畴,所有这些工作都需要法律工作者通过专业外语完成。国家急需明晰国际法律规则、通晓英语语言的“精英明法”复合型人才,法律英语的重要性日益彰显,掌握专业外语已经成为法律人必备的职业素质。法律英语证书(LEC)全国统一考试的成功推出和中央政法委、教育部“卓越法律人才计划”的顺利启动无疑把法律英语的学习和研究推向了高潮。

法律英语是法律界通用的专业英语,包括书面法律英语和法律英语口语。法律英语是法律语言中的一种,它属于应用语言学的范畴,是一种具有法律职业技能特征的职业语言。词汇是语言的基本组成部分,它包括俚语、术语、行话等。英语词汇相当丰富,但不同的词汇有着不同的文体作用,不同的文体又要求用不同的词汇来表达。“法律语言部分地是由具有特定法律意义的词组成,部分地是由日常用语组成的。具有特定法律意义的词,在日常用语中即使有也很少使用”(戴维·沃克:《牛津法律大辞典》,光明日报出版社,1988:515)。除了具有特定法律意义的词之外,很多在日常生活中普遍应用的词汇,一旦到了法律语境中,便具有了法律意义。难怪很多学生抱怨说法律英语难学,阅读一篇判例,要么碰到一些非英语的词汇,使人摸不着头脑;要么碰到很多普通的英语单词却在文中肯定有着不普通的含义,令人无法猜测。其实法律术语已经成为学习法律英语的首要障碍。所以,对于广大的法律英语爱好者来说,了解和研究法律英语的术语特点,掌握一定量的法律英语术语是学好法律英语的前提,具有十分重要的意义。

要学好法律英语,首先从法律英语的词汇短语入手。本书收录的词条都是美国法学专业和美国法律实践中经常用到的术语。为了让读者更直观全面地理解术语含义,每个词条后面都有英语释义。词无定译,因为中美法律文化的差异和法律制度的不同,书中部分美国法术语的汉译颇费周折,其中的心酸只有译者自己知道;即使经过努力挣扎翻译出来的术语,译者也并非完全满意,所以有些术语翻译很值得商榷,希望广大读者不吝赐教。

和本书配套使用的教材共包括《法律英语精读教程》《法律英语泛读教程》《法律英语写作教程》《法律英语翻译教程》和《英美法律文化教程》,均由北京大学出版社出版发行。感谢法律英语证书(LEC)全国统一考试委员会(www.lectest.com)指定此书为 LEC 考试复习参考书。在编写此书的过程中,我们参阅了大量资料,恕不一一列出,在此谨对原作者表示衷心感谢。

书中不妥之处,敬请同仁指正。

张法连

2016 年 9 月 16 日

CONTENTS

英·美法律术语双解

目录

A	001
B	031
C	044
D	079
E	099
F	112
G	126
H	133
I	138
J	155
K	165
L	167
M	179
N	196
O	205
P	211
Q	244
R	247
S	267
T	289
U	299
V	305
W	310
X	317
Y	318
Z	320
附录一 常见美国法引证缩写	321
附录二 常用法律缩略语	324

A

ABA—American Bar Association is one of the world's largest voluntary professional organizations, with nearly 400,000 members and more than 3,500 entities. It is committed to doing what only a national association of attorneys can do: serving members, improving the legal profession, eliminating bias and enhancing diversity, and advancing the rule of law throughout the United States and around the world. Founded in 1878, the ABA is committed to supporting the legal profession with practical resources for legal professionals while improving the administration of justice, accrediting law schools, establishing model ethical codes, and more. Membership is open to lawyers, law students, and others interested in the law and the legal profession. The national headquarters are in Chicago, with a significant office presence in Washington DC.

美国律师协会

ABA 是美国律师协会的英文全称缩写。ABA 成立于 1878 年，是美国律师的全国性组织。当时成立 ABA 的主要目的是为了改善法学教育，提高从业管理标准，并为了组织一些娱乐活动。该协会一直致力于推动法律科

学发展、提高律师素质、完善司法管理、促进立法与裁判的统一，并加强会员之间的社会交流。经过一个多世纪的发展，ABA 已成为世界上最大的法律职业组织。ABA 制定了律师与法官职业准则，组建了美国法律研究机构，创建了统一各州法律的委员会大会，并负责全国范围内的会员的日常事务，但没有具体的管理职能。ABA 是自愿性组织，通过美国律师考试(BAR)的律师都可参加。美国律师协会的主席委员会执行行政管理职能，并设有常务委员会处理协会的日常事务和活动。来自各州和大地区的律师协会的代表组成的代表会议是美国律师协会的政策制定机构。美国律师协会还设有代表机构，协会的工作由代表机构的主管委员会及其他委员会监督、指导。律师协会下设许多分部，如法官会议、法律学生部、青年律师部、老年律师部以及其他一些分支机构，大量的专业领域里的论坛委员会等。每一分部负责法律的一个领域或法律事务的一个分支。注重保持律师职业行为的准则及提高法学教育水平，支持有助于完善司法管理与实现立法统一的措施。ABA 总部设在芝加哥。

ab initio—a Latin term meaning “from the beginning”. For example, if something is said to be void ab initio, the thing was never created or valid to begin with. The term is often used in connection with contracts, estates, and marriages.

自始；从开始；说明事件由开始时的状态

abandon—to denote a complete giving up, especially of what one has previously been interested in or responsible for. In family law, it usually means to leave a spouse or child willfully and without an intention to return.

放弃或中止某项权利或义务，遗弃财产（永远不再主张）；家庭法上指离弃配偶或家庭成员

abandonment—the act of leaving a spouse or child willfully and without an intent to return. In the context of contracts, it is merely the acceptance by one party of the situation that a nonperformance party has caused.

（永远）离弃配偶或子女；合同的撤销（仅指合同一方接受另一方当事人所造成的不予履行合同之情形）

abate—to lessen, reduce or remove (esp. a nuisance); to lower the price.

减轻或全部及部分废除（常用于降价及税收、遗产或骚扰的减少等）

abator—one who abates a nuisance.

排除妨害者

abdicate—to refuse or renounce a thing, a person in office to renounce it or give it up voluntarily.

放弃(某种权利或法定职位)

abduction—the action or an instance of forcibly taking a person or persons away against their will.

诱骗, 绑架; 挟持罪

abet—to encourage or assist (someone) to do something wrong, in particular, to commit a crime or other offense.

煽动; 怂恿; 教唆他人犯罪

abiding by plea—(*English law*) A defendant who pleads a frivolous plea, or a plea merely for the purpose of delaying the suit; or who for the same purpose, shall file a similar demurrer, may be compelled by rule in term time, or by a Judge's order in vacation, either to abide by that plea, or by that demurrer, or to plead peremptorily on the morrow; or if near the end of the term, and in order to afford time for notice of trial, the motion may be made in court for rule to abide or plead instanter; that is, within twenty-four hours after rule served, provided that the regular time for pleading be expired. If the defendant when ruled, do not abide, he can only plead the general issue; but he may add notice of set-off.

(英国法)紧急申辩规则(被告仅仅是为了拖延案件审理,也许会找出很牵强的借口提出申辩,在申辩期结束时向法庭提交抗辩,因为时间等关系,这种抗辩申请也许会被批准。被告只要在申辩期结束后的 24 小时内提出抗辩,便适用紧急申辩规则。)

abigeus—(*civ. law*) a particular kind of larceny, which is committed not by taking and carrying away the property from one place to another, but by driving a living thing away with an intention of feloniously appropriating the same.

家畜盗窃犯

ability—the capacity to perform an act or service, esp. the power to carry out a legal act.

法律行为能力

abjure—solemnly renounce (a belief, cause, or claim).

发誓放弃;公开放弃

abjuration—solemn repudiation, denial, abandonment, or renunciation by or upon oath. it is often the renunciation of citizenship or some other right or privilege.

发誓断绝;公开放弃

abolish—to do away with wholly, particularly to things of a permanent nature, such as institutions, usages, customs, etc.

(完全)废止、取消(制度、风俗、习惯等)

abortion—an intentionally-induced miscarriage as distinguished from one resulting naturally or by accident.

(人为的)堕胎;中止妊娠

abridge—(*usu. be abridged*) curtail (rights or privileges).

(权利、自由等)的剥夺

abrogate—formal repeal or do away with (a law, right or formal agreement).

(正式经授权)取消或废除(下级机关颁布的法律、法规等)

abscond—to leave hurriedly and secretly, typically to avoid detection of or arrest for an unlawful action such as theft.

潜逃(尤指逃避逮捕);逃跑

absentia—absent; proceeding without the defendant present.

(审判等的)缺席

absolve—to set free or release from some obligation or responsibility; to determine to be free of fault, guilt or liability.

免罪;免责;免除惩罚

absolute title—a guaranteed title to the ownership of a property or lease.

绝对所有权

absolution—a definite sentence whereby a man accused of any crime is acquitted.

宽恕;赦罪;(诺言或责任的)免除;解除

abstain—to hold oneself back voluntarily, especially from something

regarded as improper or unhealthy.

自我约束以放弃某项权利或戒除某项不当或不健康行为

abstract of conviction—summary of the court's finding on a moving violation. It is simply a short-hand note of the plea and the sentence. It is issued instead of a formal certificate of a judgment of conviction in some states. The person has indeed been convicted and sentenced and the abstract shows that conviction.

判案简报

abstract of record—an abbreviated or partial record.

案卷摘录

abstract of title—a summary giving details of the title deeds and documents that prove an owner's right to dispose of land, together with any encumbrances that relate to the property.

(证明房地产所有权的)产权简史,产业契据摘要

abuse—(*general term*) covers all injurious use or treatment by word or act. it does not always connote a deliberate act.

虐待;滥用(泛指所有无意或有意的诽谤中伤行为、滥用的一切权利等)

abuse of discretion—it occurs when a court does not apply the correct law or if it bases its decision on a clearly erroneous finding of a material fact. a court may also abuse its discretion when the record contains no evidence to support its decision.

滥用自由裁量权

abuse of process—employment of the criminal or civil process for a use other than one which is intended by law; the improper use of process after it has been issued, that is, a perversion of it.

(刑事或民事)诉讼程序适用错误

abut—to adjoin; to cease at point of contact; to touch boundaries; to border on.

邻接;毗连

abuttals—the buttings and boundings of land, showing on what other lands, rivers, highways, or other places it does abut. More properly, it is said,

the sides of land, are adjoining and the ends abutting to the thing contiguous.

地界;邻接,毗连(abuttal 的名词复数)

acceleration—the hastening of the time for enjoyment of an estate or a property right which would otherwise have been postponed to a later time.

财产权的提前享有

acceleration clause—a provision in a contract or document establishing that upon the happening of a certain event, a party's expected interest in the subject property will become prematurely vested.

提前偿付条款

acceptable use policy—regulations establishing who may use a network, website, or service's resources; the purposes allowed; and the privacy and security rules involved.

许可使用(网络、网址等)制度

acceptance—an unambiguous communication that the offer has been accepted.

(合同法)承诺;接受

acceptilation—In the civil law, it is a release made by a creditor to his debtor of his debt, without receiving any consideration. It is a species of donation, but not subject to the forms of the latter, and is valid, unless in fraud of creditors. Acceptilation may be defined as a certain arrangement of words by which on the question of the debtor, the creditor, wishing to dissolve the obligation, answers that he admits as received, what in fact, he has not received. The acceptilation is an imaginary payment.

(苏格兰法律)正式解除债务

acceptor—an individual or institution that assumes an obligation to pay by signing for or consenting to a check or draft. Also spelled “accepter”.

承兑票据的人

accession—

1. the attainment or acquisition of a position of rank or power, typically that of monarch or president.

就职;就任;就位

2. the addition of something to personal property through the addition of labor.

财产的增附;添附

accessory—someone who gives assistance to the perpetrator of a crime, without directly committing it, sometimes without being present.

同谋;帮凶;从犯

access right—a right, granted in an order or agreement, of access to visitation of a child.

(家庭法上离婚父母对不属于其监护子女的)探视权,探望权

accomplice—a person who helps another commit a crime.

共犯;同谋;从犯

accord—agreement; an agreement whereby one of the parties undertakes to give or perform, and the others to accept, in satisfaction of a claim, liquidated (certain) or unliquidated (in dispute) and arising either from contract or from tort, something other than or different from what he is, or considers himself, entitled to.

和解协议;协定,协约

accord and satisfaction—compromise and settlement. A way to discharge a claim whereby the parties agree to give and accept something in settlement of the claim that will replace the terms of the parties' original agreement. Accord is the new agreement; satisfaction is performance of the new agreement.

和解与清偿(美国商法中的一个重要的法律程序)

account—a detailed statement of the mutual demand in the nature of debt and credit between parties, arising out of contracts or some fiduciary relation.

账目

account debtor—a person who is obligated on an account.

债务人

account-book—a book kept by a merchant, trader, mechanic, or other person, in which are entered from time to time the transactions of his trade or business.

账簿;账册;账本

account current—a running or open account between two persons.

往来账户;活期存款账户;流通账

account of sales—an account delivered by one merchant or tradesman to another, or by a factor to his principal, of the disposal, charges, commissions and net proceeds of certain merchandise consigned to such a merchant, tradesman or factor, to be sold.

承销清单;销售账;销货表

account payable—the amount owed by a business to its suppliers and other regular trading partners.

应付账款

account receivable—amounts owing on open account. Running accounts that are usually disclosed in the creditor's account books, representing unsettled claims and transactions not reduced to writing.

应收账款

account stated—The settlement of an account between the parties, by which a balance is struck in favor of one of them, is called an account stated.

确认账额;认可的结算、清账

accountant—This word has several significations; 1) One who is versed in accounts; 2) A person or officer appointed to keep the accounts of a public company; 3) He who renders to another or to a court a just and detailed statement of the administration of property which he holds as trustee, executor, administrator or guardian.

会计;会计师

accounting method—the method by which a business (corporation, partnership or sole proprietorship) keeps its books and records for purposes of computing income and deductions and determining taxable income. Generally, the method of accounting affects the timing of an item of income or deduction. The two major methods of accounting are accrual and cash.

会计方法;核算法

accouple—to marry.

结合;结婚

accredited investor—knowledgeable and sophisticated persons or institutions who qualify to purchase securities in transactions exempt from registration under the Securities Act of 1933.

官方认可或授权的投资者；授信投资者

accretion—the adding on or adhering of something to property; a means by which a property owner gains ownership of something additional. It is created by operation of natural causes.

(多指由自然原因引起的)财产的增加

accrue—generally, to accumulate, to happen, to come into fact or existence; as to a cause of action, to come into existence as an enforceable claim; as to a debt or bank account, the coming due of interest on principal sum. The point at which a cause of action is said to accrue also affects the length of time that a prospective plaintiff may wait to bring a suit under the statute of limitations.

(钱款、账目)积累、增长、生息；(诉讼)发生

accumulated depreciation—the total depreciation charged against all productive assets as stated on the balance sheet. The charge is made to allow realistic reduction in the value of productive assets and to allow taxfree recovery of the original investment in assets.

累积折旧

accumulative judgment—A second or additional judgment given against one, who has been convicted, the execution or effect of which is to commence after the first has expired; as, where a man is sentenced to an imprisonment for six months on conviction of larceny, and, afterwards he is convicted of burglary, he may be sentenced to undergo an imprisonment for the latter crime, to commence after the expiration of the first imprisonment.

累计判决

accusation—a charge against a person or corporation; in its broadest sense it includes indictment, presentment, information and any other forms in which a charge of crime or offense can be made against an individual.

指控；控告

accusatorial—(*esp. of a trial or legal procedure*) involving accusation by a



prosecutor and a verdict reached by an impartial judge or jury. Often contrasted with *inquisitorial*.

控告者的;责问的

accusatory instrument—refers to the initial pleading or other paper which forms the procedural basis for a criminal charge. It may take the form of an indictment, information, or accusation. If the accusatory instrument is defective, the entire proceeding will be rendered null and void.

起诉书;起诉书

accuse—to directly and formally institute legal proceedings against a person, charging that he or she has committed an offense cognizable at law; to prosecute; to charge with an offense judicially or by public process.

指控;控告

accused—a person against whom a criminal proceeding is initiated.

被告(accused 通常指刑事案件的被告,民事诉讼的被告称为 defendant;而申索案件中的被索偿的一方称为 respondent “答辩人”)

accuser—one who makes an accusation.

原告

acknowledgment—

1. a statement of acceptance of responsibility.

承认(对自己的行为承担法律责任)

2. the short declaration at the end of a legal paper showing that the paper was duly executed and acknowledged.

确认书;确认声明

acquaintance rape—rape by a person who is known to the victim.

熟识者强暴;熟人强奸

acquiescence—the implied consent to do an act. it can also be a person's tacit or passive acceptance or agreement without protest.

默认;默许

acquire—to gain by any means; to obtain by any endeavor such as practice, purchase, or investment. In the law of contracts, it means to become the owner of property; to make something one's own. It implies some positive action as

opposed to a more passive obtaining such as by an accrual.

获得;取得(acquire 强调通过各种人为的手段获得而不是被动的自然获得)

acquisition—In the corporate context, it refers to one firm buys majority interest in another, but both retain their identities.

收购;购并(多指一个公司以收购某较小公司股份的方式进行接管或达到控股的目的,两个法人实体地位在交易之后仍可同时存在。)

acquit—free (someone) from a criminal charge by a verdict of not guilty.

判决无罪;宣告无罪;开释

acquittal—a judgment that a person is not guilty of the crime with which the person has been charged.

无罪裁定;无罪判决

act—

1. (*often as criminal act*) a constituent element of a crime or tort.

(犯罪)行为

2. a written ordinance of Congress, or another legislative body; a statute.

法案;法令

Act of God—a natural catastrophe which no one can prevent such as an earthquake, a tidal wave, a volcanic eruption, a hurricane or a tornado.

不可抗力

action—a legal process; a lawsuit.

诉讼

actionable—giving sufficient reason to take legal action.

可控告的;可诉的

active case—pending case; not disposed of.

待审理案件

actual malice rule—In the United States law it is a condition required to establish libel against public officials or public figures and is defined as “knowledge that the information was false” or that it was published “with reckless disregard of whether it was false or not.” Reckless disregard does not encompass mere neglect in following professional standards of fact checking.