



普通高等教育“十一五”国家级规划教材

CAMBRIDGE

大学英语选修课 / 学科课程系列教材

法律英语 (下)

International Legal English 2

《大学英语选修课 / 学科课程系列教材》项目组 编
Amy Krois-Lindner and TransLegal®



高等教育出版社
HIGHER EDUCATION PRESS



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FALÜ YINGYU



高等教育出版社·北京
HIGHER EDUCATION PRESS BEIJING

图字: 01-2010-1385 号

International Legal English Student's Book with Audio CDs (A Course for Classroom or Self-Study Use) (ISBN 9780521675178), *International Legal English Teacher's Book* (ISBN 9780521685566) by Amy Krois-Lindner, Translegal, Jeremy Day first published by Cambridge University Press 2006. All rights reserved.

This adaptation edition for the People's Republic of China is published by arrangement with the Press Syndicate of the University of Cambridge, Cambridge, United Kingdom.

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图书在版编目 (CIP) 数据

法律英语. 下/《大学英语选修课/学科课程系列教材》项目组编. —北京: 高等教育出版社, 2010. 11

大学英语选修课/学科课程系列教材

ISBN 978-7-04-029436-1

I. ①法… II. ①大… III. ①法律-英语-高等学校-教材 IV. ①H31

中国版本图书馆 CIP 数据核字 (2010) 第 215338 号

出版发行	高等教育出版社	购书热线	010-58581118
社 址	北京市西城区德外大街 4 号	咨询电话	400-810-0598
邮政编码	100120	网 址	http://www.hep.edu.cn http://www.hep.com.cn
经 销	蓝色畅想图书发行有限公司	网上订购	http://www.landraco.com http://www.landraco.com.cn
印 刷	河北新华第一印刷有限责任公司	畅想教育	http://www.widedu.com
开 本	787 × 1092 1/16	版 次	2010 年 11 月第 1 版
印 张	13.25	印 次	2010 年 11 月第 1 次印刷
字 数	295 000	定 价	32.00 元 (含光盘)

本书如有缺页、倒页、脱页等质量问题,请到所购图书销售部门联系调换。

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物料号 29436-00

《大学英语选修课/学科课程系列教材》

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《法律英语》（下）

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策 划：贾 巍

项目编辑：贾 巍 徐艳梅 邓中杰

责任编辑：张 凯

封面设计：王凌波

版式设计：刘 艳 王东岗

责任校对：张 凯

责任印制：朱学忠

《大学英语选修课/学科课程系列教材》总前言

随着我国经济、文化和科技的不断发展,社会对大学生的英语水平提出了更高的要求,大学英语教学改革已成为社会关注的热点之一。为了推动大学英语教学改革,教育部在总结近年来教学改革经验的基础上,对2004年颁布的《大学英语课程教学要求(试行)》进行了全面修订,并于2007年8月正式颁布了《大学英语课程教学要求》。与以往的《大学英语教学大纲》相比,新的《大学英语课程教学要求》从以下三个方面为大学英语教学带来了新的变化:1. 培养目标的变化。《大学英语课程教学要求》提出,大学英语要培养学生的英语综合应用能力,在坚持其通用基础学科定位的同时,提出了与专业学习相结合的专门用途英语,以及以人文、国际交流为核心的文化素质课程的定位;2. 教学思想的变化。提出了自主学习的思想,鼓励学生自主选择学习内容和学习方式;3. 教学模式的变化。鼓励在教和学的过程中使用以计算机为基础的教育技术,拓展英语学习的渠道,增加语言练习的机会,提高语言输入和输出的质量。

面对新的改革形势,我们明显感到,现行的以英语基础能力发展为核心的大学英语教材体系难以适应新形势的需要,广大师生也盼望出现更多与国际文化知识、专业知识、学术交流相结合的新型英语教材,满足正在出现的大学英语的多重定位、学生自主选择学习内容和基于计算机技术的自主学习方式等变化的需要。为此,我们提出开发《大学英语选修课/学科课程系列教材》。

本系列教材为“普通高等教育‘十一五’国家级规划教材”,主要供达到《大学英语课程教学要求》中规定的“一般要求”后,继续学习以达到“较高要求”和“更高要求”的学生使用,也可供研究生及广大专业技术人员学习专业英语、学术英语,提高英语综合应用能力使用。

本系列教材包括语言技能发展、跨文化交际能力发展和通用学术交流能力发展三个子系列。语言技能发展系列教程着重提高学生的通用英语技能。在该系列教材的开发中,我们将分期、分批建设若干门大学英语高级技能发展课程教材,其中包括:网络视听、翻译实践、网上阅读、高级阅读、口译技巧、应用写作等。跨文化交际能力发展系列教程着眼于扩展学生的国际文化视野,培养学生将英语作为国际交流语言使用的能力。在该系列教材的开发中,我们拟建设的教材有中西方文化概论、英语文化解读、英语演讲与辩论、跨文化交际、世界文明与文化导论、科技与人文、文学选读、经典作品欣赏、影视欣赏等。通用学术交流能力发展系列教程重在培养学生使用英语进行相关专业学术交流的能力。在该系列课程的开发中,我们将重点建设两大类别的专业学术英语课程,即A类教材和B类教材。其中,A类教材以学术研究和职业技能为基础,包括学术写作、学术会议、批判性思维等;B类教材以专业知识为基础,提供能供双语教学使用的专业通用基础教材,从而将专业学习与语言学习有机地结合起来。

本系列教材的开发是一个新的尝试,新教材强调英语学习与文化学习、专业学习、学术交流和工作的结合,突出英语学习的实用性、学术性和人文性,充分反映国内外新式教学思想和理念,突出学生的参与和自主学习,强调信息技术的使用和教材的立体开发。我们相信,本系列教材的出版一定会给广大师生带来新的感受和新的教学体验,进而深化我国大学英语教学改革,创造出大学英语教学的新范式。

《大学英语选修课/学科课程系列教材》项目组

2008年1月

前言

在全球化的时代背景下,社会迫切需要越来越多具有国际视野和跨文化交际能力的法律从业人员,法律英语教学在各法学院(校)的英语教学中受到高度关注,也成为英语教学改革的重点。而高质量的法律英语教材是完成法律英语教学的基础,是实现培养目标的关键。

英国剑桥大学出版社出版的《International Legal English》是由Amy Krois-Lindner和律师语言学家协会(Translegal)共同编著的,在各种法律英语课程中发挥着重要作用,同时可以帮助考生准备由剑桥大学考试委员会ESOL考试部与欧洲主要的律师语言学家协会(Translegal)共同研发的新国际法律英语证书考试(ILEC)。该书自出版以来,备受欢迎。既适用于学生自学,也可以用于课堂教学。为满足中国法学院学生和涉外律师的需求,高等教育出版社引进改编了该教材。

高等教育出版社出版的《法律英语》将原著改编为上下两册,一些在商法领域内颇为重要的话题(例如:公司法、合同法、知识产权、不动产法、劳动法和货物买卖法等)被选作各单元的法律主题,为使学习者对英美等国的法律体系有更为全面的了解,又增加了宪法、刑法、民事诉讼法、刑事诉讼法等话题,更加完善了法律英语的覆盖面。许多练习题都鼓励学习者将本国法律与书中所讲述的英美法律制度进行对比,藉此培养国际视野。

本教材具备以下几个主要特点:

一. 在法律英语教学中将法律知识学习与专业语言技能训练相结合。通过学习本教材,学生能够在特定的语境中准确掌握法律英语专业词汇和法律文书中常用语言,熟悉法律英语的语言特点,同时系统了解英美法律制度与特征,提高阅读和理解法律文书的能力,例如法律期刊、商事立法、法律函件和其他商事法律文件。

二. 本教材以英美法律制度和部门法为主要内容,将英美等国法律活动的真实内容引入课堂教学,体验真实的法律活动的诸多方面。本教材为法律英语教学提供了大量真实、生动的素材,提高学生对法律相关的各种情形中所使用的法律英语口语的理解能力,增强口语表达技能,从而更有效地参与法律谈判。同时,学生可以了解英美法律制度及部门法,以达到在体验法律活动中学习语言、提高法律活动交际能力的目的。

三. 角色扮演和案例学习将提高学生的语言交际能力。本教材的突出特色是任务式和体验式的教学活动设计。每个单元都有角色扮演和案例学习等交际任务,例如与客户会晤、与同事讨论和合同谈判。每个交际任务都以真实的法律事务情景为参照,交际任务目标明确,鼓励学习者在完成交际任务的过程中复用所学语言知识,提高交际能力,将自己的经历和观点融入交际活动中。

四. 教学设计严谨, 为进一步提高法律英语水平打好基础。本教材的每个单元以短文为基础, 设计为相关的阅读、听力、口语和写作等形式, 中间穿插形式多样的任务活动, 进行法律事务技能的学习。最后, 在充分学习和掌握相关内容和技能的基础上, 进行案例学习。

本书的编写分工如下: 齐筠负责第一、四单元; 刘华负责第二、三、九单元; 张清负责第五单元; 徐新燕负责第六、七、八、十单元; 张美常负责各单元的翻译部分; 李立对全书进行了统稿。

书中如有失误或不妥之处, 请广大读者不吝赐教, 给予批评、指正。

主编 李立
2010年7月于中国政法大学
中国 北京

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UNIT

1

CRIMINAL LAW



Reading 1: Introduction to criminal law

The following text gives an introduction to criminal law, including its difference from civil law, the definition of crime, the categories and elements of crimes.

1. Read the text quickly, and then match each of these headings (a-d) with the paragraphs (1-4) to which it best corresponds.

- a) Definition of crime
- b) Crime categories
- c) The differences between criminal cases and civil cases
- d) Elements of crimes

2. Read the text again and answer these questions.

- 1) What does the word *incarcerate* in paragraph 1 mean? What other differences do you know between criminal and civil cases?
- 2) What else do you know about Model Penal Code? In China, is there any equivalent to Model Penal Code?
- 3) How do felonies differ from misdemeanors?
- 4) Do you know other elements of crime?
- 5) How do you understand the doctrines of "beyond a reasonable doubt" of every fact in criminal law and a "preponderance of the evidence" in civil cases?

1 Criminal law involves prosecution by the government of a person for an act that has been classified as a crime. **Civil cases**, on the other hand, involve individuals and organizations seeking to resolve legal disputes. In a criminal case, the state, through a prosecutor, initiates the suit, while in a civil case the victim brings the suit. Persons convicted of a crime may be incarcerated, fined, or both. However, persons found liable in a civil case

may only have to give up property or pay money, but are not incarcerated.

- 2 A “crime” is any act or omission (of an act) in violation of a public law forbidding or commanding it. Though there are some **common law** crimes, most crimes in the United States are established by local, state, and federal governments. Criminal laws vary significantly from state to state. There is, however, a **Model Penal Code** (MPC) which serves as a good starting place to gain an understanding of the basic structure of criminal liability.
- 3 Crimes include both **felonies** (more serious offenses — like murder or rape) and misdemeanors (less serious offenses — like petty theft or jaywalking). Felonies are usually crimes punishable by imprisonment of a year or more, while misdemeanors are crimes punishable by less than a year. However, no act is a crime if it has not been previously established as such either by statute or common law. Recently, the list of Federal crimes dealing with activities extending beyond state boundaries or having special impact on federal operations, has grown.
- 4 All statutes describing criminal behavior can be broken down into their various elements. Most crimes (with the exception of strict-liability crimes) consist of two elements: an act, or “*actus reus*,” and a mental state, or “*mens rea*.” Prosecutors have to prove each and every element of the crime to yield a conviction. Furthermore, the prosecutor must persuade the jury or judge “beyond a reasonable doubt” of every fact necessary to constitute the crime charged. In civil cases, the plaintiff needs to show a defendant is liable only by a “preponderance of the evidence,” or more than 50%.

Key terms: Criminal law

3. Match these key terms (1-5) with the definitions (a-e).

- | | |
|----------------------------------|---|
| 1) prosecution | a. the neglect to perform what the law requires |
| 2) omission (of an act) | b. walking across a street outside of marked cross-walks and not at a corner, and/or against a signal light |
| 3) jaywalking | c. the institution and conduct of a legal proceeding |
| 4) preponderance of the evidence | d. theft of property or services whose value is below a specified amount |
| 5) petty theft | e. the greater weight of the evidence required in a civil (non-criminal) lawsuit for the trier of fact (jury or judge without a jury) to decide in favor of one side or the other |

4. Match the verbs with the nouns in the box that they collocate with in the article. Some of the nouns go with more than one verb.

a crime

a dispute

a suit

a conviction

- 1) initiate
- 2) establish
- 3) resolve
- 4) yield
- 5) bring
- 6) commit

5. Filling the blanks with proper words.

- 1) punish/punishable

(1) Entrapment occurs when the government induces a person to commit a crime and then tries to _____ the person for committing it.

(2) Behaviors _____ only by fine are usually not considered crimes at all, but infractions — for example, traffic tickets.

- 2) prosecutor/prosecution

(1) _____, furthermore, is an executive function, not a judicial function.

(2) The _____ is the chief legal representative of the _____ in countries adopting the common law adversarial system or the civil law inquisitorial system.

- 3) crime/criminal

(1) The concealment of a _____ can be defined as the activity directed at counteracting the investigation by hiding, destroying, disguising or falsifying evidences of an offence or their carriers.

(2) During his more than 20 years with the NYPD, the policeman said he investigated many cases where _____ were quick to try out new technologies to commit old _____ — what he called “old wine in new bottles.”

- 4) theft/thief

(1) Many methods to protect the data and to prevent _____ have been developed, including alarms, laptop locks, and visual deterrents such as STOP security plates that are hard or impossible to remove thus killing the resale value.

(2) Jefferson County Sheriff's officers nabbed a suspected car _____ today after he allegedly entered a home and attacked a couple, sending them to the hospital with non-life-threatening injuries.