

全国高等院校法律英语专业统编教材
法律英语证书 (LEC) 全国统一考试指定用书

法律英语 视听说

Legal English
Video-Aural-Oral Course

张法连 主编



北京大学出版社
PEKING UNIVERSITY PRESS

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前言

在世界经济一体化进程不断加快的时代背景下，我国在国际舞台愈发彰显出国际交流合作的能力和决心。目前，涉外法务活动空前频繁，法律英语的重要性日益凸显。掌握专业英语已经成为现代法律人必备的职业素质。法律英语作为特殊用途英语（ESP），其学习获得和水平测试与普通英语存在着较大差别。即便对英语为母语的人群来说，法律英语也可谓极其复杂。广大法学学生和法律从业者对法律英语的学习热情空前高涨。然而可惜的是，国内一直没有一个科学的考核指标衡量法律从业人员专业英语的掌握程度。法律英语证书（LEC）全国统一考试的推出为我国法律英语的教与学指明了方向，意义重大，影响深远。

作为一本专门针对法律英语的视听说教材，本书在选材上注重系统、新颖，材料主要来源于英美等国法学院讲授课例、专题讲座、外媒主流新闻报道、法院文件和少部分律政影视作品；主要涉及了美国宪法、三权分立、英美法法院划分、国际商法、知识产权法、证券法、竞争法、侵权法、合同法、刑法、刑事诉讼程序等相关知识点，涵盖英美法背景知识介绍，能够在训练视听说的同时，充分输入英美法基础知识；并且在训练听力的同时也相应安排了口语练习，相辅相成，能够提高学生的专业表达能力和涉外法律实务技能；本书同时配有案例分析和判决书赏析，以情景模拟的方式让学生沉浸式学习法律英语。

本套教材共包括《法律英语精读教程》（上、下）、《法律英语泛读教程》（上、

下)、《法律英语写作教程》《法律英语翻译教程》《英美法律文化教程》和《法律英语视听说》以及配套学习使用的《英美法律术语双解》。

参加本书编写的有:中央司法警官学院刘新凯(1-7课),中国石油大学(华东)刘媛媛(8-14课),湖南涉外经济学院钟伶俐(15-21课),西南政法大学孙林(22-30课)。张鲁平提供了刑法部分素材和背景资料,其中孙林担任了全书的整理和统筹工作,在此谨对各位老师表示诚挚谢意。

各位教师或同学在使用本书的过程中有什么问题,欢迎及时与出版社或编者联系:zhangbook16@yahoo.com。

编 者

2017年3月于中国政法大学



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Lesson 1

HISTORY OF AMERICAN LAW

Part I Getting Ready

The following words and phrases will appear in this unit. Use five minutes to find out the meanings of these words and phrases.

Listen carefully and study them.

1. Source
2. Legitimate
3. Supreme Court
4. Binding
5. Common law
6. Judicial
7. Constitution
8. Senate
9. House of Representatives
10. Guilty

Part II Overview

The History of American Law

A. Watch the video and answer the following questions.

1. When we want to define a legal term, what can we do?

2. When has *Black's Law Dictionary* been published?

3. What is the definition of law in *Black's Law Dictionary*?

B. Watch the video and decide whether the following statements are true or false.

- [] 1. *Black's Law Dictionary* plays the final controlling role in defining legal terms.
- [] 2. The United States Supreme Court states a definition of law through the case of *United States Fidelity and Guaranty Co. v. Guenther*.
- [] 3. Laws are designed so that they typically reflect what the minority of the people feel is just or right.

C. Watch the video and fill in the blanks.

People make law, and it is made to reflect how the people feel about certain actions or conduct, such as (1) _____, (2) _____ or (3) _____. There is a purposeful and strong connection between law and that (4) _____. This is a theme you will see often in (5) _____ and also throughout all other areas of the law.

D. Watch the video and answer the following questions.

1. Where did American law system come from?

2. What is the English common law rooted in?

3. Much of the common law was formed in the years between the Norman Conquest of England in the early 11th century and the settlement of the American colonies in the early 17th century, wasn't it?

E. Watch the video and answer the following questions.

1. When did Sir William Blackstone publish *Commentaries on the Laws of England* as a complete overview of the English common law?

2. How many volumes did Blackstone's *Commentaries* span?

3. What are judicial decisions?

4. Why did American Founding Fathers adopt this system of common law?

Part III Further Understanding

A. Watch the video and fill in the blanks.

The English (1) _____ is based on a cultural system of (2) _____ through local custom. The early tribes of England each held their own set of customs, but this system became (3) _____ as those early tribal peoples came (4) _____. These ancient customs are the (5) _____ that eventually became part of the American system of justice.

B. (a) Watch the video and decide whether the following statements are true or false.

- [] 1. The decision-maker in England can decide cases without using established guidelines and traditions.
- [] 2. By carrying forward and preserving these customs, the courts assured that the law was truly “common” to all.

(b) Choose the best answer for each question.

1. When Smith, Jones' neighbor, inadvertently builds his barn on Jones' land, which claim will the court support?
 - A. Jones claims ownership of the barn.
 - B. Smith claims ownership of the barn.
 - C. Smith claims that he owns that small portion of land the barn occupies.
 - D. Both B and C.
2. What is the main purpose through that case ?
 - A. Remind people that they cannot build fixtures on others' land.
 - B. Remind all landowners that they must be careful not to allow others to build permanent fixtures on their land.
 - C. Encourage people to build permanent fixtures on others' land.
 - D. Indicate the case is meaningless.

C. Watch the video and fill in the blanks.

A common law system is essentially a legal system that follows the rules set in (1) _____. This is the (2) _____ of the United States, England and many other territories. But this is not to say that our common law (3) _____ as it did in Blackstone's time. Our law is (4) _____. The American common law system began with the (5) _____ of Blackstone's English common law, but today, it includes centuries of subsequent American law.

D. Watch the video and decide whether the following statements are true or false.

- [] 1. Only the English common law remains an important part of our current U.S. law system.
- [] 2. Blackstone's *Commentaries* created the United States Supreme Court through Article III.
- [] 3. The Supreme Court's rulings are the last and final word.



- [] 4. Early Supreme Court decisions cited the *Commentaries* rarely.
- [] 5. New case law decisions then become a part of American common law system.

E. Watch the video and fill in the blanks.

Let's review. The English common law system was developed over centuries and is based on the (1) _____ of right and wrong originally established by ancient tribal peoples. Decision-makers issued decisions based on these customs, and future disputes were bound by these decisions. Our early colonists adopted this common law system, which was (2) _____. Around the time of the American Revolution, Sir William Blackstone published his *Commentaries* as a (3) _____ of the English common law. This publication continues to (4) _____. Our framers established our Supreme Court and our Congress. Together, these two (5) _____ make and (6) _____. These newer laws build on Blackstone's work and American case law to form what we know as our modern American common law system.

Part IV Speaking Task

This video mentioned a movement of court hearing. Let's appreciate this scene of the TV series "Justice," then use your own words to retell the story as much as you can based on the following instruction.

1. What was Luther Graves's career before he became a lawyer?

2. As Luther Graves said, why do we have juries?

Lesson 2

FUNDAMENTAL DOCTRINE: STARE DECISIS DOCTRINE

Part I Getting Ready

The following words and phrases will appear in this unit. Use five minutes to find out the meanings of these words and phrases.

Listen carefully and study them.

1. Stare decisis
2. Precedent
3. Appellate
4. Issue a court ruling
5. Infringe
6. Defendant
7. Witness
8. Advocate
9. Prosecutor
10. Jurisdiction

Part II Overview**Definition and Demonstrations of Stare Decisis****A. Complete the paragraphs below with one word in each gap.**

Stare decisis is a Latin term. It means “to stand by things decided.” Stare decisis is a doctrine used in all court cases and with all legal issues. A doctrine is simply a (1) _____, or an instruction, but it’s not necessarily a rule that cannot ever be (2) _____.

The doctrine of stare decisis means that (3) _____ look to past, similar issues to (4) _____ their decisions. The past decisions are known as precedent. Precedent is a legal principle or rule that is created by a court (5) _____. This decision becomes an example, or (6) _____, for judges deciding similar issues later. Stare decisis is the doctrine that (7) _____ courts to look to precedent when making their decisions. These two principles allow American law to build (8) _____, and make the legal system a common law system.

B. Listen and comprehend. Fill in the blanks with words or phrases mentioned in the listening material.

In the example, Blue borrows Red’s lawnmower, so Blue is a (1) _____ and Red is a (2) _____. Red discovers that Blue uses the lawnmower without his (3) _____, and (4) _____ the lawnmower. Red sues and (5) _____ Blue buy him a new one, but the court only decides that Blue does (6) _____ Red the money required to (7) _____ it. The decision turns to precedent, and lower court in the same (8) _____ should have to follow it.



C. Decide whether the statements below are true or false.

- [] 1. Courts are expected to follow their own previous rulings only.
- [] 2. Lower courts are expected to follow the rule made by higher courts. For example, the Texas state appellate courts should follow rulings of the South Carolina Supreme Court.
- [] 3. The U.S. Supreme Court issues a court ruling that taxes are unconstitutional. This decision is binding all courts in the U.S.
- [] 4. There is a possibility for South Carolina to follow Texas rule.

D. Answer the questions.

1. What is the Roe v. Wade case about?

2. Why did the Supreme Court decline to follow precedent set in the Roe v. Wade case?

3. What happened in the 1950s and 1960s?

4. When can the precedent be abandoned?

Part III Further Understanding

A. Decide whether the statements below are true or false.

- [] 1. The high court changed the policy known as affirmative action in its decision.
- [] 2. Fisher's lawyers argued that race shouldn't be considered in the admission process, or constitutional rights would be infringed.
- [] 3. The majority of justices thought the Supreme Court had not fully studied the university's actions.
- [] 4. Both opponents and civil rights activists were satisfied with the decision of the Supreme Court.

B. Complete the paragraphs below with words or phrases.

On Wednesday morning, a different crowd waited outside the court building. Supporters of (1) _____ cheered when the Supreme Court canceled (2) _____ on the issue.

The court said the 1996 federal law called the (3) _____ of Marriage Act (4) _____ the rights of same-sex couples. The court said that the government could not prevent same-sex couples from getting (5) _____ as traditional husbands and wives. Supporters of the laws promised to (6) _____ marriage to legal unions of one man and one woman.